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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271 and 274

[FNS–2016–0074]

RIN 0584–AE02

Supplemental Nutrition Assistance Program: 2008 Farm Bill Provisions on Clarification of Split Issuance; Accrual of Benefits and Definition Changes

AGENCY: Food and Nutrition Service, U.S. Department of Agriculture.

ACTION: Final rule.

SUMMARY: This final rule amends the Supplemental Nutrition Assistance Program (SNAP) regulations to implement provisions of the 2008 Farm Bill regarding monthly benefit issuance allotments, storage of benefits off-line, and permanent expungement of unused benefits, as well as related benefit expungement and off-line storage provisions of the 2018 Farm Bill. This final rule also updates SNAP regulations to reflect the program's name change to SNAP and benefit issuance through Electronic Benefit Transfer (EBT) systems.

DATES: This final rule is effective September 23, 2020.

FOR FURTHER INFORMATION CONTACT: Vicky T. Robinson, Chief, Retailer Management and Issuance Branch, Retailer Policy and Management Division, Food and Nutrition Service (FNS), U.S. Department of Agriculture (USDA), 1320 Braddock Place, Alexandria, Virginia 22314, (703) 305–2476, Vicky.Robinson@usda.gov.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

Purpose of the Regulatory Action

This rule finalizes the provisions of a proposed rule published on September 29, 2016 (81 FR 66866). With this final rule, the Department is amending 7 CFR

part 274 to implement the benefit issuance, storage and expungement provisions of the Food, Conservation and Energy Act of 2008, Public Law 110–234 (2008 Farm Bill).

Since publication of the proposed rule, the President signed the Agriculture Improvement Act of 2018 (2018 Farm Bill), which made additional mandatory changes to the provisions governing the storage and expungement of unused benefits. Accordingly, the Department intends to adopt these 2018 Farm Bill provisions as final as well.

Finally, this final rule will update terminology at 7 CFR part 271 to reflect the program's new name and the issuance of benefits through Electronic Benefit Transfer (EBT) systems, as well as add new EBT-related definitions to 7 CFR 271.2.

Summary of Changes From Proposed Rule

The final rule incorporates the following modifications for clarity:

- The definitions of EBT Card, EBT System, Interoperability and Point-of-Sale Device will no longer refer to point-of-sale and card technology in order to take into account on-line and other emerging technologies.

- Amendatory language is being added to clarify that taking benefits off-line means making a household's entire SNAP EBT account inaccessible to the household, including any new benefits added to the account.

- Amendatory language is being added to clarify that any unexpired benefits taken off-line must be restored upon a household's recertification or reapplication for benefits or a general request for assistance.

- Amendatory language is being added to clarify that benefits must be expunged on a first-in-first-out (FIFO) basis.

The Department is also making the following changes to the proposed provisions:

- The proposed change to the definition of "Drug addiction or alcoholic treatment and rehabilitation program," is being withdrawn to provide the public another opportunity to comment as part of a future comprehensive rulemaking regarding group living arrangements.

- The proposed corrections to the definitions of "Employment and Training (E&T) component," and

"Employment and Training (E&T) mandatory participant." is being withdrawn because they will be included in a separate rulemaking on E&T provisions.

- State agencies will now have the option to maintain the current method of expunging unused benefits only from inactive accounts or to expunge benefits based on the date of issuance, regardless of account activity. The option the State chooses must be applied to all households.

- State agencies must expunge unused benefits after nine months (rather than 12 months) in accordance with one of the expungement processes above.

- States agencies must provide notice to individual households prior to expunging benefits no later than 30 days prior to the date the benefits will be expunged.

- State agencies may choose to take benefits off-line prior to expungement after three months of account inactivity (rather than six months).

- State agencies will not be required to remove off-line benefits from the Account Management Agent (AMA) as proposed. Instead, State agencies will be required to make the entire EBT account inaccessible to the household if they take benefits off-line.

II. Background

SNAP regulations at 7 CFR part 274 already required several of the 2008 Farm bill provisions addressed in the proposed rule. These include requirements to issue monthly benefits in one lump sum, expunge unused benefits after the household's account has been inactive for 12 months, and notify households prior to taking benefits off-line. The Department's implementing memo on October 1, 2008, addressed provisions requiring State agencies to wait until a SNAP account remains inactive for six months and to reinstate off-line benefits within 48 hours of a household's request.

The Department published a proposed rule to solicit comments on various implementation details of the above provisions over which the Department has discretion, as well as to update 7 CFR part 271 to reflect "SNAP" as the new name of the program and the mandatory issuance of benefits through Electronic Benefit Transfer (EBT) systems.

With regard to benefit expungement, the proposed rule specifically solicited feedback on whether the expungement timeframe should continue to apply only to inactive EBT accounts as required under current SNAP policy, require State agencies to expunge benefits based on the date of issuance even if the account remains active, or provide States agencies the option to use either method.

On December 20, 2018, the President signed the 2018 Farm Bill, which made additional changes to the provisions governing the storage and expungement of unused benefits. Section 4006 of the 2018 Farm Bill specifies that a State may take benefits off-line after three months (previously six months) and that States must expunge unused benefits after nine months (previously 12 months). States must also notify individual households before expunging their benefits. Because these provisions are mandatory and non-discretionary, the Department is including these provisions in this final rule without comment. State agencies will have 12 months from the effective date of this rule to implement these mandatory 2018 Farm Bill provisions.

The Department solicited comments on the proposed rule for 60 days, ending November 28, 2016. The Department received 24 comments from various entities, including 13 advocate organizations, eight State or local government agencies, two Electronic Funds Transfer (EFT) associations, and one individual not identified with an organization or a State agency.

III. Summary of Comments and Explanation of Revisions

Overall, commenters supported the proposed rule but wanted exemptions from the expungement and off-line provisions for certain groups, as well as greater protections for clients, especially the elderly and disabled. Commenters also wanted more clarification on the process for taking benefits off-line and restoring them. There was some opposition to the requirement to remove off-line benefits or the benefits of deceased households from the EBT system and the AMA, preferring that State agencies merely deactivate EBT cards. Some commenters also pointed out that some of the definitions related to EBT were too narrow and should be broadened to account for emerging technologies. Below is further discussion of the most substantive comments the Department received.

Definitions

The Department proposed adding new definitions under 7 CFR part 271 to

update terminology for the EBT issuance system and ensure consistency with current policy. Commenters wanted the definitions of *EBT card*, *EBT system*, *Interoperability*, and *point-of-sale (POS) terminal* to account for possible technologies that do not require a POS terminal or EBT card, such as online shopping. The Department agrees that the proposed definitions may be too narrow as technology develops. Therefore, this final rule broadens these definitions. One commenter also noted that adding the definition for *Contractor* would be confusing, given such broad and varying use of the term throughout the SNAP program. This final rule will change the term *Contractor* to *EBT contractor* to distinguish it from other types of contractors used in SNAP. These changes are reflected at § 271.2.

Split Issuance

Section 4113 of the 2008 Farm Bill required State agencies to issue a household's ongoing monthly benefit allotment in one lump sum. The Department clarified existing regulations in the proposed regulations that affirm this requirement.

Thirteen advocate and two industry organizations expressed strong support for prohibiting State agencies from splitting ongoing monthly allotments. They believe that lump sum monthly allotments provide SNAP households with maximum flexibility for managing how and when to purchase food within the time, transportation and other constraints that low-income shoppers often face. One commenter also commented that splitting monthly SNAP allotments would have a "chilling effect" on seniors receiving SNAP benefits. Others added that it would increase administrative costs at both the state and federal level. No commenters expressed opposition to this provision.

The Department appreciates all comments on this issue, which provide additional support for requiring the issuance of monthly benefit allotments in a single lump sum. Given these comments and the fact that no comments expressed opposition, this provision remains unchanged in the final rule at 7 CFR 274.2(c).

Moving Benefits Off-Line

Prior to the 2008 Farm Bill, regulations required three months of account inactivity before the State agency could exercise its discretion to move the inactive account benefits offline. However, the 2008 Farm Bill mandated six months of account inactivity before the State agency could move the inactive account benefits

offline. Accordingly, the Department proposed rules to reflect this new requirement. However, following publication of the proposed rule, Congress passed the 2018 Farm Bill which restored the original requirement of three months of inactivity. Because this statutory provision is mandatory and non-discretionary, the Department will not change the current regulation, which requires three months of inactivity prior to moving benefits offline.

The Department also proposed to notify households in advance within 10 days prior to moving inactive account benefits off-line. In addition, the Department proposed to require that any offline benefits must be restored within 48 hours of the recipient's request. Finally, the Department proposed to remove off-line benefits from the EBT system rather than merely deactivating the account.

No comments opposed the requirement for the notice or the restoration of benefits within 48 hours of a recipient's requests. However, commenters did request exemptions for certain groups, consideration of potential barriers to participation in SNAP before moving inactive account benefits off-line, and clarification regarding removal of off-line benefits from the EBT and AMA systems. The Department summarizes these comments and provides its responses below.

Nine advocate organizations requested that the Department make several household categories exempt from having their benefits taken off-line, such as the elderly, disabled and/or households that receive the minimum benefit allotment. The Department emphasizes that State agencies are not required to take benefits off-line prior to permanent expungement. Moreover, individual State agencies that choose to implement the off-line option have the discretion to exempt certain groups of households from having their inactive accounts stored off-line. Therefore, the Department will not require certain household exemptions in this final rule. Instead, any State agency that chooses to implement the off-line option can exercise its own discretion as to whether to apply such exemptions.

Six advocate organizations wanted the Department to require State agencies to investigate possible barriers facing the household before taking benefits off-line. Commenters suggested that State agencies should consider specific demographics of the SNAP household, whether the SNAP household received their EBT card and PIN, whether the SNAP household is aware of

transportation community services, and whether a lack of information exists regarding the appointment of an authorized representative.

Currently, only six State agencies exercise the off-line option, without any such requirement in place. The Department does not have supporting information from those States to justify requiring States to now take affirmative steps prior to taking action to determine if households are experiencing barriers that prevent them from using their benefits. Furthermore, the action to take benefits off-line is not permanent. Households still have up to six months to have the benefits reinstated from the point that benefits are moved off-line. However, the Department encourages State agencies that opt to take benefits off-line to include, in addition to how to reactivate the account, information in the off-line notice regarding transportation options, authorized representatives, and other assistance available to households.

Eight advocate organizations wanted the Department to codify requirements for a simple and easy-to-use process for requesting restoration of benefits stored off-line, including notices that are easy to understand and an easy way to contact a SNAP worker to request reinstatement. The Department is not swayed by the comments suggesting simple and easy-to-use processes should be codified. However, in response to comments, the Department is requiring that any unexpired benefits taken off-line be restored upon recertification or reapplication for benefits without the household having to make a specific request and that, moreover, a general request for any type of assistance from a household that has had benefits moved off-line be considered a request for reinstatement of those benefits. States may continue to establish their own procedures for restoring benefits outside of the recertification or application process. Title 7 CFR 274.2(h) is amended accordingly.

Removing Off-Line Benefits From the EBT System

The Department proposed to require that, if a State exercised their option to take inactive account benefits off-line, the amount would also need to be removed from the AMA. The AMA is an accounting system that interfaces with the U.S. Department of Treasury to keep track of benefit authorizations, returned benefits such as expungements, and benefit redemptions. An industry organization opposed this proposed requirement because it would require all such benefits to be tracked by the eligibility system and reissued if

requested by the household. Commenters added that this requirement would complicate AMA reporting because the accounting method would understate the true outstanding SNAP liability of SNAP benefits for States that move benefits off-line prior to expungement. Commenters suggested allowing States to leave the benefits on the EBT system and merely make them inaccessible to the client. Another industry organization disagreed with the need to take benefits off-line at all because of the overall complexity of tracking and reporting the benefits.

The option for State agencies to take benefits off-line after three months of account inactivity is statutory and, therefore, the Department does not have the discretion to eliminate this option. However, we are persuaded by the commenters that the complexities associated with removing the benefits from AMA are unwarranted. Therefore, in this final rule, the Department is removing the proposed provision to require State agencies to remove off-line benefits from AMA. State agencies may continue to move benefits off-line after at least three months of inactivity by making inactive EBT account benefits inaccessible to the household without taking them off the AMA system. The Department will also clarify the meaning of taking benefits off-line to align with this change. Title 7 CFR 274.2(h) is amended accordingly.

Benefit Expungement

The Department proposed keeping the current expungement process, which is based on account activity, unchanged. The Department also specifically asked commenters to provide feedback on amending the process so that unused benefits are expunged based on the issuance date, regardless of account activity. This alternative process would give households a finite period of time to use their benefits as opposed to allowing benefits to remain in household EBT accounts indefinitely, as long as there is account activity at least once every 12 months. The Department also asked for comments on whether State agencies should have the option to choose either of the two methods for determining when benefits get expunged.

Seventeen commenters in total, including all 13 advocate organizations, three State/local agencies, and one EFT association, preferred maintaining the current process of expunging only from inactive accounts. They cited the technological and financial burden on State agencies to make the necessary system changes as well as the view that

there are practical and economic reasons for households to accumulate benefits which tend to impact the most vulnerable SNAP recipients—the elderly, disabled, and those with transportation, mobility and food access hurdles. Three advocate organizations wanted the Department to require State agencies to expunge benefits on a first-in-first-out (FIFO) basis under the alternative option to expunge benefits based on the issuance date.

Four commenters, including two State agencies, preferred expunging benefits that have not been used by a specific timeframe, regardless of account activity. They believe this approach is more consistent with the purpose of the Program and that excessively high SNAP EBT account balances could indicate a lack of need or fraudulent activity, which undermines the public's perception of the program's integrity. Three other State agencies wanted to have the option to choose either expungement method.

If the Department were to require States to change the current expungement process to require unused benefits be expunged based on the date of issuance, several commenters wanted the Department to exempt restored benefits from the expungement process or allow households a longer period of time to spend those benefits. Also, many of the same commenters who wanted exemptions from taking benefits off-line for certain households wanted similar exemptions to apply to benefit expungement as well.

In the interest of State flexibility, the Department has decided to give State agencies the option to implement either of the two expungement methods described in the proposed rule. State agencies must designate which approach will be used in its State plan and apply the same approach uniformly to all households. The Department would also like to take this opportunity to clarify that State agencies are already required to apply household transactions against SNAP benefits on a FIFO basis and that, under either of the two expungement options, by definition, State agencies will continue to expunge the oldest benefits first.

In accordance with Section 4006 of the 2018 Farm Bill, this final rule amends the expungement timeframe from 12 months to nine months. The Department considers nine months to be equal to 274 days. Therefore, State agencies may opt to either expunge households' individual benefit allotments, or any remaining portion thereof, nine months after the allotment was issued (*i.e.*, made available to the household) or wait until the account has

been inactive for nine months before expunging any benefits at the allotment level. In this final rule, the amended expungement provisions are at 7 CFR 274.2(i) and the proposed paragraph (i) is now paragraph (j).

If expunging benefits based on the issuance date, the Department was interested in feedback with regard to lump sum benefits issued as a result of a fair hearing determination to determine if an exception process was feasible or practical. Since then, the Department has determined that an exception process that allows households additional time beyond nine months to access their benefits would not be consistent with the 2018 Farm Bill requirement and, therefore, is not allowable. However, State agencies that choose the option to expunge benefits based on the issuance date could mitigate the potential problem of lump sum issuances by splitting up the retroactive payments and issuing them in separate months. The 2008 Farm Bill provision specifically makes an exception to the split issuance prohibition in cases where a benefit correction is necessary. No changes have been made in the final rule regarding this issue.

Section 4006 of the 2018 Farm Bill also requires States to provide notice to individual households prior to expunging that household's SNAP benefits, including benefits stored off-line, so that the household has the opportunity to access the benefits and avoid expungement. Currently, State agencies are required to notify individual households prior to taking benefits off-line, but not prior to permanently expunging unused benefits.

Because the 2018 Farm Bill specifically requires the notice to include the date upon which benefits must be expunged, the Department is requiring State agencies to provide individual notification that is closely tied to the expungement date, but not later than 30 days before the first benefits get expunged. General notification of the change in the expungement timeframes should be done at certification/recertification and in training materials, as has been the case before this requirement. This general notification, however, cannot replace the individual notification to households whose benefits are scheduled to be expunged within at least 30 days.

As proposed and as currently required, benefits must be expunged individually at the monthly allotment level; however a notice is only being required prior to expunging the first

allotment. State agencies are not being required to provide monthly expungement notices prior to expunging each benefit allotment. If the expungement process stops for a household for any reason, including when the household accesses their benefits or requests restoration of remaining off-line benefits, the State would need to provide the household with a new expungement notice if the household's benefits become subject to expungement again.

Consistent with other required formal notices to households, the Department is requiring that this notice must be written in easily understandable language and include the date that benefit expungement will begin, the action needed to prevent the expungement, and the household's right to request a fair hearing. This expungement notification provision is being codified at 7 CFR 274.2(i)(2).

Expunging Benefits of Deceased Households

In general, commenters did not oppose the proposed requirement to expunge benefits when all certified household members are determined to be deceased in accordance with 7 CFR 272.14, regardless of account activity or the benefit issuance date. However, two State/local agencies wanted the Department to allow State agencies to merely make benefits of deceased households inaccessible until they age off, rather than permanently expunging them at the time of the death match, to avoid possible misidentification of deceased individuals. The same two State agencies cited concerns with necessary system programming changes and the need to make benefits quickly available again in instances when the death match is erroneous.

While the Department understands concerns that a household account might erroneously be expunged due to a false death match, several State agencies have already been expunging benefits of deceased one-person households under the Agency's waiver authority. Under 7 CFR 272.14, State agencies are required to independently verify death matches and provide the household notice and the opportunity to respond prior to terminating benefits. To date, the Agency has not had any indication that false death matches have created an issue that would justify allowing benefits to remain in the EBT accounts of deceased single-person households.

Furthermore, State agencies are already required to close single-person household cases when a death match is verified. Therefore, requiring States to

expunge the account of such households does not add any additional risks which do not already exist. Should such an error occur, the State agency could correct the mistake by reissuing the benefits as a new benefit just as when off-line benefits are reinstated if they have been removed from the EBT system or when lump sum benefits are restored as a result of a fair hearing determination.

In contrast, having benefits of a deceased household remain in the account, even if deactivated, would leave such benefits susceptible to fraud, such as being activated by unauthorized individuals. Since there are no longer any certified individuals entitled to the benefits of deceased households, these benefits cannot be reinstated. Leaving these benefits in EBT accounts would also misrepresent the outstanding liability to the Federal government. For all these reasons, the Department is maintaining the provision to permanently expunge benefits upon the verified death match of all certified members of the household at 7 CFR 274.2(i)(4).

Implementation Deadline

The implementation deadline for all provisions in this rule is 12 months from the rule's effective date. With respect to the expungement provisions, no later than 12 months from the effective date of this rule, State agencies must issue individual notices to households who will have benefits scheduled for expungement within at least 30 days, based on the new nine-month expungement timeframe. Therefore, actual benefit expungement under the new nine-month timeframe must begin no later than 13 months from the effective date of this rule, after providing the minimum 30-day notices to the affected individual households.

Procedural Matters

Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563, direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules and of promoting flexibility. This final rule has been determined to be not significant and was not reviewed by the

Office of Management and Budget (OMB) in conformance with Executive Order 12866.

Regulatory Impact Analysis

This final rule has been designated as not significant by the Office of Management and Budget; therefore, no Regulatory Impact Analysis is required.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires Agencies to analyze the impact of rulemaking on small entities and consider alternatives that would minimize any significant impacts on a substantial number of small entities. Pursuant to that review, this final rule is certified not to have a significant impact on a substantial number of small entities.

This final rule would not have an impact on small entities because the provisions only impact State agencies responsible for administering the Supplemental Nutrition Assistance Program.

Congressional Review Act

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

Executive Order 13771

Executive Order 13771 directs agencies to reduce regulation and control regulatory costs and provides that the cost of planned regulations be prudently managed and controlled through a budgeting process.

This rule is not an E.O. 13771 regulatory action because it is not significant under E.O. 12866.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Under section 202 of the UMRA, the Department generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures by State, local or tribal governments, in the aggregate, or the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, Section 205 of the UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the most cost effective or least burdensome alternative that achieves the objectives of the rule.

This final rule does not contain Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local and tribal governments or the private sector of \$100 million or more in any one year. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12372

The Supplemental Nutrition Assistance Program is listed in the Catalog of Federal Domestic Assistance under Number 10.551 and is not subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Federalism Summary Impact Statement

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency’s considerations in terms of the three categories called for under Section (6)(b)(2)(B) of Executive Order 13132.

The Department has considered the impact of this rule on State and local governments and has determined that this rule does not have federalism implications. Therefore, under section 6(b) of the Executive order, a federalism summary is not required.

Executive Order 12988, Civil Justice Reform

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full and timely implementation. This rule is not intended to have retroactive effect unless so specified in the Effective Dates section of the final rule. Prior to any judicial challenge to the provisions of the final rule, all applicable administrative procedures must be exhausted.

Civil Rights Impact Analysis

The Department has reviewed this final rule in accordance with USDA Regulation 4300–4, “Civil Rights Impact Analysis,” to identify any major civil rights impacts the rule might have on program participants on the basis of age, race, color, national origin, sex or disability.

Although the 2018 Farm Bill reduces the amount of time from 12 months to nine months, during which all

households must use or access their benefits before benefits are permanently expunged, mitigation efforts are imbedded in the legislation and this rule by requiring that each individual household be given notice prior to expungement. The notice must be provided at least 30 days in advance, state the date when expungement will begin, and specify the action the household must take to prevent the expungement from occurring. There is no expungement notice requirement under the current requirement to expunge benefits after 12 months of SNAP account inactivity.

Without prior notification, the Department estimates that, on average, approximately 16 percent of SNAP households currently get some amount of benefits expunged from their SNAP accounts. The Department estimates that, on average, one month’s allotment is expunged for each household affected. The Department anticipates that the new notification requirement will reduce the number of expungements despite the reduced timeframe for using benefits.

Currently, only six States are opting to take benefits off-line prior to expungement after six months of account inactivity. The 2018 Farm bill now allows States to take benefits off-line after three months of inactivity. In the States that take benefits off-line, the Department estimates that 14 percent of households have their benefits taken off-line and that six percent of those households have those benefits reinstated prior to expungement. Providing individual household notification prior to taking benefits off-line is required under both the current regulation and the regulation being implemented by this rule.

Because of the new requirement to notify households prior to expungement, the Department estimates that a greater percentage of households that get their benefits taken off-line will get their benefits reinstated than under the new regulation, mitigating the impact of the reduced timeframe for taking benefits off-line due to account inactivity.

The Department is also codifying in this rule that States should automatically restore any off-line benefits upon a household’s recertification or reapplication, and that a general request for assistance should be considered a request for reinstatement of off-line benefits.

While specific demographic data is not readily available, after a careful review of the rule’s intent and provisions and based on the above analysis the Department has determined

that this final rule is not expected to affect the participation of protected individuals in SNAP.

Executive Order 13175

Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions 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. We are unaware of any current Tribal laws that could be in conflict with this rule.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. chap. 35; see 5 CFR part 1320) requires the Office of Management and Budget (OMB) approve all collections of information by a Federal agency before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number.

In accordance with the Paperwork Reduction Act of 1995, this final rule contains information collections that are subject to review and approval by the Office of Management and Budget. These existing requirements impact a current collection that has been used without a valid OMB control number or expiration date. The Department plans to bring these burden requirements into compliance, contingent upon OMB approval under the Paperwork Reduction Act of 1995. FNS plans to account for and maintain these burden hours under a new OMB control number assigned by OMB. Because the changes in the information collection burden that will result from adoption of provisions in this final rule were not submitted for public comment in the proposed rule, a separate 60-day notice was published on February 11, 2020, in the **Federal Register** at 85 FR 7716.

All responses received to this published notice will be summarized and included in the information collection request for OMB approval. All comments are also a matter of public record. These changes are contingent upon OMB approval under the Paperwork Reduction Act of 1995. When the information collection

requirements associated with this rulemaking have been approved, the Department will publish a separate notice in the **Federal Register** announcing OMB's approval.

Title: SNAP Benefit Storage and Expungement: Notices and Off-Line Benefit Reinstatement.

OMB Number: 0584-NEW.

Expiration Date: N/A.

Type of Request: New.

Abstract: This is a new information collection request. Although the agency has been collecting this information, we were unaware that collecting this information is in violation of the Paperwork Reduction Act. This final rule implements benefit issuance provisions of the Food, Conservation and Energy Act of 2008, Public Law 110-234 (2008 Farm Bill) and the Agricultural Improvement Act of 2018, Public Law 115-334, (2018 Farm Bill). Both Farm Bills amend the Food and Nutrition Act of 2008 (the Act), which includes benefit issuance, storage and expiration requirements for administering the program. State agencies are responsible for issuing benefits to those households entitled to benefits under the Act. This burden request covers activities associated with the required notices sent to individuals/household SNAP participants related to taking benefits off-line prior to permanent expungement after three months of SNAP EBT account inactivity and permanently expunging benefits after nine months of account inactivity. In addition, this burden request covers the activities associated with reinstating the off-line benefits to those SNAP participants upon contact by the household.

Respondents: 53 State agencies and 2,961,834 individuals/households SNAP participants. The respondents and activities are broken out below based on activities.

Respondents: State/Local/Tribal Government Burden (53).

Off-Line Benefit Storage Notice

Estimated Number of Respondents: 6.

Estimated Number of Responses per Respondent: 90,136.33.

Estimated Total Annual Responses: 540,818.00.

Estimated Average Hours per Response Annually: 0.05 minutes or 0.0083 hours.

Estimated Total Annual Burden on Respondents: 4,515.83.

Expungement Notice

Estimated Number of Respondents: 53.

Estimated Number of Responses per Respondent: 55,883.66.

Estimated Total Annual Responses: 2,961,834.00.

Estimated Average Hours per Response Annually: 0.05 minutes or 0.0083 hours.

Estimated Total Annual Burden on Respondents: 24,731.31.

Off-Line Benefit Reinstatement

Estimated Number of Respondents: 6.

Estimated Number of Responses per Respondent: 5,543.33.

Estimated Total Annual Responses: 33,260.00.

Estimated Average Hours per Response Annually: 3 minutes or 0.0501 hours.

Estimated Total Annual Burden on Respondents: 1,666.33.

Respondents: Individual/Household Notice.

Off-Line Storage Notice

Estimated Number of Respondents: 540,818.00.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Responses: 540,818.00.

Estimated Average Hours per Response Annually: 3.5 minutes or 0.0583 hours.

Estimated Total Annual Burden on Respondents: 31,529.69.

Expungement Notice

Estimated Number of Respondents: 2,961,834.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Responses: 2,961,834.00.

Estimated Average Hours per Response Annually: 2 minutes or 0.0334 hours.

Estimated Total Annual Burden on Respondents: 98,925.26.

Off-line Benefit Reinstatement

Estimated Number of Respondents: 33,260.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Responses: 33,260.00.

Estimated Average Hours per Response Annually: 5 minutes or 0.0835 hours.

Estimated Total Annual Burden on Respondents: 2,777.21.

The total burden for this rulemaking is 5,923,668.00 total annual responses and 163,970.49 burden hours.

Respondent	Activity	Estimated annual number respondent	Responses annually per respondent	Total annual responses	Estimated avg. number of hours per response annually	Estimated annual total hours	Hourly wage rate	Total annualized cost of respondent burden
Individuals or Households SNAP Recipients.	Benefit Expungement Notice.	2,961,834.00	1.00	2,961,834.00	0.0334	98,925.26	\$7.25	\$717,208.14
	Off-Line Benefit Storage Notice.	540,818.00	1.00	540,818.00	0.0583	31,529.69	7.25	228,590.25
	Off-Line Benefit Reinstatement.	33,260.00	1.00	33,260.00	0.0835	2,777.21	7.25	20,134.77
Sub-Total of Individual/Households SNAP Recipients.	.....	2,961,834.00	1.00	2,961,834.00	0.1752	133,232.16	7.25	965,933.16
State Agencies	Benefit Expungement Notice.	53.00	55,883.66	2,961,834.00	0.0083	24,583.22	23.50	577,705.67
	Off-Line Benefit Storage Notice.	6.00	90,136.33	540,818.00	0.0083	4,488.79	23.50	105,486.57
	Off-Line Benefit Reinstatement.	6.00	5,543.33	33,260.00	0.0501	1,666.33	23.50	39,158.76
Sub-Total of State Agencies.	.....	53.00	55,883.66	2,961,834.00	0.0677	30,738.34	23.50	722,351.00
Grand Total Reporting Burden with both Affect Public.	.....	2,961,887.00	2.0000	5,923,668.00	0.0277	163,970.49	.....	1,688,284.16

Note: * Each State Eligibility worker is counted once as all State Agency employees.

** Based on the Bureau of Labor Statistics May 2020 Occupational and Wage Statistics (<http://www.bls.gov/oes/current/>)—the salaries of the case managers are considered to be “Social Workers—other” (21–1029) functions valued at \$30.12 per staff hour. The salaries of the eligibility workers are considered to be “Eligibility Interviewers, government programs” (43–4061) functions valued at \$22.34. The salaries of Office and Administrative Support Workers, All other (43–9199) is \$18.02 per hour. Assuming an applicant staff person with an average salary of \$23.50 is needed to complete the applications, the total annualized dollars spent on respondent burden with fully loaded wages is \$2,245,417.93. The base cost to respondents is \$1,688,284.16 (× 1.33 fringe benefit cost) as depicted in the table above.

*** The \$7.25 used to calculate a cost to SNAP applicants (individuals/households) is the Federal minimum wage.

E-Government Act Compliance

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

List of Subjects in 7 CFR Parts 271 and 274

Food stamps, Grant programs-social programs, Reporting and recordkeeping requirements.

For reason set forth in the preamble, 7 CFR chapter II is amended as follows:

SUBCHAPTER C—[AMENDED]

■ 1. Under the authority of 7 U.S.C 2011, in the heading of subchapter C of chapter II, remove the words “Food Stamp” and add in their place the words “Supplemental Nutrition Assistance”.

■ 2. The authority citation for 7 CFR parts 271 and 274 continues to read as follows:

Authority: 7 U.S.C. 2011–2036.

PART 271—GENERAL INFORMATION AND DEFINITIONS

§ 271.1 [Amended]

■ 3. In § 271.1:

- a. Remove the word “coupons” from the fourth sentence of paragraph (b) and add in its place “SNAP benefits”; and
- b. Remove the word “coupon” from the tenth sentence of paragraph (b) and add in its place “benefit”.

■ 4. In § 271.2:

- a. Amend the definition of *Allotment* by removing the word “coupons” and adding in its place the word “benefits”;
- b. Remove the definition of *Authorization to participate card (ATP)*;
- c. Add definitions for *Benefit* and *Benefit issuer* in alphabetical order;
- d. Remove the definitions of *Bulk storage point*, *Coupon issuer*, and *Direct access system*;
- e. Add definitions for *Electronic Benefit Transfer (EBT) account*, *Electronic Benefit Transfer (EBT) card*, *Electronic Benefit Transfer (EBT) contractor or vendor*, and *Electronic Benefit Transfer (EBT) system* in alphabetical order;
- f. Amend the definition of *Eligible foods* by removing the word “coupons” where it appears twice in paragraph (3) of the definition and adding in its place the words “SNAP benefits”;

- g. Amend the definition of *Firm’s practice* by removing the words “food coupons” and adding in their place the words “SNAP benefits”;
- h. Add definitions for *Interoperability*, *Manual transaction*, and *Manual voucher* in alphabetical order;
- i. Amend the definition of *Overissuance* by removing the word “coupons” and adding in its place the word “benefits”;
- j. Add definitions for *Personal identification number (PIN)*, *Point-of-sale (POS) terminal*, and *Primary account number (PAN)* in alphabetical order;
- k. Remove the definition of *Program*; and
- l. Add definitions for *Retailer EBT Data Exchange (REDE) system* and *Supplemental Nutrition Assistance Program (SNAP or Program)* in alphabetical order.

The additions read as follows:

§ 271.2 Definitions.

* * * * *

Benefit means the value of supplemental nutrition assistance provided to a household by means of an EBT system or other means of providing assistance, as determined by the Secretary.

Benefit issuer means any office of the State agency or any person, partnership,

corporation, organization, political subdivision or other entity with which a State agency has contracted for, or to which it has delegated functional responsibility, in connection with the issuance of benefits to households.

* * * * *

Electronic Benefit Transfer (EBT) account means a set of records containing demographic, card, benefit, transaction and balance data for an individual household within the EBT system that is maintained and managed by a State or its contractor as part of the client case record.

Electronic Benefit Transfer (EBT) card means a method to access EBT benefits issued to a household member or authorized representative through the EBT system by a benefit issuer. This method may include an on-line magnetic stripe card, an off-line smart card, a chip card, a contactless digital wallet with a stored card, or any other similar benefit access technology approved by FNS.

Electronic Benefit Transfer (EBT) contractor or vendor means an entity that is selected to perform EBT-related services for the State agency.

Electronic Benefit Transfer (EBT) system means an electronic payments system under which household benefits are issued from and stored in a central databank, maintained and managed by a State or its contractor, and uses electronic funds transfer technology for the delivery and control of food and other public assistance benefits.

* * * * *

Interoperability means a system that enables program benefits issued to be redeemed outside the State that issued the benefits.

* * * * *

Manual transaction means an EBT transaction that is processed with the use of a paper manual voucher when there is an EBT system outage.

Manual voucher means a paper document signed by the EBT cardholder that allows a retailer to redeem benefits through a manual transaction.

* * * * *

Personal identification number (PIN) means a numeric code selected by or assigned to a household and used to verify the identity of an EBT cardholder when performing an EBT transaction.

* * * * *

Point-of-Sale (POS) terminal means a range of devices deployed at authorized retail food stores for redeeming benefits by initiating electronic debits and credits of household EBT accounts and retailer bank accounts.

Primary account number (PAN) means a number embossed or printed on

the EBT card and encoded onto the card to identify the State and EBT account holder.

* * * * *

Retailer EBT Data Exchange (REDE) system means the FNS system that allows the automated exchange of authorized retailer demographic data between FNS and the State and/or EBT contractor for notification of changes in retailer Program participation.

* * * * *

Supplemental Nutrition Assistance Program (SNAP or Program) means the program operated pursuant to the Food and Nutrition Act of 2008.

* * * * *

§ 271.4 [Amended]

■ 5. In § 271.4(a)(2), remove the word “coupons” and add in its place “SNAP benefits and EBT cards”.

§ 271.5 [Amended]

■ 6. In § 271.5:

■ a. Remove “Coupons”, “Coupon”, “coupon”, and “coupons” wherever they appear and add in their place “Benefits”, “Benefit”, “benefit”, and “benefits”, respectively;

■ b. Amend paragraph (a) by adding “and EBT cards” at the end of the last sentence;

■ c. Amend the introductory text of paragraph (b) by removing “ATP” and adding in its place “EBT”;

■ d. Remove paragraphs (b)(1) through (3);

■ e. Amend paragraph (c) by removing “ATP’s” wherever it appear and adding in its place “EBT cards”.

PART 274—ISSUANCE AND USE OF BENEFITS

■ 7. In § 274.2:

■ a. Revise paragraph (c);

■ b. Amend paragraph (e)(1) by removing “of paragraphs (e) through (h)” and removing “§ 274.6 and § 274.7” and adding in its place “§§ 274.6 and 274.7”;

■ c. Amend paragraph (g)(3) by removing “paragraph (h)(3)” and adding in its place “paragraph (j)”;

■ d. Revise paragraph (h);

■ e. Add paragraphs (i) and (j).

The revisions and additions read as follows:

§ 274.2 Providing benefits to participants.

* * * * *

(c) **Benefit allotments.** (1) State agencies shall not issue ongoing monthly benefit allotments to a household in more than one issuance during a month except with respect to the issuance of benefits to a resident of a drug and alcohol treatment and

rehabilitation program in accordance with § 273.11(e) of this chapter or when a benefit correction is necessary.

(2) For those households which are to receive a combined allotment, the State agency shall provide the benefits for both months as an aggregate (combined) allotment, or as two separate allotments, made available at the same time in accordance with the timeframes specified in § 273.2 of this chapter.

* * * * *

(h) **Off-line storage.** If a household’s EBT account is inactive for three months (91 days) or longer, State agencies may elect to store all benefits in that account off-line.

(1) An EBT account is inactive if the household has not initiated activity that affects the balance of the household’s SNAP EBT account, such as a purchase or return.

(2) Taking benefits off-line means that the household’s SNAP EBT account, including all existing benefits in the account and any new issuances deposited into the account, is no longer accessible to the household unless and until the account and its benefits are reinstated upon contact by the household.

(3) The State agency shall send written notification to the household up to 10 days prior to or concurrent with the action to store benefits off-line. If an inactive account has a zero balance, a notice to the household is not required. At a minimum, the notice shall include information on:

(i) The steps necessary to bring the benefits back on-line; and

(ii) The State agency’s permanent expungement policy.

(4) Benefits stored off-line that have not been expunged in accordance with paragraph (i) of this section shall be reinstated and made available within 48 hours of reapplication or contact by the household. In addition to a specific request for benefit restoration, household contact shall include, but is not limited to:

(i) Recertification or reapplication for benefits; and

(ii) A general request for assistance.

(i) **Expungement.** (1) State agencies shall apply SNAP transactions against a household’s SNAP benefits on a first-in-first-out basis. As a result, the oldest SNAP benefits are used first. On a daily basis, the State agency shall expunge benefits from EBT accounts at the monthly benefit allotment level in accordance with either paragraph (i)(1)(i) or (ii) of this section. State agencies must designate which approach will be used in its State plan and use the same approach for all households within the State.

(i) *Inactive EBT accounts.* Benefits allotments, or portion thereof, shall be expunged from EBT accounts that have been inactive, per paragraph (h)(1) of this section, for a period of nine months (274 days) in accordance with the following:

(A) When the oldest benefit allotment has not been accessed by the household for nine months, the State agency shall expunge benefits from the EBT account or off-line storage at the monthly benefit allotment level as each benefit allotment ages to nine months since the date of issuance or since the last date of account activity, whichever date is later.

(B) The State agency shall not expunge any benefits from active accounts even if there are benefit allotments older than nine months. If at any time after the expungement process begins, the household initiates activity affecting the balance of the account, the State shall stop expunging benefits from the account and start the account aging process over again for the remaining benefits.

(ii) *Unused benefits.* The State agency shall expunge individual benefit allotments, or portion thereof, that remain in a household's EBT account nine months (274 days) after the date the allotment was issued to the household, regardless of any account activity that may have taken place.

(2) Not later than 30 days before benefit expungement is scheduled to begin, State agencies shall provide notice to the household that benefits in their EBT account are approaching expungement due to nonuse/inactivity. At a minimum, the notice shall include:

(i) The date upon which benefits are scheduled to be expunged; and

(ii) The steps necessary to prevent the expungement, including an opportunity to request that any benefits stored off-line be restored to the household in accordance with paragraph (h) of this section;

(3) Expunged benefits shall be removed from the Account Management Agent and shall not be reinstated.

(4) Notwithstanding paragraph (i)(1) of this section, in instances when the State agency verifies a death match for all certified members of the household and closes the SNAP case in accordance with § 272.14 of this chapter, the State agency shall expunge the remaining SNAP balance in the household's EBT account at that time. In accordance with § 273.13(b)(2) of this chapter, expungement notices, per paragraph (i)(2) of this section, are not required for these households.

(j) *Procedures to adjust SNAP accounts.* Procedures shall be established to permit the appropriate

managers to adjust SNAP benefits that have already been posted to an EBT account prior to the household accessing the account, or to remove benefits from inactive accounts for off-line storage or expungement in accordance with paragraphs (h) and (i) of this section.

(1) Whenever benefits are stored off-line or expunged, the State agency shall document the date, amount of the benefits, and storage location in the household case file.

(2) Issuance reports shall reflect the adjustment to the State agency issuance totals to comply with monthly issuance reporting requirements prescribed under § 274.4.

§ 274.8 [Amended]

■ 8. In § 274.8(f)(8), remove “§ 274.2(h)(2)” and add in its place “§ 274.2(i)”.

Pamilyn Miller,

Administrator, Food and Nutrition Service.

[FR Doc. 2020–16403 Filed 8–21–20; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1400

[Docket ID CCC–2019–0007]

RIN 0560–AI49

Payment Limitation and Payment Eligibility

AGENCY: Commodity Credit Corporation and Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: This rule implements the mandatory changes required by the Agriculture Improvement Act of 2018 (2018 Farm Bill) and other changes made by the Farm Service Agency (FSA) on behalf of CCC. Specifically, the mandatory changes update program applicability and payment limitations; and specify that the Secretary may approve a waiver of the average adjusted gross income (AGI) limitation for participants of certain conservation contracts administered by FSA and the Natural Resources Conservation Service (NRCS) on environmentally sensitive land. Also, the mandatory changes expand the definition of “family member” to include first cousins, nieces, and nephews. This rule also includes changes that make minor clarifications and updates throughout part 1400.

DATES: *Effective:* August 20, 2020.

FOR FURTHER INFORMATION CONTACT: Paul Hanson, telephone: (202) 720–4189, email: paul.hanson@usda.gov. Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Background

This rule amends 7 CFR part 1400 to implement changes made by the 2018 Farm Bill; (Pub. L. 115–334) as well as makes certain changes, as explained below. This rule updates the applicable programs and payment limitations in 7 CFR 1400.1 to reflect current policy and changes made by the 2018 Farm Bill. FSA administers the regulations in 7 CFR part 1400 on behalf of CCC.

Payment Limitations

The 2018 Farm Bill and this rule create two separate payment limitations for the Noninsured Crop Disaster Assistance Program (NAP). Previously, a person or legal entity was subject to a \$125,000 payment limitation regardless of the level of NAP coverage obtained. For 2019 and subsequent years, the 2018 Farm Bill provides a separate per crop year maximum per person and legal entity limitation of either \$125,000 for payments to those who purchased basic 50/55 NAP coverage or \$300,000 for payments to those who purchased buy-up coverage. The 2018 Farm Bill increased the payment limitation for the Emergency Conservation Program (ECP) to \$500,000 per program per disaster event.

The 2018 Farm Bill officially removed LDPs and MLGs from the combined payment limit. This rule removes the payment limits for Marketing Loan Gains (MLG), Loan Deficiency Payments (LDP), and the Emergency Assistance for Livestock, Honeybees and Farm Raised Fish Program (ELAP) as mandated by the 2018 Farm Bill (section 1703(a)(2) and section 1501(e) respectively).

Waiver of AGI Limitation for Environmentally Sensitive Land of Special Significance

The 2018 Farm Bill does not change the AGI limitation of \$900,000 for certain programs; however, it does authorize the Secretary to waive the AGI limitation for participants of certain conservation contracts administered by FSA or NRCS when the Secretary determines that environmentally sensitive land of special significance will be protected because of the waiver. The waiver authority allows FSA and NRCS the discretion, on a case-by-case basis, to provide benefits to producers who may not otherwise meet the AGI

requirements on environmentally sensitive land of special significance. This rule defines “environmentally sensitive land of special significance” in § 1400.3. FSA and the NRCS identified specific critical resources warranting protection through enrollment in its definition. This rule also adds provisions in § 1400.500(f) to specify how a request for a waiver must be submitted and what it must include.

Definition of Family Member

FSA is expanding the definition of “family member” as mandated by the 2018 Farm Bill to include first cousin, niece, and nephew. This change expands the definition to allow farming operations to qualify for additional payment limitations for an existing farming operation under the rules for a substantive change, which are specified in § 1400.104. Furthermore, joint operations that included a first cousin, niece, or nephew were previously determined to be farming operations comprised of non-family members. With this change, a joint operation comprised of the newly expanded definition of family members would no longer be subject to the limitation of members qualifying on a management contribution alone, which increases the number of additional individuals eligible for payment within joint operations comprised solely of family members.

Other Changes

This rule makes several changes to the definitions in 7 CFR 1400.3. This rule amends the definitions of “active personal management,” and “significant contribution” as it relates to management in 7 CFR 1400.3 and removes the definitions of “active personal management,” “significant contribution of active personal management,” and “significant contribution of the combination of active personal labor and active personal management” previously in subpart G so that consistent definitions of the terms are used throughout part 1400. This rule also makes minor clarifications to the terms “interest in the farming operation” and “lawful alien.”

It adds a new definition of “livestock” for the purposes of part 1400, for which “livestock” includes animals that are considered eligible livestock under the Livestock Indemnity Program (LIP). This change is intended to clarify which species qualify as livestock and ensure that the animals considered to be “livestock” under part 1400 is consistent with the administration of other FSA programs.

This rule moves the provisions for revocable trusts from § 1400.100 (subpart B, Payment Limitation) to § 1400.7 (subpart A, General Provisions) because they are general provisions applicable to all of part 1400 and not just to the payment limitation provisions.

This rule amends the provisions in § 1400.102 to clarify that the policy that a state or political subdivision or one of its agencies is not eligible for payments or benefits under the programs in § 1400.1. This rule also clarifies that the exception in § 1400.102(b) applies only to payments or benefits under the Agriculture Risk Coverage (ARC) and Price Loss Coverage (PLC) programs.

This rule amends § 1400.104(a) to remove the reference to “legal entities.” This change aligns the regulation with current language in the 2018 Farm Bill.

This rule amends § 1400.104(a)(3) to remove “base acres” and add “land used for agricultural production.” The addition of 20 percent or more land used for agricultural production will be recognized as a substantive change in the farming operation and will take into consideration land used for annual crop production as well as grazing lands.

This rule is making a change in amending § 1400.104(a)(5) to specify that a change in ownership by sale or gift of livestock can be recognized as a substantive change in the farming operation, in addition to a sale or gift of land, which already exists in the rule, such that the sale or gift of livestock can result in the application of additional payment limits under 7 CFR part 1400. The addition of livestock as an element for consideration used in determining whether a substantive change has occurred takes into consideration all of the aspects of a farming operation including but not limited to land but also livestock and the value of the land or livestock to a farming operation. Further, this change is appropriate as substantive change rules apply to all programs subject to payment limitation, including Livestock Forage Disaster Program (LFP).

This rule amends § 1400.106 to specify that payment limitations apply to both direct and indirect payments, subject to the attribution provisions in § 1400.105. This change is a clarification of and therefore codification of current policy and does not alter the way FSA applies payment limitations.

This rule moves the cash rent tenant provisions of subpart D to subpart C, in § 1400.214, which contains the payment eligibility requirements.

This rule makes a technical correction to the provision in the regulation that indicated a legal entity’s or joint

operation’s eligible capital, land, or equipment could not be acquired as a result of a loan made to, guaranteed by, cosigned by, or secured by any person, legal entity or joint operation that has an interest in the farming operation, including the legal entity’s or joint operation’s members. The technical correction removes the legal entity’s or joint operation’s members from the provision and relies on “interest in the farming operation” to define the qualifying contribution.

This rule makes minor changes to update the regulatory language throughout part 1400. These changes are intended to make the regulation easier to understand and do not affect program implementation.

Effective Date, Notice and Comment, and Paperwork Reduction Act

As specified in 7 U.S.C. 9091, the regulations to implement the provisions of Title I and the administration of Title I of the 2018 Farm Bill are exempt from the notice and comment provisions of the Administrative Procedure Act (5 U.S.C. 553) and the Paperwork Reduction Act (in 44 U.S.C. chapter 35). Section 9091 further directs the Secretary to use the authority in 5 U.S.C. 808 related to congressional review and delay in the effective date.

The Administrative Procedure Act (5 U.S.C. 553) provides that the 30-day delay in the effective date provision does not apply when the rule involves specified actions, including matters relating to benefits. This rule governs the eligibility provisions for programs providing benefits to farmers and ranchers and therefore that exemption applies to this rule.

Therefore, this rule is effective upon publication in the **Federal Register**.

Executive Orders 12866, 13563, 13771 and 13777

Executive Order 12866, “Regulatory Planning and Review,” and Executive Order 13563, “Improving Regulation and Regulatory Review,” direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The requirements in Executive Orders 12866 and 13563 for the analysis of costs and benefits apply to rules that are determined to be significant. Executive

Order 13777, “Enforcing the Regulatory Reform Agenda,” established a federal policy to alleviate unnecessary regulatory burdens on the American people.

The Office of Management and Budget (OMB) designated this rule as significant under Executive Order 12866 and therefore, OMB reviewed this rule. The costs and benefits of this rule are summarized below. The full cost benefit analysis is available on *regulations.gov*.

Executive Order 13771, “Reducing Regulation and Controlling Regulatory Costs,” requires that, in order to manage the costs required to comply with Federal regulations, that for every new significant or economically significant regulation issued, the new costs must be offset by savings from deregulatory actions. OMB guidance in M–17–21, dated April 5, 2017, specifies that “transfers” are not covered by Executive Order 13771.

Cost Benefit Analysis Summary

The cost benefit analysis evaluated changes to payment limits and payment eligibility mandated by the 2018 Farm Bill along with two other changes the rule is making in the regulation. This rule implements those changes by amending the regulations in 7 CFR part 1400. We estimate that the changes will increase Farm Program outlays by about \$21.2 million per year. The largest increases are from elimination of the payment limit for ELAP and a new separate payment limit for those producers who choose buy-up coverage under NAP.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA, Pub. L. 104–121), generally requires an agency to prepare a regulatory flexibility analysis of any rule whenever an agency is required by the Administrative Procedure Act or any other law to publish a proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to the Regulatory Flexibility Act because USDA is not required by Administrative Procedure Act or any law to publish a proposed rule for this rulemaking.

Environmental Review

The environmental impacts of this final rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on

Environmental Quality (40 CFR parts 1500–1508), and the FSA regulations for compliance with NEPA (7 CFR part 799). FSA has determined that the provisions identified in this final rule are administrative in nature, intended to clarify the mandatory requirements of the programs, as defined in the 2018 Farm Bill, and do not constitute a major Federal action that would significantly affect the quality of the human environment, individually or cumulatively. As this rule presents administrative clarifications only, it is categorically excluded under § 799.31(3)(i) issuing minor technical corrections to regulations, handbooks, and internal guidance, as well as amendments to them; therefore, FSA will not prepare an environmental assessment or environmental impact statement for this regulatory action.

Executive Order 12372

Executive Order 12372, “Intergovernmental Review of Federal Programs,” requires consultation with State and local officials that would be directly affected by proposed Federal financial assistance. The objectives of the Executive Order are to foster an intergovernmental partnership and a strengthened Federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. For reasons specified in the final rule related notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities within this rule are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, “Civil Justice Reform.” This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. The changes mandated by the 2018 Farm Bill were effective for the 2019 crop year. Other changes in this rule will not have retroactive effect. Before any judicial actions may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR parts 11 and 780 must be exhausted.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, “Federalism.” The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the

Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments.” Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions 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.

The USDA Office of Tribal Relations (OTR) has assessed the impact of this rule on Indian Tribes and determined that this rule does have significant Tribal implications. OTR has determined that further Tribal consultation under Executive Order 13175 is not required at this time.

Tribal consultation for this rule was included in the 2018 Farm Bill consultation held on May 1–2, 2019, at the National Museum of American Indian, in Washington, DC, and on June 26–27, 2019, in Sparks, NV. The portion of the Tribal consultation relative to this rule was conducted by Bill Northey, USDA Under Secretary for the Farm Production and Conservation mission area, as part of the Title I session. No comments regarding this rule were raised.

If a Tribe requests additional consultation, FSA and CCC will work with OTR to ensure meaningful consultation is provided where changes, additions, and modifications are not expressly mandated by law.

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions of State, local, and Tribal governments or the private sector. Agencies generally must prepare a written statement, including cost benefits analysis, for proposed and final rules with Federal mandates that may

result in expenditures of \$100 million or more in any 1 year for State, local or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of UMRA, for State, local and Tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

E-Government Act Compliance

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

Federal Assistance Programs

The title and number of the Federal Domestic Assistance Programs found in the Catalog of Federal Domestic Assistance to which this rule applies are:

- 10.051—Commodity Loans and Loan Deficiency Payments
- 10.069—Conservation Reserve Program
- 10.088—Livestock Indemnity Program
- 10.089—Livestock Forage Disaster Program

- 10.091—Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish Program
- 10.092—Tree Assistance Program
- 10.113—Agriculture Risk Coverage
- 10.112—Price Loss Coverage
- 10.451—Noninsured Assistance
- 10.912—Environmental Quality Incentives Program
- 10.917—Agricultural Management Assistance

List of Subjects in 7 CFR Part 1400

Agriculture, Grant programs—agriculture, Loan programs—agriculture, Natural resources, Price support programs.

For the reasons discussed above, CCC amends 7 CFR part 1400 as follows:

PART 1400—PAYMENT LIMITATION AND PAYMENT ELIGIBILITY

- 1. The authority citation continues to read as follows:

Authority: 7 U.S.C. 1308, 1308–1, 1308–2, 1308–3, 1308–3a, 1308–4, and 1308–5; and Title I, Pub. L. 115–123.

Subpart A—General Provisions

- 2. Amend § 1400.1 as follows:
 - a. Revise paragraph (a)(1);
 - b. In paragraph (a)(6), remove the word “and”;
 - c. In paragraph (a)(7), remove the period and add “; and” in its place;
 - d. Redesignate paragraph (a)(8) as paragraph (a)(9);
 - e. Add new paragraph (a)(8);

- f. In newly redesignated paragraph (a)(9), remove the reference “Subparts C, D, and G” and add “Subparts C and G” in its place and remove “through (7)” and add “through (8)” in its place;
- g. In paragraph (b)(1), remove “(5),”;
- h. In paragraph (b)(3), remove the reference “Paragraph (a)(6)” and add the references “Paragraphs (a)(5) and (6)” in its place and remove the word “and” at the end of the paragraph;
- i. In paragraph (b)(4), remove the period and add “; and” in its place;
- j. Add paragraph (b)(5); and
- k. Revise paragraph (f).

The additions and revisions read as follows.

§ 1400.1 Applicability.

(a) * * *
 (1) The Agriculture Risk Coverage (ARC) and Price Loss Coverage (PLC) Programs, part 1412 of this chapter;

* * * * *

(8) The Emergency Conservation Program (ECP) and Emergency Forest Restoration Program (EFRP) in part 701 of this title.

* * * * *

(b) * * *
 (5) Paragraph (a)(8) of this section on a per disaster event basis.

* * * * *

(f) The following amounts are the limitations on payments per person or legal entity for the applicable period for each payment or benefit.

TABLE 1 TO PARAGRAPH (f)

Payment or benefit	Limitation per person or legal entity (\$)
(1) Price Loss Coverage, Agriculture Risk Coverage payments (other than Peanuts).	125,000 per program year.
(2) Price Loss Coverage and Agriculture Risk Coverage payments for Peanuts.	125,000 per program year.
(3) CRP annual rental payments	50,000 per program year.
(4) NAP payments	
(i) basic 50/55 NAP coverage	125,000 per crop year.
(ii) Buy-up NAP coverage	300,000 per crop year.
(5) LFP	125,000 per program year.
(6) CSP ¹	200,000.
(7) EQIP ²	450,000.
(8) AMA program	50,000 per fiscal year.
(9) ECP	500,000 per disaster event.
(10) EFRP	500,000 per disaster event.

¹ The \$200,000 limitation is the total amount a person or legal entity can receive directly or indirectly in the aggregate under all CSP contracts entered into during fiscal years 2019 through 2023.

² The \$450,000 limitation is the total amount of cost share and incentive payments a person or legal entity can receive directly or indirectly, under all EQIP contracts (excluding Conservation Incentive Contracts) in the aggregate entered into during the period of either: Fiscal years 2014 through 2018, or fiscal years 2019 through 2023.

§ 1400.2 [Amended]

- 3. Amend § 1400.2 as follows:
 - a. In paragraph (c) introductory text, remove the word “such” and add the words “the county” in its place;

- b. In paragraph (c)(1), remove the word “such” and add the word “the” in its place;
- c. In paragraph (f), remove the words “such determinations” and add the words “the determinations” in their

- place and remove the words “such year” and add the words “the applicable year” in their place; and
- d. In paragraph (h), remove the words “such reviews” and add “the reviews” in their place.

■ 4. Amend § 1400.3(b) as follows:

■ a. Revise the definitions of “Active personal management” and “Capital”;

■ b. Add the definition of “Environmentally sensitive land of special significance” in alphabetical order;

■ c. In the definition of “Equipment”, remove the words “Such equipment” and add the words “The equipment” in their place and remove the words “such equipment” each time they appear and add the words “the equipment” in their place;

■ d. In the definition of “Family member”, remove the words “spouse, or” and add the words “first cousin, niece, nephew, spouse, or” in their place;

■ e. In the definition of “Farming operation”, remove the words “such person” and add the words “the person” in their place;

■ f. Remove the definition of “Interest in a farming operation”;

■ g. Add the definition of “Interest in the farming operation” in alphabetical order;

■ h. In the definition of “Land”, remove the word “Such” and add the word “The” in its place, remove the words “If such” and add the words “If the” in their place, and remove the words “crop or crop proceeds, such” and add “farming operation, the” in their place;

■ i. In the definition of “Lawful alien”, remove the words “a valid Alien Registration Receipt Card” and add the words “appropriate valid credentials” in their place;

■ j. Add the definition of “Livestock” in alphabetical order;

■ k. In the definition of “Sharecropper”, remove the words “such crop” and add the words “the crop” in their place and remove the words “the provision of such labor” and add the word “work” in their place; and

■ l. Revise the definition of “Significant contribution”.

The additions and revisions read as follows:

§ 1400.3 Definitions.

* * * * *

(b) * * *

Active personal management means personally providing and participating in activities considered critical to the profitability of the farming operation and performed under one or more of the following categories:

(1) Capital, which includes:

(i) Arranging financing and managing capital;

(ii) Acquiring equipment;

(iii) Acquiring land or negotiating leases;

(iv) Managing insurance; and

(v) Managing participation in USDA programs;

(2) Labor, which includes hiring and managing of hired labor; and

(3) Agronomics and marketing, which includes:

(i) Selecting crops and making planting decisions;

(ii) Acquiring and purchasing crop inputs;

(iii) Managing crops (that is, whatever managerial decisions are needed with respect to keeping the growing crops living and healthy—soil fertility and fertilization, weed control, insect control, irrigation if applicable) and making harvest decisions; and

(iv) Pricing and marketing of crop production.

* * * * *

Capital means the funding provided by a person or legal entity to the farming operation for the operation to conduct farming activities. In determining whether a person or legal entity has independently contributed capital, in the form of funding, to the farming operation, the capital must have been derived from a fund or account separate and distinct from that of any other person or legal entity with an interest in the farming operation. Capital does not include the value of any labor or management that is contributed to the farming operation or any outlays for land or equipment. A capital contribution must be a direct out-of-pocket input of a specified sum or an amount borrowed by the person or legal entity and does not include advance program payments.

* * * * *

Environmentally sensitive land of special significance means land offered for enrollment or adjacent to the land offered for enrollment that contains, or through enrollment will address, critical resources including, but not limited to:

(1) Habitat for threatened, endangered, or at-risk species;

(2) Historical or cultural resources;

(3) Native grasslands;

(4) Unique wetlands;

(5) Rare, unique, or related soils; and

(6) Critical groundwater recharge areas.

* * * * *

Interest in the farming operation means any of the following:

(1) Owner, lessor, or lessee of the land in the farming operation;

(2) An interest in the agricultural products, commodities, or livestock produced by the farming operation; or

(3) A member of a joint operation that is an owner, lessor, or lessee of the land in the farming operation or has an interest in the agricultural products,

commodities, or livestock produced by the farming operation.

* * * * *

Livestock means those animals included in § 1416.304(a) of this chapter.

* * * * *

Significant contribution means the provision of the following to a farming operation:

(1) Land, capital, or equipment:

(i) For land, capital, or equipment contributed independently by a person or legal entity, a contribution that has a value at least equal to 50 percent of the person’s or legal entity’s commensurate share of the total:

(A) Value of the capital necessary to conduct the farming operation;

(B) Rental value of the land necessary to conduct the farming operation; or

(C) Rental value of the equipment necessary to conduct the farming operation; or

(ii) If the contribution by a person or legal entity consists of any combination of land, capital, and equipment, the combined contribution must have a value at least equal to 30 percent of the person’s or legal entity’s commensurate share of the total value of the farming operation.

(2) For active personal labor, an amount contributed by a person or members, stockholders, or partners of a legal entity to the farming operation that is described by the smaller of the following:

(i) 1,000 hours per calendar year; or

(ii) 50 percent of the total hours that would be necessary to conduct a farming operation that is comparable in size to the person’s or legal entity’s commensurate share in the farming operation.

(3) For active personal management, includes activities performed by a person, with a direct or indirect ownership interest in the farming operation or a legal entity, on a regular, continuous, and substantial basis to the farming operation and meets at least one of the following to be considered significant:

(i) Performs at least 25 percent of the total management hours required for the farming operation on an annual basis; or

(ii) Performs at least 500 hours of management annually for the farming operation.

(4) With respect to a combination of active personal labor and active personal management, when neither contribution by itself meets the requirement of paragraphs (2) and (3) of this definition, a combination of active personal labor and active personal management that, when made together:

- (i) Is critical to the profitability of the farming operation;
- (ii) Is performed on a regular, continuous, and substantial basis; and
- (iii) Meets the following required number of hours:

TABLE 1 TO PARAGRAPH (4)(iii) OF THE DEFINITION OF SIGNIFICANT CONTRIBUTION

Combination of active personal labor and active personal management minimum requirement for a significant contribution		
Management contribution in hours	Labor contribution in hours	Meets the minimum threshold for significant contribution, in hours
475	75	550
450	100	550
425	225	650
400	250	650
375	375	750
350	400	750
325	425	750
300	550	850
275	575	850
250	600	850
225	625	850
200	650	850
175	675	850
150	800	950
125	825	950
100	850	950
75	875	950
50	900	950
25	925	950

* * * * *

- 5. Amend § 1400.5 as follows:
 - a. In paragraph (b) introductory text, remove the word “Such” and add the words “Examples of” in its place;
 - b. In paragraph (b)(3) introductory text, remove the words “Indicators of such business arrangement” and add the words “Examples of business arrangements or acts” in their place;
 - c. In paragraph (c), remove the words “such person” and add “the person” in their place, remove the words “for such” and add the word “the” in their place, and add the words “perpetrated or” after the words “device was”; and
 - d. Revise paragraph (d) introductory text.

The revision reads as follows:

§ 1400.5 Denial of program benefits.

* * * * *

(d) A person or legal entity that lies or perpetuates fraud, commits fraud, or participates in equally serious actions for the benefit of the person or legal entity, or the benefit of any other person or legal entity, to exceed the applicable limit on payments or the requirements of this part will be subject to a 5-year denial of all program benefits. Examples of equally serious actions include, but are not limited to:

* * * * *

- 5. Revise § 1400.6(a) to read as follows:

§ 1400.6 Joint and several liability.

(a) Any legal entity, including joint operations, and any member of a legal

entity determined to have knowingly participated in a scheme or device, or other equally serious actions to evade the payment limitation provisions in this part, or that has the purpose of evading the provisions of this part, will be jointly and severally liable for any amounts determined to be payable as the result of the scheme or device, or other examples of equally serious actions mentioned in this section or in § 1400.5, including amounts necessary to recover the payments.

* * * * *

- 6. Add § 1400.7 to read as follows:

§ 1400.7 Revocable trust.

A revocable trust and the grantor will be considered to be the same person under this part.

§ 1400.8 [Amended]

- 7. In § 1400.8, remove the word “such” both times it appears and add the word “the” in its place.

§ 1400.9 [Amended]

- 8. In § 1400.9(a) introductory text, remove the word “such” and add the word “the” in its place.

Subpart B—Payment Limitation

§ 1400.100 [Removed and Reserved]

- 9. Remove and reserve § 1400.100.

§ 1400.101 [Amended]

- 10. Amend § 1400.101 as follows:

- a. In paragraph (a), remove the words “such a” and add the words “the” in their place;
- b. In paragraph (b)(2), remove the words “such minor” and add the words “the minor” in their place;
- c. In paragraph (b)(3) introductory text, remove the word “such” and add the word “the” in its place; and
- d. In paragraph (c), remove the word “such” and add the word “the” in its place.

§ 1400.102 [Amended]

- 11. Amend § 1400.102 as follows:
 - a. In paragraph (a), remove the reference “§ 1400.1(a)(1)” and add “§ 1400.1” in its place;
 - b. In paragraph (b) introductory text, remove the reference “§ 1400.1” and add the reference “§ 1400.1(a)(1)” in its place; and
 - c. In paragraph (c), remove the word “such” and add the word “the” in its place.

§ 1400.103 [Amended]

- 12. In § 1400.103(a), remove the words “such an” and add the word “the” in their place and remove the words “such organization” and add the words “the organization” in their place.

§ 1400.104 [Amended]

- 13. Amend § 1400.104 as follows:
 - a. In paragraph (a) introductory text, remove the words “or legal entities”;
 - b. In paragraph (a)(1), remove the words “such an” and add the word “the” in their place;

■ c. In paragraph (a)(3) introductory text, remove the words “base acres not” and add the words “land used for agricultural production not” in their place and remove the words “total base acres” and add the words “total land” in their place;

■ d. In paragraph (a)(3)(i), remove the words “such an increase in base acres” and add “the increase in agricultural land” in their place;

■ e. In paragraph (a)(3)(ii), remove the words “base acres” and add the words “agricultural land” in their place;

■ f. In paragraph (a)(4), remove “such” each time it appears and add the word “the” in its place;

■ g. In paragraphs (a)(4)(i) through (iv), remove the comma and add a semicolon in its place;

■ h. In paragraph (a)(5) introductory text, add the words “or livestock” after the words “gift of land” both times they appear and remove the word “such” and add the word “the” in its place;

■ i. In paragraph (a)(5)(i), remove the words “such land” and add the words “the land or livestock” in their place and remove the comma and add a semicolon in its place;

■ j. In paragraph (a)(5)(ii), add the words “or livestock” after the words “of land”, remove the words “the land’s fair” and add the words “land’s or livestock’s fair” in their place, and remove the comma and add a semicolon in its place;

■ k. In paragraph (a)(5)(iii), remove the words “the land” and add the words “the land or livestock” in their place and remove “such land,” and add “the land or livestock;” in its place;

■ l. In paragraph (a)(5)(iv), remove the comma and add a semicolon in its place;

■ m. In paragraph (a)(5)(v), remove the words “the land” and add the words “the land or livestock” in their place; and

■ n. In paragraph (b), remove the words “or legal entities”.

§ 1400.105 [Amended]

■ 14. In § 1400.105(d) introductory text, remove the words “or legal entity’s”.

§ 1400.106 [Amended]

■ 15. In § 1400.106(a), remove the words “Payments” and add the words “Direct or indirect payments” in its place and add the words “and will be determined in accordance with § 1400.105” at the end of the paragraph.

Subpart C—Payment Eligibility

§ 1400.201 [Amended]

■ 16. Amend § 1400.201 as follows:

■ a. In paragraph (a), remove the word “such” and add the word “the” in its place; and

■ b. In paragraph (d)(3), remove the words “such a” and add the word “the” in their place.

■ 17. Amend § 1400.202 as follows:

■ a. In paragraph (c) introductory text, remove the words “such capital” and add the words “the capital” in their place; and

■ b. Revise paragraph (c)(1).

The revision reads as follows:

§ 1400.202 Persons.

* * * * *

(c) * * *

(1) To meet the requirements of paragraph (a)(1)(i) of this section, must be contributed directly by the person and must not be acquired as a result of a loan made to, guaranteed, co-signed, or secured by any other person, joint operation, or legal entity that has an interest in the farming operation; and

* * * * *

■ 18. Amend § 1400.203 as follows:

■ a. In paragraph (a)(1)(ii)(C), remove the word “such” and add the word “the” in its place;

■ b. In paragraph (b) introductory text, remove the word “such” and add the word “the” in its place both time it appears;

■ c. Revise paragraph (b)(1);

■ d. In paragraph (b)(2) introductory text, remove “(a)(3)” and add “(3)” in its place and remove the words “as defined”; and

■ e. In paragraph (c), remove “(b)(3)” and add “(3)” in its place and remove the word “such” to add the word “the” in its place.

The revision reads as follows:

§ 1400.203 Joint operations.

* * * * *

(b) * * *

(1) To meet the requirements of paragraph (a)(1)(i) of this section, and if contributed directly by the joint operation, must not be acquired as a loan made to, guaranteed, co-signed, or secured by any person, legal entity, or other joint operation that has an interest in the farming operation; and

* * * * *

■ 19. Amend § 1400.204 as follows:

■ a. In paragraph (a)(2)(iii), remove the word “such” and add the word “the” in its place;

■ b. In paragraph (d) introductory text, remove the word “such” and add the word “the” in its place; and

■ c. Revise paragraph (d)(1).

The revision reads as follows:

§ 1400.204 Limited partnerships, limited liability partnerships, limited liability companies, corporations, and other similar legal entities.

* * * * *

(d) * * *

(1) To meet the requirements of paragraph (a)(1) of this section, must be contributed directly by the legal entity and must not be acquired as a loan made to, guaranteed, co-signed, or secured by any person, legal entity, or joint operation that has an interest in the farming operation, as defined in this part; and

* * * * *

■ 20. Amend § 1400.205 as follows:

■ a. In paragraph (e) introductory text, remove the word “such” and add the word “the” in its place; and

■ b. Revise paragraph (e)(1).

The revision reads as follows:

§ 1400.205 Trusts.

* * * * *

(e) * * *

(1) To meet the requirements of paragraph (a) of this section, must be contributed directly by the trust and must not be acquired as a loan made to, guaranteed, co-signed, or secured by any person, legal entity, or joint operation that has an interest in the farming operation, as defined in this part; and

* * * * *

■ 21. Amend § 1400.206 as follows:

■ a. In paragraph (b) introductory text, remove the word “such” and add the word “the” in its place; and

■ b. Revise paragraph (b)(1).

The revision reads as follows:

§ 1400.206 Estates.

* * * * *

(b) * * *

(1) To meet the requirements of paragraph (a) of this section, must be contributed directly by the estate and must not be acquired as a loan made to, guaranteed, co-signed, or secured by any person, legal entity, or joint operation that has an interest in the farming operation, as defined in this part; and

* * * * *

§§ 1400.207, 1400.208, 1400.209, 1400.210, 1400.212, and 1400.213 [Amended]

■ 22. In §§ 1400.207 through 1400.213, remove the word “such” and add the word “the” in its place in the following places:

■ a. In § 1400.207(a) introductory text, (a)(1), and (b);

■ b. In § 1400.208(b)(1) and (2);

■ c. In § 1400.209(a) and (b)(2) and (3);

■ d. In § 1400.210;

■ e. In § 1400.212; and

■ f. In § 1400.213.

- 23. Add § 1400.214 to read as follows:

§ 1400.214 Cash rent tenants.

(a) Any tenant that is actively engaged in farming in accordance with the provisions of this subpart and conducts a farming operation in which the tenant rents the land for cash, for a crop share guaranteed as to the amount of the commodity, or by any arrangement in which the tenant does not compensate the landlord by cash or a crop share, and receives benefits, with respect to the land under a program specified in § 1400.1(a)(1) and (2) will not be eligible to receive any payment with respect to the cash-rented land unless the tenant independently makes a significant contribution to the farming operation of:

- (1) Active personal labor; or
- (2) Significant contributions of both active personal management and equipment.

(b) If the equipment is leased by the tenant from:

- (1) The landlord, then the lease must reflect the fair market value of the equipment leased with a payment schedule considered reasonable and customary for the area; or

(2) The same person or legal entity that is providing hired labor to the farming operation, then the contracts for the lease of the equipment and for the hired labor must be two separate contracts.

(c) If the equipment is leased by the tenant from the landlord, or from the same person or legal entity that is providing hired labor to the farming operation, then the tenant must exercise complete control over the leased equipment during the entire current crop year. Complete control is defined as exclusive access and use by the tenant.

(d) If the cash rent tenant is a joint operation, then each member or their spouse must make a significant contribution of active personal labor or active personal management as specified in § 1400.203(a)(1)(ii) to be considered eligible for the member's share of the program payments received by the joint operation on the cash rented land.

(e) If the cash rent tenant is a legal entity, then a significant contribution of active personal labor or active personal management must be made to the legal entity as specified in § 1400.204(a)(2) for the legal entity to be considered eligible for the program payments on the cash rented land.

Subpart D [Removed and Reserved]

- 24. Remove and reserve subpart D, consisting of § 1400.301.

Subpart E—Foreign Persons

§ 1400.401 [Amended]

- 25. Amend § 1400.401 as follows:

■ a. In paragraph (a), remove the words “such person” and add the words “the person” in their place both times they appear, remove the words “such farm” and add the words “the farm” in their place, remove the words “such an” and add the word “that” in their place, and remove “these regulations” and add “the regulations in this subpart” in its place;

■ b. In paragraph (b)(1), remove the words “such a legal” and add the words “the legal” in their place and remove the words “such legal” and add the words “the legal” in their place;

■ c. In paragraph (b)(2) introductory text, remove the word “such” and add the word “the” in its place;

■ d. In paragraph (b)(3), remove the words “in such” and add “in” in their place;

■ e. In paragraph (b)(4), remove the words “in such” and add the word “in” in their place and remove the words “such payment” and add the words “the payment” in their place; and

■ f. In paragraph (b)(5), remove the words “such percentage” and add the words “the percentage” in their place, remove the words “such stock” and add the words “the stock” in their place, and remove the words “such class” and add the word “class” in their place.

§ 1400.402 [Amended]

- 26. Amend § 1400.402 as follows:

■ a. In paragraph (a)(1), remove the word “such” and add the word “the” in its place;

■ b. In paragraph (a)(2), remove the word “Such” and add the word “The” in its place; and

■ c. In paragraph (b), remove the words “Such written” and add the word “Written” in their place and remove “such” and add “the” in its place.

Subpart F—Average Adjusted Gross Income Limitation

- 27. Amend § 1400.500 as follows:

■ a. In paragraph (c), remove the word “such” and add the word “the” in its place; and

■ b. Add paragraph (f).

The addition reads as follows:

§ 1400.500 Applicability.

* * * * *

(f) The Administrator or NRCS Chief may waive the limitation under this section on a case-by-case basis for the protection of environmentally sensitive land of special significance. A waiver request must be in writing and:

(1) Show that use of conservation program funding on or adjacent to environmentally sensitive land of special significance is critical to the success of a project that provides conservation benefits to multiple producers or landowners in a community, watershed, or other geographic area;

(2) Demonstrate that the proposed action achieves enduring protection of environmentally sensitive land of special significance through use of a long-term agreement that is greater than 15 years in duration or through use of a deed restriction on the land; or

(3) Present evidence that otherwise demonstrates, as determined by the Administrator or the NRCS Chief, that the waiver is necessary to address the critical natural resources referenced in the definition of environmentally sensitive land of special significance.

§ 1400.501 [Amended]

- 28. Amend § 1400.501 as follows:

■ a. In paragraph (a)(2), remove the word “such” and add the word “the” in its place; and

■ b. In paragraph (b), remove the word “such” and add the word “this” in its place.

§ 1400.503 [Amended]

- 29. In § 1400.503, remove the word “such” each time it appears and add the word “the” in its place.

Subpart G—Additional Payment Eligibility Provisions for Joint Operations and Legal Entities Comprised of Non-Family Members or Partners, Stockholders, or Persons With an Ownership Interest in the Farming Operation

§ 1400.601 [Removed and Reserved]

- 30. Remove and reserve § 1400.601.

§ 1400.602 [Amended]

- 33. Amend § 1400.602 as follows:

■ a. In paragraphs (a)(1) and (2) introductory text, remove the word “such” each time it appears;

■ b. In paragraph (a)(3) introductory text, remove the words “one such” and add the word “one” in their place and remove the words “with such” and add the words “with that” in their place; and

■ c. In paragraphs (b) and (e), remove the word “such” each time it appears and add the word “the” in its place.

Richard Fordyce,
Administrator, Farm Service Agency.

Robert Stephenson,
Executive Vice President, Commodity Credit Corporation.

[FR Doc. 2020–18148 Filed 8–19–20; 4:15 pm]

BILLING CODE 3410–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 33

[Docket No FAA–2020–0816; Special Conditions No. 33–20–01–SC]

Special Conditions: Safran Helicopter Engines, S.A., Arrano 1A Turboshaft Engine Model; 30-Minute All Engines Operating Power Rating

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Safran Helicopter Engines, S.A. (Safran Helicopter Engines), Arrano 1A turboshaft engine model. This engine model will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for aircraft engines. This design feature is a 30-minute All Engines Operating (AEO) power rating. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Safran Helicopter Engines on August 24, 2020. Send comments on or before October 8, 2020.

ADDRESSES: Send comments identified by docket number FAA–2020–0816 using any of the following methods:

- *Federal eRegulations Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to <http://regulations.gov/>, including any personal information the commenter provides. Using the search function of the docket website, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT’s complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478).

Docket: Background documents or comments received may be read at <http://www.regulations.gov> at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tara Fitzgerald, FAA, AIR–6A2, Engine and Propeller Standards Branch, Aircraft Certification Service, 1200 District Avenue, Burlington, Massachusetts, 01803–5213; telephone (781) 238–7130; facsimile (781) 238–7199; email tara.fitzgerald@faa.gov.

SUPPLEMENTARY INFORMATION: The FAA has determined, in accordance with 5 U.S. Code 553(b)(3)(B) and 553(d)(3), that notice and opportunity for prior public comment are unnecessary because substantially identical special conditions have been previously subject to the public comment process in several prior instances such that the FAA is satisfied that new comments are unlikely. For the same reason, the FAA finds that good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment.

Special conditions number	Company and model
No. 33–010–SC ²	Pratt and Whitney Canada, Inc. PT6C–67E Turboshaft Engine.
No. 33–009–SC ³	Pratt and Whitney Canada Corp. PW210S Turboshaft Engine.

¹ 82 FR 60854, December 26, 2017.
² 76 FR 56097, September 12, 2011.
³ 76 FR 40594, July 11, 2011.

Comments Invited

The FAA invites interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

The FAA will consider all comments received by the closing date for comments. The FAA may change these special conditions based on the comments received.

Background

On August 30, 2019, Safran Helicopter Engines applied for a type certificate for the Arrano 1A turboshaft engine model. The Arrano 1A turboshaft engine model has an annular inlet integrating inlet guide vanes, a two-stage centrifugal compressor driven by a single-stage high pressure turbine, a reverse flow combustion chamber and a single-stage low pressure turbine (power turbine) driving a reduction gearbox located at the front of the engine and an exhaust pipe. The Arrano 1A turboshaft engine model will incorporate a novel or unusual design feature, which is a 30-minute AEO power rating. Regulations pertaining to a 30-minute AEO power rating have not been incorporated into part 33. These special conditions provide the requirements for the 30-minute AEO power rating for the Arrano 1A turboshaft engine model. Safran Helicopter Engines has requested this 30-minute AEO power rating to support helicopter search and rescue missions that require hover operations at high power. The use of the 30-minute AEO power rating will require special conditions to address the use of this 30-minute AEO power rating and its effects on the Arrano 1A engine model.

Type Certification Basis

Under the provisions of title 14, Code of Federal Regulations (14 CFR) 21.17, Safran Helicopter Engines must show that the Arrano 1A turboshaft engine model meets the applicable provisions of 14 CFR part 33, dated February 1,

Special conditions number	Company and model
No. 33–021–SC ¹	Light Helicopter Turbine Engine Company CTS800–4AT Turboshaft Engine.

1965, as amended by amendments 33–1 through 33–34.

If the Administrator finds that the applicable airworthiness regulations (e.g., 14 CFR part 33) do not contain adequate or appropriate safety standards for the Safran Helicopter Engines, Arrano 1A turboshaft engine model because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The Arrano 1A turboshaft engine model will incorporate a novel or unusual design feature, which is a 30-minute AEO power rating. This rating will be used to support helicopter search and rescue missions that require hover operations at high power.

Discussion

The type certification basis for the Arrano 1A turboshaft engine model does not contain adequate airworthiness standards for a 30-minute AEO power rating. Therefore, special conditions are necessary to provide additional safety standards for rating definition, instructions for continued airworthiness (ICA), and endurance testing.

The 30-minute AEO power rating is generally intended to be used for hovering at increased power for search and rescue missions at power levels higher than the maximum continuous rating, up to rated takeoff power. These special conditions address the effects on the engine during the use of the 30-minute AEO power for up to 30 minutes. The 30-minute AEO power rating time limitation applies to each instance the 30-minute AEO power rating is used. There is no limit to the number of times the 30-minute AEO power rating can be used during any one flight and there is no cumulative time limitation.

In accordance with § 33.4, the applicant must prepare ICAs. Those ICAs must include instructions to address the unknown usage of the 30-minute AEO power rating and its effect on engine deterioration for the Arrano

1A turboshaft engine model. Safran Helicopter Engines must assess the usage and publish ICAs with airworthiness limitations section limits in accordance with the usage to prevent excessive engine deterioration. Because the Arrano 1A turboshaft engine model has a continuous one engine inoperative (OEI) rating and associated limitations equal to or higher than the 30-minute AEO rating, the test time performed at the continuous OEI rating may be credited toward the 25 hours of operation endurance test requirement set forth in these SCs. However, test times spent at other rating elements of the § 33.87 endurance test, such as takeoff or other OEI ratings (that may be equal to or higher), may not be counted toward the required 25 hours endurance test set forth in these SCs. Therefore, special conditions are issued under the provisions of 14 CFR 11.19, 21.16, and 21.17. Safran Helicopter Engines must demonstrate compliance to the safety standards specified in the special conditions.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to the Safran Helicopter Engines, Arrano 1A turboshaft engine model. Should Safran Helicopter Engines apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on the Arrano 1A turboshaft engine model. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 33

Aircraft, Engines, Aviation Safety, Reporting and recordkeeping requirements.

Authority Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Safran

Helicopter Engines, Arrano 1A turboshaft engine model.

In addition to the general definitions in § 1.1, the following definition applies to these special conditions: “Rated 30-minute All Engines Operating (AEO) power” means the approved brake horsepower developed under static conditions at the specified altitude and temperature, and within the operating limitations under part 33, and limited in use to periods not exceeding 30 minutes.

In addition to the airworthiness standards in 14 CFR part 33, the following special conditions apply:

(a) Section 33.1, Applicability, and Section 33.3, General. As applicable, all documentation, testing and analysis required to comply with the part 33 type certification basis must account for the 30-minute AEO rating, limits, and usage.

(b) Section 33.4, Instructions for Continued Airworthiness. In addition to the requirements of § 33.4, the instructions for continued airworthiness must:

(1) Include instructions to ensure that in-service engine deterioration due to the rated 30-minute AEO power usage will not exceed that assumed for establishing the engine maintenance program and all other approved ratings, including one engine inoperative (OEI), are available (within associated limits and assumed usage) for every flight.

(2) Validate the adequacy of the maintenance actions required under paragraph (b)(1) of these special conditions.

(3) Include in the airworthiness limitations section any mandatory inspections and serviceability limits related to the use of the 30-minute AEO power rating.

(c) Section 33.7, Engine ratings and operating limitations. In addition to the ratings and operating limitations required to be established by § 33.7(a) and (c), a rated 30-minute AEO power and operating limitations must be established relating to the following:

(1) Horsepower, torque, shaft speed (r.p.m.) and gas temperature.

(2) The rated 30-minute AEO power and associated limitations must not exceed the rated takeoff power and associated limitations.

(d) Section 33.29, Instrument connection. If dependence is placed on instrumentation needed to monitor the rating’s use, the applicant must make provision for the installation of that instrumentation, specify the provisions for instrumentation in the engine installation instructions, and declare them mandatory in the engine approval documentation.

(e) Section 33.87, Endurance Test. In addition to the requirements of § 33.87(a) and (d), the overall test run must include a minimum of 25 hours of operation at rated 30-minute AEO power and limits, divided into periods of not less than 30 minutes, but not more than 60 minutes at rated 30-minute AEO power, and alternate periods at maximum continuous power or less.

(1) Each § 33.87(d) continuous OEI rating test period of 60 minutes duration, run at power and limits equal to or higher than the 30-minute AEO power rating, may be credited toward this requirement. Note that the test time required for the takeoff or other OEI ratings may not be counted toward the 25 hours of testing required at the 30-minute AEO power rating.

Issued in Burlington, Massachusetts, on August 20, 2020.

Robert J. Ganley,

Manager, Engine and Propeller Standards Branch, Aircraft Certification Service.

[FR Doc. 2020-18614 Filed 8-20-20; 11:15 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2020-0769; Product Identifier 2018-CE-033-AD; Amendment 39-21213; AD 2020-17-08]

RIN 2120-AA64

Airworthiness Directives; Pacific Aerospace Limited Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Pacific Aerospace Limited Model 750XL airplanes with wing lightning protection panels installed. This AD results from mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as insufficient electrical bonding of the wing lightning protection panels. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective September 14, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of September 14, 2020.

The FAA must receive comments on this AD by October 8, 2020.

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

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* (202) 493-2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Pacific Aerospace Limited, Airport Road, Hamilton, Private Bag 3027, Hamilton 3240, New Zealand; phone: +64 7843 6144; fax: +64 843 6134; email: pacific@aerospace.co.nz; internet: www.aerospace.co.nz. You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106.

For information on the availability of this material at the FAA, call (816) 329-4148. It is also available on the internet at <https://www.regulations.gov> by searching for locating Docket No. FAA-2020-0769.

Examining the AD Docket

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-0769; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Mike Kiesov, Aerospace Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4144; fax: (816) 329-4090; email: mike.kiesov@faa.gov.

SUPPLEMENTARY INFORMATION:

Discussion

The Civil Aviation Authority of New Zealand (CAA) has issued AD DCA/750XL/21, dated December 15, 2017

(referred to after this as “the MCAI”), to correct an unsafe condition for Pacific Aerospace Limited Model 750XL airplanes with wing lightning protection panels installed. To accompany the MCAI, the CAA issued Notification of Airworthiness Directive issued for New Zealand Aeronautical Products IAW ICAO Annex 8, dated December 15, 2017, which states:

This [CAA] AD with effective date 22 December 2017 mandates an electrical bonding inspection of the wing lightning protection panels per the requirements in Pacific Aerospace Mandatory Service Bulletin (MSB) PACSB/XL/092 issue 2, dated 15 December 2017, or later approved revision.

The [CAA] AD is prompted by the possibility that there may be insufficient electrical bonding between the lightning protection panels and the airframe.

Due to a report of an airplane with wing lightning strike panels that were not bonded to the airframe and without information confirming whether the bonding was performed properly during the assembly process, a check of all airplanes in operation is necessary.

In addition to the inspection of the electrical bonding on the wing lightning protection panels, the MCAI also requires repair of any insufficient electrical bonding found during the inspection. You may examine the MCAI on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-0769.

Related Service Information Under 14 CFR Part 51

The FAA reviewed Pacific Aerospace Service Bulletin PACSB/XL/092, Issue 2, dated December 15, 2017. The service information contains procedures for inspecting the electrical bonding (verification testing) on the wing lightning protection panels and repairing the electrical bonding if insufficient bonding is found during the inspection. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Differences Between This AD and the MCAI

The MCAI requires compliance before further flight for aircraft operating under instrument flight rules (IFR) and before February 15, 2018, for aircraft operating under visual flight rules. The FAA’s engineering assessment determined an emergency AD was not warranted. Therefore, this AD requires compliance within 30 days for aircraft approved to

operate under IFR and within 60 days for aircraft not approved to operate under IFR.

FAA's Determination and Requirements of the AD

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

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because if not corrected the unsafe condition, in the event of a lightning strike, could result in an inflight fire. The risk assessment received by the FAA, and reconfirmed in July of 2020, indicates that urgent action is required. The corrective actions necessary to mitigate this unsafe condition must be accomplished within 30 days for IFR operation and 60 days for VFR operations. Therefore, the FAA finds good cause that notice and opportunity for prior public comment are impracticable. In addition, for the reasons stated above, the FAA finds that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, the FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under the **ADDRESSES** section. Include the Docket Number FAA-2020-0769 and Product Identifier 2019-CE-033-AD at the beginning of your comments. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN." The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Mike Kiesov, Aerospace Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, Missouri 64106. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Costs of Compliance

The FAA estimates that this AD will affect 22 products of U.S. registry. The FAA also estimates that it will take about 5 work-hours per product to comply with the basic inspection requirements of this AD. The average labor rate is \$85 per work-hour.

Based on these figures, we estimate the cost of the AD on U.S. operators to be \$9,350, or \$425 per product.

In addition, the FAA estimates that any necessary follow-on repair actions will take about 11 work-hours and require parts costing \$200, for a cost of \$1,135 per product. The FAA has no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, section

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

Regulatory Flexibility Act

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

Regulatory Findings

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

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

- (1) Is not a "significant regulatory action" under Executive Order 12866, and
- (2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2020-17-08 Pacific Aerospace Limited:
Amendment 39-21213; Docket No. FAA-2020-0769; Product Identifier 2018-CE-033-AD.

(a) Effective Date

This AD becomes effective September 14, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pacific Aerospace Limited Model 750XL airplanes, certificated in any category, with a wing lightning protection panel installed.

(d) Subject

Air Transport Association of America (ATA) Code 39: Electrical Wiring.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as insufficient electrical bonding of the wing lightning protection panels. The FAA is issuing this AD to detect and correct insufficient electrical bonding between the wing lightning protection panels and the airframe that, in the event of a lightning strike in that area, could result in an inflight fire.

(f) Compliance

Comply with the actions listed in paragraphs (g) and (h) of this AD within the compliance times specified, unless already done.

(g) For Airplanes With Short Range Wings

For airplanes approved for operation under instrument flight rules (IFR), do the following actions within 30 days after September 14, 2020 (the effective date of this AD), and for airplanes not approved for operation under IFR, do the following actions within 60 days after September 14, 2020 (the effective date of this AD):

(1) Inspect each wing upper surface by following paragraphs 2.A.(1) through 2.A.(3) of the Accomplishment Instructions—Short Range Wing in Pacific Aerospace Service Bulletin PACSB/XL/092, Issue 2, dated December 15, 2017 (PACSB/XL/092, Issue 2).

(i) Using a mill-ohmmeter, determine the resistance between the test point on each panel and the fuel cap.

(ii) If the resistance is greater than 100 milliohms, before further flight, repair the upper surface electrical bonding by following paragraph 2.B. of the Accomplishment Instructions—Short Range Wing in PACSB/XL/092, Issue 2.

(2) Inspect each wing lower surface by following paragraphs 2.C.(1) through 2.C.(3) of the Accomplishment Instructions—Short Range Wing in PACSB/XL/092, Issue 2.

(i) Using a mill-ohmmeter, determine the resistance between each test point and the airframe.

(ii) If the resistance is greater than 100 milliohms, before further flight, repair the lower surface electrical bonding by following paragraph 2.D. of the Accomplishment Instructions—Short Range Wing in PACSB/XL/092, Issue 2.

(h) For Airplanes With Extended Range Wings

For airplanes approved for operation under IFR, do the following actions within 30 days after September 14, 2020 (the effective date of this AD), and for airplanes not approved for operation under IFR, do the following actions within 60 days after September 14, 2020 (the effective date of this AD):

(1) Inspect each wing upper surface by following paragraphs 3.A.(1) through 3.A.(3) of the Accomplishment Instructions—Extended Range Wing in PACSB/XL/092, Issue 2.

(i) Using a mill-ohmmeter, determine the resistance between the test point on each panel and the fuel cap.

(ii) If the resistance is greater than 100 milliohms, before further flight, repair the upper surface electrical bonding by following paragraph 3.B. of the Accomplishment Instructions—Extended Range Wing in PACSB/XL/092, Issue 2.

(2) Inspect each wing lower surface by following paragraphs 3.C.(1) through 3.C.(3) of the Accomplishment Instructions—Extended Range Wing in PACSB/XL/092, Issue 2.

(i) Using a mill-ohmmeter, determine the resistance between each test point and the airframe.

(ii) If the resistance is greater than 100 milliohms, before further flight, repair the lower surface electrical bonding by following paragraph 3.D. of the Accomplishment Instructions—Extended Range Wing in PACSB/XL/092, Issue 2.

(i) Alternative Methods of Compliance

The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Mike Kiesov, Aerospace Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4144; fax: (816) 329-4090; email: mike.kiesov@faa.gov. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(j) Related Information

Refer to MCAI Civil Aviation Authority of New Zealand AD DCA/750XL/21, dated December 15, 2017, for related information. You may examine the MCAI on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-0769.

(k) Material Incorporated by Reference

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

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

(i) Pacific Aerospace Service Bulletin PACSB/XL/092, Issue 2, dated December 15, 2017.

(ii) [Reserved].

(3) For Pacific Aerospace service information identified in this AD, contact Pacific Aerospace Limited, Airport Road, Hamilton, Private Bag 3027, Hamilton 3240, New Zealand; phone: +64 7843 6144; fax: +64 843 6134; email: pacific@aerospace.co.nz; internet: <https://www.aerospace.co.nz>.

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329-4148. It is also available on the internet at <https://www.regulations.gov> by searching for locating Docket No. FAA-2020-0769.

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

Issued on August 12, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020-18448 Filed 8-21-20; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA-2020-0365; Airspace Docket No. 20-ASW-4]

RIN 2120-AA66

Amendment of Class E Airspace; Harrison, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E surface airspace, and Class E airspace extending upward from 700 feet above the surface at Boone County Airport, Harrison, AR, due to the decommissioning of the (HRO) RWY 36 Outer Marker (OM) and Compass Locator and cancellation of associated approaches. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area. This action also updates the airport's designator by removing the city from the second line of the header.

DATES: Effective 0901 UTC, November 5, 2020. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to

the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Ave, College Park, GA 30337; telephone (404) 305-6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class E airspace at Boone County Airport, Harrison, AR to support IFR operations in the area.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (85 FR 33590, June 2, 2020) for Docket No. FAA-2020-0365 to amend Class E surface airspace, by removing the southern extension, and Class E airspace extending upward from 700 feet above the surface, by amending the southern extension and eliminating the northwest extension, at Boone County Airport, Harrison, AR. In addition, the FAA proposed to update the airport's descriptor, and replace the outdated term Airport/Facility Directory with the term Chart Supplement.

Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in Paragraph 6005, of FAA Order 7400.11D, dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

This amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 amends Class E surface airspace, by removing the southern extension, and Class E airspace extending upward from 700 feet above the surface, by amending the southern extension and eliminating the northwest extension, at Boone County Airport, Harrison, AR, due to the decommissioning of the (HRO) RWY 36 Outer Marker (OM) and Compass Locator. The FAA found that BAKKY NDB has been decommissioned, and the Harrison VOR approach no longer exists. This results in airspace redesign for Boone County Airport. In addition, the FAA updates the airport's descriptor by removing the unnecessary city name. Also, the FAA replaces the outdated term Airport/Facility Directory with the term Chart Supplement. These changes are necessary for continued safety and management of IFR operations in the area.

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

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and, (3)

does not warrant preparation of a regulatory evaluation as the anticipated impact is minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," paragraph 5-6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6002 Class E Surface Airspace
* * * * *

ASW AR E2 Harrison, AR

Boone County Airport, AR
(Lat. 36°15'41" N, long. 93°09'17" W)

That airspace within a 4.3-mile radius of Boone County Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will; thereafter, be continuously published in the Chart Supplement.

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.
* * * * *

ASW AR E5 Harrison, AR

Boone County Airport, AR

(Lat. 36°15'41" N, long. 93°09'17" W)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of Boone County Airport and within 4-miles each side of the 183° bearing from the airport extending form the 6.8-mile radius to 11.7 miles south of the airport.

Issued in College Park, Georgia, on August 17, 2020.

Matthew N. Cathcart,

Manager, Airspace & Procedures Team North, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2020-18379 Filed 8-21-20; 8:45 am]

BILLING CODE 4910-13-P**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R04-OAR-2019-0195; FRL-10012-66-Region 4]

Air Plan Approval; Georgia; Revision to I/M Program**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 State of Georgia through a letter dated March 15, 2019, through the Georgia Department of Natural Resources (GA DNR), Environmental Protection Division (GA EPD). The changes remove obsolete references, clarify the State's inspection and maintenance (I/M) requirements, and update terminology, including to reflect advances in technology. EPA evaluated the SIP revision and determined the changes will not impact emissions under the Georgia I/M program. EPA has determined that approval of the SIP revision will not interfere with attainment or maintenance of any national ambient air quality standard (NAAQS) or with any other applicable requirement of the Clean Air Act (CAA or Act). Therefore, EPA is approving the Georgia's March 15, 2019, SIP revision because it is consistent with the applicable provisions of the CAA.

DATES: This rule is effective September 23, 2020.**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2019-0195 at <http://www.regulations.gov>. All documents in the docket are listed on the

www.regulations.gov website. Although listed in the index, some information may not be publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Kelly Sheckler, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9222. Ms. Sheckler can also be reached via electronic mail at sheckler.kelly@epa.gov.

SUPPLEMENTARY INFORMATION:**I. This Action**

EPA is approving changes to the Georgia SIP that were provided to EPA under a cover letter dated March 15, 2019.¹ Specifically, GA EPD provided three different changes to Georgia's Rule 391-3-20—*Enhanced Inspection and Maintenance* (“Georgia I/M Regulation”), which were adopted by the GA DNR Board of Directors and became state-effective on November 22, 2016, March 28, 2018, and February 17, 2019.² The changes are to update the SIP to remove obsolete references, clarify the State's I/M requirements, and update terminology, including to reflect advances in technology. These changes include adding, removing, and revising definitions applicable to the Georgia I/M Regulation.

¹ EPA officially received Georgia's I/M SIP revision request on March 21, 2019.

² Changes adopted by the GA DNR Board on October 26, 2016, became state-effective on November 22, 2016; adopted on February 28, 2018, became state-effective on March 28, 2018; and adopted on January 16, 2019, became state-effective on February 17, 2019.

II. Background

Georgia's March 19, 2019 SIP revision contains changes to a number of rules within the Georgia I/M Regulation to remove obsolete references, clarify the State's I/M regulations, and update terminology: Rule 391-3-20-.01, “Definitions;” Rule 391-3-20-.03, “Covered Vehicles: Exemptions;” Rule 391-3-20-.04, “Emission Inspection Procedures;” Rule 391-3-20-.05, “Emission Standards;” Rule 391-3-20-.06, “On-Road Testing of Exhaust Emissions by Remote Sensing Technology or Other Means;” Rule 391-3-20-.07, “Inspection Equipment System Specification;” 391-3-20-.08, “Quality Control and Equipment Calibration Procedures;” Rule 391-3-20-.09, “Inspection Station Requirements;” Rule 391-3-20-.10, “Certificates of Authorization;” Rule 391-3-20-.11, “Inspector Qualifications and Certification;” Rule 391-3-20-.13, “Certificate of Emission Inspection;” Rule 391-3-20-.15, “Repairs and Retests;” Rule 391-3-20-.17, “Waivers;” and Rule 391-3-20-.18, “Sale of Vehicles.”

In a notice of proposed rulemaking (NPRM) published on May 14, 2020 (85 FR 28919), EPA proposed to approve the above changes into the Georgia SIP. The details of Georgia's submission and the rationale for EPA's action are explained in the NPRM. Comments on the NPRM were due on or before June 15, 2020. EPA did not receive any comments on the NPRM. Therefore, EPA is finalizing approval of those changes in this action.

In this final action, EPA is correcting an error in the NPRM regarding the term “Certification of Emission Inspection.” In the NPRM (Section III.A.2.b.), EPA stated that “[t]he term ‘Certificate of Emissions Inspection’ is defined as a certificate issued to stations that have been inspected and approved by GA EPD.” Georgia Rule 391-391-3-20-.01, “Definitions,” however, defines a “Certificate of Emissions Inspection” as follows:

(f) “Certificate of Emissions Inspection” means an official certificate that exhaust emissions, evaporative emissions, emission control equipment, and on-board diagnostic equipment have been inspected and approved in accordance with the Act and this Chapter. Such certificates will be furnished to official emission inspection stations by EPD to be completed and issued by such stations to the owner or operator of a responsible motor vehicle upon inspection and approval certifying that such responsible motor vehicle has been inspected and complies with the inspection and maintenance required by the Act and this Chapter.

Therefore, the term “Certificate of Emissions Inspection” is defined as a certificate issued to *the owner or operator of a motor vehicle that has received an emission inspection.*

III. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 40 CFR 51.5, EPA is finalizing the incorporation by reference of Georgia Rules 391–3–20-.04, 391–3–20-.05, 391–3–20-.07, 391–3–20-.08, 391–3–20-.10, 391–3–20-.13, 391–3–20-.15, 391–3–20-.18, and 391–3–20-.20, state effective on March 28, 2018, and Georgia Rules 390–3–20-.01, 391–3–20-.03, 391–3–20-.06, 391–3–20-.09, 391–3–20-.11, and 391–3–20-.17, state effective on February 17, 2019, within Chapter 391–3–20, titled “Enhanced Inspection and Maintenance,” to remove obsolete references, clarify the State’s I/M requirements, and update terminology, including to reflect advances in technology. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.³

IV. Final Action

EPA is approving Georgia’s March 15, 2019, SIP revision. The changes revise sections of Georgia’s Rule 391–3–20—*Enhanced Inspection and Maintenance*. The changes update the SIP to remove obsolete references, clarify the State’s I/M requirements, and update terminology, including to reflect advances in technology. These changes include adding, removing, and revising definitions applicable to the Georgia I/M Regulation. EPA is approving these changes because they are consistent with the CAA and EPA’s inspection and maintenance regulations at 40 CFR part 51 subpart S.

V. Statutory and Executive Order Review

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 23, 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 23, 2020.

Mary Walker,
Regional Administrator, Region 4.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 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.*

³ *See* 62 FR 27968 (May 22, 1997).

Subpart (L)—Georgia

- 2. In § 52.570 amend the table in paragraph (c) by:
- a. Revising the entry for “391–3–20”;
- and
- b. Adding entries under “Enhanced Inspection and Maintenance” in numerical order for “391–3–20-.01, Definitions”, “391–3–20-.02, Covered Counties”, “391–3–20-.03, Covered Vehicles; Exemptions”, “391–3–20-.04, Emission Inspection Procedures”, “391–3–20-.05, Emission Standards”, “391–3–

20-.06, On-Road Testing of Exhaust Emissions by Remote Sensing Technology or Other Means”, “391–3–20-.07, Inspection Equipment System Specifications”, “391–3–20-.08, Quality Control and Equipment Calibration Procedures”, “391–3–20-.09, Inspection Station Requirements”, “391–3–20-.10, Certificates of Authorization”, “391–3–20-.11, Inspector Qualifications and Certification”, “391–3–20-.12, Schedules for Emission Inspections”, “391–3–20-.13, Certificate of Emission

Inspection”, “391–3–20-.15, Repairs and Retests”, “391–3–20-.16, Extensions and Reciprocal Inspections”, “391–3–20-.17, Waivers”, “391–3–20-.18, Sale of Vehicles”, “391–3–20-.19, Management Contractor”, “391–3–20-.20, Referee Program”, “391–3–20-.21, Inspection Fees”, and “391–3–20-.22, Enforcement”, to read as follows:

§ 52.570 Identification of plan.

* * * * *
(c) * * *

EPA APPROVED GEORGIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
391–3–20	Enhanced Inspection and Maintenance			
391–3–20-.01 ..	Definitions	2/17/2019	8/24/2020,	[Insert citation of publication]
391–3–20-.02 ..	Covered Counties	1/9/2005	5/24/2007,	72 FR 29075
391–3–20-.03 ..	Covered Vehicles; Exemptions	2/17/2019	8/24/2020,	[Insert citation of publication]
391–3–20-.04 ..	Emission Inspection Procedures	3/28/2018	8/24/2020,	[Insert citation of publication]
391–3–20-.05 ..	Emission Standards	3/28/2018	8/24/2020,	[Insert citation of publication]
391–3–20-.06 ..	On-Road Testing of Exhaust Emissions by Remote Sensing Technology or Other Means.	2/17/2019	8/24/2020,	[Insert citation of publication]
391–3–20-.07 ..	Inspection Equipment System Specifications ..	3/28/2018	8/24/2020,	[Insert citation of publication]
391–3–20-.08 ..	Quality Control and Equipment Calibration Procedures.	3/28/2018	8/24/2020,	[Insert citation of publication]
391–3–20-.09 ..	Inspection Station Requirements	2/17/2019	8/24/2020,	[Insert citation of publication]
391–3–20-.10 ..	Certificates of Authorization	3/28/2018	8/24/2020,	[Insert citation of publication]
391–3–20-.11 ..	Inspector Qualifications and Certification	2/17/2019	8/24/2020,	[Insert citation of publication]
391–3–20-.12 ..	Schedules for Emission Inspections	6/19/2014	4/10/2017,	82 FR 17128
391–3–20-.13 ..	Certificate of Emission Inspection	3/28/2018	8/24/2020,	[Insert citation of publication]
391–3–20-.15 ..	Repairs and Retests	3/28/2018	8/24/2020,	[Insert citation of publication]
391–3–20-.16 ..	Extensions and Reciprocal Inspections	6/19/2014	4/10/2017,	82 FR 17128
391–3–20-.17 ..	Waivers	2/17/2019	8/24/2020,	[Insert citation of publication]
391–3–20-.18 ..	Sale of Vehicles	3/28/2018	8/24/2020,	[Insert citation of publication]
391–3–20-.19 ..	Management Contractor	6/19/2014	4/10/2017,	82 FR 17128
391–3–20-.20 ..	Referee Program	3/28/2018	8/24/2020,	[Insert citation of publication]
391–3–20-.21 ..	Inspection Fees	6/19/2014	4/10/2017,	82 FR 17128
391–3–20-.22 ..	Enforcement	6/19/2014	4/10/2017,	82 FR 17128

* * * * *
[FR Doc. 2020–16668 Filed 8–21–20; 8:45 am]
BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 105–60

[GSPMR Case 2016–105–1; Docket No. 2016–0004; Sequence No. 1]

Public Availability of Agency Records and Informational Materials; Technical Amendment

AGENCY: Office of Administrative Services (OAS), General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: GSA is amending the General Services Administration’s regulations

implementing the Freedom of Information Act (FOIA). The previous published final rule inadvertently excluded a subpart.

DATES: *Effective:* August 24, 2020.

FOR FURTHER INFORMATION CONTACT: Mr. Travis S. Lewis, Director of GSA, OAS, Freedom of Information Act Requester Service Center, at 202–219–3078 or via email at travis.lewis@gsa.gov for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite GSPMR Case 2016–105–1.

SUPPLEMENTARY INFORMATION:

I. Background

GSPMR Case 2016–105–1; Public Availability of Agency Records and Informational Materials was published

in the **Federal Register** at 85 FR 5137 on January 29, 2020.

Subpart 41 CFR 105–60.6 was inadvertently excluded when GSA amended its regulations to incorporate changes brought about by changes to the Freedom of Information Act (FOIA) on January 29, 2020.

II. Discussion of Changes

GSA is issuing this technical amendment to reinstitute its regulations pertaining to the Production or Disclosure by Present or Former General Services Administration Employees in Response to Subpoenas or Similar Demands in Judicial or Administrative Proceedings. There is and was no amendment to the language of the specific regulations pertaining to the Production or Disclosure by Present or Former General Services Administration Employees in Response to Subpoenas or

Similar Demands in Judicial or Administrative Proceedings. This technical amendment only reinstates the unchanged, aforementioned regulations as reflected in the background section.

This final rule reinstates Subpart 41 CFR 105–60.6, hereinafter Subpart L–41 CFR–105–60.10, which regulates the Production or Disclosure by Present or Former General Services Administration Employees in Response to Subpoenas or Similar Demands in Judicial or Administrative Proceedings.

III. Executive Orders 12866 and 13563

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

IV. Executive Order 13771

The General Services Administration certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because this editorial change does not have a significant impact on the public or Government.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant GSAR revision and 41 U.S.C. 1707 does not require publication for public comment.

VI. Paperwork Reduction Act

This final rule does not contain any information collection that requires additional approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. Chapter 35).

List of Subjects in 41 CFR Part 105–60

Administrative practice and procedure, Records, Information, Confidential business information,

Freedom of Information Act, Privacy Act.

Emily W. Murphy,
Administrator.

■ For the reasons stated in the preamble, GSA revises 41 CFR part 105–60 to add Subpart L to read as follows:

PART 105–60—PUBLIC AVAILABILITY OF AGENCY RECORDS AND INFORMATIONAL MATERIALS

Subpart L 105–60.10—Production or Disclosure by Present or Former General Services Administration Employees in Response to Subpoenas or Similar Demands in Judicial or Administrative Proceedings

Sec.

105–60.1001 Purpose and scope of subpart.

105–60.1002 Definitions.

105–60.1003 Acceptance of service of a subpoena duces tecum or other legal demand on behalf of the General Services Administration.

105–60.1004 Production or disclosure prohibited unless approved by the Appropriate Authority.

105–60.1005 Procedure in the event of a demand for production or disclosure.

105–60.1006 Procedure where response to demand is required prior to receiving instructions.

105–60.1007 Procedure in the event of an adverse ruling.

105–60.1008 Fees, expenses, and costs.

Authority: 5 U.S.C. 301 and 552; 40 U.S.C. 486(c).

§ 105–60.1001 Purpose and scope of subpart.

(a) By virtue of the authority vested in the Administrator of General Services by 5 U.S.C. 301 and 41 U.S.C. 121(c) this subpart establishes instructions and procedures to be followed by current and former employees of the General Services Administration in response to subpoenas or similar demands issued in judicial or administrative proceedings for production or disclosure of material or information obtained as part of the performance of a person's official duties or because of the person's official status. Nothing in these instructions applies to responses to subpoenas or demands issued by the Congress or in Federal grand jury proceedings.

(b) This subpart provides instructions regarding the internal operations of GSA and the conduct of its employees, and is not intended and does not, and may not, be relied upon to create any right or benefit, substantive or procedural, enforceable at law by a party against GSA.

§ 105–60.1002 Definitions.

For purposes of this subpart, the following definitions apply:

(a) *Material* means any document, record, file or data, regardless of the physical form or the media by or through which it is maintained or recorded, which was generated or acquired by a current or former GSA employee by reason of the performance of that person's official duties or because of the person's official status, or any other tangible item, *e.g.*, personal property possessed or controlled by GSA.

(b) *Information* means any knowledge or facts contained in material, and any knowledge or facts acquired by current or former GSA employee as part of the performance of that person's official duties or because of that person's official status.

(c) *Demand* means any subpoena, order, or similar demand for the production or disclosure of material, information or testimony regarding such material or information, issued by a court or other authority in a judicial or administrative proceeding, excluding congressional subpoenas or demands in Federal grand jury proceedings, and served upon a present or former GSA employee.

(d) *Appropriate authority* means the following officials who are delegated authority to approve or deny responses to demands for material, information or testimony:

(1) The Counsel to the Inspector General for material and information which is the responsibility of the GSA Office of Inspector General or testimony of current or former employees of the Office of the Inspector General;

(2) The Counsel to the GSA Board of Contract Appeals for material and information which is the responsibility of the Board of Contract Appeals or testimony of current or former Board of Contract Appeals employees;

(3) The GSA General Counsel, Associate General Counsel(s) or Regional Counsel for all material, information, or testimony not covered by paragraphs (d)(1) and (2) of this section.

§ 105–60.1003 Acceptance of service of a subpoena duces tecum or other legal demand on behalf of the General Services Administration.

(a) The Administrator of General Services and the following officials are the only GSA personnel authorized to accept service of a subpoena or other legal demand on behalf of GSA: The GSA General Counsel and Associate General Counsel(s) and, with respect to material or information which is the

responsibility of a regional office, the Regional Administrator and Regional Counsel. The Inspector General and Counsel to the Inspector General, as well as the Chairman and Vice Chairman of the Board of Contract Appeals, are authorized to accept service for material or information which are the responsibility of their respective organizations.

(b) A present or former GSA employee not authorized to accept service of a subpoena or other demand for material, information or testimony obtained in an official capacity shall respectfully inform the process server that he or she is not authorized to accept service on behalf of GSA and refer the process server to an appropriate official listed in paragraph (a) of this section.

(c) A Regional Administrator or Regional Counsel shall notify the General Counsel of a demand which may raise policy concerns or affect multiple regions.

§ 105–60.1004 Production or disclosure prohibited unless approved by the Appropriate Authority.

No current or former GSA employee shall, in response to a demand, produce any material or disclose, through testimony or other means, any information covered by this subpart, without prior approval of the Appropriate Authority.

§ 105–60.1005 Procedure in the event of a demand for production or disclosure.

(a) Whenever service of a demand is attempted in person or via mail upon a current or former GSA employee for the production of material or the disclosure of information covered by this subpart, the employee or former employee shall immediately notify the Appropriate Authority through his or her supervisor or his or her former service, staff office, or regional office. The supervisor shall notify the Appropriate Authority. For current or former employees of the Office of Inspector General located in regional offices, Counsel to the Inspector General shall be notified through the immediate supervisor or former employing field office.

(b) The Appropriate Authority shall require that the party seeking material or testimony provide the Appropriate Authority with an affidavit, declaration, statement, and/or a plan as described in paragraphs (c) (1), (2), and (3) of this section if not included with or described in the demand. The Appropriate Authority may waive this requirement for a demand arising out of proceedings to which GSA or the United States is a party. Any waiver will be coordinated with the United States

Department of Justice (DOJ) in proceedings in which GSA, its current or former employees, or the United States are represented by DOJ.

(c)(1) *Oral testimony.* If oral testimony is sought by a demand, the Appropriate Authority shall require the party seeking the testimony or the party's attorney to provide, by affidavit or other statement, a detailed summary of the testimony sought and its relevance to the proceedings. Any authorization for the testimony of a current or former GSA employee shall be limited to the scope of the demand as summarized in such statement or affidavit.

(2) *Production of material.* When information other than oral testimony is sought by a demand, the Appropriate Authority shall require the party seeking production or the party's attorney to provide a detailed summary, by affidavit or other statement, of the information sought and its relevance to the proceeding.

(3) *Required plan or other information.* The Appropriate Authority may require a plan or other information from the party seeking testimony or production of material of all demands reasonably foreseeable, including, but not limited to, names of all current and former GSA employees from whom testimony or production is or will likely be sought, areas of inquiry, for current employees the length of time away from duty anticipated, and identification of documents to be used in each deposition or other testimony, where appropriate.

(d) The Appropriate Authority will notify the current or former employee, the appropriate supervisor, and such other persons as circumstances may warrant, whether disclosure or production is authorized, and of any conditions or limitations to disclosure or production.

(e) Factors to be considered by the Appropriate Authority in responding to demands:

(1) Whether disclosure or production is appropriate under rules of procedure governing the proceeding out of which the demand arose;

(2) The relevance of the testimony or documents to the proceedings;

(3) The impact of the relevant substantive law concerning applicable privileges recognized by statute, common law, judicial interpretation or similar authority;

(4) The information provided by the issuer of the demand in response to requests by the Appropriate Authority pursuant to paragraphs (b) and (c) of this section;

(5) The steps taken by the issuer of the demand to minimize the burden of

disclosure or production on GSA, including but not limited to willingness to accept authenticated copies of material in lieu of personal appearance by GSA employees;

(6) The impact on pending or potential litigation involving GSA or the United States as a party;

(7) In consultation with the head of the GSA organizational component affected, the burden on GSA which disclosure or production would entail; and

(8) Any additional factors unique to a particular demand or proceeding.

(f) The Appropriate Authority shall not approve a disclosure or production which would:

(1) Violate a statute or a specific regulation;

(2) Reveal classified information, unless appropriately declassified by the originating agency;

(3) Reveal a confidential source or informant, unless the investigative agency and the source or informant consent;

(4) Reveal records or information compiled for law enforcement purposes which would interfere with enforcement proceedings or disclose investigative techniques and procedures the effectiveness of which would be impaired;

(5) Reveal trade secrets or commercial or financial information which is privileged or confidential without prior consultation with the person from whom it was obtained; or

(6) Be contrary to a recognized privilege.

(g) The Appropriate Authority's determination, including any reasons for denial or limitations on disclosure or production, shall be made as expeditiously as possible and shall be communicated in writing to the issuer of the demand and appropriate current or former GSA employee(s). In proceedings in which GSA, its current or former employees, or the United States are represented by DOJ, the determination shall be coordinated with DOJ which may respond to the issuer of the subpoenas or demand in lieu of the Appropriate Authority.

§ 105–60.1006 Procedure where response to demand is required prior to receiving instructions.

(a) If a response to a demand is required before the Appropriate Authority's decision is issued, a GSA attorney designated by the Appropriate Authority for the purpose shall appear with the employee or former employee upon whom the demand has been made, and shall furnish the judicial or other authority with a copy of the instructions

contained in this subpart. The attorney shall inform the court or other authority that the demand has been or is being referred for the prompt consideration by the Appropriate Authority. The attorney shall respectfully request the judicial or administrative authority to stay the demand pending receipt of the requested instructions.

(b) The designated GSA attorney shall coordinate GSA's response with DOJ's Civil Division or the relevant Office of the United States Attorney and may request that a DOJ or Assistant United States Attorney appear with the employee in addition to or in lieu of a designated GSA attorney.

(c) If an immediate demand for production or disclosure is made in circumstances which preclude the appearance of a GSA or DOJ attorney on the behalf of the employee or the former employee, the employee or former employee shall respectfully make a request to the demanding authority for sufficient time to obtain advice of counsel.

§ 105–60.1007 Procedure in the event of an adverse ruling.

If the court or other authority declines to stay the effect of the demand in response to a request made in accordance with § 105–60.606 pending receipt of instructions, or if the court or other authority rules that the demand must be complied with irrespective of instructions by the Appropriate Authority not to produce the material or disclose the information sought, the employee or former employee upon whom the demand has been made shall respectfully decline to comply, citing these instructions and the decision of the United States Supreme Court in *Touhy v. Ragen*, 340 U.S. 462 (1951).

§ 105–60.1008 Fees, expenses, and costs.

(a) In consultation with the Appropriate Authority, a current employee who appears as a witness pursuant to a demand shall ensure that he or she receives all fees and expenses, including travel expenses, to which witnesses are entitled pursuant to rules applicable to the judicial or administrative proceedings out of which the demand arose.

(b) Witness fees and reimbursement for expenses received by a GSA employee shall be disposed of in accordance with rules applicable to Federal employees in effect at the time.

(c) Reimbursement to the GSA for costs associated with producing material pursuant to a demand shall be determined in accordance with rules

applicable to the proceedings out of which the demand arose.

[FR Doc. 2020–17050 Filed 8–21–20; 8:45 am]

BILLING CODE 6820–FM–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2020–0005; Internal Agency Docket No. FEMA–8641]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

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

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

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

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities

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

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

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were

made, this final rule may take effect within less than 30 days.

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

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

with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

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

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

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

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the

Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

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

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

§ 64.6 [Amended]

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

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in SFHAs
Region VI				
Louisiana:				
Calvin, Village of, Winn Parish	220266	September 29, 1976, Emerg; July 1, 1987, Reg; August 19, 2020, Susp.	August 19, 2020 ...	August 19, 2020.
Jonesboro, Town of, Jackson Parish	220252	March 4, 1980, Emerg; October 15, 1985, Reg; August 19, 2020, Susp.	.....do	Do.
Winnfield, City of, Winn Parish	220247	August 4, 1975, Emerg; July 1, 1987, Reg; August 19, 2020, Susp.	.....do	Do.
Region X				
Washington:				
Bellevue, City of, King County	530074	March 12, 1974, Emerg; December 1, 1978, Reg; August 19, 2020, Susp.	.....do	Do.
Black Diamond, City of, King County	530272	July 27, 1976, Emerg; October 30, 1979, Reg; August 19, 2020, Susp.	.....do	Do.
Burien, City of, King County	530321	March 9, 1994, Emerg; September 30, 1994, Reg; August 19, 2020, Susp.	.....do	Do.
Carnation, City of, King County	530076	July 25, 1975, Emerg; March 4, 1980, Reg; August 19, 2020, Susp.	.....do	Do.
Covington, City of, King County	530339	N/A, Emerg; April 19, 2001, Reg; August 19, 2020, Susp.	.....do	Do.
Duvall, City of, King County	530282	December 6, 1977, Emerg; June 4, 1980, Reg; August 19, 2020, Susp.	.....do	Do.
Enumclaw, City of, King County	530319	N/A, Emerg; February 15, 1991, Reg; August 19, 2020, Susp.	.....do	Do.
Federal Way, City of, King County	530322	N/A, Emerg; June 21, 1996, Reg; August 19, 2020, Susp.	.....do	Do.
Issaquah, City of, King County	530079	May 20, 1974, Emerg; May 1, 1980, Reg; August 19, 2020, Susp.	.....do	Do.
Kent, City of, King County	530080	November 2, 1974, Emerg; April 1, 1981, Reg; August 19, 2020, Susp.	.....do	Do.
King County, Unincorporated Areas	530071	October 13, 1972, Emerg; September 29, 1978, Reg; August 19, 2020, Susp.	.....do	Do.
Kirkland, City of, King County	530081	April 19, 1974, Emerg; June 15, 1981, Reg; August 19, 2020, Susp.	.....do	Do.
Lake Forest Park, City of, King County	530082	April 7, 1975, Emerg; February 15, 1980, Reg; August 19, 2020, Susp.	.....do	Do.
Normandy Park, City of, King County	530084	January 21, 1974, Emerg; November 2, 1977, Reg; August 19, 2020, Susp.	.....do	Do.
North Bend, City of, King County	530085	November 6, 1974, Emerg; August 1, 1984, Reg; August 19, 2020, Susp.	August 19, 2020 ...	August 19, 2020.
Pacific, City of, King County	530086	July 8, 1975, Emerg; December 2, 1980, Reg; August 19, 2020, Susp.	.....do	Do.
Redmond, City of, King County	530087	October 15, 1974, Emerg; February 1, 1979, Reg; August 19, 2020, Susp.	.....do	Do.
Renton, City of, King County	530088	May 13, 1975, Emerg; May 5, 1981, Reg; August 19, 2020, Susp.	.....do	Do.
Seatac, City of, King County	530320	July 16, 1993, Emerg; September 30, 1994, Reg; August 19, 2020, Susp.	.....do	Do.
Seattle, City of, King County	530089	February 16, 1973, Emerg; July 19, 1977, Reg; August 19, 2020, Susp.	.....do	Do.
Shoreline, City of, King County	530327	N/A, Emerg; March 4, 1997, Reg; August 19, 2020, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in SFHAs
Skykomish, Town of, King County	530236	December 20, 1976, Emerg; July 2, 1981, Reg; August 19, 2020, Susp.	.....do	Do.
Snoqualmie, City of, King County	530090	July 7, 1974, Emerg; July 5, 1984, Reg; August 19, 2020, Susp.	.....do	Do.
Tukwila, City of, King County	530091	April 2, 1975, Emerg; August 3, 1981, Reg; August 19, 2020, Susp.	.....do	Do.

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

Katherine B. Fox,
*Assistant Administrator for Mitigation,
Federal Insurance and Mitigation
Administration—FEMA Resilience,
Department of Homeland Security, Federal
Emergency Management Agency.*
[FR Doc. 2020–17608 Filed 8–21–20; 8:45 am]
BILLING CODE 9110–12–P

**FEDERAL COMMUNICATIONS
COMMISSION**

47 CFR Parts 5 and 15

[ET Docket No. 18–21; FCC 19–19; FRS 16997]

Spectrum Horizons

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection requirements associated with the Commission’s Spectrum Horizons, Order (*Order*)’s Experimental Radio Service rules. This document is consistent with the *Order*, which stated that the Commission would publish a document in the **Federal Register** announcing the effective date of those rules.

DATES: The amendments to §§ 5.59, 5.77, 5.121, 5.702, 5.703, 5.704, 5.705, and 15.258 published at 84 FR 25685, June 4, 2019, are effective August 24, 2020.

FOR FURTHER INFORMATION CONTACT: Martin Doczkat, Office of Engineering and Technology Bureau, at (202) 418–2435, or email: Martin.Doczkat@fcc.gov.

SUPPLEMENTARY INFORMATION: This document announces that, on July 24, 2020 OMB approved, for a period of three years, the information collection requirements relating to the Experimental Radio Service rules contained in the Commission’s *Order*, FCC 19–19, published at 84 FR 25685, June 4, 2019. The OMB Control Numbers are 3060–0065 and 3060–0057.

The Commission publishes this document as an announcement of the effective date of the rules. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Nicole Ongele, Federal Communications Commission, Room 1–A620, 445 12th Street SW, Washington, DC 20554. Please include the OMB Control Numbers, 3060–0065 and 3060–0057, in your correspondence. The Commission will also accept your comments via email at PRA@fcc.gov. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received final OMB approval on July 24, 2020, for the information collection requirements contained in the modifications to the Commission’s rules in 47 CFR parts 5 and 15. Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Numbers are 3060–0065 and 3060–0057. The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–0065.

OMB Approval Date: July 24, 2020.

OMB Expiration Date: July 31, 2023.

Title: Applications for New Authorization or Modification of Existing Authorization Under Part 5 of

the FCC Rules-Experimental Radio Service.

Form Number: FCC Form 442.

Respondents: Business or other for-profit; Not-for-profit institutions, Individuals or households, State, Local or Tribal Government.

Number of Respondents and Responses: 405 respondents; 655 responses.

Estimated Time per Response: 15–663 hours.

Frequency of Response: On occasion reporting requirements; Recordkeeping requirements and Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in 47 U.S.C. 4, 302, 303, 307 and 336 of the Communications Act of 1934, as amended.

Total Annual Burden: 3,474 hours.

Total Annual Cost: \$52,150.

Nature and Extent of Confidentiality: Applicants may request that any information supplied be withheld from public inspection, e.g., granted confidentiality, pursuant to 47 CFR Section 0.459 of the Commission’s rules.

Privacy Act: Yes. This information collection affects individuals or households. The Commission has a System of Records, FCC/OET–1 “Experimental Radio Station License Files” which covers the personally identifiable information (PII) that individual applicants may include in their submissions for experimental radio authorizations. The system of records notice (SORN) was published in the **Federal Register** on June 11, 2019, see 84 FR 27115. The SORN may be viewed at <https://www.fcc.gov/general/privacy-act-information>.

Needs and Uses: On March 15, 2019, the Commission adopted a First Report and Order, in ET Docket No. 18–21; FCC 19–19, which updates a section of Part 5 of the CFR—Experimental Radio Service (ERS). The Commission’s recent R&O adopts a new subpart to the existing part 5 rules for a new and unique license type—the Spectrum Horizons Experimental Radio license (or

“Spectrum Horizons License”). Specifically, the Spectrum Horizons License will be available for experiments and demonstrations of equipment designed to operate exclusively on any frequency above 95 GHz.

OMB Control Number: 3060–0057.

OMB Approval Date: July 24, 2020.

OMB Expiration Date: July 31, 2023.

Title: Application for Equipment Authorization.

Form Number: FCC Form 731.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 11,305 respondents; 24,873 responses.

Estimated Time per Response: 8.11 hours (rounded).

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 collection of information is contained in 47 U.S.C. 154(i), 301, 302, 303(e), 303(f) and 303(r).

Total Annual Burden: 201,603 hours.

Total Annual Cost: \$50,155,140.

Nature and Extent of Confidentiality: Minimal exemption from the Freedom of Information Act (FOIA) under 5 U.S.C. 552(b)(4) and FCC rules under 47 CFR 0.457(d) is granted for trade secrets which may be submitted as attachments to the application FCC Form 731. No other assurances of confidentiality are provided to respondents.

Privacy Act: Yes. The personally identifiable information (PII) in this information collection is covered by a Privacy Impact Assessment (PIA), Equipment Authorizations Records and Files Information System. It is posted at: <https://www.fcc.gov/general/privacy-act-information#pia>.

Needs and Uses: On March 15, 2019, the Commission adopted a First Report and Order, in ET Docket No. 18–2; FCC 19–19, which involves updates to 47 CFR part 15,—“Radio Frequency Devices,” to provide permit certain operations above 95 GHz.¹ Among other things, the *Spectrum Horizons Order* made specific frequencies above 95 GHz available for the operation of radiofrequency devices without a license. Such devices are subject to the certification process of the Commission’s equipment authorization program.

¹ *Spectrum Horizons*, First Report and Order, 34 FCC Rcd 1605(2) (2019) (*Spectrum Horizons Order*).

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of Secretary.

[FR Doc. 2020–17727 Filed 8–21–20; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 200124–0029]

RTID 0648–XA413

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; 2020 Red Snapper Private Angling Component Accountability Measure in Federal Waters Off Texas

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

ACTION: Temporary rule, accountability measure.

SUMMARY: Through this temporary rule, NMFS implements accountability measures (AMs) for the red snapper recreational sector private angling component in the Gulf of Mexico (Gulf off Texas for the 2020 fishing year. Based on information provided by the State of Texas Parks and Wildlife Department (TPWD), NMFS has determined that the 2019 Texas regional management area private angling component annual catch limit (ACL) for Gulf red snapper was exceeded. Therefore, NMFS reduces the 2020 private angling component ACL of Gulf red snapper for the Texas regional management area. This reduction will remain in effect through the remainder of the current fishing year on December 31, 2020, and is necessary to protect the Gulf red snapper resource.

DATES: This temporary rule is effective from 12:01 a.m., local time, on August 24, 2020, until 12:01 a.m., local time, on January 1, 2021.

FOR FURTHER INFORMATION CONTACT: Kelli O’Donnell, NMFS Southeast Regional Office, telephone: 727–824–5305, email: kelli.odonnell@noaa.gov.

SUPPLEMENTARY INFORMATION: The Gulf reef fish fishery, which includes red snapper, is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented by NMFS

under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) through regulations at 50 CFR part 622. All red snapper weights discussed in this temporary rule are in round weight.

In 2015, Amendment 40 to the FMP established two components within the recreational sector fishing for red snapper: The private angling component, and the Federal charter vessel and headboat (for-hire) component (80 FR 22422, April 22, 2015). In 2020, NMFS implemented Amendments 50 A–F to the FMP, which delegated authority to the Gulf states (Louisiana, Mississippi, Alabama, Florida, and Texas) to establish specific management measures for the harvest of red snapper in Federal waters of the Gulf by the private angling component of the recreational sector (85 FR 6819, February 6, 2020). These amendments allocate a portion of the private angling ACL to each state, and each state is required to constrain landings to its allocation as part of state management.

As described at 50 CFR 622.39(a)(2)(i), the Gulf red snapper recreational sector quota (ACL) is 7.399 million lb (3.356 million kg) and the recreational private angling component quota (ACL) is 4.269 million lb (1.936 million kg). Also, as described at 50 CFR 622.23(a)(1)(ii)(E), the Texas regional management area private angling component ACL is 265,105 lb (120,250 kg). Regulations at 50 CFR 622.23(b) require that if a state’s red snapper private angling component landings exceed the applicable state’s component ACL, then in the following fishing year, that state’s private angling ACL will be reduced by the amount of that ACL overage in the prior fishing year.

For the 2019 fishing year, the Texas recreational red snapper private component (private vessel and state charter vessels) was managed under an exempted fishing permit with a state ACL of 265,090 lb (120,243 kg). Amendment 50F provided that any overage of the 2019 Texas ACL would be applied to Texas’s portion of the 2020 private angling ACL. NMFS has determined that landings of red snapper off Texas for the private angling component, which includes landings for charter vessels, in 2019 were 375,616 lb (170,377 kg); which is 110,526 lb (50,134 kg) greater than 2019 Texas allocation of the private angling component ACL. Accordingly, for the 2020 fishing year, this temporary rule reduces the Texas regional management area private angling component ACL for Gulf red snapper by the ACL overage amount of 110,526 lb (50,134 kg) and

resulting in a revised private angling ACL for Texas of 154,579 lb (70,116 kg). Consistent with the reduction in the Texas regional management area private angling component ACL, NMFS also reduces the 2020 total recreational sector ACL to 7,288,474 lb (3,305,996 kg) and the total private angling component ACL to 4,158,474 lb (1,886,252 kg). The recreational private angling component ACLs for other Gulf state management areas for 2020 are unaffected by this notice. The reduction in the 2020 red snapper private angling component ACL for the Texas regional management area is effective at 12:01 a.m., local time, on August 24, 2020, and will remain in effect through the end of the fishing year on December 31, 2020.

The TPWD is responsible for ensuring that 2020 private angling component landings in the Texas regional management area do not exceed the adjusted 2020 Texas ACL. As described at 50 CFR 622.23(c), a Gulf state with an active delegation of state management of the red snapper private angling component may request that NMFS close all, or an area of, Federal waters off that state to the harvest and possession of red snapper by private anglers. At the request of Texas, for the 2020 fishing season, NMFS previously announced a closure date of August 3, 2020, for the red snapper private angling component in Gulf Federal waters off Texas (85 FR 19396, April 7, 2020). Therefore, the TPWD must manage the remainder of the 2020 state waters season to ensure the Texas regional management area private angling component ACL is not exceeded.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required under 50 CFR 622.23(b) which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action is based on the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA) finds that the need to implement this action to reduce the private angling component ACL for the Texas regional management area constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment on this temporary rule pursuant to the

authority set forth in 5 U.S.C. 553(b)(B), because such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule implementing the post-season ACL adjustment authority has already been subject to notice and comment, and all that remains is to notify the public of the ACL overage adjustment. Such procedures are contrary to the public interest because a failure to implement the ACL overage adjustment immediately may result an overage of the Texas ACL in 2020 and less access to red snapper off the coast of Texas in 2021.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of the action under 5 U.S.C. 553(d)(3).

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

Dated: August 19, 2020.

Jennifer M. Wallace,

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

[FR Doc. 2020-18526 Filed 8-19-20; 4:15 pm]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[RTID 0648-XA380]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer From NC to VA

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

ACTION: Notification; quota transfer.

SUMMARY: NMFS announces that the State of North Carolina is transferring a portion of its 2020 commercial summer flounder quota to the Commonwealth of Virginia. This quota adjustment is necessary to comply with the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan quota transfer provisions. This announcement informs the public of the revised commercial quotas for North Carolina and Virginia.

DATES: Effective August 21, 2020, through December 31, 2020.

FOR FURTHER INFORMATION CONTACT: Laura Hansen, Fishery Management Specialist, (978) 281-9225.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found in 50 CFR 648.100 through 648.110. These

regulations require annual specification of a commercial quota that is apportioned among the coastal states from Maine through North Carolina. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.102 and final 2020 allocations were published on October 9, 2019 (84 FR 54041).

The final rule implementing Amendment 5 to the Summer Flounder Fishery Management Plan, as published in the **Federal Register** on December 17, 1993 (58 FR 65936), provided a mechanism for transferring summer flounder commercial quota from one state to another. Two or more states, under mutual agreement and with the concurrence of the NMFS Greater Atlantic Regional Administrator, can transfer or combine summer flounder commercial quota under § 648.102(c)(2). The Regional Administrator is required to consider three criteria in the evaluation of requests for quota transfers or combinations: The transfer or combinations would preclude the overall annual quota from being fully harvested, the transfer addresses an unforeseen variation or contingency in the fishery, and the transfer is consistent with the objectives of the Fisheries Management Plan and the Magnuson-Stevens Act.

North Carolina is transferring 9,263 lb (4,202 kg) to Virginia. This transfer is occurring through mutual agreement of the states. This transfer was requested to repay landings made by a North Carolina permitted vessel under a safe harbor agreement. The revised summer flounder quotas for fishing year 2020 are now: North Carolina, 3,125,501 lb (1,417,703 kg) and Virginia, 2,483,444 lb (1,126,471 kg).

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

Dated: August 19, 2020.

Jennifer M. Wallace,

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

[FR Doc. 2020-18524 Filed 8-21-20; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 200623–0167; RTID 0648–XA381]

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; Quota Transfer From VA to RI

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

ACTION: Notification; quota transfer.

SUMMARY: NMFS announces that the Commonwealth of Virginia is transferring a portion of its 2020 commercial bluefish quota to the State of Rhode Island. This quota adjustment is necessary to comply with the Atlantic Bluefish Fishery Management Plan quota transfer provisions. This announcement informs the public of the revised commercial bluefish quotas for Virginia and Rhode Island.

DATES: Effective August 21, 2020, through December 31, 2020.

FOR FURTHER INFORMATION CONTACT: Laura Hansen, Fishery Management Specialist, (978) 281–9225.

SUPPLEMENTARY INFORMATION:

Regulations governing the Atlantic bluefish fishery are found in 50 CFR 648.160 through 648.167. These regulations require annual specification of a commercial quota that is apportioned among the coastal states from Maine through Florida. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.162 and the final 2020 allocations were published on June 29, 2020 (85 FR 38794).

The final rule implementing Amendment 1 to the Bluefish Fishery Management Plan (FMP) published in the **Federal Register** on July 26, 2000 (65 FR 45844), and provided a mechanism for transferring bluefish quota from one state to another. Two or more states, under mutual agreement and with the concurrence of the NMFS Greater Atlantic Regional Administrator, can request approval to transfer or combine bluefish commercial quota under § 648.162(e)(1)(i) through (iii). The Regional Administrator must first approve any such transfer based on the criteria in § 648.162(e). The Regional Administrator is required to consider three criteria in the evaluation of requests for quota transfers or combinations: The transfer or combinations would not preclude the

overall annual quota from being fully harvested; the transfer addresses an unforeseen variation or contingency in the fishery; and the transfer is consistent with the objectives of the FMP and the Magnuson-Stevens Act.

Virginia is transferring 50,000 lb (22,680 kg) of bluefish commercial quota to Rhode Island through mutual agreement of the states. This transfer was requested to ensure that Rhode Island would not exceed its 2020 state quota. The revised bluefish quotas for 2020 are: Virginia, 278,682 lb (126,408 kg) and Rhode Island, 238,366 lb (108,121 kg).

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 648.162(e)(1)(i) through (iii), which was issued pursuant to section 304(b), and is exempted from review under Executive Order 12866.

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

Dated: August 19, 2020.

Jennifer M. Wallace,

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

[FR Doc. 2020–18545 Filed 8–21–20; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 85, No. 164

Monday, August 24, 2020

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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM-50-122; NRC-2020-0150]

Accident Source Term Methodologies and Corresponding Release Fractions

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; notification of docketing and request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has received a petition for rulemaking from Brian Magnuson dated May 31, 2020, requesting that the NRC revise its regulations to codify the source term methodologies and corresponding release fractions recommended in a report issued by Sandia National Laboratories. The petition was docketed by the NRC on June 18, 2020, and has been assigned Docket No. PRM-50-122. The NRC is examining the issues raised in PRM-50-122 to determine whether they should be considered in rulemaking. The NRC is requesting public comment on this petition at this time.

DATES: Submit comments by November 9, 2020. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

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

- *Federal Rulemaking website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2020-0150. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; email: Carol.Gallagher@nrc.gov. For technical questions contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Email comments to:* Rulemaking.Comments@nrc.gov. If you do not receive an automatic email reply

confirming receipt, then contact us at 301-415-1677.

- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Juan Lopez, Office of Nuclear Material Safety and Safeguards, telephone: 301-415-2338, email: Juan.Lopez@nrc.gov, or Yanely Malave-Velez, Office of Nuclear Material Safety and Safeguards, telephone: 301-415-1519, email: Yanely.Malave-Velez@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2020-0150 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2020-0150.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/pdr.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to PDR.Resource@nrc.gov.

- The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- *Attention:* The PDR where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at PDR.Resource@nrc.gov or call 1-800-397-4209 between 8:00 a.m. and

4:00 p.m. (EST), Monday through Friday, except Federal holidays.

B. Submitting Comments

Please include Docket ID NRC-2020-0150 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS.

The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. The Petitioner and Petition

The petition for rulemaking (PRM) was filed by Brian Magnuson. The petition requests the NRC revise its regulations in § 50.67 of title 10 of the *Code of Federal Regulations* (10 CFR), "Accident source term," to codify the source term methodologies and corresponding release fractions recommended in Sandia National Laboratories Report SAND2008-6601, "Analysis of Main Steam Isolation Valve Leakage in Design Basis Accidents Using MELCOR 1.8.6 and RADTRAD," dated October 2008 (ADAMS Accession No. ML083180196). The petitioner states that the revision would eliminate inconsistencies obtained from the use of different source term methodologies and release fractions and would provide the requisite means to ensure compliance with the underlying regulations. The petition may be found in ADAMS under Accession No. ML20170B161.

III. Discussion of the Petition

The petition states that much of the past and present source term methodologies, including release fractions, used by nuclear power plants to perform accident dose calculations are inaccurate and nonconservative. The

petition requests that the NRC revise § 50.67 to codify the source term methodologies and recommendations of Sandia National Laboratories report SAND2008–6601 and update and finalize related NRC guidance, Draft Regulatory Guide DG–1199 (Proposed Revision 1 of Regulatory Guide 1.183), “Alternative Radiological Source Terms for Evaluating Design Basis Accidents at Nuclear Power Reactors,” dated October 2009 (ADAMS Accession No. ML090960464).

The petition describes the current NRC guidance as “conceptually inaccurate” and “nonconservative” for calculations of radiological release doses, quoting from Sandia Report SAND2008–6601:

. . . these findings conclude that the current regulatory guidelines permitting the use of the fission product concentration in the drywell atmosphere during the first two hours prior to assumed vessel reflood is non-conservative for the purposes of evaluating the dose resulting from MSIV leakage, in addition to being conceptually inaccurate.

The petition also states that, despite the NRC acknowledging the safety significance of accident source terms, the NRC has not yet approved Draft Regulatory Guide DG–1199. As a result, the petitioner believes accident doses have been undercalculated for over 25 years. The petition indicates this would account for the uncertainties that high burnup fuel pellets could be reduced to a powder form and dispersed outside of the fuel rod during clad failure accidents (with or without fuel melt), used by the Radiological Assessment System for Consequence Analysis (RASCAL) calculation described in NUREG–1940, “RASCAL 4: Description of Models and Methods,” available online at <https://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1940/>.

IV. Conclusion

The NRC determined that the petition meets the requirements for docketing a petition for rulemaking under § 2.803, “Petition for rulemaking—NRC action.” The NRC will examine the merits of the issues raised in PRM–50–122 and any comments received on this document to determine whether these issues should be considered in rulemaking.

Dated: August 7, 2020.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2020–17645 Filed 8–21–20; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF COMMERCE

Office of the Under-Secretary for Economic Affairs

15 CFR Chapter XV

[Docket No.: 200803–0204]

RIN 0605–AA53

Concrete Masonry Products Research, Education and Promotion Order

AGENCY: Under Secretary for Economic Affairs, United States Department of Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Commerce (Department) solicits comments on a proposed Concrete Masonry Products Research, Education, and Promotion Order. The purpose of the proposed order is to strengthen the position of the concrete masonry products industry in the domestic marketplace; maintain, develop, and expand markets and uses of concrete masonry products in the domestic marketplace; and promote the use of concrete masonry products in construction and building. The proposed order allows a Concrete Masonry Products Board (Board) made up of industry members appointed by the Secretary of Commerce (Secretary) to develop and implement programs of research, education, and promotion. The funding of the Board’s activities and programs will be through assessments paid by manufacturers of concrete masonry units. The initial assessment will be \$.01 per concrete masonry unit sold. The Secretary will hold a referendum among eligible manufacturers to determine whether they favor the implementation of the proposed order. The order only will go into effect if the referendum results in the affirmative vote of a majority of those voting and also a majority of the block machine cavities in operation by those voting. This proposal also announces the intent of the Department to request approval by the Office of Management and Budget (OMB) of a new information collection request (ICR) to support implementation of the program.

DATES: The Department must receive comments by October 8, 2020.

ADDRESSES: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov/docket?D=DOC-2020-0002>, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments. The supporting economic analysis is also

available for comment on [regulations.gov](https://www.regulations.gov).

You may also submit comments via email at Checkoff@doc.gov. All submissions, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. The Department reserves the right to publish relevant comments, unedited and in their entirety. Do not include personal information, such as account numbers or Social Security numbers, or names of other individuals. Do not submit confidential business information, or otherwise proprietary, sensitive or protected information. We will not post or consider comments that contain profanity, vulgarity, threats, or other inappropriate language or like content.

Pursuant to the Paperwork Reduction Act (PRA), send to the above address comments regarding the accuracy of the burden estimate, ways to minimize the burden, including the use of automated collection techniques or other forms of information technology, or any other aspect of this collection of information. In addition, send comments concerning the information collection to OIRA_Submission@omb.eop.gov or online at <https://www.reginfo.gov/public/do/PRAMain>.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Thompson, Communications for the Commerce Checkoff Implementation Program, Office of the Under Secretary for Economic Affairs, telephone: (202) 482–0671 or via electronic mail: mthompson1@doc.gov.

SUPPLEMENTARY INFORMATION:

I. Overview

Pursuant to the Concrete Masonry Products Research, Education, and Promotion Act of 2018 (Act), 15 U.S.C. 8701 *et seq.*, the Department is enacting a research, education, and promotion program (commonly referred to as a checkoff program) for concrete masonry products. The Act specifically authorizes the Secretary to “issue such regulations as may be necessary to carry out [the Act] and the power vested in the Secretary under [the Act].” 15 U.S.C. 8713.

The Department’s actions to bring the program to fruition will include: (1) Implementing an order that will effectuate the purpose of the Act; (2) conducting a referendum among the industry to determine whether the industry approves of being subject to the implementing order; and, upon an affirmative vote on the order; (3) issuing the order and establishing a Board that will carry out the provisions of the

order; and (4) performing continuing oversight of the Board and program.

This notice is the first step in enacting the concrete checkoff program by proposing an order that would implement the Act. The stated purpose of the proposed order is to strengthen the position of the concrete masonry products industry in the domestic marketplace; maintain, develop, and expand markets and uses for concrete masonry products in the domestic marketplace; and promote the use of concrete masonry products in construction and building. The order would empower the Board to develop and carry out research, education, and promotion programs and projects relating to concrete masonry products and paying the costs of such programs and projects with assessments on domestic producers of concrete masonry units.

Following a period of public comment, the Department will address or incorporate those comments received and initiate a referendum on the final order. If the manufacturers of concrete masonry units, via a referendum, approve the implementing order, the Secretary will appoint a Board to carry out the duties as the order prescribes, including the receiving of the assessment. Under the proposed order, the Secretary would establish a Board that ensures fair and equitable representation of the concrete masonry products industry, specifically the geographical distribution of the manufacture of concrete masonry products in the United States, the types of concrete masonry products manufactured, and the range in size of manufacturers in the United States. An industrywide assessment of \$.01 per concrete masonry unit sold would finance the research, education, and promotion initiatives of the checkoff program. The Secretary would oversee the operations and actions of the Board.

The Act requires the order to address, among other items, establishment and membership of the Board, balancing guidance for appointments, a nomination process, the selection of alternates, Board terms, powers and duties of the Board, programs and projects to carry out the purpose of the Act, budgets, expenses, contracts and agreements, books and records, and reporting requirements.

The Act provides the rate of assessment and that such assessments shall be paid by a manufacturer that has manufactured concrete masonry products during a period of at least 180 days prior to the date they are to pay the assessment. The initial rate of assessment is \$.01 per concrete masonry

unit sold. Such manufacturers will submit their assessments to the Board quarterly. The Act allows for a change in rate if a two-thirds majority of voting members of the Board so vote. An increase or decrease can occur only once per year and the change in rate may not exceed \$.01 per concrete masonry unit sold. Finally, the assessment rate shall not be in excess of \$.05 per concrete masonry unit.

The Act provides that not less than 50 percent of assessments (less administration expenses) paid by a manufacturer shall be used to support research, education, and promotion programs and projects in support of the Geographic Region of the contributing manufacturer. The Act defines five Geographic Regions that generally reflect the northeast, southeast, middle, southwest, and northwest (plus Hawaii and Alaska) of the United States. The Board will work with regional concrete industry groups to allocate funding and coordinate programs that have national and regional impact.

Programs for research, promotion and education will further the following goals:

- Strengthen the position of the concrete masonry industry and products domestically.
- Maintain, develop, and expand markets and uses for concrete masonry domestically.
- Promote the use of concrete masonry in construction and building.

The Act mandates that the Department conduct a referendum among eligible manufacturers of concrete masonry products to determine whether the manufacturers favor implementation of the concrete checkoff program prior to it going into effect. For the order to go into effect, there must be a majority “yes” vote by both: (1) The total number of concrete masonry unit manufacturers voting; and (2) manufacturers who operate a majority of the machine cavities operated by the manufacturers voting in the referendum. Proposed procedures for conducting the referendum will be published in a separate notice in the **Federal Register**.

With this notice, the Secretary invites comments on the proposed order.

II. Legal Authority and Framework for the Secretary’s Implementation of an Effectuating Order

The Act provides that the Secretary, subject to applicable procedures, shall issue orders, national in scope, applicable to concrete masonry products manufactured in the U.S. 15 U.S.C. 8713; *see also* 15 U.S.C. 8702(12,19). If the Secretary determines that a proposed order received, requested by

or submitted to the Secretary, is consistent with and will effectuate the purpose of the Act, the Secretary shall publish such proposed order in the **Federal Register** not later than 90 days after receiving the order, and give not less than 30 days notice and opportunity for public comment on the proposed order. An industry group, the *CMU Checkoff Initiative*, submitted the proposed order to the Secretary on April 15, 2020. The Secretary has determined that the proposed order is consistent with and will effectuate the purpose of the Act. The determination that the proposed order is consistent with and will effectuate the purpose of the Act was made on July 20, 2020.

Pursuant to the Act, the Secretary must establish a process for the Board to carry out a program of generic promotion, research, and education regarding concrete masonry products by implementing an effectuating order. 15 U.S.C. 8704(b). In addition, 15 U.S.C. 8706 provides for referenda among eligible manufacturers subject to assessments under section 8705 of the Act to determine whether the order has been approved and will go into effect. As noted above, the proposed procedures for the referendum will be published in a separate **Federal Register** notice.

III. Industry Background

While the concrete masonry product industry is of moderate size, its manufacturers populate every state in the nation as well as the District of Columbia. The nature of the industry and cost of transportation of the products is such that the customer base for concrete masonry products is very localized. Relatively small producers dominate the industry. Because they produce a commodity that is not easily differentiated by manufacturer, most of the producers acting alone do not have the resources to efficiently market the value of the product or conduct the research and education to promote market growth. Coordinated activity would enable producers to leverage economies of scale in conducting research, education, and promotion of the industry.

Concrete masonry products range from the paver that is of original design and very ornate to the homogenous, non-descript 8-inch x 8-inch x 16-inch concrete block. The Act and the proposed order distinguish between *concrete masonry products* and *concrete masonry units*; the initial rate of assessment applies only to concrete masonry units. The Act defines *concrete masonry products* to include a broader category of products, including concrete

masonry units as well as hardscape products such as concrete pavers and segmental retaining wall units, manufactured on a block machine using dry-cast concrete. *Concrete masonry units* are a type of concrete masonry product with an actual width of 3 inches or greater that are manufactured from dry-cast concrete using a block machine, including concrete block and related concrete units used in masonry applications. The following are examples of products that would fall within the definition of a concrete masonry unit (defined in § 1500.6). The following non-exhaustive list of products are included in the definition of a concrete masonry unit:

(A) Concrete Block, including:

- (1) Gray
 - (2) Architectural
 - (3) Prefaced
 - (4) Those joined by any method in masonry construction:
 - (i) Bed joint mortar or adhesives
 - (ii) Dry-stacked and joined by filling cores solid with grout or joined by other means
 - (iii) Post tensioned
 - (iv) Surfaced bonded
 - (5) Sound wall block
 - (6) Fence block
 - (7) Lintel Block—while lintels designed to span an entire opening are excluded, those concrete masonry units joined to create a lintel are included
 - (8) Chimney, Pilaster, or Column Block
 - (9) Screen Block—these architectural units are included if their widths are greater than 3 inches if they are made on a block machine
 - (10) Concrete Sill Block—these units and related specialty units are included if their widths are greater than 3 inches. If they are made on a block machine
 - (11) Concrete Block formed with concrete masonry face shells and other materials to create a masonry unit used in masonry construction.
- (A) Concrete Brick (Architectural only)
- (B) Concrete Masonry Veneer Units (greater than 3 inches in width)

The Act sets out the assessment rate of one cent per concrete masonry unit sold.

To identify the affected industry, the Department used statistics for the North American Industry Classification System (NAICS) code 327331, concrete block and brick manufacturing. This industry includes the manufacturers of concrete architectural block, concrete and cinder blocks, concrete bricks, concrete patio block, concrete paving block, precast terrazzo plinth blocks,

precast concrete block and brick, prestressed concrete blocks or bricks, and slumped brick.¹ The Department believes this NAICS classification most closely corresponds to manufacturers of the broader category of *concrete masonry products*.

According to estimates from the 2017 Economic Census of the U.S. Census Bureau, the block and brick manufacturing industry had nearly 700 establishments and more than 16,000 employees in 2017. From 2007 to 2017, the number of establishments, number of employees, annual payroll, value added, and value of shipments declined in the industry.² There were 690 block and brick manufacturing establishments in 2017, down from 914 in 2007. The number of employees fell by 7,578 to 16,247 in 2017, and annual payroll fell \$152 million to \$841 million. Value added and total value of shipments also fell during this time period, down \$715 million to \$2.86 billion and down \$1.36 billion to \$4.88 billion, respectively.

IV. Provisions of the Proposed Order

Many provisions of the proposed order reflect specific requirements as set out in the Act. In instances where the Secretary is exercising the discretion granted under the Act, the basis for the proposed language is explained below.

Definitions

Sections 1500.1 through 1500.21 of the proposed order are definitions. Section 1500.1 defines the “Act” as the Concrete Masonry Products Research, Education, and Promotion Act of 2018 (15 U.S.C. 8701 *et seq.*), and any amendments thereto. The other definitions contained in the proposed order are essentially the same as the definitions found in the Act itself, *see* 15 U.S.C. 8702, except for the addition of a definition of “Geographic Regions” in § 1500.11.

Section 1500.11 defines “Geographic Regions” as the groupings of states delineated in § 1500.40(c) of the proposed order, for the purpose of supporting research, education, and promotion plans and project. *See* 15 U.S.C. 8705(f). Specifically, in addition to size and range of products, the Act requires that the Board reflect the geographic distribution, the five delineated regions, of the manufacture

of concrete masonry products. 15 U.S.C. 8704(b)(2)(A). The Act also provides that not less than 50 percent of assessments (less administrative expenses) paid by a manufacturer shall be used to support research, education, and promotion programs and projects in support of the geographic region of the manufacturer. 15 U.S.C. 8705(f)(1).

Concrete Masonry Products Board

Sections 1500.40 through 1500.48 of the proposed order would establish the Board and how it would operate.

Section 1500.40—Establishment and Membership

Section 1500.40(a) proposes that the Board would consist of not fewer than 15 and not more than 25 members. The Board shall consist of manufacturers. 15 U.S.C. 8704(b)(1)(B)(i) & (iii). Board members will be appointed by the Secretary from nominations submitted as set forth in § 1500.41 of the proposed order. *See* 15 U.S.C. 8704(b)(1)(B)(ii). This subsection also implements provisions of the Act that specify no employee of an industry trade organization exempt from tax under paragraph (3) or (6) of section 501(c) of the Internal Revenue Code of 1986 representing the concrete masonry industry or related industries shall serve as a member of the Board and no member of the Board may serve concurrently as an officer of the board of directors of a national concrete masonry products industry trade association. 15 U.S.C. 8704(b)(1)(B)(iii).

Section 1500.40(b) proposes that, in order to ensure to ensure fair and equitable representation of the concrete masonry products industry, the composition of the Board shall reflect the geographical distribution of the manufacture of concrete masonry products in the United States, the types of concrete masonry products manufactured, and the range in size of manufacturers in the United States. These requirements are taken directly from the Act. 15 U.S.C. 8704(b)(2)(A). The Small Business Administration uses the number of employees to characterize a company’s size. Absent additional suggestions, the Department will define company size based on the number of employees. Companies identified as “large” will be those with over 500 employees; companies identified as “medium” will be those with between 100–499 employees; companies identified as small will be those with less than 100 employees. The Department is seeking comments on the best measure of company size (other possibilities, aside from number of employees, could be production

¹ Executive Office of the President, Office of Management and Budget, *North American Industry Classification System: United States, 2017* (Suitland, MD: Census Bureau, 2017); https://www.census.gov/eos/www/naics/2017NAICS/2017-NAICS_Manual.pdf.

² The Economic Census, conducted every 5 years by the U.S. Census Bureau, is the official measure of the nation’s businesses and economy.

capacity, total receipts, number of units produced) and the threshold values to use. Further, this subsection proposes that no company or its affiliates shall have more than two members on the Board. *See* 15 U.S.C. 8704(b)(1)(B)(iii).

Section 1500.40(c) of the proposed order would further implement the requirement that the composition of the Board reflect the geographical distribution of concrete masonry product manufacturers. It divides the United States into five regions consistent with 15 U.S.C. 8705(f)(2) and, although not required in the Act, the order then subdivides these five regions into 15 districts. Dividing the regions into districts will allow the Board to more easily manage the program. This section also proposes that the Secretary will, to the extent possible and depending on the nominees submitted, strive to appoint at least two members from each region and at least one from each district. Finally, § 1500.40(d) proposes that, in accordance with 15 U.S.C. 8704(b)(2)(B), the Board shall, if warranted, recommend reappointment of Board membership every three years, in order to reflect changes in the geographic distribution of the manufacture of concrete masonry products and the types of concrete masonry products manufactured.

Section 1500.41—Nominations and Appointments

The Act does not specifically describe how nominations and appointments to the Board should be made, but simply states that the Secretary may make appointments from nominations by manufacturers pursuant to the method set forth in the order. 15 U.S.C. 8704(b)(3). Similarly, the Act states that the order shall provide for the selection of alternate members by the Secretary. *See* 15 U.S.C. 8704(b)(3). At such time as the order goes into effect, the Secretary will solicit nominations for Board membership. Section 1500.41(a) proposes that, for the initial Board, nominations shall be made and submitted to the Secretary by manufacturers. The Secretary would appoint both members and alternate members of the Board. This requirement is the source of the Department's request for approval by OMB of a new ICR. The Department would restrict the information request to that information needed to determine requisite expertise of potential nominees and will include biography, experience, status as a current manufacturer, size of company, type of products produced, statement of interest, and similar background information.

The Act provides that, if the Secretary fails to make an appointment to the Board within 60 days of receiving nominations for an appointment, subject to exceptions, the first nominee would be "deemed" appointed. 15 U.S.C. 8704(b)(4). However, the President issued a signing statement accompanying the Act as follows:

. . . [T]he Act requires the Secretary of Commerce to appoint the members of the Concrete Masonry Products Board (Board), who would be inferior officers, from a list of nominees submitted by concrete masonry product manufacturers. It also provides that, if the Secretary fails to appoint someone from that list within a specified period, "the first nominee for such appointment shall be deemed appointed." The Secretary's failure to make a timely appointment from the list will result in the appointment of an inferior officer by a private party, which would violate the Appointments Clause. Furthermore, the requirement to appoint from a list of nominees, if the list is too limited, may unduly limit the Secretary's constitutional discretion in appointing the members of the Board. In those circumstances, my Administration will treat these requirements as advisory and non-binding.³

Hence, the Department will not include in the order those provisions of the Act that are inconsistent with the Presidential signing statement including those related to "deemed" appointment of members and those that may unduly limit the Secretary's discretion in making appointments.

Section 1501.41(b) proposes that, from the nominations, the Secretary will appoint the 15–25 members of the Board and six alternate members within a reasonable time. If one of the voting members vacates the appointment, the Secretary will appoint one of the alternate members to fill the unexpired term. The Secretary will provide the Board an opportunity to offer a nominee as successor to fill the term of the alternate member. If the Board fails to submit a nominee for an open position, the Secretary will appoint a member who meets the criteria described in § 1500.40.

Section 1500.42—Term of Office

This section proposes that Board members and alternates would serve three-year terms, except for the initial members. *See* 15 U.S.C. 8704(b)(6)(A). Board members and alternates would be able to serve a maximum of two consecutive three-year terms, but may serve additional terms after rotating off the Board. *See* 15 U.S.C. 8704(b)(6)(B). Initial members would serve staggered

terms of two, three, and four years. *See* 15 U.S.C. 8704(b)(6)(A). Terms would end on December 31, with new terms beginning on January 1. Members serving an initial term of two or three years will be eligible to serve a second consecutive three-year term. Board members and alternates may also continue to serve until a successor is appointed by the Secretary. *See* 15 U.S.C. 8704(b)(6)(C).

Section 1500.43—Vacancies

This section proposes that, if a Board member position becomes vacant, the Secretary would appoint an alternate for the remainder of the term. The successor to fill the term of the alternate member would be appointed as described in § 1500.41. *See* 15 U.S.C. 8704(b)(6)(D).

Section 1500.44—Disqualification

Section 1500.44(a) proposes that, if a Board member or alternate ceases to qualify as a manufacturer, they would be disqualified from serving on the Board. *See* 15 U.S.C. 8704(b)(7). As set forth in the definitions, a "manufacturer" is "any person engaged in the manufacturing of commercial concrete masonry products in the U.S." Section 1500.44(b) proposes that, if a Board member consistently refuses to perform their duties, or engages in acts of dishonesty or willful misconduct, the Board could recommend to the Secretary that the member be removed. All members would serve at the pleasure of the Secretary.

Section 1500.45—Procedure

Section 1500.45(a) proposes that the Board would meet at least annually, and that a meeting would only be conducted when a quorum (a majority of the Board members) is present. If the Board's by-laws permit participation by telephone or other means, such participation would count towards a quorum or other voting requirements.

Section 1500.45(b) proposes that the Board would select a Chair, Vice-Chair, Secretary-Treasurer and other officers as appropriate, at the start of each fiscal period.

Section 1500.45(c) proposes that the Board would provide members and manufacturers a minimum of 14-days advance notice of all Board meetings.

Section 1500.45(d) proposes that each Board member would be entitled to one vote, and that a motion would carry if supported by one vote more than 50 percent of the total votes represented by the Board members participating. There is one exception, however, as the Act requires that a two-thirds majority of the voting members of the Board is required

³ Statement by the President, Oct. 5, 2018, available at <https://www.whitehouse.gov/briefings-statements/statement-by-the-president-5/>.

to approve a change in the assessment rate. 15 U.S.C. 8705(c)(2)(A).

Section 1500.45(e) proposes that the Board may form committees, and that such committees may consist of individuals other than Board members. Committee members would serve without compensation.

Sections 1500.45(f) through (i) address voting, and propose that votes may take place electronically outside of convened Board meetings only if members are given 14 days prior notice and if a majority of voting Board members participate prior to the established deadline; that all votes shall be recorded in Board minutes; that there shall be no voting by proxy; and that all Board members shall have one vote. Alternate members would not vote. The Chair and all other Board officers would be elected from voting members of the Board.

Section 1500.45(j) proposes that the organization of the Board and procedures for conducting meetings would be in accordance with bylaws that are established by the Board and approved by the Secretary.

Section 1500.45(k) proposes that meetings of the Board and committees may take place by electronic means, provided that all Board and committee members are given prior written notice 14 days before the meeting and have the opportunity to participate.

Section 1500.46—Compensation and Reimbursement

This section reflects the requirements in the Act found at 15 U.S.C. 8704(b)(8). Section 1500.46(a) proposes that Board members and alternates shall serve without compensation. 15 U.S.C. 8704(b)(8)(A). Section 1500.46(b) proposes that, if approved by the Board, members or alternates shall be reimbursed for reasonable travel expenses, which may include a per diem allowance or actual subsistence incurred while away from their homes or regular place of business in performance of services for the Board. 15 U.S.C. 8704(b)(8)(B).

Section 1500.47—Powers and Duties

This section largely reflects the provisions contained in 15 U.S.C. 8704(c), which states that the order shall specify the powers and duties of the Board, and contains a list of powers and duties that shall be included in the order.

Section 1500.47(a) proposes that the Board shall have the power and duty to administer the proposed order in accordance with its terms and conditions, and to collect assessments. See 15 U.S.C. 8704(c)(1).

Section 1500.47(b) proposes that the Board shall have the power and duty to develop and recommend to the Secretary such bylaws as may be necessary for the functioning of the Board. See 15 U.S.C. 8704(c)(2).

Section 1500.47(c) provides that the Board shall have the power and duty to make such rules as may be necessary to administer the order, including activities to be carried out under the order. See 15 U.S.C. 8704(c)(2).

Section 1500.47(d) proposes that the Board shall have the power and duty to meet, organize, and select from the Board members a Chair, Vice-Chair, Secretary-Treasurer and other officers, committees, and subcommittees, and to vest in such committees and subcommittees such responsibilities and authorities as the Board determines to be appropriate. See 15 U.S.C. 8704(c)(3).

Section 1500.47(e) proposes that the Board shall have the power and duty to establish regional committees to administer regional initiatives. See 15 U.S.C. 8704(c)(4).

Section 1500.47(f) proposes that the Board shall have the power and duty to recommend to the Secretary modifications to the Geographic Regions described in § 1500.11 of the proposed order. See 15 U.S.C. 8705(f)(3).

Section 1500.47(g) proposes that the Board shall have the power and duty to establish working committees of persons other than Board members, see 15 U.S.C. 8704(c)(5), and § 1500.47(h) proposes for the employment of persons other than Board members, as the Board considers necessary to assist the Board in carrying out its duties, see 15 U.S.C. 8704(c)(6).

Section 1500.47(i) proposes that the Board shall have the power and duty to prepare a budget and to submit the budget to the Secretary for approval, see 15 U.S.C. 8704(c)(7), and § 1500.47(j) proposes for the borrowing of funds necessary for the startup expenses of the proposed order, see 15 U.S.C. 8704(c)(8).

Section 1500.47(k) proposes that the Board shall have the power and duty to develop and carry out research, education, and promotion programs and projects relating to concrete masonry products, and to pay the costs of such programs and projects with the assessments collected under § 1500.51, as well as other income of the Board. See 15 U.S.C. 8704(c)(9).

Section 1500.47(l) proposes that the Board shall have the power and duty to enter into contracts or agreements which must be approved by the Secretary before becoming effective, for the development and carrying out of programs or projects of research,

education, and promotion relating to concrete masonry, including with manufacturer associations or other entities as considered appropriate by the Secretary. See 15 U.S.C. 8704(c)(10) & (e)(1)(A).

Section 1500.47(m) proposes that the Board shall have the power and duty to develop programs and projects, and enter into related contracts or agreements related thereto, which must be approved by the Secretary before becoming effective, targeted specifically toward the Geographic Regions described in § 1500.11. Such programs and projects are to be recommended by the relevant regional committees for marketing and research projects to benefit manufacturers in their respective Geographic Regions. The contracts or agreements related to these regional programs and projects would be subject to the same requirements for contracts and agreements described above, in § 1500.47(l). See 15 U.S.C. 8704(c)(4) & (e)(1)(A); 15 U.S.C. 8705(f)(1). The Department envisions regional groupings providing their regional-specific recommendations for research, education, and promotion programs and projects to the Board.

Section 1500.47(n) proposes that the Board shall have the power and duty to keep minutes, books, and records that reflect the actions and transactions of the Board, and to promptly report the minutes of each Board meeting to the Secretary. See 15 U.S.C. 8704(c)(11).

Section 1500.47(o) proposes that the Board shall maintain such records and books, and prepare and submit reports and records to the Secretary as required; to make records available to the Secretary for inspection and audit; to account for the receipt and disbursement of funds; and to keep records that accurately reflect actions and transactions of the Board. See 15 U.S.C. 8704(f)(1). This requirement is the source of the Department's second request for approval by OMB of a new ICR. The Department will restrict the information request to that information needed to determine the amount of assessment and will include: the number and type of concrete masonry units manufactured; the number and type of concrete masonry units on which an assessment was paid; the name and address of the manufacturer; manufacturer employee identification number; and the date of assessment payment on each concrete masonry unit sold; and similar assessment accounting information.

Section 1500.47(p) proposes that the Board have its books audited by a certified public accountant at the end of each fiscal year and at other times as

requested by the Secretary, and to submit a report of the audit to the Secretary. *See* 15 U.S.C. 8704(f)(2).

Section 1500.47(q) proposes that the Board shall have the power and duty to give the Secretary the same notice of Board and committee meetings as given to members so that the Secretary's representative(s) may attend, and report minutes of all such meetings to the Secretary. *See* 15 U.S.C. 8704(c)(11) & (15).

Section 1500.47(r) proposes for the Board to furnish any requested information or records to the Secretary. *See* 15 U.S.C. 8704(c)(13).

Section 1500.47(s) proposes that the Board shall have the power and duty to receive, evaluate, and report to the Secretary all complaints of violations of the proposed order. *See* 15 U.S.C. 8704(c)(12).

Section 1500.47(t) proposes the Board recommend to the Secretary amendments to the order as the Board considers appropriate. *See* 15 U.S.C. 8704(c)(14).

Section 1500.47(u) proposes the Board be allowed to recommend adjustments to the assessments as provided in the order. *See* 15 U.S.C. 8704(c)(7) & 15 U.S.C. 8705(c)(2).

Section 1500.47(v) proposes that the Board shall have the power and duty to notify manufacturers of all Board meetings through press releases or other means. While the Act does not specifically require such notice, it will increase transparency of the Board's operations.

Section 1500.47(w) proposes that the Board shall have the power and duty to invest assessments collected, in accordance with § 1500.50 of the proposed order, and as authorized by 15 U.S.C. 8705(e).

Finally, § 1500.47(x) proposes that the Board shall have the power and duty to periodically prepare and make available reports of its activities to the public and to the manufacturers. Additionally, at least once each fiscal period, the Board would make public an accounting of funds received and expended. This section helps to increase transparency of the Board's operations and to implement 15 U.S.C. 8704(j), which requires the Board to prepare and make publicly available a comprehensive biennial report.

Section 1500.48—Prohibited Activities

Section 1500.48(a) contains a list of prohibited activities that is identical to the prohibited activities listed in the Act at 15 U.S.C. 8704(g)(1). Specifically, the Board shall not engage in any program or project to, or use any funds to: (1) Influence legislation, elections, or

governmental action; (2) engage in an action that would be a conflict of interest; (3) engage in advertising that is false or misleading; (4) engage in any promotion, research, or education that would be disparaging to other construction materials; or (5) engage in any promotion or project that would benefit any individual manufacturer.

Section 1500.48(b) contains a number of exceptions, which are identical to those found in the Act at 15 U.S.C. 8704(g)(2). Section 1500.48(a) does not preclude: (1) The development and recommendation of amendments to the order; (2) communication to appropriate government officials regarding activities under the order that is not intended to influence legislation, elections, or governmental action; or (3) any lawful action designed to market concrete masonry products directly to a foreign government.

Section 1500.50—Budget and Expenses

Section 1500.50(a) proposes that prior to the beginning of each fiscal year, and during the fiscal year as may be necessary, the Board shall prepare and submit to the Secretary for approval a budget for the upcoming fiscal year covering its anticipated expenses and disbursements. *See* 15 U.S.C. 8704(d)(2)(A) & (B). The budget would be deemed approved if the Secretary fails to approve or reject it within 60 days of receipt, unless the Secretary provides a reasonable justification for the delay to the Board and Congress, along with a reasonable date for approval or disapproval. *See* 15 U.S.C. 8704(d)(2)(C). The Department may provide such justification in any written format. Each budget shall include: (1) A statement of objectives and strategy for each program, plan, or project, *see* 15 U.S.C. 8704(i); (2) a summary of anticipated revenue, with comparative data for at least one preceding year (except for the initial budget); (3) a summary of proposed expenditures for each program, plan or project; and (4) staff and administrative expense breakdowns, with comparative data for at least one preceding year (except for the initial budget). *See* 15 U.S.C. 8704(c)(7) & (d)(2)(A).

Section 1500.50(b) proposes that each budget shall provide adequate funds to defray its proposed expenditures.

Section 1500.50(c) proposes that, subject to this section, any amendment or addition to an approved budget must be approved by the Secretary, including shifting funds from one program or project to another. However, a *de minimis* shift of funds from one approved category to another, and not exceeding 10% of the funds in either

category, which does not cause an increase in the Board's approved budget and which is consistent with governing bylaws, need not have prior approval by the Secretary. These provisions provide the Board with operational flexibility in light of the requirements to submit budgets to the Secretary for approval contained in 15 U.S.C. 8704(c)(7) & (d)(2)(A), and are consistent, for example, with the 10% threshold for certain transfers of fund permitted in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards found at 2 CFR part 200. As noted earlier, the budget will be deemed approved if the Secretary fails to approve or reject it within 60 days of receipt, unless the Secretary provides a reasonable justification for the delay to the Board and Congress, along with a reasonable date for approval or disapproval. *See* 15 U.S.C. 8704(d)(2)(C). The Department may provide such justification in any written format.

Section 1500.50(d) proposes that the Board is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the Board for its maintenance and functioning, and to enable it to exercise its powers and perform its duties in accordance with the provisions of the order. Such expenses are to be paid from funds received by the Board. *See* 15 U.S.C. 8704(d)(3).

Section 1500.50(e) implements the provisions contained in 15 U.S.C. 8715, Limitations on Obligation of Funds. It proposes that:

(1) In each fiscal year, through fiscal year 2030, the Board may not obligate an amount greater than the sum of—

(a) 73 percent of the amount of assessments estimated to be collected under 1500.51 in such fiscal year (except for fiscal years 2028 and 2029, for which the amounts estimated to be collected shall be 62 percent of the amount of assessments actually collected in the most recent fiscal year for which an audit report has been submitted as of the beginning of the fiscal year for which the amount be obligated is being determined);

(b) 73 percent of the amount of assessments actually collected under 1500.51 in the most recent fiscal year for which an audit report has been submitted as of the beginning of the fiscal year for which the amount that may be obligated is being determined, less the estimate made pursuant to paragraph (1) for such most recent fiscal year; and

(c) amounts permitted in preceding fiscal years to be obligated that have not been obligated.

(2) Assessments collected in excess of the amount permitted to be obligated in a fiscal year shall be deposited in an escrow account until the end of fiscal year 2030.

(3) Prior to the end of fiscal year 2030, the Board may not obligate, expend, or borrow against amounts deposited in the escrow account. Any interest earned on such amounts shall be deposited in the escrow account and shall be unavailable for obligation until the end of fiscal year 2030.

Section 1500.50(f) proposes that, with approval of the Secretary, the Board may borrow money for the payment of administrative expenses, subject to the same fiscal, budget and audit controls as other funds of the Board. Any funds borrowed by the Board, however, shall be expended only for startup costs and capital outlays. *See* 15 U.S.C. 8704(d)(3)(B).

Section 1500.50(g) proposes that the Board shall reimburse the Secretary for all expenses incurred by the Secretary in the implementation, administration and supervision of the order, including all referendum costs in connection with the order. *See* 15 U.S.C. 8704(d)(3)(D).

Section 1500.50(h) proposes that, following the third fiscal year of operation of the Board, the total cost of collection of expenses and administrative staff incurred by the Board during any fiscal year shall not exceed 10 percent of the projected total assessments to be collected and other income received by the Board for that fiscal year after any fees owed to the Department are paid. Reimbursements to the Secretary required under paragraph (g) are excluded from this limitation on spending. *See* 15 U.S.C. 8704(d)(3)(C).

Section 1500.50(i) proposes that the Board may invest assessments and other revenues collected in: (1) Obligations of the United States or any agency of the United States; (2) general obligations of any state or any political subdivision of a state; (3) interest bearing accounts or certificates of deposit of financial institutions that are members of the Federal Reserve System; or (4) obligations fully guaranteed as to principal interest by the United States. 15 U.S.C. 8705(e).

Section 1500.50(j) clarifies that investment income and revenue earned under the previous paragraph are earnings obtained from assessment that are subject to budget approval by the Secretary.

Section 1500.51—Assessments

Section 1500.51(a) of the proposed order proposes that the collection of assessments on concrete masonry units will be the responsibility of the manufacturer who sells the concrete masonry units. The Act specifies that assessments shall be remitted by manufacturers to the Board in the manner prescribed by the order. 15 U.S.C. 8705(b)(1). Further, there will only be an assessment on the first sale of concrete masonry units, and not on the subsequent sale of concrete masonry units already assessed. As required by the Act, manufacturers will be required to collect and remit assessments no less than quarterly. 15 U.S.C. 8705(b)(2). Also, as required by the Act, manufacturers are directed to identify the total amount due in assessments on all sales receipts, invoices or other commercial documents of sale as a result of the sale of concrete masonry units. 15 U.S.C. 8705(b)(3). In order to help implement these provisions, the Board is directed to provide a proposed compliance program for review and approval by the Secretary within 180 days of their initial meeting. A proposed compliance program and its plan to verify compliance with the Act will outline the way the Board will receive assessments, how they will verify compliance, determine the best method to track sales, and how to document all actions.

Section 1500.51(b) sets forth the initial rate of assessment of \$0.01 per concrete masonry unit sold by a manufacturer as specified in the Act. 15 U.S.C. 8705(c)(1). The Board may make assessments effective as of the effective date of the proposed order. Manufacturers would submit funds to the Board within 60 days of the end of the first quarter after the Board is established; thereafter submission of funds would be made to the Board within 60 days of the end of each quarter.

Section 1500.51(c) proposes that, upon the affirmative vote of two-thirds of the voting members of the Board, the Board may modify the assessment rate. 15 U.S.C. 8705(c)(2)(A). This is subject to the provision that the rate may be raised to a maximum of \$0.05 cents per unit, 15 U.S.C. 8705(c)(2)(B), that only one increase or decrease may be implemented in any one-year period, 15 U.S.C. 8705(c)(2)(D), and that each individual increase may not exceed \$0.01, 15 U.S.C. 8705(c)(2)(C).

Section 1500.51(d) proposes that not less than 50 percent of the assessments (less administration expenses) paid by a manufacturer shall be used to support

research, education, and promotion programs and projects in support of the Geographic Region of the manufacturer. This requirement is taken directly from the Act. 15 U.S.C. 8705(f)(1).

Section 1500.51(e) proposes that assessment payments and reports will be submitted to the Board quarterly. *See* 15 U.S.C. 8705(b)(2). All quarterly payments are to be received no later than 60 days after the conclusion of each quarter. A late payment charge will be imposed on manufacturers who fail to submit payment by the due date established by the Board. *See* 15 U.S.C. 8705(d)(1). In addition to the late payment charge, there will be an interest charge on the outstanding amount. *See* 15 U.S.C. 8705(d)(1). In accordance with the Act, the rate of interest and late payment charges shall be specified by the Secretary. *See* 15 U.S.C. 8705(d)(2).

Section 1500.51(f) explains that manufacturers failing to remit total assessments due in a timely manner may also be subject to actions under Federal debt collection procedures.

Section 1500.51(g) proposes that the Board may authorize other organizations to collect assessments on its behalf, subject to approval of the Secretary.

Finally, § 1500.51(h) proposes that the Board shall provide manufacturers with the opportunity to apply for rebates on assessments remitted to the Board for concrete masonry units not covered by this order, and for assessments remitted to the Board for concrete masonry units sold to a purchaser that subsequently failed to remit payment due to bankruptcy, bad debt, or other reasons. Those requesting rebates will have to provide all necessary documentation as determined by the Board.

Section 1500.60—Programs and Projects

Section 1500.60(a) proposes that the Board shall receive and evaluate, or on its own initiative develop, any program or project authorized under the proposed order. This section further proposes that the Board will submit any such program or project to the Secretary for approval. *See* 15 U.S.C. 8704(d)(1). Such programs or projects shall provide for: (1) the establishment, issuance, effectuation and administration of appropriate programs for research, education, and promotion with respect to concrete masonry; and (2) the establishment and conduct of research with respect to the image, desirability, use, marketability, quality or production of concrete masonry products, to the end that the marketing and use of concrete masonry products may be encouraged, expanded, improved or made more acceptable, and to advance

the image, desirability or quality of concrete masonry product. *See* 15 U.S.C. 8701(a).

Section 1500.60(b) proposes that the Board will not implement a program or project prior to receiving approval from the Secretary. *See* 15 U.S.C. 8704(d)(1). Once the Secretary approves a program or project, the Board will take appropriate steps to implement it. A contract or agreement for a program or project will be deemed approved if the Secretary fails to approve or reject it within 60 days of receipt, unless the Secretary provides a reasonable justification for the delay to the Board and Congress, along with a reasonable date for approval or disapproval. *See* 15 U.S.C. 8704(e)(3). The Department may provide justification in any written format.

Any such contract or agreement shall provide that: (1) The contractor or agreeing party shall develop and submit to the Board a program or project together with a budget or budgets that shall show the estimated cost to be incurred for such program or project, *see* 15 U.S.C. 8704(e)(2)(A). Further, the contractor or agreeing party shall keep accurate records of all its transactions and make periodic reports to the Board of activities conducted, *see* 15 U.S.C. 8704(e)(2)(B) & (D); submit accounting for funds received and expended, *see* 15 U.S.C. 8704(e)(2)(C); and make such other reports as the Secretary or the Board may require, *see* 15 U.S.C. 8704(e)(2)(E). This section also proposes that the Secretary may audit the records of the contracting or agreeing party periodically; that any subcontractor who enters into a contract with a Board contractor and who receives Board funds will be subject to the same provisions as the contractor; and that the contract or agreement shall become effective on the approval of the Secretary.

Section 1500.60(c) proposes that programs or projects implemented under the proposed order will be reviewed or evaluated periodically by the Board to ensure that they contribute to an effective program of research, education, or promotion. If the Board finds that a program or project does not contribute to an effective program of research, education, or promotion, then the Board will terminate that program or project, subject to the approval of the Secretary.

Section 1500.60(d) proposes that any educational or promotional activity undertaken with funds provided by the Board shall include a statement that such activities were supported in whole or in part by the Board. 15 U.S.C. 8704(d)(1)(B).

Finally, § 1500.60(e) proposes that, every two years, the Board shall prepare and make publicly available a comprehensive and detailed report that includes an identification and description of all programs and projects undertaken by the Board during the previous two years, as well as those planned for the subsequent two years. The report will detail the allocation or planned allocation of Board resources for each program or project, and will also include: (1) The overall financial condition of the Board; (2) a summary of the amounts obligated or expended during the two preceding fiscal years; and (3) a description of the extent to which the objectives of the Board were met according to the metrics required under § 1500.50(a)(1). *See* 15 U.S.C. 8704(j).

Section 1500.61—Independent Evaluation

Section 1500.61 proposes that the Board shall authorize and fund an independent evaluation of the effectiveness of the proposed order and other programs conducted by the Board beginning five years after October 5, 2018 and every three years thereafter. The Board will submit to the Secretary, and make available to the public, the results of each periodic independent evaluation. *See* 15 U.S.C. 8704(h).

Section 1500.62—Patents, Copyrights, Trademarks, Information, Publications, and Product Formulations

Section 1500.62 proposes that ownership and allocation of rights to patents, copyrights, inventions, or publications, developed through the use of non-Federal funds remitted to the Board under the proposed order shall be determined by written agreement between the Board and the party(ies) receiving funds for the development of such inventions, patents, copyrights, or publications. The Department believes that “trademarks” were inadvertently left off of this list, as they are included in the heading, and intends to include them in the final order, subject to public comment.

Reports, Books, and Records

Section 1500.70—Reports

Section 1500.70(a) proposes that manufacturers subject to the proposed order may be required to periodically provide such information as required by the Board, with the approval of the Secretary. This information may include but is not limited to: The number and type of concrete masonry units manufactured; the number and type of concrete masonry units on which an

assessment was paid; the name and address of the manufacturer; manufacturer employee identification number; the date of assessment payment on each concrete masonry unit sold; and similar assessment accounting information. The previously noted ICR regarding assessments also supports this requirement. The Department is seeking approval for these ICRs.

Section 1500.70(b) proposes that all of the reports described above are due to the Board 60 days after the end of each quarter, and

Section 1500.70(c) proposes that all such reports and information submitted shall be subject to confidentiality restrictions in § 1500.72.

Section 1500.71—Assessments

Section 1500.71 proposes that each manufacturer subject to the proposed order shall maintain and make available for inspection by the Secretary, or the Board when acting on behalf of the Secretary, such books and records as are necessary to carry out the provisions of the order and the regulations issued thereunder, including such records as are necessary to verify any reports required. *See* 15 U.S.C. 8704(k)(1). Such records shall be retained for at least seven years beyond the fiscal period of their applicability. *See* 15 U.S.C. 8704(k)(2).

Section 1500.72—Confidential Treatment

Section 1500.72(a) proposes that trade secrets and commercial or financial information that is privileged or confidential obtained from books, records, or reports under the Act, the proposed order, and the regulations issued thereunder shall be kept confidential by all persons, including all employees and former employees of the Board, all officers and employees and former officers and employees of contracting and subcontracting agencies or agreeing parties having access to such information. Such information shall not be available to Board members or manufacturers. Only those persons having a specific need for such information to effectively administer the provisions of the proposed order shall have access to such information. *See* 15 U.S.C. 8704(k)(3)(A). In accordance with the Act, such information may be disclosed only if (1) the Secretary considers the information relevant; and (2) the information is revealed in a judicial proceeding or administrative hearing brought at the direction or on the request of the Secretary or to which the Secretary or any officer of the Department is a party. 15 U.S.C. 8704(k)(3)(B). Also in accordance with

the Act, any officer, employee, or agent of the Department of Commerce or any officer, employee, or agent of the Board who willfully violates the above provisions of the proposed order shall be fined not more than \$1,000 and imprisoned for not more than 1 year, or both. 15 U.S.C. 8704(k)(3)(D). However, nothing in this section shall be deemed to prohibit: (1) The issuance of general statements based upon the reports of the number of persons subject to the proposed order or statistical data collected therefrom, as long as the statements do not identify the information furnished by any person; and (2) the publication, by direction of the Secretary, of the name of any person who has been adjudged to have violated the proposed order and the specific provisions that were violated. *See* 15 U.S.C. 8704(k)(3)(C).

Section 1500.72(b) would clarify that, for any officer, employee, or agent of the Department of Commerce, these provisions are consistent with and do not supersede, conflict with, or otherwise alter any obligations, rights, or liabilities created by existing statute or Executive Order relating to classified information, communications to Congress, the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or any other whistleblower protection.

Miscellaneous

Section 1500.80—Right of the Secretary

Section 1500.80 proposes that all fiscal matters, programs or projects, rules or regulations, reports, or other actions proposed and prepared by the Board shall be submitted to the Secretary for approval.

Section 1500.81—Referenda

Section 1500.81(a) proposes that a referendum will be held to determine whether manufacturers favor enactment of the proposed order. *See* 15 U.S.C. 8706(a)(1). The proposed referendum procedures are being published in a separate notice in the **Federal Register**. *See* 15 U.S.C. 8706(c)(1) (“Referenda conducted pursuant to this section shall be conducted in a manner determined by the Secretary.”) A manufacturer will be considered eligible to vote if the manufacturer has manufactured concrete masonry products during a period of at least 180 days prior to the first day of the period during which voting in the referendum will occur. 15 U.S.C. 8706(b)(2). The Act directs the Secretary to conduct the referendum

“among [eligible] manufacturers . . . subject to assessments under section 8705 of this title.”

The Act does not define the phrase “subject to assessment” and therefore, the Secretary must interpret the statute to determine whether all manufacturers of concrete masonry products should participate in the referendum, or whether only manufacturers of concrete masonry units should participate. The phrase “subject to assessment” could mean: (1) Meeting only the eligibility requirement described above (that is, having manufactured concrete masonry products during the 180-day period prior to voting), or (2) both meeting the eligibility requirement *and* being subject to the initial rate of assessment. Under interpretation (1), the referendum would be conducted among all manufacturers who had manufactured concrete masonry products during the 180-day period prior to voting. Under interpretation (2), because the initial rate of assessment is applied only to concrete masonry units sold, the referendum would be conducted among all manufacturers who had manufactured concrete masonry units during the 180-day period prior to voting. Under the Act, “concrete masonry products” refers to a broader class of products than concrete masonry units, including hardscape products such as concrete pavers and segmental retaining wall units.

Where a statute leaves a gap or is ambiguous, courts will typically look to see whether the agency’s interpretation was reasonable in light of the text, nature, and purpose of the statute. *See, e.g., Cuzzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131, 2134 (U.S. June 20, 2016). In the absence of a statutory definition, courts “construe a statutory term in accordance with its ordinary or natural meaning.” *FDIC v. Meyer*, 510 U.S. 471, 476 (1994). The most relevant definition of “subject to” is “affected by or possibly affected by” something.⁴ Only manufacturers of concrete masonry units will actually have to pay, or be affected by, the initial rate of assessment. The Department believes, therefore, that the most natural reading of the statute is that only concrete masonry unit manufacturers are “subject to” assessment and therefore eligible to participate in the referendum.

This reading is also consistent with the stated purpose of the Act as described in 15 U.S.C. 8701. Senate Report 115–218 includes the

Congressional Budget Office’s (CBO) estimate concerning the Act’s impacts, and notes the following assumption:

The bill [S. 374] would apply to producers of both concrete block and concrete pavers, but CBO expects that only producers of concrete block would participate in the referendum. Because there is little differentiation among concrete blocks across manufacturers, all producers of concrete blocks would benefit from an industry-wide research and promotion program. Manufacturers of concrete pavers, on the other hand, are able to distinguish their products in ways that allow consumers to recognize individual brands. Consequently, those producers have little incentive to participate in an industry-wide marketing effort. Based on information from manufacturers of concrete pavers, CBO expects that those producers would not participate in the referendum.

Senate Report 115–218, at 4 (Mar. 22, 2018).

Based upon both the language and the overarching purpose of the statute, and because concrete masonry unit manufacturers are currently the only manufacturers who have an incentive to participate in this program, the Department interprets the Act to mean that only manufacturers subject to the initial rate of assessment are “subject to assessment,” in accordance with interpretation (2). Therefore, for the initial referendum, an eligible person would be a manufacturer of concrete units that is subject to the initial rate of assessment. Further, the proposed order protects the interests of concrete masonry product manufacturers by leaving open their eligibility for Board membership, as well as the possibility that future orders could have a broader scope rather than being limited to concrete masonry unit manufacturers.

Therefore, for the initial referendum, an eligible person would be a manufacturer of concrete units that is subject to the initial rate of assessment in § 1500.51, that is, \$0.01 per concrete masonry unit sold by a manufacturer. *See* 15 U.S.C. 8705(c)(1). Each manufacturer eligible to vote in the referendum shall be entitled to one vote. 15 U.S.C. 8706(b)(1). For the order to go into effect, there must be a majority “yes” vote by both: (1) The total number of concrete masonry unit manufacturers voting; and (2) manufacturers who operate a majority of the machine cavities operated by the manufacturers voting in the referendum. 15 U.S.C. 8706(a)(2).

Section 1500.81(b) proposes that, after the initial referendum, the Secretary shall conduct a referendum upon the request of the Board, or effective beginning on the date that is five years after the date of approval of the

⁴ “Subject to.” *Merriam-Webster.com Dictionary*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/subject%20to>. Accessed 20 Jun. 2020.

proposed order, and at five-year intervals thereafter, by petition from not less than 25% of manufacturers eligible to vote. For any new proposed order, voter eligibility will be based on the scope of such proposed order. Each manufacturer eligible to vote in subsequent referenda shall be entitled to one vote. The proposed order shall continue if it meets the same requirements for a majority “yes” vote described above.

Section 1500.82—Suspension or Termination

Section 1500.82(a) proposes that the Secretary shall suspend or terminate an order or a provision of an order if the Secretary finds that an order or provision of an order obstructs or does not tend to effectuate the purpose of the Act, or if the Secretary determines that the order or a provision of an order is not favored by a majority of all votes cast in the referendum as provided in § 1500.81. See 15 U.S.C. 8706(e) & 8710. If the Secretary suspends or terminates a provision of an order, the order remains in effect minus the suspended or terminated provision.

Section 1500.82(b) proposes that if, as a result of a referendum conducted under § 1500.81 of the proposed order, the Secretary determines that the order is not approved, the Secretary shall: (1) Not later than 180 days after making the determination, suspend or terminate collection of assessments under the proposed order; and (2) as soon as practical, suspend or terminate activities under this order in an orderly manner. 15 U.S.C. 8710(b).

Section 1500.83—Effect of Termination or Amendment

Section 1500.83 proposes that, unless otherwise expressly provided by the Secretary, the termination of the proposed order, or the issuance of any amendment to either thereof, shall not: (a) Affect or waive any right, duty, obligation or liability which shall have arisen or which may thereafter arise in connection with any provision of the proposed order or any regulation issued thereunder; (b) release or extinguish any violation of the proposed order or any regulation issued thereunder; or (c) affect or impair any rights or remedies of the United States, or of the Secretary or of any other persons, with respect to any such violation. The Department believes that the intended language of this provision was likely “. . . issuance of any amendment,” rather than “. . . issuance of any amendment to either thereof,” and intends to edit this text following public comment.

Section 1500.84—Notice and Advance Registration

Section 1500.84 proposes that, as required by the Act, not later than 30 days before a referendum is to be conducted under the proposed order, the Secretary shall notify all manufacturers of the period during which the referendum will occur through publication in the **Federal Register**. To clarify this statement, the Secretary interprets that notice can occur 30 or more days in advance of the referendum start date (*i.e.*, notice cannot be less than 30 days). 15 U.S.C. 8706(c)(4). The notice will explain any registration and voting procedures. See 15 U.S.C. 8706(c)(3). A manufacturer who chooses to vote in a referendum conducted under the proposed order shall register with the Secretary prior to the voting period. 15 U.S.C. 8706(c)(2).

Section 1500.85—Personal Liability

Section 1500.85 proposes that no member, alternate member, or employee of the Board shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes or other acts, either of commission or omission, as such member or employee, except for acts of dishonesty or willful misconduct.

Section 1500.86—Separability

Section 1500.86 proposes that if any provision of the proposed order, or its applicability to any person or circumstance, is declared invalid, the validity of the remainder of the proposed order or its applicability will not be affected.

Section 1500.87—Amendments

Section 1500.87 proposes that the Secretary may, from time to time, amend an order. 15 U.S.C. 8703(c). Amendments to the proposed order may be proposed from time to time by the Board or by any interested person affected by the provisions of the Act, including the Secretary. See 15 U.S.C. 8704(c). The provisions of the Act applicable to an order shall be applicable to any amendment to an order. 15 U.S.C. 8703(c) & 8711.

Section 1500.88—OMB Control Number

If the ICRs in the proposed order are approved by OMB under the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, this section would include the OMB control number.

Classification

Executive Order 12866

This rulemaking is not a significant regulatory action under Executive Order 12866.

Executive Order 13771

This rule is not subject to the requirements of Executive Order 13771 because it is not a significant regulatory action under Executive Order 12866.

Executive Order 13132

This proposed rule does not contain policies with Federalism implications as defined in Executive Order 13132.

Regulatory Flexibility Act: Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA), first enacted in 1980 and codified at 5 U.S.C. 600–611, was intended to place the burden on the government to review all new regulations to ensure that, while accomplishing their intended purposes, they do not unduly inhibit the ability of small entities to compete. The RFA recognizes that the size of a business, unit of government, or nonprofit organization can have a bearing on its ability to comply with Federal regulations. Major goals of the RFA are: (1) To increase agency awareness and understanding of the impact of their regulations on small business; (2) to require that agencies communicate and explain their findings to the public; and (3) to encourage agencies to use flexibility and to provide regulatory relief to small entities.

The RFA emphasizes predicting significant adverse impacts on small entities as a group distinct from other entities and on the consideration of alternatives that may minimize the impacts, while still achieving the stated objective of the action. When an agency publishes a proposed regulatory action, it must either: (1) Certify that the action will not have a significant adverse impact on a substantial number of small entities, and support such a certification declaration with a factual basis, demonstrating this outcome, or, (2) if such a certification cannot be supported by a factual basis, prepare and make available for public review an Initial Regulatory Flexibility Analysis (IRFA) that describes the impact of the proposed rule on small entities.

The following paragraphs are a summary of the IRFA for the proposed order:

Basis and Purpose of the Rule

This action is taken under the authority of the Act, which authorizes a research, education, and promotion

program for concrete masonry products, also known as a checkoff program. The checkoff program would be established by an order issued by the Secretary that is subject to approval by an industry referendum. The program would then be carried out by a Board, which would develop research and education programs as well as efforts to promote concrete masonry products in domestic markets. Board activities would be funded by assessments on manufacturers of concrete masonry products, based on the number of masonry units sold each quarter. A proposed order submitted by industry to

the Department on April 15, 2020, triggered a referendum deadline of approximately 8 months from submission, and the proposed order must be published in the **Federal Register** within 90 days of receipt. A succinct statement of the objectives of, and legal basis for, the proposed rule is contained elsewhere in the preamble and is not repeated here.

Number of Affected Entities

The proposed order applies to products manufactured on concrete block machines and used for construction. As indicated by the data

below and confirmed by industry experts, the industry is dominated by small entities.

The U.S. Small Business Administration size standard to qualify as a small business in this industry is 500 or fewer employees.⁵ According to Census data, there were 430 firms and 686 establishments engaged in concrete block and brick manufacturing in 2017.⁶ Of these, 401 firms, or 93 percent, employed fewer than 500 employees, and these small firms accounted for 514 establishments, or 75 percent of all establishments, and about 62 percent of industry employment.⁷

Table 3: Block and Brick Manufacturers 2017 by Business Size

Size of business by number of employees	Number of firms	Number of establishments	Employment	Estimated receipts (\$mils)	Annual payroll (\$mils)
Total	430	686	16,575	4,682	814
0-4	92	92	173	56	9
5-9	66	66	432	97	19
10-19	83	87	1,168	277	56
20-99	116	152	3,851	922	185
100-499	44	117	4,607	1,506	251
500+	29	172	6,344	1,823	293

Source: U.S. Census Bureau 2017 County Business Patterns and 2017 Economic Census, Table US_6digitnaics_2017, released 03/06/2020

Large firms represent about 7 percent of all firms and account for 25 percent of plants, about 38 percent of employment, and 39 percent of estimated receipts. This appears to be consistent with the information from industry experts that roughly 5 percent of manufacturers account for 40 percent of production capacity measured by machine cavities.⁸ Based on these estimates of share of establishments and machine cavities, we estimate that large employers (500 or more employees) account for 25 to 40 percent of industry production of concrete masonry units and, conversely, that small firms (fewer than 500 employees) account for 60 to 75 percent of production of concrete masonry units.

Costs to Affected Entities

Assessment costs—Under the proposed order, concrete masonry unit manufacturers would be required to pay assessments to the Board to fund the research, education, and promotion programs of the Board. Assessment rates are dictated by the Act, which specifies assessments of \$0.01 per unit sold, up to a maximum of \$0.05 per unit sold, with assessments increasing by no more than \$0.01 per year.

To estimate the costs to businesses, the Department estimates a range of assessment revenues, with the lower bound calculated using assessments of \$0.01 with no increases in future years and the upper bound calculated using the maximum assessment rates permitted under the Act—\$0.01 in the first year, increasing by \$0.01 in

subsequent years to the maximum of \$0.05 in the fifth year and thereafter.

To estimate the number of units sold by small entities, the Department relies on industry reports that show there were 1.15 billion concrete masonry units produced in 2018. Assuming small businesses produced 60 to 75 percent of overall production, we estimate that between 690 and 862.5 million units would be produced by small businesses in the first year of the program. Based on these estimates, total estimated assessments on small businesses based on \$0.01 per unit produced would be \$6.90 million to \$8.63 million in the first year.

To estimate a lower bound on expected annual assessment costs, we assume assessments remain constant at \$0.01 for 10 years and industry

Business Patterns methodology on the Census website.

⁸ Manufacturers use block machines to produce concrete block. A block machine uses vibration and compaction to form the concrete masonry product from a cement mixture poured into a mold. The term “cavity” is the open space in the mold and equates to a single block.

⁵ See “Table of Small Business Size Standards Matched to North American Industry Classification System Codes” on the U.S. Small Business Administration website.

⁶ A firm is a business organization consisting of one or more domestic establishments in the same state and industry that were specified under common ownership or control and an establishment

is a single physical location at which business is conducted or services or industrial operations are performed. See “Statistics of U.S. Businesses Glossary” on the U.S. Census Bureau website.

⁷ See “2017 SUSB Annual Data Tables by Establishment Industry” on the U.S. Census Bureau website. For more information, see the County

production grows with inflation. Therefore, total assessments on small businesses over the next 10 years is expected to be \$6.90 million to \$8.63 million per year. The midpoint of this range, \$7.76 million, is the Department's lower bound estimate of annual costs to small businesses. This amounts to \$19,358 per firm each year.

To estimate an upper bound estimate of costs, we assume the Board institutes the maximum assessment authorized under the legislation, resulting in a \$0.01 per unit assessment in year 1, \$0.02 in year 2, \$0.03 in year 3, \$0.04 in year 4, and \$0.05 in years 5 through 10. Again, assuming industry production grows with inflation, total assessments on small businesses over the next 10 years would be expected to average \$27.60 million to \$34.50 million per year. The midpoint of this range, \$31.05 million, is the Department's upper bound estimate of annual costs to small businesses. This amounts to an average of \$77,431 per firm each year.

Applying the Department's upper bound cost estimate to the receipts estimated by the Census Bureau for this industry, total costs on small businesses represent about 1.1 percent of small business receipts (shown in "Table 3: Block and Brick Manufacturers 2017 by Business Size," employment size less than 500). Again, this would be the average over the 10-year period. Assessments would be lowest in year 1 and highest in years 5 through 10.

These estimated assessment costs are based on the limited information available for the concrete and brick manufacturers industry. For this analysis, the Department relies on industry estimates for annual unit production. Because unit production is not available by business size, we estimate a range of unit production using establishment data from the U.S. Census Bureau for NAICS industry 327331. Because the number of firms estimated by industry experts differs from the number of firms under NAICS industry 327331, we request comments regarding the number and size of entities covered under the proposed order, including whether production occurs among businesses not classified under NAICS industry 327331.

Reporting costs—In addition to assessments paid on concrete masonry units, there are reporting costs associated with adoption of the proposed order. Under the proposed order, each manufacturer may be required to periodically provide to the Board such information as may be required by the Board, with the approval of the Secretary, which may

include, but not be limited to, the following:

1. Number and type of concrete masonry units manufactured;
2. Number and type of concrete masonry units on which an assessment was paid;
3. Name and address of the manufacturer; and
4. Date assessment was paid on each concrete masonry unit sold.

We expect these reporting costs to be incurred with the quarterly assessments paid by manufacturers. We estimate that managers would spend 60 minutes per quarterly report. According to the Bureau of Labor Statistics, the median pay for industrial production managers is \$50.71 per hour.⁹ Thus, we estimate that firms will pay, on average, \$202.84 for reporting costs per year.

Benefits for Affected Entities

Even if the order results in a significant cost for a substantial number of small businesses, these costs are expected to result in benefits to businesses that are at least commensurate with these costs. The assessments pay for investments in product research, education, and promotion programs that are intended to yield direct benefits to concrete product manufacturers in the form of new markets and increased consumer demand.

Alternatives: Consideration of a De Minimis Exemption

The Department recognizes that some small businesses with minimal production in the industry may not have the resources to comply with the requirements imposed by the proposed order, and therefore, the Department may consider a *de minimis* exemption for these small businesses. A *de minimis* exemption would exclude from the order some small businesses with minimal production, based on measures of unit production, employment, receipts, machine cavities, or other relevant criteria.

A possible *de minimis* exemption would exclude companies with fewer than five employees. According to Census Bureau data (see "Table 3: Block and Brick Manufacturers 2017 by Business Size"), these firms represent 13 percent of establishments in the industry, 1 percent of industry employment, and 1 percent of annual receipts for the industry.

Another possible *de minimis* exemption would exclude companies with fewer than ten employees.

⁹ See the *Occupational Outlook Handbook* on the Bureau of Labor statistics website.

According to Census Bureau data (see "Table 3: Block and Brick Manufacturers 2017 by Business Size"), these firms represent 23 percent of establishments in the industry, 4 percent of industry employment, and 3 percent of annual receipts for the industry.

The Department requests comments regarding a possible *de minimis* exemption.

Request for Comments

The Department requests comments on the Initial Regulatory Flexibility Act Analysis. Specifically, comments regarding:

1. Information about concrete masonry unit production, including:
 - a. Estimated annual production of concrete masonry units for the industry as a whole and by business size;
 - b. The number and size of entities covered under the proposed order, including whether production occurs among businesses not classified under NAICS industry 327331; and
 - c. An estimated sales price for concrete masonry units.
2. Whether to include a *de minimis* exemption and what criteria to use for an exemption; and
3. The approach used to estimate the impact of the proposed order on industry and small businesses and suggestions for alternative approaches.

Paperwork Reduction Act

The ICRs in this proposed rule are being submitted for approval to OMB under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* This section contains the new ICRs and the estimated time to fulfill each requirement. There are two new ICRs associated with the proposed order—one dealing with the Board nomination process and a second with the assessment and reporting requirements.

In order to make an informed decision on appointments of members and alternate members to the Board as well as obtaining an appropriate balance on the Board, the Secretary will need adequate information on all candidate nominees. The Department will restrict the information request to that information needed to determine requisite expertise of potential nominees and will include biography, experience, status as a current manufacturer, type of products manufactured, place of business, size of business, statement of interest, and similar background information.

Estimated burden: Public recordkeeping burden for this collection of information is estimated to average 1.0 hour per application.

Respondents: Manufacturers and others associated with the concrete masonry products industry.

Estimated Number of Respondents: 50.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 50 hours.

(2) Background Statement

To fulfill the requirement to oversee assessment collection as well as the requirement to maintain adequate records the Secretary will need information to support adequate oversight in these areas. The Department will restrict the information request to that information needed to determine the amount of assessment and will include: The number and type of concrete masonry units manufactured; the number and type of concrete masonry units on which an assessment was paid; the name and address of the manufacturer; manufacturer employee identification number; and the date of assessment payment on each concrete masonry unit sold; and related assessment accounting information. All estimates include the time for reviewing instructions; searching existing data sources; gathering or maintaining the needed data; and reviewing the information.

Estimated burden: Public recordkeeping burden for this collection of information is estimated to average 1 hour per quarterly report.

Respondents: Manufacturers of concrete masonry products.

Estimated Number of Respondents: 690.

Estimated Number of Responses per Respondent: 4 per year.

Estimated Total Annual Burden on Respondents: 2760 hours.

As part of its continuing effort to reduce paperwork and respondent burden, the Department invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act. The Department solicits comments concerning: Whether these ICRs are necessary for the proper performance of the functions of the Department, including whether the information has practical utility; the accuracy of the Department's estimates of the burden of the ICRs; the quality, utility, and clarity of the information to be collected; and whether the burden of collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology, may be minimized. The ICR may be

viewed on the Reginfo.gov website. Organizations and individuals desiring to submit comments on the collection of information requirements should see the **ADDRESSES** section of this document. The final rule will respond to any public comments on the ICRs contained in this proposal. Notwithstanding any other provision of the law, no person is required to respond to, and no person will be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

National Environmental Policy Act

This proposed rule will not significantly affect the quality of the human environment. Therefore, an environmental assessment or Environmental Impact Statement is not required to be prepared under the National Environmental Policy Act of 1969.

List of Subjects in 15 CFR Part 1500

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Concrete masonry promotion, Reporting and recordkeeping requirements.

■ For the reasons stated in the preamble, under the authority at 15 U.S.C. 8701–8717, the Office of the Under-Secretary for Economic Affairs, Department of Commerce proposes to establish Chapter XV, consisting of 15 CFR part 1500 as set forth below:

CHAPTER XV—OFFICE OF THE UNDER-SECRETARY FOR ECONOMIC AFFAIRS

PART 1500—CONCRETE MASONRY PRODUCTS RESEARCH, EDUCATION, AND PROMOTION

Subpart A—Concrete Masonry Products Research, Education, and Promotion Order

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Authority: 15 U.S.C. 8701–8717.

Definitions

§ 1500.1 Act.

Act means the Concrete Masonry Products Research, Education, and Promotion Act of 2018 (15 U.S.C. 8701 *et seq.*; Public Law 115–254, 1301, 132 Stat. 3469–3485 (2018)), and any amendments thereto.

§ 1500.2 Block Machine.

Block machine means a piece of equipment that utilizes vibration and compaction to form concrete masonry products.

§ 1500.3 Board.

Board means the “Concrete Masonry Products Board” established under § 1500.40 of this Order.

§ 1500.4 Cavity.

Cavity means the open space in the mold of a block machine capable of forming a single concrete masonry unit having nominal plan dimensions of 8 inches by 16 inches.

§ 1500.5 Concrete Masonry Products.

Concrete masonry products means a broader class of products, including concrete masonry units as well as hardscape products such as concrete pavers and segmental retaining wall units, manufactured on a block machine using dry-cast concrete.

§ 1500.6 Concrete Masonry Unit.

Concrete masonry unit means a concrete masonry product that is a manmade masonry unit having an actual width of 3 inches or greater and manufactured from dry-cast concrete using a block machine. Such term includes concrete block and related concrete units used in masonry applications.

§ 1500.7 Conflict of Interest.

Conflict of interest means with respect to a member or employee of the Board, a situation in which such member or employee has a direct or indirect financial or other interest in a person that performs a service for, or enters into a contract with, for anything of economic value.

§ 1500.8 Department.

Department means the United States Department of Commerce.

§ 1500.9 Dry-Cast Concrete.

Dry-cast concrete means a composite material that is composed essentially of aggregates embedded in a binding medium composed of a mixture of cementitious materials (including hydraulic cement, pozzolans, or other cementitious materials) and water of such a consistency to maintain its shape after forming in a block machine.

§ 1500.10 Education.

Education means programs that will educate or communicate the benefits of concrete masonry products in safe and environmentally sustainable development, advancements in concrete masonry product technology and development, and other information and programs designed to generate increased demand for commercial, residential, multi-family, and institutional projects using concrete masonry products and to generally enhance the image of concrete masonry products.

§ 1500.11 Geographic Regions.

Geographic Regions means the groupings of states as delineated in § 1500.40(c) of this Order, for the purpose of supporting research, education, and promotion plans and projects.

§ 1500.12 Machine Cavities.

Machine cavities means the cavities with which a block machine could be equipped.

§ 1500.13 Machine Cavities in Operation.

Machine cavities in operation means those machine cavities associated with a block machine that have produced concrete masonry units within the last six months of the date set for

determining eligibility and is fully operable and capable of producing concrete masonry units.

§ 1500.14 Manufacturer.

Manufacturer means any person engaged in the manufacturing of commercial concrete masonry products in the United States.

§ 1500.15 Masonry Unit.

Masonry unit means a noncombustible building product intended to be laid by hand or joined using mortar, grout, surface bonding, post-tensioning or some combination of these methods.

§ 1500.16 Order.

Order means this Concrete Masonry Products Research, Education, and Promotion order, including all subparts.

§ 1500.17 Person.

Person means any individual, group of individuals, partnership, corporation, association, cooperative or any other entity.

§ 1500.18 Promotion.

Promotion means any action, including paid advertising, to advance the image and desirability of concrete masonry products with the express intent of improving the competitive position and stimulating sales of concrete masonry products in the marketplace.

§ 1500.19 Research.

Research means studies testing the effectiveness of market development and promotion efforts, studies relating to the improvement of concrete masonry products and new product development, and studies documenting the performance of concrete masonry.

§ 1500.20 Secretary.

Secretary means the Secretary of the United States Department of Commerce.

§ 1500.21 United States.

United States means the several states and the District of Columbia.

Concrete Masonry Products Board

§ 1500.40 Establishment and membership.

(a) The Board is hereby established to carry out a program of generic promotion, research, and education regarding concrete masonry products. The Board shall consist of manufacturers and of not fewer than 15 and not more than 25 members appointed by the Secretary, from nominations submitted as set forth in § 1500.41. No employee of an industry trade organization exempt from tax under paragraph (3) or (6) of section

501(c) of the Internal Revenue Code of 1986 representing the concrete masonry industry or related industries shall serve as a member of the Board and no member of the Board may serve concurrently as an officer of the board of directors of a national concrete masonry products industry trade association.

(b) The initial Board and all subsequent Boards, unless modified by the Board as provided in § 1500.40(d), shall be subject to the following:

(1) To ensure fair and equitable representation of the concrete masonry products industry, the composition of the Board shall reflect the geographical distribution of the manufacture of concrete masonry products in the United States, the types of concrete masonry products manufactured, and the range in size of manufacturers in the United States.

(2) No company or its affiliates shall have more than two members on the Board.

(c) To the extent possible, dependent on the nominees submitted, the Secretary will strive to appoint at least two members from each region. Similarly, the Secretary will strive to appoint at least one member from each of the following districts:

TABLE 1 TO PARAGRAPH (C)

Region	District	States
1	1	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.
	2	New York.
	3	Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, and West Virginia.
2	4	North Carolina, South Carolina, and Virginia.
	5	Alabama, Georgia, Mississippi, and Tennessee.
3	6	Florida.
	7	Indiana, Kentucky, and Ohio.
	8	Illinois, Michigan, and Wisconsin.
4	9	Iowa, Minnesota, Nebraska, North Dakota, and South Dakota.
	10	Arkansas, Kansas, Missouri, and Oklahoma.
	11	Louisiana, and Texas.
5	12	Arizona, and New Mexico.
	13	Colorado, Utah, and Wyoming.
	14	Alaska, Idaho, Montana, Oregon, and Washington.
	15	California, Hawaii, and Nevada.

(d) Three years after the assessment of concrete masonry units commences pursuant to implementation of this Order, and at the end of each three-year period thereafter, the Board, subject to the review and approval of the Secretary, shall, if warranted, recommend to the Secretary the reapportionment of the Board membership, including but not limited to modifying the regions and districts set forth in 1500.40(c), and the allocation of Board members to reflect changes in the geographical distribution of the manufacture of concrete masonry products and the types of concrete masonry products manufactured.

§ 1500.41 Nominations and appointments.

(a) For the initial Board, nominations shall be made and submitted to the Secretary by manufacturers. The Secretary shall consider the nominations submitted and other manufacturers for appointment, as the Secretary may deem appropriate. The Secretary shall appoint the members and alternate members of the initial Board.

(b) From the nominations, the Secretary shall appoint the 15–25 members of the Board and six alternate members of the Board within a reasonable time after receiving nominations. If a voting member vacates the appointment, the Secretary will appoint one of the alternate members to fill the unexpired term. The Secretary will provide the Board an opportunity to offer a nominee as successor to fill the term of the alternate member. In any case in which the Board fails to submit nominations for any open position, the Secretary shall appoint a member qualifying for the position under the criteria set forth in § 1500.40.

(c) Nominations by manufacturers for Board members, including self-nominations will be submitted to the Board. The Board will evaluate the nominations received, verify the willingness of nominees to serve, and then will submit to the Secretary at least three nominees for each vacant position. The Secretary may also receive nominations and may forward them to the Board for their consideration. From the nominees not appointed, the Secretary will appoint six alternate members for the Board. Alternate members will be non-voting members of the Board.

§ 1500.42 Term of office.

Board members and any alternates will serve for a term of three years, except for the initial members as described below. Board members and any alternates will be able to serve a

maximum of two consecutive three-year terms and may serve additional terms, of up to two consecutive three-year terms, after rotating off the Board. When the Board is first established, the initial members will be assigned initial terms of two, three and four years. Initial terms will be staggered to assure continuity. Each term of office will end on December 31, with new terms of office beginning on January 1. Members serving the initial terms of two and three years will be eligible to serve a second term of three years.

Thereafter, each of the positions will carry a full three-year term. Notwithstanding the limitations on consecutive terms, a Board member or alternate Board member may continue to serve until a successor is appointed by the Secretary.

§ 1500.43 Vacancies.

Should any Board member position become vacant, an alternate will be appointed by the Secretary for the remainder of the term. Successors to fill the unexpired terms of the former alternate member shall be appointed in the manner specified in § 1500.41.

§ 1500.44 Disqualification.

(a) In the event that any Board member or alternate Board member ceases to qualify as a manufacturer, such Board member or alternate Board member shall be disqualified from serving on the Board.

(b) If a member of the Board consistently refuses to perform the duties of a member of the Board, or if a member of the Board engages in acts of dishonesty or willful misconduct, the Board may recommend to the Secretary that the member be removed from office. All members serve at the pleasure of the Secretary.

§ 1500.45 Procedure.

(a) The Board will meet at least annually. A Board meeting will be conducted only when a quorum is present. A majority of the Board members will constitute a quorum. If participation by telephone or other means is permitted, members participating by such means shall count as present in determining quorum or other voting requirements set forth in this section.

(b) At the start of each fiscal period, the Board will select a Chair, Vice-Chair, Secretary-Treasurer and other officers as appropriate who will serve in leadership roles throughout that period.

(c) The Board will provide members and manufacturers a minimum of 14 days advance notice of all Board meetings.

(d) Each Board member will be entitled to one vote on any matter put to vote, and the motion will carry if supported by one vote more than 50 percent of the total votes represented by the Board members participating, with the exception of the affirmative vote of two-thirds of voting members required to change the assessment rate as specified in § 1500.51(c).

(e) The Board may form committees as necessary. Committees may consist of individuals other than Board members. Committee members shall serve without compensation.

(f) When the Board Chair determines that a vote outside a convened Board meeting is necessary, such vote may take place via electronic means only if members are given fourteen days prior notice, and if a majority of the voting Board members participate prior to the established deadline. Any action so taken shall have the same force and effect as though such action had been taken at a regularly convened meeting of the Board.

(g) All votes shall be recorded in Board minutes.

(h) There shall be no voting by proxy.

(i) Board members shall each have one vote. Alternate members shall not vote. The Chair and all Board officers shall be elected from voting members of the Board.

(j) The organization of the Board and the procedures for the conducting of meetings of the Board shall be in accordance with its bylaws, which shall be established by the Board and approved by the Secretary.

(k) Meetings of the Board and committees may be conducted by electronic communications, provided that each member and committee member, if such committee member is not a member of the Board, is given prior written notice of the meeting and has the opportunity to be present either physically or by electronic connection.

§ 1500.46 Compensation and reimbursement.

(a) Members and any alternates of the Board shall serve without compensation.

(b) If approved by the Board, members or alternates shall be reimbursed for reasonable travel expenses, which may include per diem allowance or actual subsistence incurred while away from their homes or regular places of business in the performance of services for the Board.

§ 1500.47 Powers and duties.

The Board shall have the following powers and duties:

(a) To administer this Order in accordance with its terms and conditions and to collect assessments;

(b) To develop and recommend to the Secretary for approval such bylaws as may be necessary for the functioning of the Board;

(c) To make such rules as may be necessary to administer this Order, including activities to be carried out under this Order;

(d) To meet, organize, and select from among the members of the Board a Chair, Vice Chair, Secretary-Treasurer and other officers, committees, and subcommittees, and to vest in such committees and subcommittees such responsibilities and authorities as the Board determines to be appropriate;

(e) To establish regional committees to administer regional initiatives;

(f) To recommend to the Secretary modifications to the geographical regions as described in § 1500.40(c);

(g) To establish working committees of persons other than Board members;

(h) To employ persons, other than the members, as the Board considers necessary to assist the Board in carrying out its duties and to determine the compensation and specify the duties of such persons;

(i) To prepare and submit for the approval of the Secretary a budget as described in § 1500.50(a);

(j) To borrow funds necessary for the startup expenses of this Order;

(k) To develop and carry out research, education, and promotion programs and projects relating to concrete masonry products, and to pay the costs of such programs and projects with assessments collected under § 1500.51 and other income of the Board as provided under § 1500.50(j) and § 1500.62;

(l) To enter into contracts or agreements which must be approved by the Secretary before becoming effective, for the development and carrying out of programs or projects of research, education, and promotion relating to concrete masonry, including with manufacturer associations or other entities as considered appropriate by the Secretary;

(m) To develop programs and projects, and enter into contracts or agreements related thereto, which must be approved by the Secretary before becoming effective, targeted specifically toward the Geographic Regions described in § 1500.40(c) to be recommended by the relevant regional committees for marketing and research projects to benefit manufacturers in such Geographic Regions pursuant to the goals of any programs or projects as set forth under this Order. The contracts or agreements related to such programs

and projects as described in this § 1500.46(m) shall be subject to the requirements of all contracts or agreements described in § 1500.46(l);

(n) To keep minutes, books, and records that reflect the actions and transactions of the Board, and promptly report minutes of each Board meeting to the Secretary;

(o) To maintain such records and books and prepare and submit such reports and records from time to time to the Secretary as the Secretary may prescribe and to make the records available to the Secretary for inspection and audit; to make appropriate accounting with respect to the receipt and disbursement of all funds entrusted to it; and to keep records that accurately reflect the actions and transactions of the Board;

(p) To cause its books to be audited by a certified public accountant at the end of each fiscal year and at such other times as the Secretary may request, and to submit a report of the audit directly to the Secretary;

(q) To give the Secretary the same notice of meetings of the Board and committees as is given to members, including committee members if committee members are not members of the Board, in order that the Secretary's representative(s) may attend such meetings, and to keep and report minutes of each meeting of the Board and all committees to the Secretary;

(r) To furnish to the Secretary any information or records that the Secretary may request;

(s) To receive, evaluate, and report to the Secretary all complaints of violations of this Order;

(t) To recommend to the Secretary such amendments to this Order as the Board considers appropriate;

(u) To recommend adjustments to the assessments as provided in this Order;

(v) To notify manufacturers of all Board meetings through press releases or other means;

(w) To invest assessments collected under this Order in accordance with § 1500.50; and

(x) To periodically prepare and make available to the public and manufacturers reports of its activities and, at least once each fiscal period, to make public an accounting of funds received and expended.

§ 1500.48 Prohibited activities.

(a) The Board shall not engage in any program or project to, nor shall any funds received by the Board under the Act be used to:

(1) Influence legislation, elections, or governmental action;

(2) engage in an action that would be a conflict of interest;

(3) engage in advertising that is false or misleading;

(4) engage in any promotion, research, or education that would be disparaging to other construction materials; or

(5) engage in any promotion or project that would benefit any individual manufacturer.

(b) Paragraph (a) does not preclude:

(1) The development and recommendation of amendments to the Order;

(2) the communication to appropriate government officials of information relating to the conduct, implementation, or results of research, education, and promotion activities under the Order except communications described in paragraph (a)(1); or

(3) any lawful action designed to market concrete masonry products directly to a foreign government or political subdivision of a foreign government.

Expenses and Assessments

§ 1500.50 Budget and expenses.

(a) Prior to the beginning of each fiscal year, and during the fiscal year as may be necessary, the Board shall prepare and submit to the Secretary for approval a budget for the fiscal year covering its anticipated expenses and disbursements in administering this Order. Such budget shall be deemed approved if the Secretary fails to approve or reject the budget within 60 days of receipt, unless the Secretary proposes to the Board and to Congress, reasonable justification for the delay and provides a reasonable date by which approval or disapproval will be made. The Department may provide such justification in any written format.

(b) Each such budget shall include:

(1) A statement of objectives and strategy for each program, plan, or project;

(2) A summary of anticipated revenue, with comparative data for at least one preceding year (except for the initial budget);

(3) A summary of proposed expenditures for each program, plan or project; and

(4) Staff and administrative expense breakdowns, with comparative data for at least one preceding year (except for the initial budget).

(b) Each budget shall provide adequate funds to defray its proposed expenditures.

(c) Subject to this section, any amendment or addition to an approved budget must be approved by the Secretary, including shifting funds from one program or project to another. A de minimis shift of funds from one

approved category to another, and not exceeding 10% of the funds in either category, which does not cause an increase in the Board's approved budget and which is consistent with governing bylaws need not have prior approval by the Secretary. If the Secretary fails to approve or reject a budget, or an amendment or addition to an approved budget, within 60 days of receipt, such budget shall be deemed approved, unless the Secretary provides to the Board and to Congress, in writing, reasonable justification for the delay and provides a reasonable date by which approval or disapproval will be made. The Department may provide such justification in any written format.

(d) The Board is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the Board for its maintenance and functioning, and to enable it to exercise its powers and perform its duties in accordance with the provisions of this Order. Such expenses shall be paid from funds received by the Board.

(e) Limitations on obligation of funds:

(1) In each fiscal year, through fiscal year 2030, the Board may not obligate an amount greater than the sum of—

(i) 73 percent of the amount of assessments estimated to be collected under 1500.51 in such fiscal year (except for fiscal years 2028 and 2029, for which the amounts estimated to be collected shall be 62 percent of the amount of assessments actually collected in the most recent fiscal year for which an audit report has been submitted as of the beginning of the fiscal year for which the amount be obligated is being determined);

(ii) 73 percent of the amount of assessments actually collected under 1500.51 in the most recent fiscal year for which an audit report has been submitted as of the beginning of the fiscal year for which the amount that may be obligated is being determined, less the estimate made pursuant to paragraph (e)(1) of this section for such most recent fiscal year; and

(iii) amounts permitted in preceding fiscal years to be obligated that have not been obligated.

(2) Assessments collected in excess of the amount permitted to be obligated in a fiscal year shall be deposited in an escrow account until the end of fiscal year 2030.

(3) Prior to the end of fiscal year 2030, the Board may not obligate, expend, or borrow against amounts deposited in the escrow account. Any interest earned on such amounts shall be deposited in the escrow account and shall be unavailable for obligation until the end of fiscal year 2030.

(f) With approval of the Secretary, the Board may borrow money for the payment of administrative expenses, subject to the same fiscal, budget and audit controls as other funds of the Board. Any funds borrowed by the Board shall be expended only for startup costs and capital outlays.

(g) The Board shall reimburse the Secretary for all expenses incurred by the Secretary in the implementation, administration and supervision of this Order, including all referendum costs in connection with this Order.

(h) Following the third fiscal year of operation of the Board, the total cost of collection of expenses and administrative staff incurred by the Board during any fiscal year shall not exceed 10 percent of the projected total assessments to be collected and other income received by the Board for that fiscal year after any fees owed to the Department are paid. Reimbursements to the Secretary required under paragraph (g) of this section are excluded from this limitation on spending.

(i) Pending disbursement of assessments and all other revenue under a budget approved by the Secretary, the Board may invest assessments and all other revenues collected under this section in:

(1) Obligations of the United States or any agency of the United States;

(2) General obligations of any state or any political subdivision of a state;

(3) Interest bearing accounts or certificates of deposit of financial institutions that are members of the Federal Reserve System; or

(4) Obligations fully guaranteed as to principal interest by the United States.

(j) Investment income and revenue earned under paragraph (i) are earnings obtained from assessments that are subject to budget approval under paragraph (a).

§ 1500.51 Assessments.

(a) The collection of assessments on concrete masonry units will be the responsibility of the manufacturer who sells the concrete masonry units. There shall be an assessment on the first sale of concrete masonry units only and not on subsequent sales of concrete masonry units already assessed. The manufacturer will be required to collect and remit its individual assessments no less than quarterly. Manufacturers shall identify the total amount due in assessments on all sales receipts, invoices or other commercial documents of sale as a result of the sale of concrete masonry units. Within 180 days of their initial meeting, the Board will provide for review and approval by

the Secretary a proposed compliance program and its plan to verify compliance with the Act. The compliance program will outline the way the Board will receive assessments, how they will verify compliance, determine the best method to track sales, and how to document all actions.

(b) Such assessments shall be levied at a rate of \$0.01 per concrete masonry unit sold by a manufacturer. The Board may make assessments effective as of the effective date of this Order. Submission of funds may be made to the Board within 60 days of the end of the first quarter after the Board is established; thereafter submission of funds will be to the board within 60 days of the end of each quarter.

(c) At any time following the conduct of the initial referendum conducted pursuant to this Order, the assessment rate will be reviewed by the Board and, upon the affirmative vote of two-thirds of voting members of the Board, may be modified; provided that the assessment rate may be raised to a maximum of \$0.05 cents per unit, that only one increase may be implemented in any one-year period, and each individual increase may not exceed \$0.01.

(d) Not less than 50 percent of the assessments (less administration expenses) paid by a manufacturer shall be used to support research, education, and promotion programs and projects in support of the Geographic Region of the manufacturer.

(e) All assessment payments and reports will be submitted to the office of the Board quarterly. All quarterly payments are to be received no later than 60 days after the conclusion of each quarter. A late payment charge shall be imposed on any manufacturer who fails to remit to the Board the total amount for which any such manufacturer is liable on or before the due date established by the Board. In addition to the late payment charge, an interest charge shall be imposed on the outstanding amount for which the manufacturer is liable. The rate of interest and late payment charges shall be specified by the Secretary.

(f) Manufacturers failing to remit total assessments due in a timely manner may also be subject to actions under Federal debt collection procedures.

(g) The Board may authorize other organizations to collect assessments on its behalf with the approval of the Secretary.

(h) The Board shall provide manufacturers submitting assessments under this Order with the opportunity to apply for rebates on assessments remitted to the Board for concrete masonry units not covered by this Order

and for assessments remitted to the Board for concrete masonry units sold to a purchaser that subsequently failed to remit payment due to bankruptcy, bad debt or other reasons causing the money intended to be collected from such sale to be uncollectible. Those requesting rebates in such circumstances must provide all necessary documentation as the Board shall determine.

§ 1500.60 Programs and projects.

(a) The Board shall receive and evaluate, or on its own initiative develop, and submit to the Secretary for approval any program or project authorized under this Order. Such programs or projects shall provide for:

(1) The establishment, issuance, effectuation and administration of appropriate programs for research, education, and promotion with respect to concrete masonry; and

(2) The establishment and conduct of research with respect to the image, desirability, use, marketability, quality or production of concrete masonry products, to the end that the marketing and use of concrete masonry products may be encouraged, expanded, improved or made more acceptable and to advance the image, desirability or quality of concrete masonry product.

(b) No program or project shall be implemented prior to its approval by the Secretary. Once a program or project is so approved, the Board shall take appropriate steps to implement it. If the Secretary fails to approve or reject a contract or agreement for a program or project within 60 days of receipt, the contract or agreement shall be deemed approved, unless the Secretary provides to the Board and to Congress, in writing, reasonable justification for the delay and provides a reasonable date by which approval or disapproval will be made. The Department may provide such justification in any written format. Any such contract or agreement shall provide that:

(1) The contractor or agreeing party shall develop and submit to the Board a program or project together with a budget or budgets that shall show the estimated cost to be incurred for such program or project;

(2) The contractor or agreeing party shall keep accurate records of all its transactions and make periodic reports to the Board of activities conducted, submit accounting for funds received and expended, and make such other reports as the Secretary or the Board may require;

(3) The Secretary may audit the records of the contracting or agreeing party periodically;

(4) Any subcontractor who enters into a contract with a Board contractor and who receives or otherwise uses funds allocated by the Board shall be subject to the same provisions as the contractor; and

(5) The contract or agreement shall become effective on the approval of the Secretary.

(c) Each program or project implemented under this Order shall be reviewed or evaluated periodically by the Board to ensure that it contributes to an effective program of research, education, or promotion. If it is found by the Board that any such program or project does not contribute to an effective program of research, education, or promotion, then the Board shall, with the approval of the Secretary, terminate such program or project.

(d) Any educational or promotional activity undertaken with funds provided by the Board shall include a statement that such activities were supported in whole or in part by the Board.

(e) Every 2 years the Board shall prepare and make publicly available a comprehensive and detailed report that includes an identification and description of all programs and projects undertaken by the Board during the previous 2 years as well as those planned for the subsequent 2 years and detail the allocation or planned allocation of Board resources for each such program or project. Such report shall also include:

(1) The overall financial condition of the Board;

(2) A summary of the amounts obligated or expended during the 2 preceding fiscal years; and

(3) A description of the extent to which the objectives of the Board were met according to the metrics required under § 1500.50(a)(1).

§ 1500.61 Independent evaluation.

The Board shall authorize and fund an independent evaluation of the effectiveness of this Order and other programs conducted by the Board beginning five years after October 5, 2018 and every 3 years thereafter. The Board shall submit to the Secretary, and make available to the public, the results of each periodic independent evaluation conducted under this paragraph.

§ 1500.62 Patents, copyrights, trademarks, information, publications, and product formulations.

Ownership and allocation of rights to patents, copyrights, inventions, or publications, developed through the use of non-Federal funds remitted to the Board under the Order shall be determined by written agreement

between the Board and the party(ies) receiving funds for the development of such inventions, patents, copyrights or publications.

Reports, Books, and Records

§ 1500.70 Reports.

(a) Each manufacturer subject to this Order may be required to provide to the Board periodically such information as may be required by the Board, with the approval of the Secretary, which may include but not be limited to the following:

(1) Number and type of concrete masonry units manufactured;

(2) Number and type of concrete masonry units on which an assessment was paid;

(3) Name and address of the manufacturer; and

(4) Date assessment was paid on each concrete masonry unit sold.

(b) All reports required under this § 1500.70 are due to the Board 60 days after the end of each quarter.

(c) All reports or information submitted pursuant to this paragraph shall be subject to the confidentiality restrictions in § 1500.72.

§ 1500.71 Books and records.

Each manufacturer subject to this Order shall maintain and make available for inspection by the Secretary such books and records as are necessary to carry out the provisions of this Order and the regulations issued thereunder, including such records as are necessary to verify any reports required. Such records shall be retained for at least 7 years beyond the fiscal period of their applicability.

§ 1500.72 Confidential treatment.

(a) Trade secrets and commercial or financial information that is privileged or confidential obtained from books, records, or reports under the Act, this Order, and the regulations issued thereunder shall be kept confidential by all persons, including all employees and former employees of the Board, all officers and employees and former officers and employees of contracting and subcontracting agencies or agreeing parties having access to such information. Such information shall not be available to Board members or manufacturers. Only those persons having a specific need for such information to effectively administer the provisions of this Order shall have access to such information. Such information may be disclosed only if the Secretary considers the information relevant; and the information is revealed in a judicial proceeding or administrative hearing brought at the

direction or on the request of the Secretary or to which the Secretary or any officer of the Department is a party. Any officer, employee, or agent of the Department of Commerce or any officer, employee, or agent of the Board who willfully violates this paragraph shall be fined not more than \$1,000 and imprisoned for not more than 1 year, or both. Nothing in this section shall be deemed to prohibit:

(1) The issuance of general statements based upon the reports of the number of persons subject to this Order or statistical data collected therefrom, which statements do not identify the information furnished by any person; and

(2) The publication, by direction of the Secretary, of the name of any person who has been adjudged to have violated this Order, together with a statement of the particular provisions of this Order violated by such person.

(b) For any officer, employee, or agent of the Department of Commerce, these provisions are consistent with and do not supersede, conflict with, or otherwise alter any obligations, rights, or liabilities created by existing statute or Executive Order relating to classified information, communications to Congress, the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive Orders and statutory provisions are incorporated into this Order and are controlling.

Miscellaneous

§ 1500.80 Right of the Secretary.

All fiscal matters, programs or projects, rules or regulations, reports, or other actions proposed and prepared by the Board shall be submitted to the Secretary for approval.

§ 1500.81 Referenda.

(a) A referendum will be held to determine whether manufacturers favor enactment of this Order. A manufacturer shall be considered eligible to vote if the manufacturer has manufactured concrete masonry products during a period of at least 180 days prior to the first day of the period during which voting in the referendum will occur. For the initial referendum, an eligible person is a manufacturer of concrete units that is subject to the initial rate of assessment in § 1500.51. Each manufacturer eligible to vote in the referendum shall be entitled to one vote.

This Order shall become effective if approved by a majority of manufacturers voting who also represent a majority of the machine cavities in operation of those manufacturers voting in the referendum.

(b) After the initial referendum, the Secretary shall conduct a referendum upon the request of the Board, or effective beginning on the date that is 5 years after the date of approval of this Order and at 5-year intervals thereafter, by petition from not less than 25% of manufacturers eligible to vote. Each manufacturer eligible to vote in subsequent referenda shall be entitled to one vote. For any new proposed order, voter eligibility will be based on the scope of such proposed order. This Order shall continue if approved by a majority of manufacturers voting who also represent a majority of the machine cavities in operation of those manufacturers voting in the referendum.

§ 1500.82 Suspension or termination.

(a) The Secretary shall suspend or terminate an order or a provision of an order if the Secretary finds that an order or provision of an order obstructs or does not tend to effectuate the purpose of the Act, or if the Secretary determines that the order or a provision of an order is not favored by a majority of all votes cast in the referendum as provided in § 1500.81. If the Secretary suspends or terminates a provision of an order, the order remains in effect minus the suspended or terminated provision.

(b) If, as a result of a referendum conducted under § 1500.81 of this Order, the Secretary determines that the Order is not approved, the Secretary shall:

(1) Not later than 180 days after making the determination, suspend or terminate collection of assessments under this Order; and

(2) As soon as practical, suspend or terminate activities under this order in an orderly manner.

§ 1500.83 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this Order, or the issuance of any amendment to either thereof,¹ shall not:

(a) Affect or waive any right, duty, obligation or liability which shall have arisen or which may thereafter arise in connection with any provision of this Order or any regulation issued thereunder;

(b) Release or extinguish any violation of this Order or any regulation issued thereunder; or

¹ As noted previously, the Department intends to clarify this language in any final order.

(c) Affect or impair any rights or remedies of the United States, or of the Secretary or of any other persons, with respect to any such violation.

§ 1500.84 Notice and advance registration.

Not later than 30 days before a referendum is to be conducted under this Order, the Secretary shall notify all manufacturers of the period during which the referendum will occur through publication in the **Federal Register**. The notice shall explain any registration and voting procedures. A manufacturer who chooses to vote in any referendum conducted under this Order shall register with the Secretary prior to the voting period.

§ 1500.85 Personal liability.

No member or employee of the Board shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes or other acts, either of commission or omission, as such member or employee, except for acts of dishonesty or willful misconduct.

§ 1500.86 Separability.

If any provision of this Order is declared invalid or the applicability thereof to any person or circumstances is held invalid, the validity of the remainder of this Order or the applicability thereof to other persons or circumstances shall not be affected thereby.

§ 1500.87 Amendments.

The Secretary may, from time to time, amend an order. Amendments to this Order may be proposed from time to time by the Board or by any interested person affected by the provisions of the Act, including the Secretary. The provisions of the Act applicable to an order shall be applicable to any amendment to an order.

§ 1500.88 OMB control number.

The control numbers assigned to the information collection request in this subpart by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, is OMB control number [To be added upon OMB approval of the associated information collection request].

Dated: August 6, 2020.

Kenneth White,
Senior Policy Analyst, Under Secretary for
Economic Affairs.

[FR Doc. 2020-17515 Filed 8-21-20; 8:45 am]

BILLING CODE 3510-20-P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1107 and 1109

[Docket No. CPSC–2020–0019]

Regulatory Flexibility Act Section 610 Review of the Testing and Labeling Regulations Pertaining to Product Certification of Children’s Products, Including Reliance on Component Part Testing

AGENCY: Consumer Product Safety Commission.

ACTION: Notification of section 610 review and request for comments.

SUMMARY: The Consumer Product Safety Commission (Commission or CPSC) is conducting a review of the regulations for third party testing and certification to demonstrate compliance with safety standards for children’s products, under section 610 of the Regulatory Flexibility Act (RFA). That section requires the CPSC to review within 10 years after their issuance regulations that have a significant economic impact on a substantial number of small entities. The testing and component part regulations were promulgated in 2011. The CPSC seeks comment to determine whether, consistent with the CPSC’s statutory obligations, these regulations should be maintained without change, or modified to minimize the significant impact of the rules on a substantial number of small entities.

DATES: Written comments should be submitted by October 23, 2020.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2020–0019, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: <https://www.regulations.gov>. Follow the instructions for submitting comments. The CPSC does not accept comments submitted by electronic mail (email), except through <https://www.regulations.gov>. The CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Mail/hand delivery/courier Written Submissions: Submit comments by mail/hand delivery/courier to: Division of the Secretariat, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504–7479; email: cpsc-os@cpsc.gov.

Instructions: All submissions must include the agency name and docket number for this notice. CPSC may post all comments received without change,

including any personal identifiers, contact information, or other personal information provided, to: <https://www.regulations.gov>. Do not submit electronically: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to submit such information, please submit it according to the instructions for written submissions.

Docket: For access to the docket to read background documents or comments received, go to: <https://www.regulations.gov>, and insert the docket number, CPSC–2020–0019, into the “Search” box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Susan Proper, Directorate for Economic Analysis, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504–7628; email: sproper@cpsc.gov.

SUPPLEMENTARY INFORMATION:

A. The Current Regulations in 16 CFR Parts 1107 and 1109

Section 14 of the Consumer Product Safety Act (CPSA), as amended by the Consumer Product Safety Improvement Act of 2008 (CPSIA) and Public Law 112–28 (2011), establishes requirements for the testing and certification of products subject to consumer product safety rules under the CPSA, or similar rules, bans, standards, or regulations, under any other Act enforced by the Commission. The domestic manufacturer or the importer of the product must issue a certificate that the product complies with applicable safety standards. Under section 14(a)(2) of the CPSA, the certification of children’s products must be based on testing conducted by an accredited third party conformity assessment body (a third party testing laboratory). Section 14(i)(2) of the CPSA directed the Commission to publish a regulation that would “initiate a program by which a manufacturer or private labeler may label a consumer product as complying with the certification requirements” and to establish protocols and standards for:

- Ensuring that a children’s product is subject to testing periodically and when there has been a material change in the product’s design or manufacturing process, and
- The testing of representative samples to ensure continued compliance, and
- Verifying that a children’s product tested by a conformity assessment body complies with applicable children’s product safety rules, and

- Safeguarding against the exercise of undue influence on a third party conformity assessment body by a manufacturer or private labeler.

In 2011, in response to the statutory direction, the Commission issued two regulations related to testing: 16 CFR part 1107, “Testing and Labeling Pertaining to Product Certification” (testing regulation or part 1107) and 16 CFR part 1109, “Conditions and Requirements for Relying on Component Part Testing or Certification, or Another Party’s Finished Product Certification, to Meet Testing and Certification Requirements” (component part regulation or part 1109). Part 1107 implements the above statutory provisions and specifies the records that must be kept to document the required testing and test results. Part 1109 specifies how manufacturers can use third party testing of component parts of products to certify the compliance of a finished product. The intent of the component part regulation was, in part, to provide flexibility to manufacturers and importers and to reduce the costs and other burdens of testing finished products. The regulation has specific requirements that apply to component part testing for lead, paint, and phthalates requirements. The component part regulation also sets forth requirements for importers and other suppliers for relying upon third party testing and certificates provided by their own suppliers. Finally, this part also specifies record-keeping requirements for the testing of the component parts, and requirements to provide traceability of how the component parts were used in finished products.

When parts 1107 and 1109 were promulgated in 2011, the final regulatory flexibility analysis found that the third party testing requirements in part 1107 would have a significant economic impact on a substantial number of small entities. In contrast, the final regulatory flexibility analysis for the component part regulation in part 1109 found that the regulation would not likely have a significant impact on a substantial number of small entities because component part testing is not mandatory. Thus, the only companies expected to engage in component part testing are companies that believe it will be advantageous to do so. However, OMB determined that both 1107 and 1109 were considered major rules under the Congressional Review Act (CRA).¹

¹ The CRA defines a “major rule” as one that has resulted in or is likely to result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers,

Accordingly, CPSC is conducting a 610 rule review for both regulations.

B. Efforts To Reduce Burden Generally and on Small Businesses

The Commission has undertaken several burden-reduction efforts since promulgation of the testing and component part regulations. In August 2011, after the proposed testing and component part regulations had been published in the **Federal Register**, but before issuance of the final regulations, Congress passed Public Law 112–28 (August 12, 2011), “An Act to Provide the Consumer Product Safety Commission with Greater Authority and Discretion in Enforcing the Consumer Product Safety Laws, and for Other Purposes,” which amended various sections of the CPSIA. Among other things, Public Law 112–28 directed the CPSC to seek comment on “opportunities to reduce the cost of third party testing requirements consistent with assuring compliance with any applicable consumer product safety rule, ban, standard, or regulation.” Public Law 112–28 also authorized the Commission to issue new or revised third party testing regulations if the Commission determines “that such regulations will reduce third party testing costs consistent with assuring compliance with the applicable consumer product safety rules, bans, standards, and regulations.” *Id.* 2063(d)(3)(B).

In response to the statutory charge to pursue burden reduction in Public Law 112–28, the Commission has issued several regulations that make determinations that certain specified materials do not contain prohibited elements or chemicals in excess of the regulated limits, and therefore, component parts made from these materials do not require third party testing for certification. These include the following regulations for materials determinations:

- That most fabrics used in apparel will not contain lead in excess of the regulated limits (16 CFR 1500.91 “Hazardous Substances and Articles: Administration and Enforcement Regulations”);
- That unfinished and untreated wood will not contain the heavy elements regulated by the mandatory toy standard ASTM F963 (16 CFR part

individual industries, federal, state, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. 5 U.S.C. 804(2).

1251 “Toys: Determinations Regarding Heavy Elements Limits for Certain Materials”);

- That some manufactured wood will not contain lead, the chemicals regulated by the mandatory toy standard ASTM F963 and the prohibited phthalates (16 CFR part 1252 “Children’s Products, Children’s Toys, and Child Care Articles: Determinations Regarding Lead, ASTM F963 Elements, and Phthalates for Engineered Wood Products”);

- That some unfinished manufactured fibers will not contain the chemicals regulated by the toy standard and the prohibited phthalates (16 CFR part 1253 “Children’s Toys and Child Care Articles: Determinations Regarding ASTM F963 Elements and Phthalates for Unfinished Manufactured Fibers”); and

- That certain plastics will not contain the prohibited phthalates (16 CFR part 1308 “Prohibition of Children’s Toys and Child Care Articles Containing Specified Phthalates: Determinations Regarding Certain Plastics”).

Although CPSC did not issue the above regulations only to address the impact of the testing regulations on small businesses, small businesses have benefitted from the determinations, often even more than their larger counterparts.

In addition to the materials determinations regulations discussed above, the Commission has taken other steps to reduce the testing burdens imposed by 16 CFR part 1107 since promulgation of the regulation. In June 2017, the Commission issued a Request for Information (RFI), “Request for Information on Potentially Reducing Regulatory Burdens without Harming Consumers.” The RFI solicited stakeholder input regarding how to reduce burdens broadly, to include burdens from third party testing. CPSC has implemented several of the recommendations in the RFI regarding reducing third party testing burdens. CPSC has provided sample conformity certificates for use by manufacturers and importers; developed a “regulatory robot” on the CPSC website to help small businesses determine the regulatory requirements that apply to their products; and provided additional outreach documents and plain language instructions for small manufacturers on how to comply with CPSC regulations. The Commission continues to explore opportunities to reduce unnecessary burdens related to third party testing requirements while assuring compliance with applicable children’s product safety rules.

C. Review Under Section 610 of the Regulatory Flexibility Act

Section 610(a) of the RFA requires agencies to review regulations within ten years after promulgation if they are expected to have a significant impact on a substantial number of small entities. Because the testing and component part regulations were issued in 2011, the Commission now requests comments to obtain additional information to inform its section 610 review of the testing regulations. 5 U.S.C. 610(a). The purpose of the review is to determine whether such rules should be continued without change, or should be amended, consistent with the stated objectives of applicable statutes, to minimize any significant impact of the rules on a substantial number of small entities. The RFA lists several factors that the agency shall consider when reviewing rules under section 610. These factors are:

- The continued need for the rule;
- The nature of complaints or comments received concerning the rule from the public;
- The complexity of the rule;
- The extent to which the rule overlaps, duplicates or conflicts with other Federal rules, and, to the extent feasible, with state and local governmental rules; and
- The length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

5 U.S.C. 610(b).

The statute continues to require third party testing and certification of children’s products under section 14 of the CPSA, thus establishing the need for the testing and component part regulations. However, the Commission seeks comment to evaluate the other factors and to determine whether the ongoing impact of the testing and component part regulations are significant for a substantial number of small entities. An important step in the review process involves gathering and analyzing information from affected persons about their experience with the rules and any material changes in circumstances since issuance of the rules. The Commission requests written comments on the adequacy or inadequacy of the testing and component part regulations, their small business impacts, and other relevant issues. The purpose of these questions is to assist commenters in their responses and not to limit the format or substance of their comments. Comments are requested on all issues raised by Section 610 of the RFA.

Safety and Effectiveness

- Are there any sections of the testing and component part regulations that could be revised to be made less burdensome while still being consistent with assuring compliance? How would these suggested changes affect the burden on manufacturers and importers of children's products, specifically small businesses? Explain your response and provide supporting data, if possible.

Costs and Impacts—Manufacturers and Importers of Children's Products

- Are there any requirements of the testing and component part regulations that are especially or unnecessarily costly and/or burdensome, particularly to small suppliers of children's products? Please explain your response, and provide supporting data.

- Which requirements in the testing and component part regulations have the greatest impact on testing costs? Which requirements have the lowest impact on testing costs? We are especially interested in any differential impact of the testing requirements on small businesses. Explain your response, and provide supporting data if possible.

- The testing regulation provides general guidelines on what constitutes a sufficient number of samples to provide "a high degree of assurance that the tests conducted for certification purposes accurately demonstrate the ability of the children's product to meet all applicable children's product safety rules." Is the current flexibility provided in the testing regulation for determining sample size helpful or burdensome to small businesses? Would more specific requirements on what constitutes an appropriate sample size reduce the burden on small businesses?

- The testing regulation provides several options to meet the periodic testing requirements, including options to test whenever there is a material change, every year, every two years, or every three years. Given model lifecycles for children's products that would lead to material changes, are these options sufficiently flexible for small businesses? Are there different options for "periodic testing" that could reduce the burden on small businesses and be consistent with assuring compliance with the applicable safety rules?

- Do testing and component part regulations cause delays in bringing new products to market? Do these impacts particularly affect small businesses? Are there actions CPSC could take to reduce any delay caused by the testing and component part

regulations that would still be consistent with assuring compliance with all applicable safety rules?

- Are there particular types of children's products or small businesses that are substantially impacted by the testing and component part regulations? How could the regulations be revised to address these specific products or types of small businesses? Please provide data and specific examples to support your answer.

Recordkeeping Requirements

- Are the recordkeeping requirements in the testing and component part regulations inadequate, or overly burdensome for small businesses?

- Could the recordkeeping requirements in the testing and component part regulations be changed in a way that would reduce the recordkeeping costs for small businesses and still be consistent with assuring compliance with all applicable safety rules? Please explain your response.

Component Part Testing

- Have manufacturers, importers, and private labelers, particularly small businesses, been using the flexibilities provided in the component part testing rule (16 CFR part 1109) to reduce their third party testing costs (e.g., relying upon third party testing provided by a supplier to certify products or relying on third party testing of a component part used in more than one model for certification purposes)? If so, in what way? Can you provide estimates of the cost savings provided by the component part regulation?

- Are there particular requirements in the component part regulation that are especially burdensome to small businesses and that limit the ability of small businesses to take advantage of the opportunities for burden reduction that could be offered by the rule? If so, how could we revise the requirements to reduce the burden on small businesses while still assuring compliance with all applicable safety rules?

- Have small businesses had difficulty identifying providers of certified component parts, such as paint, varnishes, fasteners, small parts, and fabrics? If so, are there ways CPSC could make it easier for small businesses to identify available providers of certified component parts?

- The component part regulation has specific requirements for component part testing for lead, phthalates, and paint. Are these requirements clear? If not, how could we make them clearer to small businesses while still assuring

compliance with all applicable safety rules?

Labeling Requirements in 16 CFR 1107

The testing regulation includes a subpart on labeling. The regulations specify that manufacturers and private labelers of consumer products may provide a label that the product "meets CPSC safety requirements." Such a label is permitted but not required.

- Are the labeling requirements clear? Could the testing regulation be revised to reduce the burden on small businesses or to increase the ability of small businesses to take advantage of the opportunity to label their products as being compliant with the CPSC safety requirements?

Changes in Market Conditions Since 2011

- How have market conditions for children's products changed since 2011 for small businesses? Should the testing and component part regulations change to address these market changes? If so, how?

- Could the testing and component part regulations be changed to address advances in testing technology that have occurred since 2011 that would reduce the burden on small businesses?

- Are there new categories of children's products that have entered the market since 2011 for which the testing and component part regulations are particularly burdensome on small businesses?

Outreach and Advocacy

- Are the requirements in CPSC's testing and component part regulations well understood by businesses that manufacture or import children's products, particularly small businesses and businesses that build or import children's products infrequently or in small lots? How could the requirements of the testing and component part regulations be more effectively communicated to such businesses?

- CPSC has provided a small business "regulatory robot" and sample Children's Product Certificates and General Certificates of Conformity, among other tools. We conduct periodic free webinars for small businesses. Our website has a list of all the accredited testing labs, which has been updated to make it more easily searchable. Are there other documents, instructional videos, or information of the above nature we could provide that would help small firms comply with the testing and component part regulations?

Overall Burden of the Testing and Component Part Regulations on Small Businesses

- To what extent, if any, have children's product manufacturers increased their use of third party testing in response to the third party testing requirements in section 14 of the CPSA and 16 CFR parts 1107 and 1109? Did third party testing replace other types of testing or quality assurance activities that the manufacturers or importers had been using to ensure that their products complied with the applicable product safety rules?

- Is it possible to estimate the overall burden of the testing and component part regulations, perhaps as a percentage of revenue, over and above what businesses would have spent to ensure compliance with the applicable product safety rules in the absence of the testing and component part regulation?

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2020-16441 Filed 8-21-20; 8:45 am]

BILLING CODE 6355-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. FDA-2019-C-1782]

CooperVision, Inc.; Withdrawal of Color Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification; withdrawal of petition.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing the withdrawal, without prejudice to a future filing, of a color additive petition (CAP 9C0315) proposing that the color additive regulations be amended to provide for the safe use of disperse orange 3 methacrylamide as a color additive in contact lenses.

DATES: The color additive petition was withdrawn on June 15, 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 document into the "Search" box and follow the prompts, and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Molly A. Harry, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240-402-1075.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 8, 2019 (84 FR 20060), we announced that we had filed a color additive petition (CAP 9C0315), submitted by CooperVision, 5870 Stoneridge Dr., Suite 1, Pleasanton, CA 94588. The petition proposed to amend the color additive regulations in 21 CFR part 73, *Listing of Color Additives Exempt from Certification*, to provide for the safe use of disperse orange 3 methacrylamide (CAS Reg. 58142-15-7; CAS name 2-propenamamide, 2-methyl-N-[4-[2-(4-nitrophenyl)diazenyl]phenyl]-) as a color additive in silicone-based hydrogel contact lenses. The color additive was intended to copolymerize with various monomers in the contact lens formulation to produce colored contact lenses. Through this notice, we are announcing that CooperVision has withdrawn the petition without prejudice to a future filing (21 CFR 71.6(c)(2)).

Dated: July 31, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020-17195 Filed 8-21-20; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 7

[FAR Case 2019-001, Docket No. FAR-2019-0020, Sequence No. 1]

RIN 9000-AN84

Federal Acquisition Regulation: Analysis for Equipment Acquisitions

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement a section of the FAA Reauthorization Act of 2018, which requires, when acquiring equipment, a case-by-case analysis of cost and other factors associated with certain methods of acquisition, including purchase,

short-term rental or lease, long-term rental or lease, interagency acquisition, and, if applicable, acquisition agreements with a State or local government.

DATES: Interested parties should submit written comments at the address shown below on or before October 23, 2020 to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FAR Case 2019-001 to *Regulations.gov*: <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching for "FAR Case 2019-001". Select the link "Comment Now" that corresponds with FAR Case 2019-001. Follow the instructions provided at the "Comment Now" screen. Please include your name, company name (if any), and "FAR Case 2019-001" on your attached document. If your comment cannot be submitted using <https://www.regulations.gov>, call or email the points of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Instructions: Please submit comments only and cite "FAR case 2019-001" in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Michael O. Jackson, Procurement Analyst, at 202-208-4949, or by email at michaelo.jackson@gsa.gov, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755 or GSARegSec@gsa.gov. Please cite FAR case 2019-001.

SUPPLEMENTARY INFORMATION:

I. Background

On July 16, 2013, DoD, GSA, and NASA published a Request for Information (RFI) in the **Federal Register** (78 FR 42524) to determine whether there is a distinction between renting and leasing that is useful for the purposes of FAR subpart 7.4. The public comment period closed in September 2013 and 13 respondents provided comments in response to the RFI. A review of the public comments identified that there are differences between renting and leasing in many industries, but there are no standard differences between renting and leasing that span across all industries. As a result of the review, FAR case 2017-017 was opened to clarify the term "lease", as used in the FAR and a proposed rule

was published in the **Federal Register** on September 5, 2018, at 83 FR 45072; six respondents provided comments in response to the proposed rule.

On October 5, 2018, the FAA Reauthorization Act of 2018 (Pub. L. 115–254) became law and included section 555, “Cost-Effectiveness Analysis of Equipment Rental.” (FAA stands for Federal Aviation Administration.) FAR case 2017–017 was subsequently closed and this FAR case 2019–001 was opened to implement the requirements of section 555. The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comments received in response to FAR case 2017–017 in developing this proposed rule and are dispositioned in this notice.

This rule implements section 555 of the FAA Reauthorization Act of 2018, which:

- Requires an agency to acquire equipment using the method of acquisition that is most advantageous to the Government based on a case-by-case analysis of comparative costs and other factors (to include the factors in FAR section 7.401);
- Identifies methods of acquisition that must be considered, at a minimum, in the analysis; and
- Requires the FAR to implement the requirements of the section and identify the factors agencies should or shall consider to perform the case-by-case analysis.

II. Discussion and Analysis

To implement the requirements of the law, described above, this rule proposes to amend FAR subpart 7.4 to: Require the comparison of purchase, short-term rental or lease, long-term rental or lease, interagency acquisition, and agency acquisition agreements with State or local governments as a method of acquisition for equipment; include the term “rent,” where applicable; and add factors to be considered when evaluating various methods of acquisition.

A discussion of the comments received under proposed rule 2017–017 is provided as follows:

1. Support for the Rule

Comment: Several of the respondents expressed support for the rule.

Response: The Councils acknowledge the public support for the rule.

2. Incorporate Section 555 Into the Proposed Rule

Comment: A respondent advised that the proposed rule should be modified to

incorporate section 555 of the FAA Reauthorization Act of 2018.

Response: FAR case 2017–017 was closed and rolled into FAR case 2019–001, specifically to implement section 555 of the FAA Reauthorization Act of 2018.

3. Factors To Consider

Comment: A number of respondents suggested the following additional factors that could be considered in the analysis and decision to rent, lease, or purchase equipment—

- How long the equipment is needed and how long it will be in use (or its useful life);
- Cancellation, extension, and early return conditions in the agreement;
- Maintenance requirements for the equipment and the cost to the Government under various acquisition methods, to include any maintenance requirements specific to an industry (e.g., test and measurement equipment);
- Whether the agreement includes an option to purchase the equipment, and, if so, the cost benefit to the Government in such an option;
- Repair, transport, storage, insurance, environmental and licensing requirements for the equipment and the cost to the Government under various acquisition methods;
- Whether the equipment can be swapped out or exchanged;
- Availability or delivery of equipment to meet Government needs and timeline.

Response: While section 555 serves as the main impetus for this proposed rule, the suggestions and comments on FAR case 2017–017 have been taken into account and additional factors have been added to FAR 7.401(b)(1) and (b)(2).

4. Renting/Leasing

Comment: Several respondents expressed concern that the proposed rule did not clarify the differences between renting and leasing, including those specific to the heavy equipment industry, and that without this recognition, the Government will waste money by grouping these two categories together.

Response: Additional considerations unique to renting have been added to FAR 7.401(b)(1) and (b)(2). However, the proposed rule does not differentiate between rent and leasing because there are no standard differences between these practices that span across all industries. As a result, the recommended clarification could have the unintended consequence of creating new confusion.

Comment: Several respondents recommended implementing a separate

“rental method” of acquisition, in order to identify the unique properties and benefits of renting. A respondent asserts that codification of a definitive definition of “rental method”, “equipment rental”, and “lease method” is necessary for contracting officers to understand the differences between both methods, and impossible for the Government to execute a rental agreement.

Response: The purpose of FAR subpart 7.4 is to facilitate an analysis and a decision on whether it is in the best interest of the Government to purchase a piece of equipment versus obtaining the equipment via any other non-purchase method. As a result, this case includes the word “rent” throughout FAR subpart 7.4 text, to ensure that contracting officers are aware that rental agreements are an acceptable non-purchase acquisition method for equipment, and implements additional factors to be considered in the analysis that account for the unique benefits that rental agreements may provide for the Government.

Comment: A respondent advised that defining the difference between renting and leasing will help agencies meet their small business goals, as a majority of heavy equipment leases would fall under the simplified acquisition threshold and; therefore, be awarded to small businesses.

Response: This rule proposes to add the word “rent” throughout the text of FAR subpart 7.4, as appropriate, to ensure contracting officers are aware that rental agreements are an acceptable non-purchase method of equipment acquisition.

5. Guidance/Resources

Comment: A respondent advised that providing acquisition officials with the guidance in OMB Circular A–94 will cause confusion, as the guidance does not apply to short-term rentals and eliminates the possibility that an acquisition official would consider rental as an acquisition option since the proposed rule makes rentals and leases synonymous.

Response: The purpose of referring to the OMB Circular is to make the contracting officer aware of additional information that may be relevant in determining the method of acquisition that is most advantageous to the Government. The reference is not intended to preclude consideration of rent as a method of acquisition, but respondents to the proposed rule are encouraged to offer suggested clarifications.

Comment: A respondent suggested that the GSA website provided to

contracting officers for additional information may be too narrow of a resource, as it pertains to a program that is akin to a hardware store, home improvement center, or are maintenance, repair, and operations supplies. The respondent recommends providing another resource that can assist agencies with rental, lease, or purchase decisions for a broader scope of products.

Response: The GSA customer service information and website at FAR 7.403(b)(1) and (b)(2) are provided as current sources Federal agencies may use when they need assistance with a buy, rent, or lease decision. Agencies may provide supplemental guidance, as needed, to meet their unique needs and requirements.

6. Amend GSA Security Schedule

Comment: A respondent recommended amending the GSA Security Schedule 84 to permit leasing of equipment, by Federal, State, and Local law enforcement and emergency response agencies, through the schedule contracts and make conforming changes within the contract that clarify the applicable terms and conditions that apply when purchasing versus leasing equipment under the Schedule.

Response: This comment is outside the scope of FAR case 2017–017 and the scope of the current proposed rule.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Items, Including Commercially Available Off-the-Shelf (COTS) Items

This proposed rule does not create any new provisions or clauses, nor does it change the applicability of any existing provisions or clauses included in solicitations and contracts valued at or below the SAT, or for commercial items, including COTS items.

IV. Executive Orders 12866 and 13563

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

proposed rule is not a major rule under 5 U.S.C. 804.

V. Executive Order 13771

The rulemaking is not subject to E.O. 13771, because this proposed rule is not a significant regulatory action under E.O. 12866.

VI. Regulatory Flexibility Act

DoD, GSA, and NASA do not expect this rulemaking to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

The Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA) are proposing to revise the Federal Acquisition Regulation (FAR) to require, when acquiring equipment, a case-by-case analysis of cost and other factors associated with certain methods of acquisition.

The objective of the rule is to ensure agencies acquire equipment using the method of acquisition that is most advantageous to the Government based on a case-by-case analysis of comparative costs and other factors. The legal basis for the rule is section 555 of the FAA Reauthorization Act of 2018 (Pub. L. 115–254).

DoD, GSA, and NASA do not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The rule primarily affects internal Government requirements determination decisions, acquisition strategy decisions, and contract file documentation requirements. The Government does not collect data on the total number of solicitations issued on an annual basis that are subject to the analysis of FAR subpart 7.4. However, the Federal Procurement Data System (FPDS) collects information on the product service code (PSC) assigned to a contract based on the predominant supply or service being acquired. FPDS data for FY 2016–2018, on PSCs for approximately 100 types of equipment and 80 types of equipment rental or lease services, indicates that the Federal Government awards an average of 125,940 new contracts and orders annually; of which approximately 54,845 (44 percent) were awarded to approximately 6,940 unique small businesses.

The proposed rule does not impose any Paperwork Reduction Act reporting or recordkeeping requirements on any small entities. The proposed rule does not duplicate, overlap, or conflict with any other Federal rules. There are no known significant alternative approaches to the proposed rule that would meet the proposed objectives.

The Regulatory Secretariat has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the

Regulatory Secretariat. DoD, GSA and NASA invite comments from small business concerns and other interested parties on the expected impact of this rulemaking on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by this proposed rule consistent with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR Case 2019–001) in correspondence.

VII. Paperwork Reduction Act

The proposed rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 7

Government Procurement.

William F. Clark,

Director, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.

Therefore, DoD, GSA, and NASA propose amending 48 CFR part 7 as set forth below:

PART 7—ACQUISITION PLANNING

■ 1. The authority citation for 48 CFR part 7 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

■ 2. Revise the heading of subpart 7.4 to read as follows:

Subpart 7.4—Equipment Acquisition

■ 3. Revise section 7.400 to read as follows:

7.400 Scope of subpart.

This subpart—
(a) Implements section 555 of the FAA (Federal Aviation Administration) Reauthorization Act of 2018 (Pub. L. 115–254);

(b) Provides guidance when acquiring equipment and more than one method of acquisition is available for use; and
(c) Applies to both the initial acquisition of equipment and the renewal or extension of existing equipment leases or rental agreements.

■ 4. Revise section 7.401 to read as follows:

7.401 Acquisition considerations.

(a)(1) Agencies shall acquire equipment using the method of acquisition most advantageous to the Government based on a case-by-case

analysis of comparative costs and other factors in accordance with this subpart and agency procedures.

(2) The methods of acquisition to be compared in the analysis shall include, at a minimum—

- (i) Purchase;
- (ii) Short-term rental or lease;
- (iii) Long-term rental or lease;
- (iv) Interagency acquisition (see 2.101); and
- (v) Agency acquisition agreements, if applicable, with a State or local government.

(b)(1) The factors to be compared in the analysis shall include, at a minimum:

- (i) Estimated length of the period the equipment is to be used and the extent of use within that period;
- (ii) Financial and operating advantages of alternative types and makes of equipment;
- (iii) Cumulative rent, lease, or other periodic payments, however described, for the estimated period of use;
- (iv) Net purchase price;
- (v) Transportation, installation, and storage costs;
- (vi) Maintenance, repair, and other service costs; and
- (vii) Potential obsolescence of the equipment because of imminent technological improvements.

(2) The following additional factors should be considered, as appropriate, depending on the type, cost, complexity, and estimated period of use of the equipment:

- (i) Availability of purchase options.
- (ii) Cancellation, extension, and early return conditions and fees.
- (iii) Ability to swap out or exchange equipment.
- (iv) Available warranties.
- (v) Insurance, environmental, or licensing requirements.
- (vi) Potential for use of the equipment by other agencies after its use by the acquiring agency is ended.
- (vii) Trade-in or salvage value.
- (viii) Imputed interest.
- (ix) Availability of a servicing capability, especially for highly

complex equipment; e.g., can the equipment be serviced by the Government or other sources if it is purchased?

(c) The analysis in paragraph (a) is not required—

(1) When the President has issued an emergency declaration or a major disaster declaration pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*);

(2) In other emergency situations if the agency head makes a determination that obtaining such equipment is necessary in order to protect human life or property; or

(3) When otherwise authorized by law.

- 5. Amend section 7.402 by—
- a. Removing from paragraph (a)(1) “cumulative leasing” and adding “cumulative rental or leasing” in its place;
- b. Removing from paragraph (a)(2) “favor of leasing” and adding “favor of renting or leasing” in its place;
- c. Revising the heading and introductory text of paragraph (b)(1);
- d. Revising paragraph (b)(2);
- e. Removing from paragraph (b)(3) “long term lease” and adding “long term rental or lease agreement” in its place; and
- f. Removing from paragraph (b)(4) “If a lease with option” and adding “If a rental or lease agreement with option” in its place.

The revised text reads as follows:

7.402 Acquisition methods.

* * * * *

(b) *Rent or lease method.* (1) The rent or lease method is appropriate if it is to the Government’s advantage under the circumstances. The rent or lease method may also serve as a short-term measure when the circumstances—

* * * * *

(2) If a rent or lease method is justified, a rental or lease agreement with option to purchase is preferable.

* * * * *

- 6. Amend section 7.403 by—
- a. Revising the section heading;
- b. Removing from paragraph (a) “in lease or” and adding “in lease, rent, or” in its place;
- c. Revising paragraph (b); and
- d. Adding paragraph (c).

The revised and added text reads as follows:

7.403 General Services Administration assistance and OMB Guidance.

* * * * *

(b) For additional GSA assistance and guidance, agencies may—

(1) Request information from the GSA FAS National Customer Service Center by phone at 1–800–488–3111 or by email at ncscustomer.service@gsa.gov; and

(2) See GSA website, Schedule 51 V Hardware Superstore–Equipment Rental, (<https://www.gsa.gov/acquisition/purchasing-programs/gsa-schedules/list-of-gsa-schedules/schedule-51-vhardware-superstore/equipment-rental-and-leasing>).

(c) For additional OMB guidance, see—

(1) Section 13, Special Guidance for Lease-Purchase Analysis, and paragraph 8.c.(2), Lease-Purchase Analysis, of OMB Circular A–94, Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs, (<https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A94/a094.pdf>); and

(2) Appendix B, Budgetary Treatment of Lease-Purchases and Leases of Capital Assets, of OMB Circular A–11, Preparation, Submission, and Execution of the Budget, (https://www.whitehouse.gov/wp-content/uploads/2018/06/app_b.pdf).

7.404 [Amended]

- 7. Removing from the text “a lease with” and adding “a rental or lease agreement with” in its place.

[FR Doc. 2020–15769 Filed 8–21–20; 8:45 am]

BILLING CODE 6820–EP–P

Notices

Federal Register

Vol. 85, No. 164

Monday, August 24, 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

Animal and Plant Health Inspection Service

[Docket No. APHIS–2020–0051]

Notice of Request for Approval of an Information Collection; Volunteer Service Agreements and Volunteer Service Time and Attendance Record

AGENCY: Animal and Plant Health Inspection Service, Agriculture (USDA).

ACTION: New information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request approval of a new information collection associated with volunteer service agreements and volunteer service time and attendance record.

DATES: We will consider all comments that we receive on or before October 23, 2020.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/>

- *Postal Mail/Commercial Delivery:*

Send your comment to Docket No. APHIS–2020–0051, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/> <http://www.regulations.gov/#!docketDetail;D=APHIS-2020-0051> or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on volunteer service agreements and volunteer service time and attendance record, contact Ms. Beverly Cassidy, HR Specialist, HR Policy, HRD, MRPBS, APHIS, 4700 River Road Unit 21, Riverdale, MD, 20737; (301) 851–2914. For more detailed information on the information collection process, contact Mr. Joseph Moxey, APHIS' Information Collection Coordinator, at (301) 851–2533.

SUPPLEMENTARY INFORMATION:

Title: Volunteer Service Agreements and Volunteer Service Time and Attendance Record.

OMB Control Number: 0579–XXXX.

Type of Request: Approval of a new information collection.

Abstract: Section 1526 of the Food and Agricultural Act of 1981 (7 U.S.C. 2272) permits the Secretary of Agriculture to establish a program to use volunteers to carry out U.S. Department of Agriculture (USDA) programs. Departmental Regulation No. 4230–001, Volunteer Programs, provides the guidelines USDA agencies must use for acceptance of volunteers and sets a requirement for agencies to publish their guidelines. Office of Personnel Management (OPM) regulations in 5 CFR part 308 provide agencies with the authority to establish programs designed to provide educationally related volunteer assignments for students in nonpay status.

The Marketing and Regulatory Programs (MRP) mission area of USDA uses several information collection activities to assist MRP program officials, administrative personnel, and USDA Human Resources offices in determining a volunteer's eligibility and suitability for volunteer service. The information is necessary to facilitate establishment of guidelines for acceptance of volunteer services under the above authorities and regulations, make a determination of an individual's eligibility and suitability to serve as a volunteer in MRP, and comply with OPM regulations requiring documentation of volunteer service and maintenance of records.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our

information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 0.22 hours per response.

Respondents: Individuals engaged in activities for which they are not paid, except for authorized expenses associated with performance of volunteer activities.

Estimated annual number of respondents: 85.

Estimated annual number of responses per respondent: 2.

Estimated annual number of responses: 170.

Estimated total annual burden on respondents: 38 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 18th day of August, 2020.

Michael Watson,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2020–18528 Filed 8–21–20; 8:45 am]

BILLING CODE 3410–34–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Nevada Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that a teleconference meeting of the Nevada Advisory Committee (Committee) to the Commission will be held at 1:00 p.m. (Pacific Time) Wednesday, September 9, 2020. The purpose of the meeting is to vote on a statement of concern regarding voting access during the COVID-19 pandemic and vote on topic of study.

DATES: The meeting will be held on Wednesday, September 9, 2020 at 1:00 p.m. PT.

ADDRESSES: Public Call Information: Dial: 800-367-2403, Conference ID: 3569544

FOR FURTHER INFORMATION CONTACT: Ana Victoria Fortes (DFO) at afortes@usccr.gov or (202) 681-0857.

SUPPLEMENTARY INFORMATION: This meeting is available to the public through the following toll-free call-in number: 800-367-2403, conference ID number: 3569544. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1-800-877-8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the Western Regional Office, U.S. Commission on Civil Rights, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012 or email Ana Victoria Fortes at afortes@usccr.gov.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meeting at https://www.facadatabase.gov/FACA/FACA_PublicViewCommitteeDetails?id=a10t0000001gzlJAAQ.

Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the

work of this Committee are directed to the Commission's website, <http://www.usccr.gov>, or may contact the Regional Programs Unit at the above email or street address.

Agenda

- I. Welcome
- II. Review Statement of Concern
- III. Vote on Topic of Study
- IV. Public Comment
- V. Adjournment

Dated: August 19, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020-18550 Filed 8-21-20; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Mississippi Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Mississippi Advisory Committee (Committee) will hold a meeting on Friday October 2, 2020 at 12:00 p.m. Central time. The Committee will discuss their next topic of civil rights study in Mississippi.

DATES: The meeting will take place on Friday October 2, 2020 at 12:00 p.m. Central Time.

Public Call Information: Dial: 800-367-2403, Confirmation Code: 6227086

FOR FURTHER INFORMATION CONTACT:

Melissa Wojnaroski, DFO, at mwojnaroski@usccr.gov or (312) 353-8311

SUPPLEMENTARY INFORMATION: Members of the public may listen to this discussion through the above call in number. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons

with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1-800-877-8339 and providing the Service with the conference call number and confirmation code.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 230 S Dearborn, Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353-8324, or emailed to Corrine Sanders at csanders@usccr.gov. Persons who desire additional information may contact the Regional Programs Unit at (312) 353-8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via www.facadatabase.gov under the Commission on Civil Rights, Mississippi Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, <http://www.usccr.gov>, or may contact the Regional Programs Unit at the above email or street address.

Agenda

- I. Welcome and roll call
- II. Discussion: Civil Rights in Mississippi
- III. Public comment
- IV. Next steps
- V. Adjournment

Dated: August 19, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020-18551 Filed 8-21-20; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-125]

Certain Vertical Shaft Engines Between 99cc and up to 225cc, and Parts Thereof, From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines

that countervailable subsidies are being provided to producers and exporters of certain vertical shaft engines between 99cc and up to 225cc, and parts thereof (small vertical engines), from the People's Republic of China (China). The period of investigation is January 1, 2019 through December 31, 2019. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable August 24, 2020.

FOR FURTHER INFORMATION CONTACT: Ajay Menon or Adam Simons, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-1993 or (202) 482-6172, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on April 14, 2020.¹ On May 20, 2020, Commerce postponed the preliminary determination of this investigation to August 17, 2020.² For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum.³ A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of

the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The products covered by this investigation are small vertical engines between 99cc and up to 225cc, and parts thereof, from China. For a complete description of the scope of this investigation, see Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,⁴ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage, (*i.e.*, scope).⁵ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the scope comments submitted on the record of this preliminary determination, and accompanying discussion and analysis of all comments timely received, see the Preliminary Scope Memorandum.⁶ Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice* to exclude commercial engines. See revised scope in Appendix I.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an "authority" that gives rise to a benefit to the recipient, and that the subsidy is specific.⁷

Commerce notes that, in making these findings, it relied, in part, on facts available and, because it finds that one or more respondents did not act to the best of their ability to respond to Commerce's requests for information, it drew an adverse inference where appropriate in selecting from among the facts otherwise available.⁸ For further information, see "Use of Facts Otherwise Available and Adverse Inferences" in the Preliminary Decision Memorandum.

¹ See *Certain Vertical Shaft Engines between 99cc and up to 225cc, and Parts Thereof from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 85 FR 20667 (April 14, 2020) (*Initiation Notice*).

² See *Certain Vertical Shaft Engines between 99cc and up to 225cc, and Parts Thereof, from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 85 FR 30683 (May 20, 2020).

³ See Memorandum, "Decision Memorandum for the Preliminary Determination of the Countervailing Duty Investigation of Certain Vertical Shaft Engines Between 99cc and up to 225cc, and Parts Thereof, from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁴ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁵ See *Initiation Notice*.

⁶ See Memorandum, "Antidumping and Countervailing Duty Investigations of Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof from the People's Republic of China: Scope Comments Decision Memorandum for the Preliminary Determination," dated August 17, 2020.

⁷ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

⁸ See sections 776(a) and (b) of the Act.

Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final countervailing duty (CVD) determination in this investigation with the final determination in the companion antidumping duty (AD) investigation of small vertical engines from China based on a request made by the petitioner.⁹ Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than December 28, 2020, unless postponed.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce calculated individual estimated countervailable subsidy rates for Chongqing Kohler Engines Ltd. (Chongqing Kohler) and Chongqing Zongshen General Power Machine Co. Ltd. (Chongqing Zongshen) that are not zero, *de minimis*, or based entirely on facts otherwise available. Commerce calculated the all-others rate using a simple average of the individual estimated subsidy rates calculated for the examined respondents.¹⁰

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

⁹ See Petitioner's Letter, "Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof, From the People's Republic of China: Petitioner's Request for Alignment of the Final Countervailing Duty and Antidumping Duty Final Determinations," dated August 4, 2020.

¹⁰ We calculated the all-others rate using the simple average of Chongqing Kohler and Chongqing Zongshen's subsidy rates.

¹¹ As discussed in the Preliminary Decision Memorandum, Commerce has found the following company to be cross-owned with Chongqing Kohler: Kohler (China) Investment Company.

¹² As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with Chongqing Zongshen: Chongqing Zongshen Power Machinery Co., Ltd.; Zong Shen Industrial Group; Chongqing Zongshen Automobile Air Intake System Manufacturing Co., Ltd.; Chongqing Zongshen High Speed Boat Development Co., Ltd.; Chongqing Zong

Company	Subsidy rate (percent)
Chongqing Kohler Engines Ltd. ¹¹	13.45
Chongqing Zongshen General Power Machine Co. ¹²	21.29
All Others	17.37

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.¹³ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and

Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Parties are reminded that briefs and hearing requests are to be filed electronically using ACCESS and that electronically filed documents must be received successfully in their entirety by 5 p.m. Eastern Time on the due date. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.¹⁴

International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: August 17, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation consists of spark-ignited, non-road, vertical shaft engines, whether finished or unfinished, whether assembled or unassembled, whether mounted or unmounted, primarily for walk-behind lawn mowers. Engines meeting this physical description may also be for other non-hand-held outdoor power equipment, including but not limited to, pressure washers. The subject engines are spark ignition, single-cylinder, air cooled, internal combustion engines with vertical power take off shafts with a minimum displacement of 99 cubic centimeters (cc) and a maximum displacement of up to, but not including,

225cc. Typically, engines with displacements of this size generate gross power of between 1.95 kilowatts (kw) to 4.75 kw.

Engines covered by this scope normally must comply with and be certified under Environmental Protection Agency (EPA) air pollution controls title 40, chapter I, subchapter U, part 1054 of the Code of Federal Regulations standards for small non-road spark-ignition engines and equipment. Engines that otherwise meet the physical description of the scope but are not certified under 40 CFR part 1054 and are not certified under other parts of subchapter U of the EPA air pollution controls are not excluded from the scope of this proceeding. Engines that may be certified under both 40 CFR part 1054 as well as other parts of subchapter U remain subject to the scope of this proceeding.

Certain small vertical shaft engines, whether or not mounted on non-hand-held outdoor power equipment, including but not limited to walk-behind lawn mowers and pressure washers, are included in the scope. However, if a subject engine is imported mounted on such equipment, only the engine is covered by the scope. Subject merchandise includes certain small vertical shaft engines produced in the subject country whether mounted on outdoor power equipment in the subject country or in a third country. Subject engines are covered whether or not they are accompanied by other parts.

For purposes of this investigation, an unfinished engine covers at a minimum a sub-assembly comprised of, but not limited to, the following components: Crankcase, crankshaft, camshaft, piston(s), and connecting rod(s). Importation of these components together, whether assembled or unassembled, and whether or not accompanied by additional components such as a sump, carburetor spacer, cylinder head(s), valve train, or valve cover(s), constitutes an unfinished engine for purposes of this investigation. The inclusion of other products such as spark plugs fitted into the cylinder head or electrical devices (e.g., ignition coils) for synchronizing with the engine to supply tension current does not remove the product from the scope. The inclusion of any other components not identified as comprising the unfinished engine subassembly in a third country does not remove the engine from the scope.

Specifically excluded from the scope of the investigation are "Commercial" or "Heavy Commercial" engines under 40 CFR 1054.107 and 1054.135 that have (1) a displacement of 160 cc or greater, (2) a cast iron cylinder liner, (3) an automatic compression release, and (4) a muffler with at least three chambers and volume greater than 400 cc.

The engines subject to this investigation are predominantly classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 8407.90.1010. The engine subassemblies that are subject to this investigation enter under HTSUS 8409.91.9990. The mounted engines that are subject to this investigation enter under HTSUS 8433.11.0050, 8433.11.0060, and 8424.30.9000. Engines subject to this investigation may also enter under HTSUS 8407.90.1020, 8407.90.9040, and 8407.90.9060. The HTSUS subheadings are

Shen Electrical Appliance Co., Ltd.; and Chongqing Dajiang Power Equipment Co., Ltd.

¹³ See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements).

¹⁴ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

provided for convenience and customs purposes only, and the written description of the merchandise under investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Investigation
- IV. Injury Test
- V. Diversification of China's Economy
- VI. Use of Facts Otherwise Available and Adverse Inferences
- VII. Subsidies Valuation
- VIII. Benchmarks and Interest Rates
- IX. Analysis of Programs
- X. Conclusion

[FR Doc. 2020-18529 Filed 8-21-20; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Manufacturing Extension Partnership (MEP) Client Impact Survey

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on May 27, 2020 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Institute of Standards and Technology (NIST).

Title: Manufacturing Extension Partnership (MEP) Client Impact Survey.

OMB Control Number: 0693-0021.

Form Number(s): None.

Type of Request: Revision and extension of current information collection.

Number of Respondents: 13,000.

Average Hours per Response: 12 minutes.

Burden Hours: 2,600.

Needs and Uses: The objective of the NIST Manufacturing Extension

Partnership Program (MEP) is to enhance productivity, technological performance, and strengthen the global competitiveness of small- and medium-sized U.S.-based manufacturing firms. Through this client impact survey, the MEP will collect data necessary for program accountability; analysis and research into the effectiveness of the MEP program; reports to stakeholders; GPRA; continuous improvement efforts; knowledge sharing across the MEP system; and identification of best practices. Collection of this data is needed in order to comply with the MEP charter, as mandated by Congress.

Affected Public: Private sector.

Frequency: Annually.

Respondent's Obligation: Voluntary.

Legal Authority: Not applicable.

This information collection request may be viewed at www.reginfo.gov.

Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function and entering either the title of the collection or the OMB Control Number 0693-0021.

Sheleen Dumas,

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

[FR Doc. 2020-18495 Filed 8-21-20; 8:45 am]

BILLING CODE 3510-13-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XA400]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Scientific and Statistical Committee (SSC) will hold a meeting.

DATES: The meeting will be held on Tuesday, September 8, 2020, from 12:30 p.m. through 5:30 p.m., and Wednesday,

September 9, 2020, from 8:30 a.m. through 1 p.m. See **SUPPLEMENTARY INFORMATION** for agenda details.

ADDRESSES: The meeting will take place over webinar with a telephone-only connection option. Details on how to connect to the webinar by computer and by telephone will be available at: <http://www.mafmc.org/ssc>.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 674-2331; website: www.mafmc.org.

FOR FURTHER INFORMATION CONTACT:

Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526-5255.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to review the most recent survey and fishery data and the previously recommended 2021 ABC for spiny dogfish. The SSC will consider revising the 2021 ABC recommendation and recommend an ABC for the 2022 fishing year utilizing the Council's new risk policy. The SSC will also review the most recent survey and fishery data and the previously recommended 2021 ABC for chub mackerel. The SSC will discuss the possible scientific uncertainty considerations due to missing catch and survey data in 2020 due to COVID-19 restrictions. The SSC will also discuss the science implications and fishery interactions associated with offshore wind development. The SSC will also provide feedback and direction for increased application of the Mid-Atlantic State of the Ecosystem report by the SSC. The SSC will also receive updates on a number of topics, including: The development of a new SSC socioeconomic workgroup, future stock assessment schedule, possible topics for the joint Council/SSC meeting, and research priorities. In addition, the SSC may take up any other business as necessary.

A detailed agenda and background documents will be made available on the Council's website (www.mafmc.org) prior to the meeting.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526-5251, at least 5 days prior to the meeting date.

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

Dated: August 18, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020-18484 Filed 8-21-20; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Economic Surveys of American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands (CNMI) Small Boat-Based Fisheries

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on March 16, 2020 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Economic Surveys of American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands (CNMI) Small Boat-based Fisheries.

OMB Control Number: 0648-0635.

Form Number(s): None.

Type of Request: Regular submission [extension of a current information collection].

Number of Respondents: 480.

Average Hours per Response: 10 minutes per trip survey.

Total Annual Burden Hours: 80 hours.

Needs and Uses: The National Marine Fisheries Service (NMFS) collects information about fishing trip expenses in the American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands (CNMI) small-boat-based reef fish, bottomfish, and pelagics fisheries with which to conduct analyses on economic performance of fisheries that will improve fishery management in those fisheries; satisfy NMFS' legal

mandates under Executive Order 12866, the Magnuson-Steven Fishery Conservation and Management Act (U.S.C. 1801 *et seq.*), the Regulatory Flexibility Act, the Endangered Species Act, and the National Environmental Policy Act; and quantify achievement of the performances measures in the NMFS Strategic Operating Plans. An example of these performance measures is the fishing cost trend as one of the economic performance indicators reported in Annual Stock Assessment and Fishery Evaluation Reports of each Fishery Ecosystem Plan (<http://www.wpcouncil.org/annual-reports/>). In addition, the economic data collected will allow quantitative assessment of the fisheries sector's social and economic contribution, linkages and impacts of the fisheries sector to the overall economy through Input-output (I-O) models analyses. Results from I-O analyses will not only provide indicators of social-economic benefits of the marine ecosystem, a performance measure in the NMFS Strategic Operating Plans, but also be used to assess how fishermen and economy will be impacted by and respond to regulations likely to be considered by fishery managers. These data are collected in conjunction with catch and effort data already being collected in this fishery as part of its creel survey program. The creel survey program implemented by local fishery management agents is one of the major data collection systems to monitor fisheries resources in these three geographic areas. Interviews are conducted with returning fishermen at the most active launching ramps/docks during selected time periods on the islands. The economic surveys on trip expenditure are incorporated into the creel survey for the three areas, respectively.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

Legal Authority: Magnuson-Stevens Fishery Conservation and Management Act.

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day

Review—Open for Public Comments" or by using the search function and entering either the title of the collection or the OMB Control Number 0648-0635.

Sheleen Dumas,

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

[FR Doc. 2020-18503 Filed 8-21-20; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Non-commercial Permit and Reporting Requirements in the Main Hawaiian Islands Bottomfish Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), 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.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before October 23, 2020.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at Adrienne.thomas@noaa.gov. Please reference OMB Control Number 0648-0577 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Walter Ikehara, Fishery Information Specialist, National Marine Fisheries Service (NMFS), Pacific Islands Region, 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818, (808) 725-5175, walter.ikehara@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a currently approved information collection.

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) established regional fishery management councils, including the Western Pacific Fishery Management Council (Council), to develop fishery management plans for fisheries in the U.S. Exclusive Economic Zone (EEZ). If approved by the Secretary of Commerce, the National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) implements these plans by Federal regulations, which are enforced by NMFS and the U.S. Coast Guard (USCG), in cooperation with State agencies to the extent possible. The Council and NMFS use the fishery management plans to manage fishing to ensure sustained productivity and achievement of optimum yield from the resources for the benefit of the United States. The Council uses fishery ecosystem plans as fishery management plans for federal fisheries management.

Regulations established under the Fishery Ecosystem Plan for the Hawaii Archipelago (FEP) at 50 CFR 665, Subpart C, require that all participants (including vessel owners, operators, and crew) in the boat-based non-commercial bottomfish fishery in the Exclusive Economic Zone around the main Hawaiian Islands obtain a federal bottomfish permit. They are exempt if they hold a current State of Hawaii Commercial Marine License. The information collected in the permit process is needed to identify participants in the fishery, determine qualifications for permitting, support effective enforcement of fishery regulations, and provide a communication link between NMFS and fishermen.

Regulations also require that all vessel owners or operators in this fishery submit a report (logbook) upon completion of each fishing trip to document the species and amount of fish caught during the trip. The information in these logbooks is crucial to monitoring the fishery, developing annual catch limits, evaluating the effectiveness of management measures, determining whether changes in fishery management measures are necessary, and estimating the impacts and implications of alternative management measures.

II. Method of Collection

Respondents may submit permit applications electronically via secure

email, or online process when implemented. Logbooks are paper forms that must be submitted to NMFS Pacific Islands Fisheries Science Center.

III. Data

OMB Control Number: 0648–0577.

Form Number(s): None.

Type of Review: Regular submission, extension of a current information collection.

Affected Public: Individuals or households; business or other for-profit organizations.

Estimated Number of Respondents: 100.

Estimated Time per Response: 10 minutes per email permit application; 5 minutes per online permit application; 2 hours per appeal of denied permit; 20 minutes per logbook form.

Estimated Total Annual Burden Hours: 29 hours.

Estimated Total Annual Cost to Public: \$4,250.

Respondent's Obligation: Mandatory.

Legal Authority: 50 CFR part 665.

IV. Request for Comments

We are soliciting public comments to permit the Department to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. 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 may 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.

Sheleen Dumas,

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

[FR Doc. 2020–18493 Filed 8–21–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA412]

Western Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold its 137th Scientific and Statistical Committee (SSC), Pelagic and International Standing Committee, Executive and Budget Standing Committee, and 183rd Council meetings to take actions on fishery management issues in the Western Pacific Region.

DATES: The meetings will be held between September 9 and 17, 2020. For specific times and agendas, see

SUPPLEMENTARY INFORMATION.

ADDRESSES: The meetings will be held by web conference via WebEx. Instructions for connecting to the web conference and providing oral public comments will be posted on the Council website at www.wpcouncil.org. For assistance with the web conference connection, contact the Council office at (808) 522–8220.

The following venues will be the host sites for the Standing Committee and Council meetings: Cliff Pointe, 304 W. O'Brien Drive, Hagatna, Guam; Hyatt Regency Saipan, Royal Palm Ave., Micro Beach Rd., Saipan, Commonwealth of the Northern Mariana Islands (CNMI); and Department of Port Administration, Airport Conference Room, Pago Pago Int'l Airport, Tafuna Village, American Samoa.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council; phone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: All times shown are in Hawaii Standard Time. The 137th SSC meeting will be held between 11 a.m. to 5 p.m. on September 9–10, 2020. The Pelagic and International Standing Committee will

be held between 12 p.m. and 2 p.m. on September 14, 2020. The Executive and Budget Standing Committee meeting will be held between 3 p.m. and 5 p.m. on September 14, 2020. The 183rd Council meeting will be held between 11 a.m. and 5 p.m. on September 15 to 17, 2020.

Please note that the evolving public health situation regarding COVID-19 may affect the conduct of the September Council and its associated meetings. At the time this notice was submitted for publication, the Council anticipated convening the Standing Committee and Council meetings by web conference with host site locations in Guam, CNMI and American Samoa. Council staff will monitor COVID-19 developments and will determine the extent to which in-person public participation at host sites will be allowable consistent with applicable local and federal safety and health guidelines. If public participation will be limited to web conference only or on a first-come-first-serve basis consistent with applicable guidelines, the Council will post notice on its website at www.wpcouncil.org.

Agenda items noted as "Final Action" refer to actions that result in Council transmittal of a proposed fishery management plan, proposed plan amendment, or proposed regulations to the U.S. Secretary of Commerce, under Sections 304 or 305 of the MSA. In addition to the agenda items listed here, the Council and its advisory bodies will hear recommendations from Council advisors. An opportunity to submit public comment will be provided throughout the agendas. The order in which agenda items are addressed may change and will be announced in advance at the Council meeting. The meetings will run as late as necessary to complete scheduled business.

Background documents for the 183rd Council meeting will be available at www.wpcouncil.org. Written public comments on final action items at the 183rd Council meeting should be received at the Council office by 5 p.m. HST, September 11, 2020, and should be sent to Kitty M. Simonds, Executive Director; Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813, phone: (808) 522-8220 or fax: (808) 522-8226; or email: info.wpcouncil@noaa.gov. Written public comments on all other agenda items may be submitted for the record by email throughout the duration of the meeting. Instructions for providing oral public comments during the meeting will be posted on the Council website. This meeting will be recorded for the purposes of generating the minutes of the meeting.

Agenda for the 137th Scientific and Statistical Committee Meeting

Wednesday, September 9, 2020, 11 a.m. to 5 p.m.

1. Introductions
2. Approval of Draft Agenda and Assignment of Rapporteurs
3. Status of the 136th SSC Meeting Recommendations
4. Report from Pacific Islands Fisheries Science Center Director
5. Program Planning and Research
 - A. Interagency U.S. Seafood Trade Task Force
 - B. Report on the Council Response to President Trump's Executive Order 13921 and 13924
 - C. Development of a Council Policy on Offshore Energy
 - D. Public Comment
 - E. SSC Discussion and Recommendations
6. Island Fisheries
 - A. Main Hawaiian Island (MHI) *Aprion virescens* (uku) Fishery
 1. Report on the Risk of Overfishing (P*) and Social, Ecological, Ecosystem, Management Uncertainty (SEEM) Analysis
 2. Setting Acceptable Biological Catch (ABC) for fishing year 2022-25 (Action Item)
 - B. Options for Hawaii Small-Boat Fishery Permitting and Reporting (Action Item)
 - C. Public Comment
 - D. SSC Discussion and Recommendations
7. Protected Species
 - A. Tori Line Demonstrations and Field Trials in the Hawaii Longline Fishery
 - B. Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) Updates
 1. Status of ESA Consultations
 2. Other updates
 - C. Reasonable and Prudent Measures (RPMs) and/or Reasonable and Prudent Alternatives (RPAs) for the Hawaii and American Samoa Longline Fisheries (Action Item)
 - D. Public Comment
 - E. SSC Discussion and Recommendations

Thursday, September 10, 2020, 11 a.m. to 5 p.m.

8. Pelagic Fisheries
 - A. American Samoa Longline Fishery Report
 - B. Hawaii Longline Report Fishery Report
 - C. Oceanic Whitetip (OWT) Shark Population Projections
 - D. OWT Working Group Report and Research Activities
 - E. Roadmap to Effective Area-Based

Management of Blue Water Fisheries

- F. Report on the Hawaii Longline Eddy Project
- G. Bigeye Tuna Recruitment Project
- H. International Fisheries
 1. North Pacific (NP) Striped Marlin Rebuilding Measures
 2. Western Central Pacific Fisheries Commission (WCPFC)
 - a. 19th International Scientific Committee (ISC) Plenary Outcomes
 - b. 16th WCPFC Science Committee
3. Tropical Tuna Allocation Concept Paper
 - I. Workshop on the Use of C-14 for Tropical Tunas Age Validation
 - J. Public Comment
 - K. SSC Discussion and Recommendations
9. Other Business
 - A. December 2020 SSC Meetings Dates
10. Summary of SSC Recommendations to the Council

Agenda for the Pelagic and International Standing Committee

Monday, September 14, 2020, 12 p.m. to 2 p.m.

1. Mandatory Electronic Reporting in Longline Fisheries (Action Item)
2. OWT Population Projections
3. OWT Working Group and Research Activities
4. RPMs and/or RPAs for the Deep-set and American Samoa Longline Fisheries (Action Item)
5. Roadmap to Effective Area-Based Management of Blue Water Fisheries
6. International Fisheries
 - A. NP Striped Marlin Rebuilding Measures
 - B. WCPFC
 - a. 19th ISC Plenary Outcomes
 - b. 16th WCPFC Science Committee
 - c. WCPFC Technical and Compliance Committee
 - d. WCPFC Permanent Advisory Committee
 - e. WCPFC Northern Committee
 - C. Tropical Tuna Allocation Concept Paper
7. Advisory Group Report and Recommendations
 - A. Advisory Panel Report
 - B. Scientific & Statistical Committee Report
8. Other Issues
9. Public Comment
10. Discussion and Recommendations

Agenda for the Executive and Budget Standing Committee

Monday, September 14, 2020, 3 p.m. to 5 p.m.

1. Financial Reports

- A. Current Grants
- 2. Administrative Reports
- 3. Council Coordination Committee Meetings
- 4. Council Family Changes
 - A. Non-Commercial Fishery Advisory Committee (NCFAC) Terms of Reference and Membership
 - B. Fishing Industry Advisory Committee (FIAC) Terms of Reference and Membership
- 5. Meetings and Workshops
- 6. Letters to the Administration
- 7. Other Issues
- 8. Public Comment
- 9. Discussion and Recommendations

Agenda for the 183rd Council Meeting

Tuesday, September 15, 2020, 11 a.m. to 5 p.m.

- 1. Welcome and Introductions
- 2. Oath of Office
- 3. Approval of the 183rd Agenda
- 4. Approval of the 182nd Meeting Minutes
- 5. Executive Director's Report
- 6. Agency Reports
 - A. NMFS
 - 1. Pacific Islands Regional Office
 - 2. Pacific Islands Fisheries Science Center
 - B. NOAA Office of General Counsel Pacific Islands Section
 - C. Enforcement
 - 1. U.S. Coast Guard
 - 2. NOAA Office of Law Enforcement
 - 3. NOAA Office of General Counsel Enforcement Section
 - D. U.S. State Department
 - E. U.S. Fish and Wildlife Service
 - F. Public Comment
 - G. Council Discussion and Action
- 7. Mariana Archipelago
 - A. Guam
 - 1. Isla Informe
 - 2. Department of Agriculture/Division of Aquatic and Wildlife Resources Report
 - 3. CARES Act distribution of funds
 - 4. Guam Community Activities
 - B. CNMI
 - 1. Arongol Falú
 - 2. Department of Land and Natural Resource (DLNR)/Division of Fish and Wildlife Report
 - 3. CARES Act distribution of funds
 - 4. CNMI Community Activities
 - C. Advisory Group Reports and Recommendations
 - 1. Advisory Panel Report
 - 2. Scientific & Statistical Committee Report
 - D. Public Comment
 - E. Council Discussion and Action
- 8. Program Planning and Research
 - A. National Legislative Report
 - B. Draft Offshore Energy Policy
 - C. Standardized Bycatch Reporting

- Methodology
- D. Update on Draft Aquaculture Programmatic Environmental Impact Statement
- E. Electronic Technologies Implementation Plan
- F. Report on the Council Response to President Trump's Executive Order 13921 and 13924
- G. Interagency US Seafood Trade Taskforce
- H. Modifications to the PRIA Objectives and Projects in the Pacific Remote Island Areas (PRIA) Marine Conservation Plan
- I. Advisory Group Report and Recommendations
 - 1. Advisory Panel Report
 - 2. Scientific & Statistical Committee Report
- J. Public Comment
- K. Council Discussion and Action

Wednesday, September 16, 2020, 4:30 p.m. to 5 p.m.

Public Comment on Non-Agenda Items

Wednesday, September 16, 2020, 11 a.m. to 5 p.m.

- 9. American Samoa Archipelago
 - A. Motu Lipoti
 - B. Department of Marine and Wildlife Resources Report
 - C. CARES Act distribution of funds
 - D. American Samoa Community Activities
 - E. Advisory Group Report and Recommendations
 - 1. Advisory Panel Report
 - 2. Scientific & Statistical Committee Report
 - F. Public Comment
 - G. Council Discussion and Action
- 10. Hawai'i Archipelago & PRIA
 - A. Moku Pepa
 - B. DLNR/Division of Aquatic Resources Report
 - C. Options for Mandatory Permitting and Reporting for Hawaii's Small-boat Fishery (Initial Action)
 - D. MHI Uku Fishery
 - 1. P* and SEEM Working Group Report
 - 2. Specifying Annual Catch Limits for MHI Uku (Final Action)
 - E. CARES Act funding distribution
 - F. Hawaii Community Activities
 - G. Advisory Group Report and Recommendations
 - 1. Advisory Panel Report
 - 2. Scientific & Statistical Committee Report
 - H. Public Comment
 - I. Council Discussion and Action
- 11. Protected Species
 - A. ESA and MMPA Updates
 - 1. Status of ESA Consultations
 - 2. Other ESA and MMPA Updates

- B. Tori Line Demonstrations and Field Trials in the Hawaii Longline Fishery
- C. Advisory Group Report and Recommendations
 - 1. Advisory Panel Report
 - 2. Scientific & Statistical Committee Report
 - D. Public Comment
 - E. Council Discussion and Action

Thursday, September 17, 2020, 11 a.m.–5 p.m.

- 12. Pelagic & International Fisheries
 - A. Hawaii Longline Fishery Report
 - B. American Samoa Longline Fishery Report
 - C. Mandatory Electronic Reporting in Longline Fisheries (Final Action)
 - D. OWT Population Projections
 - E. OWT Working Group and Research Activities
 - F. RPMs and/or RPAs for the Deep-set and American Samoa Longline Fisheries (Initial Action)
 - G. Roadmap to Effective Area-Based Management of Blue Water Fisheries
 - H. International Fisheries
 - 1. Update on NP Striped Marlin Rebuilding Measures
 - 2. WCPFC
 - a. 19th ISC Plenary Outcomes
 - b. 16th WCPFC Science Committee
 - c. WCPFC Technical and Compliance Committee
 - d. WCPFC Permanent Advisory Committee
 - e. WCPFC Northern Committee
 - 3. Tropical Tuna Allocation Concept Paper
 - 4. International Fisheries Meeting MMPA Equivalencies and Other Relevant International Issues
 - I. Advisory Group Report and Recommendations
 - 1. Advisory Panel Report
 - 2. Scientific & Statistical Committee Report
 - J. Standing Committee Report and Recommendations
 - K. Public Comment
 - L. Council Discussion and Action
- 13. Administrative Matters
 - A. Financial Reports
 - 1. Current Grants
 - B. Administrative Reports
 - C. Council Coordination Committee Meetings
 - D. Council Family Changes
 - 1. NCFAC Terms of Reference and Membership
 - 2. FIAC Terms of Reference and Membership
 - E. Meetings and Workshops
 - F. Letters to the Administration
 - G. Standing Committee Report and Recommendations
 - H. Public Comment

I. Council Discussion and Action

14. Other Business

Non-emergency issues not contained in this agenda may come before the Council for discussion and formal Council action during its 183rd meeting. However, Council action on regulatory issues will be restricted to those issues specifically listed in this document and any regulatory issue arising after publication of this document that requires emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

These meetings are accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522-8220 (voice) or (808) 522-8226 (fax), at least five days prior to the meeting date.

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

Dated: August 18, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020-18486 Filed 8-21-20; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[RTID 0648-XA345]

Schedules for Atlantic Shark Identification Workshops and Safe Handling, Release, and Identification Workshops

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

ACTION: Notice of public workshops.

SUMMARY: Free Atlantic Shark Identification Workshops and Safe Handling, Release, and Identification Workshops will be held in October, November, and December of 2020. Certain fishermen and shark dealers are required to attend a workshop to meet regulatory requirements and to maintain valid permits. Specifically, the Atlantic Shark Identification Workshop is mandatory for all federally permitted Atlantic shark dealers. The Safe Handling, Release, and Identification Workshop is mandatory for vessel owners and operators who use bottom longline, pelagic longline, or gillnet gear, and who have also been issued

shark or swordfish limited access permits. Additional free workshops will be conducted during 2020 and will be announced in a future notice.

DATES: The Atlantic Shark Identification Workshops will be held on October 8, November 12, and December 10, 2020. The Safe Handling, Release, and Identification Workshops will be held on October 8, October 22, November 5, November 20, December 8, and December 17, 2020. See **SUPPLEMENTARY INFORMATION** for further details.

ADDRESSES: The Atlantic Shark Identification Workshops will be held in Mount Pleasant, SC; Largo, FL; and Harvey, LA. The Safe Handling, Release, and Identification Workshops will be held in Vero Beach, FL; Philadelphia, PA; Kitty Hawk, NC; Key Largo, FL; Kenner, LA; and Revere, MA. See **SUPPLEMENTARY INFORMATION** for further details on workshop locations.

FOR FURTHER INFORMATION CONTACT: Rick Pearson by email at rick.a.pearson@noaa.gov.

SUPPLEMENTARY INFORMATION: The workshop schedules, registration information, and a list of frequently asked questions regarding the Atlantic Shark Identification and Safe Handling, Release, and Identification workshops are posted on the internet at: <https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/atlantic-shark-identification-workshops> and <https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/safe-handling-release-and-identification-workshops>.

Atlantic Shark Identification Workshops

Since January 1, 2008, Atlantic shark dealers have been prohibited from receiving, purchasing, trading, or bartering for Atlantic sharks unless a valid Atlantic Shark Identification Workshop certificate is on the premises of each business listed under the shark dealer permit that first receives Atlantic sharks (71 FR 58057; October 2, 2006). Dealers who attend and successfully complete a workshop are issued a certificate for each place of business that is permitted to receive sharks. These certificate(s) are valid for three years. Thus, certificates that were initially issued in 2017 will be expiring in 2020. Approximately 174 free Atlantic Shark Identification Workshops have been conducted since October 2008.

Currently, permitted dealers may send a proxy to an Atlantic Shark Identification Workshop. However, if a dealer opts to send a proxy, the dealer must designate a proxy for each place of business covered by the dealer's permit that first receives Atlantic sharks. Only

one certificate will be issued to each proxy. A proxy must be a person who is currently employed by a place of business covered by the dealer's permit; is a primary participant in the identification, weighing, and/or first receipt of fish as they are offloaded from a vessel; and who fills out dealer reports. Atlantic shark dealers are prohibited from renewing a Federal shark dealer permit unless a valid Atlantic Shark Identification Workshop certificate for each business location that first receives Atlantic sharks has been submitted with the permit renewal application. Additionally, trucks or other conveyances that are extensions of a dealer's place of business must possess a copy of a valid dealer or proxy Atlantic Shark Identification Workshop certificate.

Workshop Dates, Times, and Locations

1. October 8, 2020, 12 p.m.–4 p.m., Hampton Inn, 1104 Isle of Palms Connector, Mount Pleasant, SC 29464.
2. November 12, 2020, 12 p.m.–4 p.m., Hampton Inn, 100 East Bay Drive, Largo, FL 33770.
3. December 10, 2020, 12 p.m.–4 p.m., Hampton Inn, 1651 Fifth Street, Harvey, LA 70058.

Registration

To register for a scheduled Atlantic Shark Identification Workshop, please contact Eric Sander at ericssharkguide@yahoo.com or at (386) 852-8588. Pre-registration is highly recommended, but not required.

Registration Materials

To ensure that workshop certificates are linked to the correct permits, participants will need to bring the following specific items to the workshop:

- Atlantic shark dealer permit holders must bring proof that the attendee is an owner or agent of the business (such as articles of incorporation), a copy of the applicable permit, and proof of identification.
- Atlantic shark dealer proxies must bring documentation from the permitted dealer acknowledging that the proxy is attending the workshop on behalf of the permitted Atlantic shark dealer for a specific business location, a copy of the appropriate valid permit, and proof of identification.

Workshop Objectives

The Atlantic Shark Identification Workshops are designed to reduce the number of unknown and improperly identified sharks reported in the dealer reporting form and increase the accuracy of species-specific dealer-

reported information. Reducing the number of unknown and improperly identified sharks will improve quota monitoring and the data used in stock assessments. These workshops will train shark dealer permit holders or their proxies to properly identify Atlantic shark carcasses.

Safe Handling, Release, and Identification Workshops

Since January 1, 2007, shark limited-access and swordfish limited-access permit holders who fish with longline or gillnet gear have been required to submit a copy of their Safe Handling, Release, and Identification Workshop certificate in order to renew either permit (71 FR 58057; October 2, 2006). These certificate(s) are valid for 3 years. Certificates issued in 2017 will be expiring in 2020. As such, vessel owners who have not already attended a workshop and received a NMFS certificate, or vessel owners whose certificate(s) will expire prior to the next permit renewal, must attend a workshop to fish with, or renew, their swordfish and shark limited-access permits. Additionally, new shark and swordfish limited-access permit applicants who intend to fish with longline or gillnet gear must attend a Safe Handling, Release, and Identification Workshop and submit a copy of their workshop certificate before either of the permits will be issued. Approximately 350 free Safe Handling, Release, and Identification Workshops have been conducted since 2006.

In addition to certifying vessel owners, at least one operator on board vessels issued a limited-access swordfish or shark permit that uses longline or gillnet gear is required to attend a Safe Handling, Release, and Identification Workshop and receive a certificate. Vessels that have been issued a limited-access swordfish or shark permit and that use longline or gillnet gear may not fish unless both the vessel owner and operator have valid workshop certificates onboard at all times. Vessel operators who have not already attended a workshop and received a NMFS certificate, or vessel operators whose certificate(s) will expire prior to their next fishing trip, must attend a workshop to operate a vessel with swordfish and shark limited-access permits that uses longline or gillnet gear.

Workshop Dates, Times, and Locations

1. October 8, 2020, 9 a.m.–5 p.m., Holiday Inn, 3384 Ocean Drive, Vero Beach, FL 32963.

2. October 22, 2020, 9 a.m.–5 p.m., Embassy Suites, 9000 Bartram Avenue, Philadelphia, PA 19153,

3. November 5, 2020, 9 a.m.–5 p.m., Hilton Garden Inn, 5353 North Virginia Dare Trail, Kitty Hawk, NC 27949.

4. November 20, 2020, 9 a.m.–5 p.m., Holiday Inn, 99701 Overseas Highway, Key Largo, FL 33037.

5. December 8, 2020, 9 a.m.–5 p.m., Hilton Hotel, 901 Airline Drive, Kenner, LA 70062.

6. December 17, 2020, 9 a.m.–5 p.m., Hampton Inn, 230 Lee Burbank Highway, Revere, MA 02151.

Registration

To register for a scheduled Safe Handling, Release, and Identification Workshop, please contact Angler Conservation Education at (386) 682–0158. Pre-registration is highly recommended, but not required.

Registration Materials

To ensure that workshop certificates are linked to the correct permits, participants will need to bring the following specific items with them to the workshop:

- Individual vessel owners must bring a copy of the appropriate swordfish and/or shark permit(s), a copy of the vessel registration or documentation, and proof of identification;
- Representatives of a business-owned or co-owned vessel must bring proof that the individual is an agent of the business (such as articles of incorporation), a copy of the applicable swordfish and/or shark permit(s), and proof of identification; and
- Vessel operators must bring proof of identification.

Workshop Objectives

The Safe Handling, Release, and Identification Workshops are designed to teach longline and gillnet fishermen the required techniques for the safe handling and release of entangled and/or hooked protected species, such as sea turtles, marine mammals, smalltooth sawfish, Atlantic sturgeon, and prohibited sharks. In an effort to improve reporting, the proper identification of protected species and prohibited sharks will also be taught at these workshops. Additionally, individuals attending these workshops will gain a better understanding of the requirements for participating in these fisheries. The overall goal of these workshops is to provide participants with the skills needed to reduce the mortality of protected species and prohibited sharks, which may prevent

additional regulations on these fisheries in the future.

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

Dated: August 19, 2020.

Jennifer M. Wallace,

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

[FR Doc. 2020–18520 Filed 8–21–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA407]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The North Pacific Fishery Management Council (Council) Groundfish Plan Teams will meet via webconference September 8, 2020 through September 11, 2020.

DATES: The meetings will be held on Tuesday, September 8, 2020, from 8 a.m. to 4 p.m.; Wednesday, September 9, 2020, from 8 a.m. to 4 p.m.; and Thursday, September 10, 2020, from 8 a.m. to 4 p.m., Alaska Time. If necessary, the meetings will continue into Friday, September 11, 2020.

ADDRESSES: The meeting will be a webconference. Join online through the link at <https://meetings.npfmc.org/Meeting/Details/1563>.

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave, Anchorage, AK 99501–2252; telephone: (907) 271–2809. Instructions for attending the meeting are given under **SUPPLEMENTARY INFORMATION**, below.

FOR FURTHER INFORMATION CONTACT: Sara Cleaver, Council staff; email: sara.cleaver@noaa.gov. For technical support please contact our administrative staff; email: npfmc.admin@noaa.gov.

SUPPLEMENTARY INFORMATION:

Agenda

Tuesday, September 8, 2020

The BSAI and GOA Groundfish Plan Teams will meet to review and discuss issues of importance to both Plan Teams, including but not limited to: Observer Program updates, ecosystem status reports and surveys, the longline survey, Ecological and Socioeconomic

Profiles (ESPs), the Economic Stock assessment and Fishery Evaluation (SAFE), Essential Fish Habitat (EFH), VAST applications, survey loss uncertainty and survey prioritization.

Wednesday, September 9, 2020

The BSAI Groundfish Plan Team will review stock assessment updates and reports on EBS pollock, BSAI Pacific cod and the Northern Bering Sea Pacific cod tagging project, Blackspotted/Rougheye rockfish, Northern rock sole, and Yellowfin sole.

Thursday, September 10, 2020

The GOA Groundfish Plan Team will review stock assessment updates and reports on GOA pollock, Pacific cod, Pacific Ocean perch, and survey optimization. The agenda is subject to change, and the latest version will be posted at <https://meetings.npfmc.org/Meeting/Details/1563> prior to the meeting, along with meeting materials.

Connection Information

You can attend the meeting online using a computer, tablet, or smart phone; or by phone only. Connection information will be posted online at: <https://meetings.npfmc.org/Meeting/Details/1563>.

Public Comment

Public comment letters should be submitted electronically to <https://meetings.npfmc.org/Meeting/Details/1563>.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests should be directed to Shannon Gleason at (907) 903-3107 at least 7 working days prior to the meeting date.

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

Dated: August 18, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020-18485 Filed 8-21-20; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XA369]

Fisheries of the South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meetings

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

ACTION: Notice of scheduled SEDAR 73 South Atlantic Red Snapper Data Webinar.

SUMMARY: The SEDAR 73 assessment of the South Atlantic stock of Red Snapper will consist of a Data webinar, an in-person workshop, and a series of assessment webinars.

DATES: The SEDAR 73 South Atlantic Red Snapper Data Webinar has been scheduled for Wednesday September 9, 2020, from 9 a.m. to 12 p.m. EDT.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Registration is available online at: <https://attendee.gotowebinar.com/register/3996526164054126862>.

SEDAR address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405; www.sedarweb.org.

FOR FURTHER INFORMATION CONTACT:

Kathleen Howington, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: (843) 573-4373; email: Kathleen.Howington@safmc.net.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions, have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three-step process including: (1) Data Workshop; (2) Assessment Process utilizing webinars; and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office,

Highly Migratory Species Management Division, and Southeast Fisheries Science Center. Participants include: Data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion at the SEDAR 73 South Atlantic Red Snapper Data Webinar are as follows:

- Identify and discuss data issues

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the South Atlantic Fishery Management Council office (see **ADDRESSES**) at least 5 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: August 18, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020-18483 Filed 8-21-20; 8:45 am]

BILLING CODE 3510-22-P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC-2006-0057]

Notice of Availability: Revisions to the Plan Documented in NIST Technical Note 2048: Simulation and Analysis Plan To Evaluate the Impact of CO Mitigation Requirements for Portable Generators

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of availability.

SUMMARY: In July 2019, the Consumer Product Safety Commission (CPSC) announced the availability of, and

sought public comment on, a document related to CPSC's efforts to address carbon monoxide poisoning hazards from portable generators: NIST Technical Note 2048: *Simulation and Analysis Plan to Evaluate the Impact of CO Mitigation Requirements for Portable Generators* (NIST TN 2048). The CPSC is announcing the availability of "Revisions to the Plan Documented in NIST Technical Note 2048: *Simulation and Analysis Plan to Evaluate the Impact of CO Mitigation Requirements for Portable Generators*," a memorandum documenting CPSC staff's revisions to the plan in NIST TN 2048, resulting from CPSC and National Institute of Standards and Technology (NIST) staffs' review and analysis of public comments on the plan.

ADDRESSES: "Revisions to the Plan Documented in NIST Technical Note 2048: *Simulation and Analysis Plan to Evaluate the Impact of CO Mitigation Requirements for Portable Generators*," is available on the CPSC website at: <https://www.cpsc.gov/Research-Statistics/Injury-Statistics#portable-generators-and-engine-driven-tools>. The document will also be made available through the Federal eRulemaking Portal at <https://www.regulations.gov>, under Docket No. CPSC-2006-0057, Supporting and Related Materials. Copies are also available from the Consumer Product Safety Commission, Division of the Secretariat, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone: 301-504-7479; email cpsc-os@cpsc.gov.

FOR FURTHER INFORMATION CONTACT: Janet Buyer, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone: 301-987-2293; email: jbuyer@cpsc.gov.

SUPPLEMENTARY INFORMATION: The CPSC is engaged in an ongoing effort to address carbon monoxide (CO) poisonings of consumers from portable generators.¹ NIST staff and CPSC staff

developed a plan that would enable CPSC staff to estimate the effectiveness of CO-mitigation requirements adopted in two voluntary standards in 2018: *ANSI/PGMA G300-2018, Safety and Performance of Portable Generators* (PGMA G300) and *ANSI/UL 2201-2018, Carbon Monoxide (CO) Emission Rate of Portable Generators* (UL 2201). PGMA G300 has requirements for a system that will shut off the generator when specific CO concentrations are present near the generator, as well as notification requirements to alert the user to the presence of CO after the generator has shut off. UL 2201 has requirements for a system that will shut off the generator when specific CO concentrations are present near the generator and a requirement for a reduced CO emission rate.

NIST TN 2048 is intended to provide a reasonable test of how generators complying with each standard operate in a wide range of conditions. In July 2019, the Commission announced the availability of, and sought public comment on, NIST TN 2048 (84 FR 32729 (July 9, 2010)). On August 8, 2019, CPSC staff hosted a public meeting to allow interested parties to ask clarifying questions about information in NIST TN 2048, to assist the interested parties in providing their comments.² NIST TN 2048 is available on NIST's website at: <http://dx.doi.org/10.6028/NIST.TN.2048>, and from the Commission's Division of the Secretariat, at the location listed in the **ADDRESSES** section of this notice.

Four sets of comments were submitted into the docket on [regulations.gov](https://www.regulations.gov) in response to the Notice of Availability of NIST TN 2048.³ The purpose of CPSC staff's memorandum, "Revisions to the Plan Documented in NIST Technical Note 2048: *Simulation and Analysis Plan to*

² U.S. Consumer Product Safety Commission Log of Meeting, dated August 8, 2019. Available online at: <https://www.cpsc.gov/s3fs-public/2019-8-8%20%20Public%20Meeting%20to%20Answer%20Clarifying%20Questions%20on%20NIST%20TN%202048.pdf?wcYot3.N1c5yJ686gJjiRPNaPOteO118>.

³ The comments are available online at: www.regulations.gov, under docket CPSC-2006-0057.

Evaluate the Impact of CO Mitigation Requirements for Portable Generators," is to document staff's revisions to NIST TN 2048 resulting from CPSC and NIST staffs' review and analysis of the comments. CPSC staff's memorandum is available at: <https://www.cpsc.gov/Research-Statistics/Injury-Statistics#portable-generators-and-engine-driven-tools>, at: <https://www.regulations.gov>, under Docket No. CPSC-2006-0057, Supporting and Related Materials, and from the Commission's Division of the Secretariat. Staff is working with NIST to execute the revised simulation plan.

Alberta E. Mills,
Secretary, Consumer Product Safety Commission.

[FR Doc. 2020-18497 Filed 8-21-20; 8:45 am]

BILLING CODE 6355-01-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 20-27]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Arms sales notice.

SUMMARY: The Department of Defense is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Karma Job at karma.d.job.civ@mail.mil or (703) 697-8976.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 20-27 with attached Policy Justification and Sensitivity of Technology.

Dated: August 11, 2020.

Aaron T. Siegel,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001-06-P

¹ On November 21, 2016, the Commission published a notice of proposed rulemaking (NPRM) to address the CO hazard associated with portable generators. (*Safety Standard for Portable Generators*, 81 FR 83,556).



DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, SUITE 101
ARLINGTON, VA 22202-5408

July 6, 2020

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 20-40 concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Government of France for defense articles and services estimated to cost \$2 billion. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hooper
Lieutenant General, USA
Director

Enclosures:

1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 5001-06-C

Transmittal No. 20-27

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Indonesia

(ii) *Total Estimated Value:*

Major Defense Equipment*	\$.8 billion
Other	\$1.2 billion
TOTAL	\$2.0 billion

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):
Eight (8) MV-22 Block C Osprey Aircraft

Non-MDE:

Twenty-four (24) AE 1107C Rolls Royce Engines; twenty (20) AN/AAQ-27 Forward Looking InfraRed Radars; twenty (20) AN/AAR-47

Missile Warning Systems; twenty (20) AN/APR-39 Radar Warning Receivers; twenty (20) AN/ALE-47 Countermeasure Dispenser Systems; twenty (20) AN/APX-117 Identification Friend or Foe Systems (IFF); twenty (20) AN/APN-194 Radar Altimeters; twenty (20) AN/ARN-147 VHF OmniDirectional Range (VOR) Instrument Landing System (ILS) Beacon Navigation Systems; forty (40) ARC-210 629F-23 Multi-Band Radios (Non-COMSEC); twenty (20) AN/ASN-163 Miniature Airborne Global Positioning System (GPS) Receivers (MAGR); twenty (20) AN/ARN-153 Tactical Airborne Navigation Systems; twenty (20) Traffic Collision Avoidance Systems (TCAS II); twenty (20) M-240-D 7.64mm Machine Guns; twenty (20) GAU-21 Machine Guns; Joint Mission Planning Systems

(JMPS) with unique planning components; publications and technical documentation; aircraft spares and repair parts; repair and return; aircraft ferry services; tanker support; support and test equipment; personnel training and training equipment; software; U.S. Government and contractor engineering, logistics, and technical support services; and other elements of technical and program support.

(iv) *Military Department:* Navy (ID-P-SAI)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex.

(viii) *Date Report Delivered to Congress:* July 6, 2020

*As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Indonesia – MV-22 Block C Osprey Aircraft

The Government of Indonesia has requested to buy eight (8) MV-22 Block C Osprey aircraft. Also included are twenty-four (24) AE 1107C Rolls Royce Engines; twenty (20) AN/AAQ-27 Forward Looking InfraRed Radars; twenty (20) AN/AAR-47 Missile Warning Systems; twenty (20) AN/APR-39 Radar Warning Receivers; twenty (20) AN/ALE-47 Countermeasure Dispenser Systems; twenty (20) AN/APX-117 Identification Friend or Foe Systems (IFF); twenty (20) AN/APN-194 Radar Altimeters; twenty (20) AN/ARN-147 VHF OmniDirectional Range (VOR) Instrument Landing System (ILS) Beacon Navigation Systems; forty (40) ARC-210 629F-23 Multi-Band Radios (Non-COMSEC); twenty (20) AN/ASN-163 Miniature Airborne Global Positioning System (GPS) Receivers (MAGR); twenty (20) AN/ARN-153 Tactical Airborne Navigation Systems; twenty (20) Traffic Collision Avoidance Systems (TCAS II); twenty (20) M-240-D 7.64mm Machine Guns; twenty (20) GAU-21 Machine Guns; Joint Mission Planning Systems (JMPS) with unique planning components; publications and technical documentation; aircraft spares and repair parts; repair and return; aircraft ferry services; tanker support; support and test equipment; personnel training and training equipment; software; U.S. Government and contractor engineering, logistics, and technical support services; and other elements of technical and program support. The estimated total cost is \$2.0 billion.

This proposed sale will support the foreign policy goals and national security objectives of the United States by improving the security of an important regional partner that is a force for political stability, and economic progress in the Asia-Pacific region. It is vital to U.S. national interest to assist Indonesia in developing and maintaining a strong and effective self-defense capability.

The proposed sale of aircraft and support will enhance Indonesia's humanitarian and disaster relief capabilities and support amphibious operations. This sale will promote burden sharing and interoperability with U.S. Forces. Indonesia is not expected to have any difficulties absorbing these aircraft into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractors will be Bell Textron Inc., Amarillo, Texas and The Boeing Company, Ridley Park, Pennsylvania. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require travel by the U.S. Government personnel and contractor representatives to Indonesia on a temporary basis to provide program technical support and program management oversight.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 20–27

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The MV-22 Osprey is a U.S.-military, multi-mission, Tilt-Rotor aircraft with both a Vertical Takeoff and Landing (VTOL) and Short Takeoff and Landing (STOL) capability. It is designed to combine the functionality of a conventional helicopter with the long-range, high-speed cruise performance of a turboprop aircraft.

2. The AN/AAQ-27A Forward Looking InfraRed (FLIR) is a third-generation, mid-wavelength infrared (MWIR) imaging system that allows aircrews to see through darkness, smoke, haze, and adverse weather. The system incorporates a state-of-the-art MWIR indium-antimonide (InSb) staring focal plane array with 480 x 640 detector elements. It has demonstrated superb image quality and range performance using non-developmental, in-production components to provide higher resolution imagery than current long wavelength infrared systems.

3. The AN/APR-39 Radar Warning Receiver (RWR) System monitors the environment for pulsed radar signals, characterizes and identifies them, and alerts the crew to the existence of emitters. The AN/APR-39 contributes to full-dimensional protection by improving individual aircraft probability of survival through improved aircrew situational awareness of the electromagnetic threat environment. These systems have specific aircraft applications providing varying levels and types of warning to allow aircrews to initiate evasive maneuvers or deploy active countermeasures.

4. The AN/ALE-47 Countermeasure Dispenser System (CMDS) is an Electronic Warfare (EW) System providing combat aircrews with enhanced survivability in all threat environments. This on-board, self-protection capability stems from the integration of RWR hardware with a system for the dispensing of expendable countermeasures. The AN/ALE47 CMDS provides the aircrew with a “smart” countermeasure dispensing system, allowing the aircrew to optimize the countermeasures employed against anti-aircraft threats. The systems consists of five major components and several sub-components.

5. The AN/AAR-47 is an Electronic Warfare (EW) system designed to protect aircraft against Infrared-Guided (IR) missile threats, laser-guided/laser-aided threats, and unguided munitions. Upon detection of the threat, the system will provide an audio and visual sector warning to the pilot. For IR missile threats, the system automatically initiates countermeasures by sending a command signal to the CMDS. The AN/AAR-47 includes sensor pre-processing for improved performance in high-clutter environments.

6. AN/APX-117 is a commercially available Identification Friend or Foe (IFF) transponder that incorporates all of the advanced features required in today's global military and civil air traffic control environments. The transponder's open-system architecture design and high-density field-programmable gate array technology ensures ongoing versatility and future utility through software growth, without the risk and cost associated with hardware modifications. The AN/APX-117 supports IFF modes 1, 2, 3/A, C. It is Automatic Dependent Surveillance – Broadcast (ADS-B) compliant and is compatible with Multifunctional Information Distribution System (MIDS) and Joint Tactical Information Distribution System (JTIDS).

7. The AN/ARN-153 is a full-featured Tactical Air Navigation (TACAN) system capable of supporting the operational requirements of high performance aircraft in a lightweight compact design. The AN/ARN-153 supports four modes of operation: receive mode; transmit-receive mode; air-to-air receive mode; and air-to-air transmit-receive mode.

8. The AN/ARN-147 systems combines all Very High Frequency (VHF) Omni Ranging/Instrument Landing System (VOR/ILS) functions into once compact, lightweight, low-cost set. It is the first militarized VHF navigation receiver to provide optional internal MIL-STD-15538 capability. The

solid-state system is MIL-E-5400 class II qualified and meets international operability requirements by providing 50-kHz channel spacing for 160-VOR and 40-localizer/glideslope channels. Digital and analog outputs of the AN/ARN-147 ensure compatibility with high-performance flight control systems and both digital and analog instruments. Modular construction techniques give quick access to all cards and modules to reduce repair time.

9. The AN/ARC-210 629F-23 (non-COMSEC) multimode integrated communication system is designed to provide multimode voice and data communications in either normal or jam-resistant modes in line-of-sight mode. The system is capable of establishing 2-way communication links over the 30 to 512MHz frequency range in tactical aircraft environments.

10. The AN/APN-194 Radar Altimeter Receiver-Transmitter is a high-resolution device which measures altitude from 0 to 5,000 feet Above Ground Level (AGL). The radar altimeter measures the time (analogous to distance) required for a pulse of electromagnetic energy to travel from the aircraft to the ground and back to the aircraft. The AN/APN-194 employs a narrow-pulse transmission in the C-band range with leading edge tracking of the echo pulse. Altitude range information is obtained by comparing the received echo pulse with a timed ramp voltage generated simultaneously with the transmitted pulse. The output of the AN/APN-194 is fed into the autopilot of the target to control the altitude of low-flying targets.

11. The AN/ASN-163 is a 5-channel Miniature Airborne GPS Receiver (MAGR) that provides Over-The-Horizon and secure navigation capabilities using satellite information.

12. The M240 Machine Gun (7.62mm) is a defensive weapon system used to support troop insertion and medical evacuation missions.

13. The Joint Mission Planning System (JMPS) is a PC-based common approach for aircraft mission planning. It is a system of common and host-platform-unique mission planning applications for Navy and Marine Corps aircraft. Using a “building block” approach, developers integrate and assemble a JMPS Mission Planning Environment (MPE) from a set of software sub-components to meet the needs of a particular aircraft type. An MPE consists of a framework, one or more common components/federated applications, and a Unique Planning Component (UPC). The foundation of an MPE is the framework, which allows the host operating system to interface and interact with the MPE. The second level of an MPE consists of the common components and/or federated applications; these applications provide functionality that is common to multiple aircraft platforms (i.e. weather or GPS munitions). The final level of software is the UPC, which provides platform-specific functionality and integrates the common components functions and the framework interface to produce the overall mission planning software environment for the platform. When bundled, the three levels of software become an MPE that is specific to a single aircraft type. Depending on the aircraft model, a JMPS MPE might operate on a stand-alone, locally networked, or domain controlled, or a mixture of all three operating environments.

14. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

15. If a technologically advanced adversary were to obtain knowledge of the hardware and software elements, the information could be used to develop countermeasures or equivalent systems which might reduce system effectiveness or be used in the

development of a system with similar or advanced capabilities.

16. A determination has been made that the Government of Indonesia can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

17. All defense articles and services listed in this transmittal have been authorized for release and export to Indonesia.

[FR Doc. 2020-18478 Filed 8-21-20; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 20-33]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Arms sales notice.

SUMMARY: The Department of Defense is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Karma Job at karma.d.job.civ@mail.mil or (703) 697-8976.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 20-33 with attached Policy Justification and Sensitivity of Technology.

Dated: August 12, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001-06-P



DEFENSE SECURITY COOPERATION AGENCY
 201 12TH STREET SOUTH, SUITE 101
 ARLINGTON, VA 22202-5408

July 27, 2020

The Honorable Nancy Pelosi
 Speaker of the House
 U.S. House of Representatives
 H-209, The Capitol
 Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 20-33 concerning the Air Force's proposed Letter(s) of Offer and Acceptance to the Government of the Netherlands for defense articles and services estimated to cost \$39 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hooper
 Lieutenant General, USA
 Director

Enclosures:

1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 5001-06-C

Transmittal No. 20-33

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of the Netherlands

(ii) *Total Estimated Value:*

Major Defense Equipment *	\$38.0 million
Other	\$ 1.0 million
TOTAL	\$39.0 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):
 Sixteen (16) AIM-120C-8 Advanced Medium-Range Air-to-Air Missiles (AMRAAM)

Non-MDE:

Also included are containers, weapon systems support and support equipment, spare and repair parts, publications and technical documentation, U.S. Government and contractor engineering, logistics, and technical support services, and other related elements of logistics and program support

(iv) *Military Department:* Air Force (NE-D-YAG)

(v) *Prior Related Cases, if any:* NE-D-YAE

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* July 27, 2020

*As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

The Netherlands – AIM-120C-8 Advanced Medium Range Air-to-Air Missile (AMRAAM)

The Government of the Netherlands has requested to buy sixteen (16) AIM-120C-8 Advanced Medium Range Air-to-Air Missiles (AMRAAM). Also included are containers, weapon systems support and support equipment, spare and repair parts, publications and technical documentation, U.S. Government and contractor engineering, logistics, and technical support services, and other related elements of logistics and program support. The total estimated program cost is \$39 million.

This proposed sale will support the foreign policy and national security of the United States by helping to improve security of a NATO ally which is an important force for political stability and economic progress in Northern Europe.

The proposed sale will improve the Netherlands' capability to meet current and future threats by deterring regional threats, strengthen its homeland defense, and enable interoperability and standardization between the armed forces of the Netherlands and the United States. The Netherlands, which already maintains AMRAAM missiles, will have no difficulty absorbing this equipment and support into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Raytheon Missiles & Defense, Tucson, AZ. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to the Netherlands.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 20–33

Notice of Proposed Issuance of Letter of Offer

Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The AIM-120C-8 Advance Medium Range Air-to-Air Missile (AMRAAM) is a supersonic, air launched, aerial intercept, guided missile featuring digital technology and micro-miniature solid-state electronics. AMRAAM capabilities include look-down/shoot-down, multiple launches against multiple targets, resistance to electronic countermeasures, and interception of high- and low-flying and maneuvering targets. The AIM-120C-8 is a form, fit, function refresh of the AIM-120C-7 and is the next generation to be produced.

2. The highest level of classification of information included in this potential sale is SECRET.

3. If a technologically advanced adversary were to obtain knowledge of the hardware and software elements, the information could be used to develop countermeasures or equivalent systems which might reduce system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that the Netherlands can provide substantially the same degree of protection for the technology being released as the U.S. Government. This potential sale is necessary in furtherance of the U.S. foreign policy

and national security objectives as outlined in the Policy Justification.

5. All defense articles and services listed in this transmittal have been authorized for release and export to the Netherlands.

[FR Doc. 2020–18473 Filed 8–21–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 20–36]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Arms sales notice.

SUMMARY: The Department of Defense is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Karma Job at karma.d.job.civ@mail.mil or (703) 697–8976.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 20–36 with attached Policy Justification and Sensitivity of Technology.

Dated: August 11, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P



DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, SUITE 101
ARLINGTON, VA 22202-5408

JUL 07 2020

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 20-36 concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of Jordan for defense articles and services estimated to cost \$23 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hooper
Lieutenant General USA
Director

Enclosures:

1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Regional Balance (Classified document provided under separate cover)

BILLING CODE 5001-06-C

Transmittal No. 20-36

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Jordan

(ii) *Total Estimated Value:*

Major Defense Equipment*	\$19 million
Other	\$ 4 million
TOTAL	\$23 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* The Government of Jordan has requested to buy one (1) UH-60M Black Hawk Helicopter in standard U.S. Army configuration with standard Government Furnished Equipment (GFE).
Major Defense Equipment (MDE):

One (1) UH-60M Black Hawk aircraft
Two (2) T700-GE-701D engines
One (1) Common Missile Warning System

Non-MDE:

Also included is one (1) AN/APR-39 Radar Signal Detecting Set; one (1) AN/AVR-2B Laser Detecting Set; two (2) AN-ARC-231 Radios; two (2) AN-ARC-201D Radios; one (1) AN/APX-123A Identification Friend or Foe (IFF) Transponder; two (2) Embedded Global Positioning System with Inertial Navigation (EGIs); one (1) Common Missile Warning System User Data Module; Aviation Mission Planning System (AMPS); AMPS software development and support services; and other related elements of logistical, engineering, and program support.

(iv) *Military Department:* Army (JO-B-YEA)

(v) *Prior Related Cases, if any:*
(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None
(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex
(viii) *Date Report Delivered to Congress:* July 7, 2020

*As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Jordan – U-60M Black Hawk Helicopters

The Government of Jordan has requested to buy one (1) UH-60M Black Hawk helicopter in standard U.S. Army configuration with standard Government Furnished Equipment (GFE), including two (2) T700-GE-701D engines and one (1) Common Missile Warning System. Also included is one (1) AN/APR-39 Radar Signal Detecting Set; one (1) AN/AVR-2B Laser Detecting

Set; two (2) AN-ARC-231 Radios; two (2) AN-ARC-201D Radios; one (1) AN/APX-123A Identification Friend or Foe (IFF) Transponder; two (2) Embedded Global Positioning System with Inertial Navigation (EGIs); one (1) Common Missile Warning System User Data Module; Aviation Mission Planning System (AMPS); AMPS software development and support services; and other related elements of logistical, engineering, and program support. The estimated total cost is \$23 million.

This proposed sale will support the foreign policy and national security of the United States by helping to improve the security of a Major Non-NATO Ally that is an important force for political stability and economic progress in the Middle East.

The UH-60M will supplement Jordan's existing Royal Squadron fleet of Black Hawk helicopters and be used to facilitate the movement of the Jordanian Royal Family in a safe and efficient manner. Jordan already has the UH-60M capability and will have no difficulty absorbing this equipment and services into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractors will be Sikorsky Aircraft Company, Stratford, CT and General Electric Aircraft Company, Lynn, MA. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Jordan.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 20–36

Notice of Proposed Issuance of Letter of Offer

Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The UH-60M Black Hawk is an assault/utility helicopter. The UH-60M weapon system contains communications and identification equipment, navigation equipment, aircraft survivability equipment, displays, and sensors.

2. The AN/APR-39 Radar Signal Detecting Set is a system that provides warning of a radar directed air defense threat to allow appropriate countermeasures. This configuration is 1553 data bus compatible.

3. The AN/AVR-2B Laser Warning Set is a passive laser warning system that receives, processes, and displays threat information resulting from aircraft illumination by lasers on a multi-functional display.

4. The AN-ARC-231 is an airborne Very High Frequency/Ultra High Frequency (VHF/UHF) Line-of-Sight (LOS) and Demand Assigned Multiple Access (DAMA) satellite communications (SATCOM) system. The ARC-231 provides airborne, multi-band, multi-mission, secure anti-jam voice, data, and imagery network capable communications in a compact radio set.

5. The AN-ARC-201D Single Channel Ground and Airborne Radio System (SINCGARS) is a tactical airborne radio subsystem that provides secure, anti-jam voice and data communication.

6. The AAR-57(V) Common Missile Warning System (CMWS) detects threat missiles in flight, evaluates potential false alarms, declares validity of threat, and selects appropriate Infrared Countermeasures (IRCM). The system includes Electro-Optical Missile Sensors, an Electronic Control Unit (ECU), Sequencer, and Improved Countermeasures Dispenser (ICMD).

7. Embedded Global Positioning/Inertial Navigation (EGI) System provides Global Positioning System (GPS) and Inertial Navigation System (INS) capabilities to the aircraft. The EGI includes Selective Availability Anti-Spoofing Module (SAASM) security modules to be used for secure GPS Precise Positioning Service (PPS), if required.

8. The AN/APX-123A Identification Friend or Foe (IFF) Transponder is a space diversity transponder and is installed on various military platforms. When installed in conjunction with platform antennas and the Remote Control Unit (or other appropriate control unit), the transponder provides identification, altitude, and surveillance reporting in response to interrogations from airborne, ground-based and/or surface interrogators.

9. The Common Missile Warning System (CMWS) User Data Module (UDM) is a removable Personal Computer Memory Card International Association (PCMCIA) module that is installed in the UDM housing on the CMWS ECU. The UDM contains the Operational Flight Program (OFP), aircraft, threat/countermeasure file library, and mission specific information used in the embedded system.

10. The Aviation Mission Planning System (AMPS) is a hardware and software solution that provides state of

the art mission planning tools to enhance situational awareness, command and control, and safety of aircraft pilots and aviation commanders. The system provides a suite of applications that allow users to perform task such as plot flight path waypoints, compute distance and fuel requirements, calculate aircraft configuration against weight and balance limits and perform flight safety validations, and generate briefing materials or pilot information kits.

11. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

12. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

13. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification. A determination has been made that Jordan can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government.

14. All defense articles and services listed in this transmittal have been authorized for release and export to Jordan.

[FR Doc. 2020–18476 Filed 8–21–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 20–40]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Arms sales notice.

SUMMARY: The Department of Defense is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Karma Job at karma.d.job.civ@mail.mil or (703) 697–8976.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 20–40 with attached Policy Justification and Sensitivity of Technology.

Dated: August 11, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison
Officer, Department of Defense.

BILLING CODE 5001-06-P



DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, SUITE 101
ARLINGTON, VA 22202-5408

July 6, 2020

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 20-27 concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Government of Indonesia for defense articles and services estimated to cost \$2.0 billion. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hooper
Lieutenant General, USA
Director

Enclosures:

1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 5001-06-C

Transmittal No. 20-40

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of France

(ii) *Total Estimated Value:*

Major Defense Equipment *	\$1.3 billion
Other	\$.7 billion
Total	\$2.0 billion

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):
Three (3) E-2D Advanced Hawkeye Aircraft
Ten (10) T-56-427A engines (6 installed and 4 spares)
Three (3) AN/APY-9 Radar Assemblies
Four (4) AN/ALQ-217 Electronic Support Measure systems (3 installed and 1 spare)
Three (3) AN/AYK-27 Integrated Navigation Channels and Display Systems
Five (5) Link-16 (MIDS-JTRS) Communications Systems (3 installed and 2 spares)
Ten (10) Embedded GPS/INS (EGI) Devices (6 installed and 4 spares)

Four (4) AN/APX-122(A) and AN/APX-123(A) Identification, Friend or Foe systems (3 installed and 1 spare)

One (1) Joint Mission Planning System

Non-MDE:

Also included are Common Systems Integration Laboratories with/Test Equipment, one in Melbourne, FL, and the other in France; air and ground crew equipment; support equipment; spare and repair parts; publications and technical documentation; transportation; training and training equipment; U.S. Government and contractor

logistics, engineering, and technical support services; and other related elements of logistics and program support

(iv) *Military Department: Navy (FR-P-SBM)*

(v) *Prior Related Cases, if any: FR-P-GXJ*

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None*

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Attached Annex*

(viii) *Date Report Delivered to Congress: July 6, 2020*

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

France—E-2D Advanced Hawkeye Aircraft, Spares and Support Equipment

The Government of France requests to buy three (3) E-2D Advanced Hawkeye Aircraft, ten (10) T-56-427A engines (6 installed and 4 spares), three (3) AN/APY-9 radar assemblies, four (4) AN/ALQ-217 electronic support measure systems (3 installed and 1 spare), three (3) AN/AYK-27 Integrated Navigation Channels and Display Systems, five (5) Link-16 (MIDS-JTRS) Communications Systems (3 installed and 2 spares), ten (10) Embedded GPS/INS (EGI) Devices (6 installed and 4 spares), four (4) AN/APX-122(A) and AN/APX-123(A) Identification, Friend or Foe systems (3 installed and 1 spare) and one (1) Joint Mission Planning System. Also included are Common Systems Integration Laboratories with/Test Equipment, one in Melbourne, FL, and the other in France; air and ground crew equipment; support equipment; spare and repair parts; publications and technical documentation; transportation; training and training equipment; U.S. Government and contractor logistics, engineering, and technical support services; and other related elements of logistics and program support. The total estimated program cost is \$2 billion.

This proposed sale will support the foreign policy and national security of the United States by helping to improve security of a NATO ally which is an important force for political stability and economic progress in Europe.

The proposed sale will improve France's capability to meet current and future threats by providing its Naval Air Forces with a sustainable follow on capability to their current, legacy E-2C Hawkeye aircraft. The E-2D aircraft will continue and expand French naval aviation capabilities and maintain interoperability with U.S. naval forces.

As a current E-2C operator, France will have no difficulty absorbing this equipment and support into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Northrop Grumman Systems Corp, Aerospace Systems, Melbourne, FL. There are no known offset agreements proposed in connection with this potential sale. Any offset agreement will be defined in negotiations between the Purchaser and the prime contractor.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to France.

There will be no adverse impact on U.S. defense readiness resulting from this proposed sale.

Transmittal No. 20-40

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The E-2D Airborne Early Warning Aircraft is a carrier based command and control aircraft. The E-2D Airborne Early Warning Aircraft provides command and control capability as well as sea and air surveillance for naval forces.

2. The Multifunctional Information Distribution System (MIDS) Joint Tactical Radio System V (JTRS-5) is a Command, Control, Communications, Computing and Intelligence (C4I) system for the exchange of near real-time tactical information. MIDS JTRS provides Link 16 and TACAN functionalities providing information, both data and voice, across the network to air, ground, and maritime elements.

3. The AN/AYK-27 Integrated Navigation Channels and Display System (INCDS) is a navigation and communication system used for internal aircrew communication as well as operational alert and messaging display. The AN/AYK-27 INCDS provides internal communications between the five crew members and interfaces with the radio and selected navigation systems.

4. The LN-251 Embedded Global Positioning System (GPS) Inertial Navigation System (INS) (EGI) is a navigation system accurate global positioning information. The LN-251 EGI provides both satellite and inertial position information used for aircraft navigation and tracking

5. The AN/APY-9 Airborne Early Warning (AEW) Radar Group is an all-weather, airborne early warning radar designed to detect small, highly maneuverable targets in the dense littoral and overland environments. The AN/APY-9 AEW Radar Group provides enhanced airborne command and control and expanded surveillance capabilities.

6. The AN/ALQ-217 Electronic Support Measures (ESM) system is a passive detection system used to identify and locate Radio Frequency (RF) signals. The AN/ALQ-217 ESM System provides autonomous detection and identification of RF emissions.

7. The AN/ARC-210 RT-1939A(C) Radio is a Very High Frequency (VHF) and Ultra High Frequency (UHF) two-way radio providing voice and data communication. The AN/ARC-210 RT-1939A(C) Radio provides two-way, multi-mode voice and data communications across VHF and UHF frequencies as well as satellite communication.

8. The AN/APX-122A Identification Friend or Foe (IFF) Interrogator is a cooperative airborne interrogator capable of detecting military and civilian transponders. The AN/APX-122A IFF Interrogator provides target identification of both civilian and military targets via standardized interrogation modes.

9. The AN/APX-123A (V) Identification Friend or Foe (IFF) Transponder is a cooperative transponder capable of providing ownship IFF data to available IFF interrogators. The AN/APX-123A (V) IFF Transponder provides ownship information inclusive of craft identification data as well as altitude.

10. The Joint Mission Planning System (JMPS) and Mission Planning Environment (MPE) is a software system that provides aircrews with well-structured automated flight planning tools for aircraft, weapons, and sensors. The JMPS MPE system provides the information, automated tools, and decision aids needed to plan aircraft, weapon, and sensor missions rapidly and accurately.

11. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

12. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

13. A determination has been made that France can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

14. All defense articles and services listed in this transmittal have been authorized for release and export to the France.

[FR Doc. 2020-18479 Filed 8-21-20; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 20-0H]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Arms sales notice.

SUMMARY: The Department of Defense is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT:

Karma Job at karma.d.job.civ@mail.mil or (703) 697-8976.

SUPPLEMENTARY INFORMATION: This 36(b)(5)(C) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 20-0H with attached Policy Justification.

Dated: August 11, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001-06-P



DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, SUITE 101
ARLINGTON, VA 22202-5408

July 6, 2020

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(5)(C) of the Arms Export Control Act (AECA), as amended, we are forwarding Transmittal No. 20-0H. This notification relates to enhancements or upgrades from the level of sensitivity of technology or capability described in the Section 36(b)(1) AECA certification 16-65 of December 2, 2016.

Sincerely,

Charles W. Hooper
Lieutenant General, USA
Director

Enclosures:

I. Transmittal

BILLING CODE 5001-06-C

Transmittal No. 20-0H

REPORT OF ENHANCEMENT OR UPGRADE OF SENSITIVITY OF TECHNOLOGY OR CAPABILITY (SEC. 36(B)(5)(C), AECA)

(i) *Prospective Purchaser:* Government of Finland

(ii) *Sec. 36(b)(1), AECA Transmittal No.:* 16-65

Date: December 2, 2016

Implementing Agency: Navy

(iii) *Description:* On December 2, 2016 Congress was notified, by Congressional certification transmittal number 16-65, of the possible sale, under Section 36(b)(1) of the Arms Export Control Act, to the Government of Finland of ninety

(90) Multifunctional Information Distribution System Joint Tactical Radio System (MIDS-JTRS) Variant(s). Also included were follow-on equipment and support for Finland's F/A-18 Mid-Life Upgrade (MLU) program including software test and integration center upgrades, flight testing, spare and repair parts, support and test equipment, transportation, publications and

technical documentation, personnel training and training equipment, U.S. Government and contractor technical and logistics support services, and other related elements of logistics support. The estimated cost was \$156 million. Major Defense Equipment (MDE) constituted \$57 million of this total.

This transmittal notifies inclusion of the following additional non-MDE items: U.S. program management, financial, logistics, engineering, training and transportation support; and the Common Unique Planning Component (CUPC)/Common Weapons Planning Environment (CWPE) software. The addition of these items will result in a net increase in non-MDE cost of \$60 million, resulting in a revised non-MDE cost of \$159 million. The total estimated case value will increase to \$216 million.

(iv) *Significance*: The proposed articles and services will support Finland's ability to maintain its F-18 weapons aircraft.

(v) *Justification*: This proposed sale will support the foreign policy and national security of the United States by improving the security of a trusted partner which is an important force for political stability and economic progress in Europe. It is vital to the U.S. national interest to assist Finland in developing and maintaining a strong and ready self-defense capability.

(vi) *Date Report Delivered to Congress*: July 6, 2020

[FR Doc. 2020-18475 Filed 8-21-20; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Department of the Navy

Certificate of Alternate Compliance for USS DANIEL INOUYE (DDG 118)

AGENCY: Department of the Navy, DoD.

ACTION: Notice of issuance of Certificate of Alternate Compliance.

SUMMARY: The U.S. Navy hereby announces that a Certificate of Alternate Compliance has been issued for USS DANIEL INOUYE (DDG 118). Due to the special construction and purpose of this vessel, the Deputy Assistant Judge Advocate General (DAJAG)(Admiralty and Maritime Law) has determined it is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with the navigation lights provisions of the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) without interfering with its special function as a naval ship. The intended effect of this notice is to warn mariners in waters where 72 COLREGS apply.

DATES: This Certificate of Alternate Compliance is effective August 24, 2020 and is applicable beginning July 30, 2020.

FOR FURTHER INFORMATION CONTACT: Lieutenant Martin Bunt, JAGC, U.S. Navy, Admiralty Attorney, Office of the Judge Advocate General, Admiralty and Maritime Law Division (Code 11), 1322 Patterson Ave. SE, Suite 3000, Washington Navy Yard, DC 20374-5066, 202-685-5040, or admiralty@navy.mil.

SUPPLEMENTARY INFORMATION: Background and Purpose. Executive Order 11964 of January 19, 1977 and 33 U.S.C. 1605 provide that the requirements of the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), as to the number, position, range, or arc of visibility of lights or shapes, as well as to the disposition and characteristics of sound-signaling appliances, shall not apply to a vessel or class of vessels of the Navy where the Secretary of the Navy shall find and certify that, by reason of special construction or purpose, it is not possible for such vessel(s) to comply fully with the provisions without interfering with the special function of the vessel(s). Notice of issuance of a Certificate of Alternate Compliance must be made in the **Federal Register**.

In accordance with 33 U.S.C. 1605, the DAJAG (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, hereby finds and certifies that USS DANIEL INOUYE (DDG 118) is a vessel of special construction or purpose, and that, with respect to the position of the following navigational lights, it is not possible to comply fully with the requirements of the provisions enumerated in the 72 COLREGS without interfering with the special function of the vessel:

Rule 23(a), the requirement to display a forward and aft masthead light underway; Annex I, paragraph 2(f)(i), pertaining to the placement of the masthead light or lights above and clear of all other lights and obstructions; Annex I, paragraph 3(a), pertaining to the horizontal distance between the forward and aft masthead lights; Rule 27(b)(i), requiring vessels restricted in their ability to maneuver to display three all-around lights in a vertical line where they can be seen; Annex I, paragraph 2(f)(ii), pertaining to the vertical position of the all-around lights in relation to the aft masthead light.

The DAJAG (Admiralty and Maritime Law) further finds and certifies that these navigational lights are in closest

possible compliance with the applicable provision of the 72 COLREGS.

Authority: 33 U.S.C. 1605(c), E.O. 11964

Approved: August 18, 2020.

D. J. Antenucci,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2020-18445 Filed 8-21-20; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2020-SCC-0084]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; William D. Ford Federal Direct Loan Program, Federal Direct PLUS Loan Request for Supplemental Information

AGENCY: Federal Student Aid, 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 September 23, 2020.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection request by selecting "Department of Education" under "Currently Under Review," then check "Only Show ICR for Public Comment" checkbox.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202-377-4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of

Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: William D. Ford Federal Direct Loan Program, Federal Direct PLUS Loan Request for Supplemental Information.

OMB Control Number: 1845–0103.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals or households.

Total Estimated Number of Annual Responses: 1,230,000.

Total Estimated Number of Annual Burden Hours: 615,000.

Abstract: The Federal Direct PLUS Loan Request for Supplemental Information serves as the means by which a parent or graduate/professional student Direct PLUS Loan applicant may provide certain information to a school that will assist the school in originating the borrower's Direct PLUS Loan award, as an alternative to providing this information to the school by other means established by the school.

This is a request for a revision of the currently approved form. The form was reorganized for improved usability and flow.

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. 2020–18458 Filed 8–21–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Notice of Request for Information (RFI) on FY 2021 Bioenergy Technologies Office Multi-Topics

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Request for information (RFI).

SUMMARY: The U.S. Department of Energy (DOE) invites public comment on its Request for Information (RFI) number DE–FOA–0002386 to help inform its Bioenergy Technologies Office's (BETO) research priorities and funding strategies. The purpose of this RFI is to solicit feedback from industry, academia, research laboratories, government agencies, and other stakeholders on issues related to residential wood heater technology advancement and bioprocessing separations development.

DATES: Responses to the RFI must be received by September 21, 2020.

ADDRESSES: Interested parties are to submit comments electronically to FY21MultiTopic@ee.doe.gov. Include "BETO Multi-Topic RFI" in the subject line of the email. Only electronic responses will be accepted. The complete RFI document is located at <https://eere-exchange.energy.gov/>.

FOR FURTHER INFORMATION CONTACT:

Questions may be addressed to FY21MultiTopic@ee.doe.gov or contact Josh Messner at 720–318–7385 or by email at joshua.messner@ee.doe.gov. Further instruction can be found in the RFI document posted on EERE Exchange.

SUPPLEMENTARY INFORMATION: The purpose of this RFI is to solicit feedback from industry, academia, research laboratories, government agencies, and other stakeholders on issues related to overcoming the technical barriers and challenges in the design of clean, efficient residential scale wood heaters and in bioprocessing separations development. EERE is specifically interested in information on the following areas:

Topic Area 1—Residential Wood Heater Technology Advancement: Identifying the critical technology gaps and resources required to significantly reduce emissions and improve efficiency of residential wood heaters.

Topic Area 2—Bioprocessing Separations Development: Identifying the critical technology gaps and research needs required to enable more efficient separations technologies spanning biochemical and thermochemical approaches.

Additional information is available in the full RFI. The RFI is available at: <https://eere-exchange.energy.gov/>.

Confidential Business Information

Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the

document marked "confidential" including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Signing Authority: This document of the Department of Energy was signed on August 14, 2020, by Michael Berube, Acting Director of the Bioenergy Technologies Office, Office of Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on August 18, 2020.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2020–18436 Filed 8–21–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC20–92–000.

Applicants: SR Snipesville, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act, et al. of SR Snipesville, LLC.

Filed Date: 8/17/20.

Accession Number: 20200817–5253.

Comments Due: 5 p.m. ET 9/8/20.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER15–1883–009; ER10–1852–043; ER10–1890–015; ER10–1951–025; ER10–1962–014; ER10–1989–015; ER11–2160–015; ER11–4462–046; ER11–4677–015; ER11–4678–015; ER12–2444–014; ER12–631–016; ER13–1991–014; ER13–

1992-014; ER13-2112-010; ER15-1016-008; ER15-1375-008; ER15-1418-009; ER15-2477-008; ER16-2443-005; ER16-632-007; ER16-90-008; ER16-91-009; ER17-2340-005; ER17-582-006; ER17-583-006; ER17-838-021.

Applicants: Adelanto Solar, LLC, Adelanto Solar II, LLC, Blythe Solar II, LLC, Blythe Solar 110, LLC, Desert Sunlight 250, LLC, Desert Sunlight 300, LLC, Florida Power & Light Company, FPL Energy Green Power Wind, LLC, FPL Energy, Montezuma Wind, LLC, Genesis Solar, LLC, Golden Hills Interconnection, LLC, Golden Hills North Wind, LLC, Golden Hills Wind, LLC, High Winds, LLC, McCoy Solar, LLC, NextEra Blythe Solar Energy Center, LLC, NextEra Energy Montezuma II Wind, LLC, NextEra Energy Marketing, LLC, NEPM II, LLC, NextEra Energy Services Massachusetts, LLC, North Sky River Energy, LLC, Shafter Solar, LLC, Sky River LLC, Vasco Winds, LLC, Westside Solar, LLC, Whitney Point Solar, LLC, Windpower Partners 1993, LLC.

Description: Notice of Change in Status of NextEra Entities, et al.

Filed Date: 8/17/20.

Accession Number: 20200817-5267.

Comments Due: 5 p.m. ET 9/8/20.

Docket Numbers: ER19-1488-001.

Applicants: Southern Indiana Gas and Electric Company.

Description: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.19a(b): Refund Report Southern Indiana Gas and Electric Company to be effective N/A.

Filed Date: 8/18/20.

Accession Number: 20200818-5121.

Comments Due: 5 p.m. ET 9/8/20.

Docket Numbers: ER20-6-001.

Applicants: Midcontinent

Independent System Operator, Inc.

Description: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.19a(b): Refund Report Alcoa Power Generating Inc. to be effective N/A.

Filed Date: 8/18/20.

Accession Number: 20200818-5117.

Comments Due: 5 p.m. ET 9/8/20.

Docket Numbers: ER20-80-001.

Applicants: Meadow Lake Wind Farm VI LLC.

Description: Report Filing: Refund Report Under Docket ER20-80 to be effective N/A.

Filed Date: 8/18/20.

Accession Number: 20200818-5063.

Comments Due: 5 p.m. ET 9/8/20.

Docket Numbers: ER20-2684-000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: Letter Agreement RE Garland A LLC SA No. 250 to be effective 8/18/2020.

Filed Date: 8/17/20.

Accession Number: 20200817-5215.

Comments Due: 5 p.m. ET 9/8/20.

Docket Numbers: ER20-2687-000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original WMPA, Service Agreement No. 5740; Queue No. AF2-272 to be effective 7/20/2020.

Filed Date: 8/18/20.

Accession Number: 20200818-5075.

Comments Due: 5 p.m. ET 9/8/20.

Docket Numbers: ER20-2688-000.

Applicants: California Independent System Operator Corporation.

Description: § 205(d) Rate Filing: 2020-08-18 EIM Implementation Agreement with Avangrid to be effective 10/18/2020.

Filed Date: 8/18/20.

Accession Number: 20200818-5123.

Comments Due: 5 p.m. ET 9/8/20.

Docket Numbers: ER20-2689-000.

Applicants: Emmons-Logan Wind Interconnection, LLC.

Description: Baseline eTariff Filing: Emmons-Logan Wind Interconnection, LLC & Emmons-Logan Wind, LLC SFA to be effective 10/18/2020.

Filed Date: 8/18/20.

Accession Number: 20200818-5133.

Comments Due: 5 p.m. ET 9/8/20.

Docket Numbers: ER20-2690-000.

Applicants: Jordan Creek Wind Farm LLC.

Description: Baseline eTariff Filing: Jordan Creek Wind Farm LLC Application for MBR Authority to be effective 10/18/2020.

Filed Date: 8/18/20.

Accession Number: 20200818-5136.

Comments Due: 5 p.m. ET 9/8/20.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercensearch.asp>) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: August 18, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020-18513 Filed 8-21-20; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP20-1096-000.

Applicants: Equitrans, L.P.

Description: § 4(d) Rate Filing: Negotiated Rate Agreement—BP 8/14/2020 to be effective 8/14/2020.

Filed Date: 8/13/20.

Accession Number: 20200813-5084.

Comments Due: 5 p.m. ET 8/25/20.

Docket Numbers: RP19-1523-009.

Applicants: Panhandle Eastern Pipe Line Company, LP.

Description: Compliance filing Compliance with RP19-1523 Order on Arguments and Compliance to be effective 3/1/2020.

Filed Date: 8/14/20.

Accession Number: 20200814-5059.

Comments Due: 5 p.m. ET 8/26/20.

Docket Numbers: RP20-1097-000.

Applicants: Dominion Energy Questar Pipeline, LLC.

Description: § 4(d) Rate Filing: Non-conforming TSAs—Questar Gas Company to be effective 10/1/2020.

Filed Date: 8/14/20.

Accession Number: 20200814-5056.

Comments Due: 5 p.m. ET 8/26/20.

Docket Numbers: RP20-1098-000.

Applicants: Gulfstream Natural Gas System, L.L.C.

Description: § 4(d) Rate Filing: FTS FOSA Modification to be effective 9/14/2020.

Filed Date: 8/14/20.

Accession Number: 20200814-5063.

Comments Due: 5 p.m. ET 8/26/20.

Docket Numbers: RP20-1099-000.

Applicants: Kern River Gas Transmission Company.

Description: § 4(d) Rate Filing: 2020 Questar Peaking Negotiated Rate Agreement to be effective 9/15/2020.

Filed Date: 8/14/20.

Accession Number: 20200814-5066.

Comments Due: 5 p.m. ET 8/26/20.

Docket Numbers: RP20-1100-000.

Applicants: Empire Pipeline, Inc.

Description: § 4(d) Rate Filing: Empire North EPCR Rates for Full In-Service to be effective 9/15/2020.

Filed Date: 8/14/20.

Accession Number: 20200814–5080.

Comments Due: 5 p.m. ET 8/26/20.

Docket Numbers: RP20–980–002.

Applicants: East Tennessee Natural Gas, LLC.

Description: Compliance filing ETNG Compliance Filing—RP20–980 to be effective 8/1/2020.

Filed Date: 8/14/20.

Accession Number: 20200814–5142.

Comments Due: 5 p.m. ET 8/26/20.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 17, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–18507 Filed 8–21–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–2663–000]

SR Snipesville, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of SR Snipesville, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and

385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 8, 2020.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at FERCOnlineSupport@ferc.gov or call toll-free, (886) 208–3676 or TTY, (202) 502–8659.

Dated: August 17, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–18506 Filed 8–21–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–2669–000]

Neosho Ridge Wind, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Neosho Ridge Wind, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 8, 2020.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the

last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at FERCOnlineSupport@ferc.gov or call toll-free, (886) 208-3676 or TYY, (202) 502-8659.

Dated: August 17, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020-18512 Filed 8-21-20; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20-2667-000]

South Field Energy LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request For Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced South Field Energy LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 8, 2020.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the

eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at FERCOnlineSupport@ferc.gov or call toll-free, (886) 208-3676 or TYY, (202) 502-8659.

Dated: August 17, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020-18510 Filed 8-21-20; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC20-90-000.

Applicants: Just Energy Group Inc., Just Energy (U.S.) Corp., Hudson Energy Services, LLC, Just Energy Illinois Corp., Just Energy New York Corp., Just Energy Pennsylvania Corp., Just Energy Texas I Corp., Just Energy Solutions Inc.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act, et al. of Just Energy Group Inc., et al.

Filed Date: 8/14/20.

Accession Number: 20200814-5207.

Comments Due: 5 p.m. ET 9/4/20.

Docket Numbers: EC20-91-000.

Applicants: American Electric Power Service Corporation.

Description: Application for Authorization Under Section 203 of the Federal Power Act, et al. of American Electric Power Service Corporation.

Filed Date: 8/14/20.

Accession Number: 20200814-5219.

Comments Due: 5 p.m. ET 9/4/20.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG20-232-000.

Applicants: Crossing Trails Wind Power Project LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Crossing Trails Wind Power Project LLC.

Filed Date: 8/17/20.

Accession Number: 20200817-5135.

Comments Due: 5 p.m. ET 9/8/20.

Docket Numbers: EG20-233-000.

Applicants: Headwaters Wind Farm II LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Headwaters Wind Farm II LLC.

Filed Date: 8/17/20.

Accession Number: 20200817-5154.

Comments Due: 5 p.m. ET 9/8/20.

Docket Numbers: EG20-234-000.

Applicants: Jordan Creek Wind Farm LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Jordan Creek Wind Farm LLC.

Filed Date: 8/17/20.

Accession Number: 20200817-5164.

Comments Due: 5 p.m. ET 9/8/20.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER18-1247-002.

Applicants: Entergy Arkansas, Inc.

Description: Compliance filing: EAL Offer of Settlement Compliance (ER18-1247) to be effective 7/1/2018.

Filed Date: 8/17/20.

Accession Number: 20200817-5144.

Comments Due: 5 p.m. ET 9/8/20.

Docket Numbers: ER19-2821-000; TS19-4-000.

Applicants: Upper Missouri G. & T. Electric Cooperative, Inc.

Description: Second Supplement to September 16, 2019 Request for Waiver of Open-Access Requirements of Order Nos. 888, et al. of Upper Missouri G. & T. Electric Cooperative, Inc.

Filed Date: 8/14/20.

Accession Number: 20200814-5198.

Comments Due: 5 p.m. ET 9/4/20.

Docket Numbers: ER20-2101-001.

Applicants: Fern Solar LLC.

Description: Second Amendment to June 18, 2020 Fern Solar LLC tariff filing (Amended Asset Appendix).

Filed Date: 8/14/20.

Accession Number: 20200814–5216.

Comments Due: 5 p.m. ET 8/24/20.

Docket Numbers: ER20–2681–000.

Applicants: PJM Interconnection,

L.L.C.

Description: § 205(d) Rate Filing:

Amendment to WMPA, Service

Agreement No. 5586; Queue No. AE1–

175 to be effective 1/15/2020.

Filed Date: 8/14/20.

Accession Number: 20200814–5211.

Comments Due: 5 p.m. ET 9/4/20.

Docket Numbers: ER20–2682–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: § 205(d) Rate Filing:

Amendment to Tri-State Rate Schedule

No. 169 to be effective 2/26/2020.

Filed Date: 8/17/20.

Accession Number: 20200817–5043.

Comments Due: 5 p.m. ET 9/8/20.

Docket Numbers: ER20–2685–000.

Applicants: PJM Interconnection,

L.L.C.

Description: § 205(d) Rate Filing:

Original WMPA, Service Agreement No.

5741; Queue No. AF2–430 to be

effective 7/20/2020.

Filed Date: 8/17/20.

Accession Number: 20200817–5183.

Comments Due: 5 p.m. ET 9/8/20.

Docket Numbers: ER20–2686–000.

Applicants: PJM Interconnection,

L.L.C.

Description: Compliance filing:

Docket No. EL19–91 OA Compliance to

be effective 12/31/9998.

Filed Date: 8/17/20.

Accession Number: 20200817–5173.

Comments Due: 5 p.m. ET 9/8/20.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 17, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–18508 Filed 8–21–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP18–877–002.

Applicants: MoGas Pipeline LLC.

Description: Unopposed Motion of MoGas Pipeline LLC to Amend the Stipulation and Agreement and Shorten the Answering Period under RP18–877.

Filed Date: 8/17/20.

Accession Number: 20200817–5076.

Comments Due: 5 p.m. ET 8/19/20.

Docket Numbers: RP20–1101–000.

Applicants: Equitrans, L.P.

Description: § 4(d) Rate Filing: Negotiated Rate Agreement—BP 8/18/2020 to be effective 8/18/2020.

Filed Date: 8/17/20.

Accession Number: 20200817–5124.

Comments Due: 5 p.m. ET 8/31/20.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 18, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–18514 Filed 8–21–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–2671–000]

Water Strider Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Water Strider Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 8, 2020.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the

last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at FERCOnlineSupport@ferc.gov or call toll-free, (886) 208-3676 or TYY, (202) 502-8659.

Dated: August 17, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020-18511 Filed 8-21-20; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP20-507-000]

Transcontinental Gas Pipe Line Company, LLC; Sea Robin Pipeline Company, LLC; Florida Gas Transmission Company, LLC; Notice of Application

Take notice that on August 6, 2020, Transcontinental Gas Pipe Line Company, LLC (Transco), P.O. Box 1396, Houston, Texas 77251, Sea Robin Pipeline Company, LLC (Sea Robin), 1300 Main Street, Houston, Texas 77002, and Florida Gas Transmission Company, LLC (FGT), 1300 Main Street, Houston, Texas 77002, jointly filed an application in the above referenced docket pursuant to section 7(b) of the Natural Gas Act (NGA) and part 157 of the Commission's regulations requesting authorization to abandon approximately 12.6 miles of 24-inch-diameter lateral pipeline extending from offshore Vermilion Parish, Louisiana, at the Vermilion Area Block 22 subsea tie-in to a point of connection with Transco's Central Louisiana Gathering System onshore in the Pecan Island area, Vermilion Parish, Louisiana, and related metering facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the

last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact FERC at FERCOnlineSupport@ferc.gov or call toll-free, (886) 208-3676 or TYY, (202) 502-8659.

Any questions concerning this application may be directed to Nick Baumann, Regulatory Analyst, Transcontinental Gas Pipe Line Company, P.O. Box 1396, Houston, Texas 77251, (281) 714-7056; Deborah A. Bradbury, Sr. Director, Regulatory Tariffs & Reporting, Sea Robin Pipeline Company, 1300 Main Street, Houston, Texas 77002, (713) 989-7571; or Blair Lichtenwalter, Senior Director, Certificates, Florida Gas Transmission Company, 1300 Main Street, Houston, Texas 77002, (713) 989-2605.

Pursuant to section 157.9 of the Commission's rules (18 CFR 157.9), within 90 days of this Notice, the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of

all documents filed by the applicant and by all other parties. A party must submit five copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek court review of the Commission's final order.

As of the February 27, 2018 date of the Commission's order in Docket No. CP16-4-001, the Commission will apply its revised practice concerning out-of-time motions to intervene in any new NGA section 3 or section 7 proceeding.¹ Persons desiring to become a party to a certificate proceeding are to intervene in a timely manner. If seeking to intervene out-of-time, the movant is required to "show good cause why the time limitation should be waived," and should provide justification by reference to factors set forth in Rule 214(d)(1) of the Commission's Rules and Regulations.²

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFile" link at <http://www.ferc.gov>.

¹ *Tennessee Gas Pipeline Company, L.L.C.*, 162 FERC ¶ 61,167 at ¶ 50 (2018).

² 18 CFR 385.214(d)(1).

In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Comment Date: 5:00 p.m. Eastern Time on September 7, 2020.

Dated: August 17, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020-18509 Filed 8-21-20; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Western Area Power Administration

Salt Lake City Area Integrated Projects and Colorado River Storage Project—Rate Order No. WAPA-190

AGENCY: Western Area Power Administration, Energy (DOE).

ACTION: Notice of rate order concerning firm power rate, transmission and ancillary services formula rates, and sale of surplus products formula rate.

SUMMARY: The fixed rate for the Salt Lake City Area Integrated Projects (SLCA/IP) firm power rate, the formula rates for the Colorado River Storage Project (CRSP) transmission and ancillary services, and the new formula rate for CRSP sales of surplus products (collectively, Provisional Rates) have been confirmed, approved, and placed into effect on an interim basis. These Provisional Rates replace the existing firm power, transmission, and ancillary services rates under Rate Order No. WAPA-169 that expire on September 30, 2020.

DATES: The Provisional Rates under Rate Schedules SLIP-F11, SP-NW5, SP-PTP9, SP-NFT8, SP-UU2, SP-EI5, SP-SSR5, and SP-SS1 are effective on the first day of the first full billing period beginning on or after October 1, 2020, and will remain in effect through September 30, 2025, pending confirmation and approval by the Federal Energy Regulatory Commission (FERC) on a final basis or until superseded.

FOR FURTHER INFORMATION CONTACT: Mr. Tim Vigil, CRSP Manager, Colorado River Storage Project Management Center, Western Area Power Administration, 299 South Main Street,

Suite 200, Salt Lake City, UT 84111, telephone: (970) 252-3005, or email: tvigil@wapa.gov; or Mr. Thomas Hackett, Rates Manager, Colorado River Storage Project Management Center, Western Area Power Administration, telephone: (801) 524-5503, or email: hackett@wapa.gov.

SUPPLEMENTARY INFORMATION: On December 29, 2016, FERC confirmed and approved, under Rate Order No. WAPA-169,¹ on a final basis effective through September 30, 2020, the following Rate Schedules: SLIP-F10 for SLCA/IP Firm Power, SP-NW4 for Network Integration Transmission Service, SP-PTP8 for Firm Point-To-Point Transmission Service, SP-NFT7 for Non-Firm Point-To-Point Transmission Service, SP-UU1 for Unreserved Use Penalties, SP-SD4 for Scheduling, System Control, and Dispatch Service, SP-RS4 for Reactive Supply and Voltage Control from Generation and Other Sources Service, SP-EI4 for Energy Imbalance Service, SP-FR4 for Regulation and Frequency Response Service, and SP-SSR4 for Operating Reserves—Spinning and Supplemental Reserve Services. On March 9, 2017, FERC confirmed and approved, under Rate Order No. WAPA-174,² on a final basis effective through September 30, 2021, the following Rate Schedules: L-AS1 for Scheduling, System Control, and Dispatch Service, L-AS2 for Reactive Supply and Voltage Control from Generation or Other Sources Service, and L-AS3 for Regulation and Frequency Response Service; which superseded Rate Schedules SP-SD4, SP-RS4, and SP-FR4, respectively.

On January 21, 2020, WAPA published a **Federal Register** notice (Proposal FRN)³ proposing new 5-year rates for firm power, transmission, and ancillary services, and a new rate for the sale of surplus products. The Proposal FRN also initiated a public consultation and comment period and set forth the date and location of the public information and the public comment forums. The new firm power rate is a fixed rate. The transmission and ancillary service rates continue to use formula-based rate methodologies that include an annual update to the data in the rate formulas. The new sale of surplus products rate is also formula-based. The charges under the applicable

formula rate schedules will be updated annually on the first of October.

On June 26, 2020, WAPA published a **Federal Register** notice, “Re-Opening of Comment Period for Proposed Salt Lake City Area Integrated Projects Firm Power Rate and Colorado River Storage Project Transmission and Ancillary Services Rates—Rate Order No. WAPA-190” (Re-opening of comment period FRN),⁴ to extend the public comment period from June 26, 2020, through July 10, 2020. This extension provided interested parties additional time to review and provide comments related to information about the rate proposals made available by WAPA during and after the original comment period.

Legal Authority

By Delegation Order No. 00-037.00B, effective November 19, 2016, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to the Western Area Power Administration’s (WAPA) Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve on a final basis, remand, or disapprove such rates to FERC. By Delegation Order No. 00-002.00S, effective January 15, 2020, the Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary of Energy. By Redelegation Order No. 00-002.10E, effective February 14, 2020, the Under Secretary of Energy further delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Assistant Secretary for Electricity. By Redelegation Order No. 00-002.10-05, effective July 8, 2020, the Assistant Secretary for Electricity further delegated the authority to confirm, approve, and place such rates into effect on an interim basis to WAPA’s Administrator. This rate action is issued under the Redelegation Order No. 00-002.10-05 and Department of Energy procedures for public participation in rate adjustments set forth at 10 CFR part 903.⁵

Following DOE’s review of WAPA’s proposal, I hereby confirm, approve, and place Rate Order No. WAPA-190, which provides the rates for firm power, transmission, ancillary services, and sale of surplus products into effect on an interim basis. WAPA will submit Rate Order No. WAPA-190 to FERC for

¹ Order Confirming and Approving Rate Schedules on a Final Basis, FERC Docket No. EF15-10-000, 155 FERC ¶ 61,042 (2016).

² Order Confirming and Approving Rate Schedules on a Final Basis, FERC Docket No. EF16-5-000, 158 FERC ¶ 62,181 (2017).

³ 85 FR 3367 (January 21, 2020)

⁴ 85 FR 38369 (June 26, 2020).

⁵ 50 FR 37835 (September 18, 1985) and 84 FR 5347 (February 21, 2019).

confirmation and approval on a final basis.

Signing Authority

This document of the Department of Energy was signed on August 17, 2020, by Mark A. Gabriel, Administrator, Western Area Power Administration, pursuant to delegated authority from the Secretary of Energy. That document, with the original signature and date, is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on August 19, 2020.

Treena V. Garrett,

*Federal Register Liaison Officer, U.S.
Department of Energy.*

Department of Energy

Administrator, Western Area Power Administration

In the matter of:

Western Area Power Administration Rate Adjustment for the Salt Lake City Area Integrated Projects Firm Power Rate and the Colorado River Storage Project Transmission and Ancillary Services Formula Rates

Rate Order No. WAPA-190

Order Confirming, Approving, and Placing the Fixed Firm Power Rate and the Sale of Surplus Products Formula Rate for the Salt Lake City Area Integrated Projects and the Transmission and Ancillary Services Formula Rates for the Colorado River Storage Project Into Effect on an Interim Basis

The rates in Rate Order No. WAPA-190 are established following section 302 of the Department of Energy (DOE) Organization Act (42 U.S.C. 7152).⁶

By Delegation Order No. 00-037.00B, effective November 19, 2016, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to the Western Area Power Administration's (WAPA) Administrator; (2) the authority to

confirm, approve, and place into effect such rates on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve on a final basis, remand, or disapprove such rates to the Federal Energy Regulatory Commission (FERC). By Delegation Order No. 00-002.00S, effective January 15, 2020, the Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary of Energy. By Redelegation Order No. 00-002.10E, effective February 14, 2020, the Under Secretary of Energy further delegated the authority to confirm, approve, and place such rates into effect on an interim basis to WAPA's Administrator. This rate action is issued under Redelegation Order No. 00-002.10-05 and Department of Energy procedures for public participation in rate adjustments set forth at 10 CFR part 903.⁷

Acronyms, Terms, and Definitions

As used in this Rate Order, the following acronyms, terms, and definitions apply:

\$/MWh/month: Monthly charge for capacity (*i.e.*, \$ per megawatt (MW) per month).

'92 Agreement: A 1992 agreement among WAPA, Reclamation, and the Colorado River Energy Distributors Association (CREDA) that allows CREDA to review Work Plans prior to inclusion in the SLCA/IP rate.

AFC: Actual Firming Energy Cost.

ATRR: Annual Transmission Revenue Requirement—the net revenue requirement for the Transmission Services calculated in accordance with the Formula Rate.

BA: Balancing Authority—The responsible entity that integrates resource plans, maintains load-interchange-generation balance within a designated area, and supports interconnection frequency in real-time. Formerly known as a Control Area.

Basin Fund: Upper Colorado River Basin Fund.

BFBB: Basin Fund Beginning Balance.

BFTB: Basin Fund Target Balance.

Capacity: The electric capability of a generator, transformer, transmission circuit, or other equipment. It is expressed in kilowatts (kW) or megawatts (MW).

CDP: Customer Displacement Power.

CRC: Cost Recovery Charge.

CROD: Contract Rate of Delivery. The maximum amount of capacity made available to a preference Customer for a period specified under a contract.

CRCE: CRC Energy in Gigawatthours (GWh).

CRCEP: CRC Energy Percentage of full Sustainable Hydro Power (SHP).

CRSP: Colorado River Storage Project.

CRSP MC: Colorado River Storage Project Management Center.

Customer: Firm electric service customer(s) contractually receiving SLCA/IP power and energy.

EA: SHP Energy Allocation + Project Use (GWh).

EMMO: Energy Management and Marketing Office.

Energy: Power produced or delivered over a period of time. Measured in terms of the work capacity over a period of time. Electric energy is expressed in kilowatthours.

Energy Rate: The rate which sets forth the charges for energy. It is expressed in mills/kWh and applied to each kWh delivered to each Customer.

Energy Imbalance Service: A service that provides energy correction for any hourly mismatch between energy supply and the demand served.

FA: Funds Available.

FA1: Basin Fund Balance Factor.

FA2: Revenue Factor.

FARR: Additional Revenue to be recovered.

FE: Forecasted Purchase Energy.

FFC: Forecasted Firming Energy Cost.

Firm: A type of product and/or service available at the time requested by the Customer.

FX: Forecasted Energy Purchase Expense.

FY: Fiscal Year, October 1 to September 30.

Generator Imbalance Service: A service that provides energy correction for any hourly mismatch between generator output and a delivery schedule from that generator to another Balancing Authority Area or to a load within the same Balancing Authority Area.

GWh: Gigawatthour—the electrical unit of energy that equals 1 billion watthours, 1 million kWh, or 1,000 MWh.

HE: Forecasted Hydro Energy.

Integrated Projects: The resources and Revenue Requirements of the Collbran, Dolores, Rio Grande, and Seedskadee projects blended together with the CRSP to create the SLCA/IP resources and rate.

kW: Kilowatt—the electrical unit of capacity that equals 1,000 watts.

⁶This Act transferred to, and vested in, the Secretary of Energy the power marketing functions of the Secretary of the Department of the Interior and the Bureau of Reclamation (Reclamation) under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)); and other acts that specifically apply to the projects involved.

⁷50 FR 37835 (September 18, 1985) and 84 FR 5347 (February 21, 2019).

kWh: Kilowatthour—the electrical unit of energy that equals 1,000 watts in 1 hour.

kWmonth: Kilowattmonth—the electrical unit of the monthly amount of capacity.

Load: The amount of electric power or energy delivered or required at any specified point(s) on a system.

Load Factor: The actual amount of kWh delivered on a system in a designated time period, as opposed to the total possible kWh that could be delivered on a system in a designated time period.

Load-Ratio Share: Network Customer's hourly load (including its designated network load not physically interconnected with WAPA) coincident with CRSP's monthly transmission system peak.

MAF: Million Acre-Feet. The number of gallons of water required to cover 1 million acres, 1 foot in depth.

mills/kWh: Mills per kilowatthour—the unit of charge for energy (equal to one tenth of a cent or one thousandth of a dollar).

MW: Megawatt—the electrical unit of capacity that equals 1 million watts or 1,000 kilowatts.

MWh: One million watthours of electric energy. A unit of electrical energy which equals 1 megawatt of power used for 1 hour.

NATR: Net Annual Transmission Revenue Requirement.

NB: Net Balance. Total of Basin Fund Beginning Balance and Net Annual Revenues in the CRC formula.

NR: Net Revenue. Revenue remaining after paying all annual expenses.

NRate: Net Rate. The difference between the Market rate WAPA purchases power at and the Firm Energy rate that WAPA sells power.

OASIS: Open Access Same-Time Information System—An electronic posting system that a service provider maintains for transmission access data that allows all customers to view information simultaneously.

O&M: Operation & Maintenance.

PAR: Projected Annual Revenue (\$) without CRC.

Participating Projects: The Dolores and Seedskadee projects participating with CRSP according to the CRSP Act 1956.

PFE: Prior year actual Firming Energy.
PF: Prior year actual Firming expenses.

Pinch Point Year: The year in the PRS that requires the greatest amount of revenue.

Power: Capacity and energy.

PRS: Power Repayment Study.

Price: Average price per MWh for purchased power.

Project Use: Power used to operate SLCA/IP and CRSP facilities under Reclamation Law as well as authorized irrigation projects under the CRSP Act.

Provisional Rate: A rate confirmed, approved, and placed into effect on an interim basis by the WAPA Administrator

PYA: Prior Year Adjustment.

RA: Revenue Adjustment.

Rate Brochure: A document prepared for public distribution explaining the rationale and background for the information contained in this rate order.

Reclamation Law: A series of Federal laws, viewed as a whole, that create the originating framework under which WAPA markets power.

Regulation and Frequency: A service that provides for following the moment-

Response Service: to-moment variations in the demand or supply in a Balancing Authority Area and maintaining scheduled interconnection frequency.

Reserve Services: Spinning Reserve Service and Supplemental Reserve Service.

Revenue Requirement: The revenue required to recover annual expenses (such as operation and maintenance, purchase power, transmission service expenses, interest expense, and deferred expenses) and repay Federal investments and other assigned costs.

RISC: Reduction in SHP Capacity for those customers taking the CRC waiver to maintain each Customer's existing monthly Load Factor percentage at the same level provided by the full SHP capacity and energy allocation.

Schedule: An agreed-upon transaction size (megawatts) for (a) beginning and ending ramp times and rate, and (b) service required for delivery and receipt of power between the contracting parties and the Balancing Authority(ies) involved in the transaction.

Scheduling, System Control and Dispatch Service: A service that provides for (a) scheduling, (b) confirming and implementing an interchange schedule with other balancing authorities, including intermediary balancing authorities providing transmission service, and (c) ensuring operational security during the interchange transaction.

SHP: Sustainable Hydro Power (long-term SLCA/IP hydro capacity with energy). The minimum quantity of firm energy, expressed in kWh, that each Salt Lake City Area Integrated Projects firm electric service customer/contractor is entitled to receive each Winter Season and each Summer Season as set forth in their respective firm electric service contracts.

SLCA/IP: Salt Lake City Area Integrated Projects.

SLIP: The CRSP PRS that also includes the Collbran, Dolores, Rio Grande, and Seedskadee revenue requirements.

Spinning Reserve Service: Generation capacity needed to serve load immediately in the event of a system contingency. Spinning Reserve Service may be provided by generating units that are on-line and loaded at less than maximum output.

Supplemental Reserve Service: Generation capacity needed to serve load in the event of a system contingency; however, it is not available immediately to serve load but rather within a short period of time.

Supplemental Reserve Service may be provided by generation units that are on-line but unloaded, by quick start generation or by interruptible load.

Transmission Provider: Any utility that owns, operates, or controls facilities used to transmit electric energy in interstate commerce.

Transmission System: The facilities owned, controlled, or operated by the transmission owner or Transmission Provider that are used by the Transmission Provider to provide transmission service.

Website: Location online where supporting documents are posted: <https://www.wapa.gov/regions/CRSP/rates/Pages/rate-order-190.aspx>.

WL: Waiver Level.

WLP: Waiver Level Percentage of full SHP.

Work Plan: An estimate of costs expected to become the Congressional Budget for WAPA and Reclamation. Also known as a Work Program.

WRP: Western Replacement Power.

Effective Date

The Provisional Rate Schedules SLIP-F11, SP-NW5, SP-PTP9, SP-NFT8, SP-UU2, SP-EI5, SP-SSR5, and SP-SS1 will take effect on the first day of the first full billing period beginning on or after October 1, 2020, and will remain in effect through September 30, 2025, pending approval by FERC on a final basis or until superseded.

Public Notice and Comment

WAPA followed the Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions, 10 CFR part 903, in developing these rates. Following are the steps WAPA took to involve interested parties in the rate process:

1. On January 21, 2020, a **Federal Register** notice (85 FR 3367) (Proposal FRN) announced the proposed rates and launched the 90-day public consultation and comment period.

2. On January 21, 2020, WAPA notified all CRSP MC Customers and interested parties of the proposed rates and provided a copy of the Proposal FRN.

3. On March 12, 2020, WAPA held a Public Information Forum (PIF) in Salt Lake City, Utah. WAPA's representatives explained the proposed rates, answered questions, and gave notice that more information was available in the customer Rate Brochure.

4. On March 12, 2020, WAPA held a public comment forum in Salt Lake City, Utah. This provided customers and other interested parties an opportunity to provide official comments for the record.

5. WAPA provided a website containing all dates, customer letters, presentations, FRNs, customer Rate Brochure, and other information about this rate process.

6. During the 90-day consultation and comment period, which ended on April 20, 2020, WAPA received one oral comment (at the March 12, 2020, public comment forum) and eight written sets of comments. WAPA also received a redlined version of the March 2020 Rate Brochure with questions and comments. WAPA posted the brochure comments and responses to the website on April 16, 2020. The other comments and WAPA's responses are addressed below.

7. On June 3, 2020, WAPA held a webinar on purchased power data sources and calculations.

8. On June 4, 2020, WAPA held a webinar on calculating the CRC and treatment of prior year adjustment.

9. On June 26, 2020, WAPA published **Federal Register** notice (Re-opening of Comment Period)⁸ that launched an additional 14-day public consultation and comment period. The additional comments received during the extended comment period and WAPA's responses are addressed below. WAPA posted the comments and an updated brochure to the website on August 12, 2020. All comments have been considered in the preparation of this Rate Order.

Oral comments were received from the following organization:

Colorado River Energy Distributors Association (CREDA)

Written comments were received from the following organizations during the original comment period:

Arizona Tribal Energy Association (ATEA)

City of St. George Energy Services Department (SGESD)

Colorado River Commission of Nevada (Commission)

Colorado River Energy Distributors Association (CREDA)

Irrigation and Electrical Districts' Association of Arizona (IEDA)

Municipal Energy Agency of Nebraska (MEAN)

Tri-State Generation and Transmission Association, Inc. (Tri-State)

Utah Associated Municipal Power Systems (UAMPS)

Written comments were received from the following organizations during the extended comment period:

Arizona Tribal Energy Association (ATEA)

Colorado River Energy Distributors Association (CREDA)

Power Repayment Study—Firm Power Service Rate Discussion

WAPA prepares PRSs each fiscal year to determine if revenues will be sufficient to repay, within the required time, all costs assigned to the SLCA/IP. Repayment criteria are based on WAPA's applicable laws and legislation as well as policies including DOE Order RA 6120.2. To meet the Cost Recovery Criteria outlined in DOE Order RA 6120.2, a revised PRS and a rate adjustment have been developed to demonstrate sufficient revenues will be collected under the Provisional Rate to meet future obligations. The Revenue Requirement and composite rate for SLCA/IP firm power service are being reduced as indicated in Table 1:

TABLE 1—COMPARISON OF REVENUE REQUIREMENTS AND COMPOSITE RATES

Firm power service	Existing requirements (October 1, 2015)	Provisional requirements (October 1, 2020)	Percent change
Revenue Requirement (million \$)	\$183.873	\$173.511	-5.6
Composite Rate (mills/kWh)	29.42	27.45	-6.7

Under the existing rate methodology, rates for firm power service are designed to recover an annual Revenue Requirement that includes power investment repayment, aid to irrigation repayment, interest, purchase power, O&M, and other expenses within the allowable period.

Firm Power Service—Existing and Provisional Rates

WAPA is lowering the overall charges due to Participating Projects being repaid through FY 2025, which moved the Pinch Point Year out to FY 2038. Additionally, the downward rate pressure associated with reductions in

future costs for Participating Projects and most expense categories outweighed the upward pressure created by an increase in O&M and loss of offsetting revenues.

A comparison of the existing and Provisional Rates for firm electric service is listed in Table 2:

TABLE 2—COMPARISON OF EXISTING AND PROVISIONAL RATES

Firm power service	Existing rates under rate schedule SLIP-F10 as of October 1, 2015	Provisional rates under rate schedule SLIP-F11 as of October 1, 2020	Percent change
Firm Energy Rate (mills/kWh)	12.19	11.43	-5.5
Firm Capacity Rate (\$/kWmonth)	5.18	4.85	-6.4

⁸ 85 FR 38369 (June 26, 2020).

Statement of Revenue and Related Expenses

the firm electric service Revenue Requirement through the 5-year provisional rate approval period:

Table 3 provides a summary of projected revenue and expense data for

TABLE 3—COMPARISON OF 5-YEAR RATE PERIOD (FY 2016–2021) TOTAL REVENUES AND EXPENSES UNIT 1,000

	Existing rate 2017 work plan	Provisional rate 2021 work plan	Change amount
Ratesetting Period:			
Beginning Year	2016	2021	
Pinch Point Year	2025	2038	
Number of Ratesetting Years	10	18	
Annual Revenue Requirement:			
Expenses:			
Operations & Maintenance WAPA	\$52,630	\$61,509	\$8,878
Reclamation	34,535	35,843	1,308
Total O&M	87,165	97,352	10,187
Purchase Power	10,280	1,119	(9,161)
Transmission	10,421	8,998	(1,423)
Integrated Projects	8,610	6,485	(2,125)
Interest	4,706	6,066	1,360
Other Expenses	14,587	17,909	3,322
Total Expenses	135,769	137,928	2,159
Principal Payments:			
Deficits	0	0	0
Replacements	30,037	26,918	(3,119)
Original Project and Additions	3,937	2,484	(1,453)
Irrigation	14,130	6,181	(7,949)
Total Principal Payments	48,104	35,583	(12,521)
Total Annual Revenue Requirement (Less Offsetting Annual Revenue)	183,873	173,511	(10,362)
Transmission	19,640	15,257	(4,383)
Merchant Function	9,918	9,375	(543)
Other Revenues	5,118	4,855	(263)
Total Offsetting Annual Revenue	34,676	29,487	(5,189)
Net Annual Revenue Requirements	149,197	144,024	(5,173)
Energy Sales (MWH)	5,071,804	5,245,909	174,105
Capacity Sales (kW)	1,407,920	1,428,306	20,386
Composite Rate (mills/kWh)	29.42	27.45	(1.97)

Provisions for transformer losses, power factor, WRP administrative charge, and CDP administrative charge adjustments are part of the Provisional Rates for SLCA/IP firm power. WAPA did not modify the provisions and methodologies for these adjustments. These remain as they were specified in Rate Schedule SLIP-F10.

Purchased Power Discussion

WAPA currently forecasts 5 years of firming purchased power requirements in the PRS using average water releases reported in Reclamation's April 24-month Study in combination with Reclamation's August Colorado River Simulation System (CRSS) model traces. Although WAPA will continue to use the April 24-month Study and the CRSS model traces, it will begin forecasting firming purchased power differently. Going forward, WAPA will use the most-probable water releases reported in

the April 24-month Study to determine the first year of firming-energy-purchase projections. For subsequent years, WAPA will continue to use the August CRSS model traces to estimate energy purchase projections while using a rolling average value to minimize fluctuations. Additionally, WAPA will extend the number of years for projecting the required firming-energy purchases to a period that overlaps the years in which a subsequent rate would become effective in order to avoid gaps in the forecasts. Finally, WAPA will remove the \$4 million per year it previously included to account for the required purchase power within the current rate schedule. This value was previously used to estimate operational energy purchases for the EMMO in Montrose, Colorado. Fortunately, this is no longer needed because improved modeling tools incorporating outages and scheduled maintenance can

produce more accurate estimates of purchase power expenses.

Cost Recovery Charge

The methodology for calculating the CRC continues to be addressed in the *Schedule of Rates for Firm Power Service* and has been modified as described here. The CRC is based on a Basin Fund cash analysis only and is independent of the PRS calculations. In the event expenses significantly exceed revenues and in order to adequately recover and maintain a sufficient balance in the Basin Fund,⁹ WAPA will calculate and assess a CRC. The CRC is implemented at WAPA's discretion based on the balance of the Basin Fund and WAPA's ability to meet contractual

⁹ The Basin Fund was established through the CRSP Act of 1956 to receive revenues collected in connection with the projects to be made available for defraying the project's costs of operation, maintenance, and emergency expenditures.

requirements.¹⁰ The minimum Basin Fund targeted carryover balance is \$40 million. WAPA collects the CRC as an additional surcharge on all SHP energy deliveries. WAPA may implement the CRC for reasons including: (1) Low cash balance in the Basin Fund due to low hydropower generation; (2) high prices for firming power; and/or (3) funding for capitalized investments. The volatility of hydropower generation and power prices continues to be a concern for

cost-recovery issues for the SLCA/IP. WAPA will base the CRC on a calendar year (CY) timeline, will use Reclamation’s August 24-month Study to calculate projected purchase power expenses, and will change the annual CRC notification date from May 1 to October 1. Using Reclamation’s August 24-month Study aligns the purchase power projections for the CRC with water year releases.

WAPA will provide information to its customers concerning the anticipated CRC by October 1 and will allow customers 45 days to request a waiver or accept the CRC. The established CRC would be in effect for 12 months from the date implemented. If circumstances should dictate the need to reassess an enacted CRC, the updated CRC would supersede the previous CRC and remain in effect for 12 months.

TABLE 4—CRC IMPLEMENTATION TIERS

Tier	Criteria, if the Basin Fund beginning balance is:	Review
i	Greater than \$150 million with an expected decrease to below \$75 million	Annually.
ii	Less than \$150 million but greater than \$120 million with an expected 50 percent decrease in the next CY.	Annually.
iii	Less than \$120 million but greater than \$90 million with an expected 40 percent decrease in the next CY.	Annually.
iv	Less than \$90 million but greater than \$60 million with an expected 25 percent decrease in the next CY.	Semi-Annual (February/August).
v	Less than \$60 million but greater than \$40 million with an expected decrease to below \$40 million in the next CY.	Monthly.

WAPA will continue to include a mechanism that allows the recalculation of the CRC if annual water releases from Glen Canyon Dam fall below 8.23 million acre-feet, regardless of the Basin Fund balance. WAPA will establish an energy Waiver Level (WL) that provides WAPA the ability to reduce purchase power expenses by scheduling less energy than what is contractually required. Customers can accept either the CRC or WL, not a combination of the two. For those customers who agree to schedule no more energy than their proportionate share of the WL, WAPA will waive the CRC for that year. WAPA modified the calculations in SLIP-F11 to account for lost projected revenue associated with the decreased energy deliveries that occur when a customer requests the WL. WAPA will also decrease a customer’s monthly SHP capacity allocation proportionally under the WL to match the monthly energy reduction.

CRSP Transmission Service

In accordance with WAPA’s Open Access Transmission Tariff (Tariff), CRSP offers Network Integration Transmission Service and Firm and Non-Firm Point-to-Point Transmission Services. These services include the transmission of energy to points of delivery on the CRSP interconnected high-voltage system, which is comprised of transmission lines, substations, and related facilities. The

transmission rates include the cost for Scheduling, System Control, and Dispatch Service. The Provisional Rates are as described in Rate Schedules SP-NW5, SP-PTP9, and SP-NFPT-8 and apply to transmission-only sales. The cost of transmission service for WAPA’s SLCA/IP long-term, firm electric service will continue to be included in the SLCA/IP firm power rate.

Change to Forward-Looking Transmission Rates

WAPA changed the formula rate inputs used to calculate the ATRR to recover transmission expenses and investments on a current basis rather than on a historical basis as described in Rate Order WAPA-169.¹¹ The change allows WAPA to more accurately match cost recovery with cost incurrence. WAPA will use the same methodology going forward for expenses. WAPA will use current, year-to-date costs as the basis for projecting the full current year’s transmission costs for the upcoming year in the annual rate calculation, rather than using only historical information. When the annual audited financial data is available, WAPA will calculate the actual Revenue Requirement for that year. Revenue collected in excess of the actual Revenue Requirement will be included as a credit in the ATRR in a subsequent year. Similarly, any under-collection of the Revenue Requirement will be included as a charge in the ATRR in a

subsequent year. This true-up procedure will ensure that WAPA recovers no more and no less than the actual transmission costs for that year.

CRSP Ancillary Services

In accordance with WAPA’s Tariff, ancillary services are needed with transmission service to maintain reliability inside and among the Control Areas affected by the transmission service. CRSP continues to offer seven ancillary services pursuant to WAPA’s Tariff: (1) Scheduling, system control, and dispatch service; (2) reactive supply and voltage control from generation or other sources service; (3) Regulation and Frequency Response Service; (4) Energy Imbalance Service; (5) Spinning Reserve Service; (6) Supplemental Reserve Service; and (7) Generator Imbalance Service. The ancillary services formula rates are designed to recover the costs associated with providing the services. These services will continue to be offered by CRSP or the Western Area Colorado Missouri (WACM) BA.

CRSP’s rate schedules for energy and generator imbalance services and reserve services are included in this Rate Order. The rate schedules applicable to CRSP scheduling, voltage support, and regulation services are implemented by WAPA’s Rocky Mountain Region (RMR) under separate rate orders. Information pertaining to those rate schedules can be found at <https://www.wapa.gov/regions/RM/>

¹⁰ See Table 4.

¹¹ Order Confirming and Approving Rate Schedules on a Final Basis, FERC Docket No. EF15-10-000, 155 FERC ¶ 61,042 (2016).

rates/Pages/rates.aspx. FERC approved and confirmed, under Rate Order No. WAPA-174,¹² on a final basis through September 30, 2021, Rate Schedules L-AS1 for Scheduling, System Control, and Dispatch Service, L-AS2 for Reactive Supply and Voltage Control from Generation or Other Sources Service, and L-AS3 for Regulation and Frequency Response Service, which superseded Rate Schedules SP-SD4, SP-RS4, and SP-FR4 in Rate Order No. WAPA-169, respectively.

Generator Imbalance Services

WAPA added Generator Imbalance Service, Schedule 9 to WAPA's Tariff. CRSP's Energy Imbalance Service Rate Schedule, Rate Schedule SP-EI5, indicates both Energy and Generator Imbalance Services are provided to CRSP, as a Transmission Service Provider, by the WACM BA under Rate Schedules L-AS4 and L-AS9, respectively.

Sale of Surplus Products

WAPA is implementing a new rate schedule, SP-SS1, applicable to the sale of the following CRSP surplus energy and capacity products: Energy, frequency response, regulation, and reserves. If CRSP surplus products are available, the charge will be determined based on market rates plus administrative costs. The customer will be responsible for acquiring transmission service necessary to deliver the product(s). This rate schedule is not applicable to transmission service and, therefore, is not provided through WAPA's Tariff.

Comments

WAPA received oral comments from one commenter and eight comment letters during the initial public consultation and comment period. Two comment letters were received during the extended comment period. The comments expressed have been paraphrased, where appropriate, without compromising the meaning of the comments. The comments have been grouped as follows: (1) Purchased Power Component, (2) Transmission and Ancillary Services, (3) Supporting Data, (4) Firm Power Service Rate Adjustment, (5) Cost Recovery Charge, (6) Miscellaneous, and (7) Extended Comment Period.

1. Purchased Power Component

Comment: Commenter expressed support for WAPA's methodology and revisions regarding purchase power, as

described in the March 11, 2020, Rate Brochure. They believe the updated forecasting and modeling and adjustment to the \$4 million in out years are appropriate.

Response: WAPA acknowledges the Commenter's feedback.

Comment: Commenter requests that in the future WAPA provide additional detail regarding the assumptions used to calculate purchased power.

Response: WAPA held a webinar on purchased power data sources and calculations on June 3, 2020, to address this and other purchased power concerns listed below. The presentation was posted to the website.

Comment: Commenter questioned why WAPA is changing to average rather than median hydrology when forecasting firming purchased power.

Response: As a statistical method, the median is chosen when outliers may create a disproportionate effect and skew the distribution. Fortunately, current water management tools reduce the likelihood of outliers having such an effect and, therefore, WAPA finds the use of average hydrology more accurate.

Comment: Commenter questions why WAPA is extending the number of years for purchased power calculations.

Response: WAPA purchases power annually. Extending the window for purchased power projections ensures forecasts are in place through the lifecycle of the rate action.

Comment: Commenter requests supporting documentation showing the details of which hydrologic traces were used in Reclamation's CRSS model.

Response: WAPA posted the list of the 112 traces provided by Reclamation to the website on April 16, 2020.

Comment: Commenter asked about the nature of the product(s) priced by Argus.

Response: Argus provides WAPA with forecasted average monthly peak and off-peak energy prices. WAPA used forecasted prices at the Palo Verde hub in this rate action.

Comment: When will Reclamation issue the April 24-month Study and will WAPA update and make available the updated rate brochure values prior to the April 20, 2020, comment deadline?

Response: Reclamation issued its April 24-month Study on April 15, 2020. Using this study, WAPA provided the updated purchased power calculation, which showed an increase from \$10,510,987 to \$12,332,900 for FY 2020, to customers and interested parties via email on April 16, 2020. WAPA updated the purchased power values in the Rate Brochure.

2. Transmission and Ancillary Services

Comment: Commenter is concerned the forward-looking methodology will result in additional labor expenses and questions whether it matches up with asset management and/or Work Plan review data. Commenter approves of the use of a forward-looking methodology for O&M, as long as the data has been screened and reviewed in accordance with the '92 Agreement process.

Response: WAPA does not anticipate additional labor expenses tied to changing methodologies. The data used for the forward-looking methodology is based on a combination of prior year Work Plans that have been reviewed pursuant to the '92 Agreement process and current-year actual data extrapolated through the end of the fiscal year.

Comment: Commenters noted WAPA plans to eliminate \$5 million from the PRS due to a 250-MW bidirectional contract, which utilizes a portion of the CRSP transmission system, terminating in February 2021. The projected impact of removing the capacity load and offsetting transmission revenues results in a \$0.10/kW-month increase to the CRSP transmission rate. Commenters believe this capacity will be sold to a new customer and that WAPA should, therefore, not remove it from the transmission rate.

Response: WAPA posted the availability of the transmission capacity in OASIS on January 25, 2018. WAPA did not include the capacity in the FY 2021 transmission rate design because the transmission capacity was not contracted before this rate package was finalized and submitted to the Administrator. WAPA reviews capacity-under-contract to be included in the rate design on an annual basis.

Comment: Commenter wants to confirm Southwest Power Pool Western Energy Imbalance Service (WEIS) market replaces Rate Schedule SP-EI5 as of the start date of the WEIS market.

Response: Potential changes related to CRSP's participation in the WEIS EIS Market are not within the scope of this rate action. That said, Rate Schedule SP-EI5 is not expected to change as a result of the potential start of the WEIS Market.

3. Supporting Data

Comment: Commenters understand that approximately \$3 million (representing revenue from a Reclamation water supply contract) was removed from the PRS with the closure of the Navajo Generating Station. Commenters believe it would be incorrect to assume this water would

¹² Order Confirming and Approving Rate Schedules on a Final Basis, FERC Docket No. EF16-5-000, 158 FERC ¶ 62,181 (2017).

not be sold in the future and that WAPA should not remove the revenue associated with this water contract until Reclamation determines that this water will not be remarketed.

Response: WAPA removed the associated revenue from the PRS because additional water contract commitments were not identified before this rate package was finalized and submitted to the Administrator. Revenue will continue to be added/removed in subsequent annual PRS updates as changes to water contract commitments are identified.

Comment: Commenter suggests delaying this rate action due to potential cost savings on Participating Projects in the summer of 2020.

Response: WAPA's current rate expires September 30, 2020. Delaying the rate action would prevent having an effective rate in place by October 1, 2020. WAPA included cost savings on Participating Projects in the final PRS and posted the information to the website on June 30, 2020.

Comment: Commenters expressed concerns about the use of the FY 2022 Work Plans and whether timely review of the FY 2022 Work Plans can be accomplished in accordance with the '92 Agreement.

Response: Because the FY 2022 Work Plan review was not completed before this rate package was finalized and submitted to the Administrator, WAPA is using the FY 2021 Work Plans for this ratesetting action. WAPA notified customers of this decision via email and posted notice to the website on June 19, 2020.

Comment: Commenter understood that security guard service was going to be discontinued at the Flaming Gorge Dam; however, this service was still in Reclamation's FY 2022 Work Plan.

Response: WAPA did not use the FY 2022 Work Plan.

Comment: Commenter asked if project-use power is usually used for fish and wildlife mitigation as noted in the footnote for the Provo River Delta Restoration Project (Provo Project). The Commenter further suggests not including such an increase in project use power until the project is complete.

Response: The Provo River Restoration Project is an authorized project in the Central Utah Project Completion Act of 1992 (CUPCA). Because electric power needs for CUPCA are categorized as project-use power, WAPA will include the projected project-use increase in the PRS. Notably, including project-use energy allocations in the PRS leads to downward pressure on the rate when

the Revenue Requirements are divided by energy sales.

Comment: Commenter questioned why there were increases to project-use power in FY 2024 and FY 2028.

Response: FY 2024 is the current official date for operational buildout of the Navajo Gallup Water Supply Project. FY 2028 is the anticipated beginning of CUPCA mandated water recycling. Both will require project-use power in those respective years.

4. Firm Power Service Rate

Comment: Commenter supported the rate in the Proposal FRN published January 21, 2020. The Commenter does not, however, support the higher rate WAPA proposed at the March 12, 2020, PIF. The Commenter requests WAPA republish a new Proposal FRN with the rates presented at the PIF and provide at least 2 months of additional review.

Response: In the Proposal FRN, WAPA alerted customers and interested parties of a possible change to the proposal by stating, "The Revenue Requirement for the proposed rate is based upon the most current data available, but WAPA plans to use the FY 2019 historical financial data and FY 2022 Work Plans, if available, in the final rate setting [PRS] and rate order submission" (85 FR 3368). WAPA's rate presented at the PIF was based on the FY 2019 historical data and the FY 2022 Work Plans. Commenters had over 30 days to submit comments after the PIF was held. Additionally, WAPA provided a 14-day extended comment period from June 26, 2020, through July 10, 2020. Due to the '92 Agreement review of the FY 2022 Work Plan not being completed, WAPA will use the FY 2021 Work Plans, which was what was proposed in the Proposal FRN.

Comment: Commenter expressed significant concern with the fact that WAPA can make adjustments to rates after the close of the comment period and final rates may therefore not be available until after the comment period ends.

Response: WAPA's commitment to certifying that rates are the lowest possible consistent with sound business principles necessitates additional tasks beyond the closeout of the comment period, including: Reviewing customer comments, allotting time to ensure compliance with the '92 Agreement, gathering forward-looking data for the transmission rate, and tracking whether water contracts and transmission contracts will be acquired by new customers. Customers were aware from the Proposal FRN, as noted in response to a previous comment, that the rates

could be updated from the proposed rates based on additional data.

Comment: Commenter is concerned that there was no opportunity to weigh in on the changing rate between April and June and questions how and when WAPA will finalize a proposed rate. Similarly, another commenter requested more detail regarding why the rate changed from the Proposal FRN to the presentation at the PIF.

Response: WAPA understands the concerns with the rate changes. WAPA continued to post updates to the website as data became available. Although the initial comment period ended on April 20, 2020, WAPA continued to post answers to questions on the website so that all interested parties were aware of any ongoing communications before the final rule, in accordance with DOE's ex parte communication rules (available at <https://www.energy.gov/gc/downloads/guidance-ex-parte-communications>). WAPA also re-opened the customer comment period from June 26, 2020, through July 10, 2020, and posted the final rates to the website June 30, 2020, to ensure customers had an opportunity to submit additional comments.

Comment: Commenter believes CREDA is unable to independently model rate scenarios with the customer portal element of the WAPA-wide PRS, which has not performed as anticipated, has affected collaborative efforts toward achieving the lowest possible rate.

Response: WAPA understands the frustrations related to the use of the customer PRS portal and continues to troubleshoot the hardware and software. To that end, WAPA meets with and processes rate scenarios requested by CREDA and provides corresponding system-generated reports. WAPA will continue these efforts to strengthen customer collaboration.

5. Cost Recovery Charge

Comment: Commenters continue to have questions regarding the proposed changes to the CRC. Although the Proposal FRN had a significant amount of discussion, the commenters would like WAPA to provide additional information and specific examples.

Response: WAPA held a webinar to describe how it calculates the CRC and treatment of the subsequent prior year adjustment on June 4, 2020, and addressed this and the additional CRC questions below. The presentation was posted on the website on June 5, 2020.

Comment: Customer does not support the proposed revised CRC lost revenue calculation, which calculates the difference between the projected purchased power cost and the energy

rate. Commenter encourages additional discussion on this issue.

Response: Prior versions of the CRC did not account for the revenue lost when customers elect the WL and reduce their allocated energy (in lieu of the CRC). WAPA addressed this issue during the public webinar held on June 4, 2020 and a presentation detailing the CRC process was posted to the website on June 5, 2020.

Comment: Commenter does not support the revised CRC process that will reduce SHP capacity for those customers opting for the WL to maintain each customer's existing monthly Load Factor percentage at the same level while maintaining minimums.

Response: WAPA was concerned that maintaining existing SHP capacity levels would be inconsistent with reduced allocations resulting from WLs. Customers requesting a WL will have their energy allocation reduced, which will result in a corresponding reduction to their capacity allocation. To be consistent with marketing plan requirements, WAPA has elected to maintain a customer's Load Factor at consistent levels to provide for a reduction in capacity proportionate to any energy reduction under a WL.

Comment: Commenter stated it would be very helpful to explain the proposed CRC changes by providing sample invoices for a Customer who does not waive the CRC and a Customer who waives the CRC, and showing proposed changes to the CRC calculation.

Response: WAPA posted sample bills, sample CRC and WL calculations by Customer, and worksheets showing the difference between the SLIP-F10 and SLIP-F11 versions of the CRC on the website on April 16, 2020. Additionally, WAPA walked the Customers through the CRC calculations during the June 4, 2020, webinar. WAPA posted its presentation from the webinar to the website on June 5, 2020.

Comment: Commenter asks that the 8.23 MAF trigger be reconsidered in favor of a Lake Powell reservoir level trigger. Customer feels the advances made in hydropower modeling by WAPA, Drought Contingency Plan establishment and implementation, and uncertainty associated with Interim Guidelines renegotiation make a lake-level trigger preferable.

Response: The water release trigger does not trigger a CRC; rather, it permits WAPA to recalculate the CRC if water releases drop below 8.23 MAF. Shifting from FY to CY calculations will enable WAPA to review more accurate forecasts of annual water release data prior to calculating the annual CRC. WAPA will reevaluate the need for this

trigger as well as other options (including lake levels) in the future.

Comment: Commenter asked whether the CROD billing capacity will get reduced, similar to SHP billing energy, if a customer elects to waive the CRC.

Response: CROD billing capacity will not be reduced.

Comment: Commenter supports converting CRC from an FY to a CY cycle.

Response: WAPA acknowledges the comment.

Comment: Commenter proposed that WAPA rename "trigger for shortage criteria" in the CRC due to confusion with other processes containing the term "shortage criteria."

Response: WAPA agrees and has renamed it "trigger for water release criteria."

Comment: Commenter asked if WAPA is proposing any changes related to the CRC that would impact the Customer's ability to firm up their resource with WRP or CDP.

Response: No changes are planned.

6. Miscellaneous

Comment: Commenter recognized WAPA's willingness to entertain suggestions and collaborate to develop alternatives capable of mitigating significant rate increases and stated it indicates a true desire to implement the lowest possible rate, consistent with sound business principles, on a regional basis and with a project-specific focus.

Response: WAPA acknowledges the comment.

Comment: Multiple commenters encouraged WAPA to support CREDA's comments on proposed adjustments.

Response: WAPA acknowledges the input and has responded to CREDA's comments in this final rule.

Comment: Commenter thanked WAPA for its diligent work preparing the Rate Brochure, the information from the PIF, and the willingness to work with Customers to ensure the lowest possible rate.

Response: WAPA acknowledges the comment.

7. Extended Comment Period Comments

Comment: Commenter appreciates the opportunity to work with WAPA throughout the rate process, particularly WAPA's online posting of rate information, supporting documentation, and responses to questions and comments.

Response: WAPA recognizes the benefits of customer engagement and the need for transparency in the rate process.

Comment: Commenter appreciates WAPA's June webinars, which provided

additional information and responses to customer questions and comments on the CRC. As issues such as hydrology, environmental program funding, and purchased power all have potential impacts to the triggering and implementation of a CRC, the commenter encourages ongoing discussion on the various elements of the CRC, including triggering criteria, as well as changes proposed to the CRC in this rate proceeding.

Response: WAPA welcomes additional discussion on the methods to ensure cost recovery is achieved and on the various elements of the CRC and WL.

Comment: Commenter appreciates WAPA's decision to incorporate the FY 2021 Work Plan materials into this rate proceeding.

Response: WAPA acknowledges the comment.

Comment: Commenter supports the adoption of the rate as made available for customer review on June 30, 2020, and the revision of the rate proposed on January 21, 2020, as structured to reduce the relevant apportionment and extend the "pinch point" to 2038. Commenter agrees that this rate formula best ensures that WAPA imposes only the minimum cost to CRSP customers, consistent with WAPA's obligations.

Response: WAPA acknowledges the comment.

Certification of Rates

I have certified that the Provisional Rates for SLCA/IP firm power and sales of surplus products and the CRSP transmission and ancillary services under Rate Schedules SLIP-F11, SP-NW5, SP-PTP9, SP-NFT8, SP-UU2, SP-E15, SP-SSR5, and SP-SS1 are the lowest possible rates, consistent with sound business principles. The Provisional Rates were developed following administrative policies and applicable laws.

Availability of Information

Information about this rate adjustment, including the customer Rate Brochure, PRSs, comments, letters, memoranda, and other supporting materials that were used to develop the Provisional Rates, is available for inspection and copying by appointment at the Colorado River Storage Project Management Center, located at 299 South Main Street, Suite 200, Salt Lake City, Utah. Many of these documents are also available on WAPA's website at <https://www.wapa.gov/regions/CRSP/rates/Pages/rates.aspx>.

**Ratemaking Procedure Requirements
Environmental Compliance**

WAPA has determined that this action is categorically excluded from the preparation of an environmental assessment or an environmental impact statement.¹³ A copy of the categorical exclusion determination is available on WAPA’s website at <https://www.wapa.gov/regions/CRSP/rates/Pages/rates.aspx>.

Determination Under Executive Order 12866

WAPA has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Submission to the Federal Energy Regulatory Commission

The Provisional Rates herein confirmed, approved, and placed into effect on an interim basis, together with supporting documents, will be submitted to FERC for confirmation and final approval.

Order

In view of the above and under the authority delegated to me, I hereby confirm, approve, and place into effect, on an interim basis, Rate Order No. WAPA-190. The rates will remain in

effect on an interim basis until: (1) FERC confirms and approves them on a final basis; (2) subsequent rates are confirmed and approved; or (3) such rates are superseded.

Signed in Lakewood, CO, on August 17, 2020.

Mark A Gabriel,
Administrator.

Rate Schedule SLIP-F11
(Supersedes Rate Schedule SLIP-F10)

**United States Department of Energy
Western Area Power Administration**

**Colorado River Storage Project
Management Center Salt Lake City
Area Integrated Projects**

Schedule of Rates for Firm Power Service (Approved Under Rate Order No. WAPA-190)

Effective:

Rate Schedule SLIP-F11 will be placed into effect on an interim basis on the first day of the first full-billing period beginning on or after October 1, 2020, and will remain in effect until FERC confirms, approves, and places the rate schedules into effect on a final basis through September 30, 2025, or until the rate schedules are superseded.

Available:

In the area served by the Salt Lake City Area Integrated Projects.

Applicable:

To the wholesale power customer for firm power service supplied through one meter at one point of delivery or as otherwise established by contract.

Character:

Alternating current, 60 hertz, three-phase, delivered and metered at the voltages and points established by contract.

Monthly Rate:

Demand Charge: \$4.85 per kilowatt of billing demand.

Energy Charge: \$11.43 mills per kilowatthour of use.

Cost Recovery Charge:

To adequately recover and maintain a sufficient balance in the Basin Fund, WAPA uses a cost recovery mechanism, called a Cost Recovery Charge (CRC). The CRC is a charge on all SHP energy.

This charge will be recalculated before October 1 of each year, and WAPA will provide notification to the Customers. The charge, if needed, will be placed into effect on the first day of the first full-billing period beginning on or after January 1, 2021. Under a Water Release Trigger, the CRC will be recalculated at that time. (See Trigger for Water Release Criteria explanation below.) The CRC will be calculated as follows:

WAPA has the Discretion To Implement a CRC Based on the Tiers Below

TABLE 1—CRC TIERS

Tier	Criteria, if the BFBB is:	Review
i	Greater than \$150 million, with an expected decrease to below \$75 million	Annually.
ii	Less than \$150 million but greater than \$120 million, with an expected 50 percent decrease in the next CY.	
iii	Less than \$120 million but greater than \$90 million, with an expected 40 percent decrease in the next CY.	
iv	Less than \$90 million but greater than \$60 million, with an expected 25 percent decrease in the next CY.	
v	Less than \$60 million but greater than \$40 million with an expected decrease to below \$40 million in the next CY.	
		Semi-Annual (August/February).
		Monthly.

TABLE 2—SAMPLE CRC CALCULATION

	Description	Example	Formula
Step one: Determine the Net Balance available in the Basin Fund.			
BFBB ..	Basin Fund Beginning Balance (\$)	\$117,508,000	Financial forecast.
BFTB ...	Basin Fund Target Balance (\$)	\$70,504,800	BFBB—(Tier % *BFBB), or BFTB for Tier i and Tier v. ¹
PAR	Projected Annual Revenue (\$) w/o CRC	\$190,628,000	Financial forecast.
PAE	Projected Annual Expenses (\$)	\$249,187,000	Financial forecast.
NR	Net Revenue (\$)	\$ - 58,559,000	PAR—PAE.
NB	Net Balance (\$)	\$58,949,000	BFBB + NR.
Step two: Determine the Forecasted Energy Purchase Expenses.			
EA	SHP Energy Allocation (GWh)	5,135	Customer contracts.
HE	Forecasted Hydro Energy (GWh)	4,459	Hydrologic & generation forecast.

¹³ The determination was made in compliance with the National Environmental Policy Act (NEPA) of 1969, as amended, 42 U.S.C. 4321-4347; the

Council on Environmental Quality Regulations for implementing NEPA (40 CFR parts 1500-1508); and

DOE NEPA Implementing Procedures and Guidelines (10 CFR part 1021).

TABLE 2—SAMPLE CRC CALCULATION—Continued

	Description	Example	Formula
FE	Forecasted Energy Purchase (GWh)	676	EA—HE or anticipated.
FFC	Forecasted Average Energy Price per MWh (\$)	\$30.57	From commercially available price indices.
FX	Forecasted Energy Purchase Expense (\$)	\$20,665,320	FE * FFC *1000.
Step three: Determine the amount of Funds Available for firming energy purchases, and then determine additional revenue to be recovered. The following two formulas will be used to determine FA; the lesser of the two will be used.			
FA1	Basin Fund Balance Factor (\$)	\$9,109,520	If (NB>BFBB,FX,FX – (BFTB – NB)).
FA2	Revenue Factor (\$)	\$9,109,520	If (NR> – (BFBB–BFTB), FX, FX+NR +(BFBB–BFTB)).
FA	Funds Available (\$)	\$9,109,520	Lesser of FA1 or FA2 (not less than \$0).
FARR ..	Additional Revenue to be Recovered (\$)	\$11,555,800	FX—FA.
Step four: Determine the difference between the market price and the SLCA/IP Energy Rate.			
SLIP	SLCA/IP Energy Rate	\$11.43	From Rate Schedule SLIP–F10.
NRATE	Net Rate: Difference between Market Price and SLCA/ IP Energy Rate.	\$19.14	FFC—SLIP.
Step five: Once the FA for purchases and the NRATE for cost have been determined, the CRC can be calculated, and the WL can be determined.			
CRC	Cost Recovery Charge (mills/kWh)	2.25	FARR/(EA*1,000).
WL	Waiver Level (GWh)	4,531	EA – ((FARR/NRATE)/1000).
WLP	Waiver Level Percentage of Full SHP	88.24%	WL/EA*100.
CRCE ..	CRC Energy (GWh)	604	EA—WL.
CRCEP	CRC Energy Percentage of Full SHP	11.76%	CRCE/EA*100.
RISC ...	Reduction in SHP Capacity	11.76%	Same as CRCEP percentage.

Notes:

1. Use Table 1 to calculate applicable value.

Narrative CRC Example

Step One: Determine the net balance available in the Basin Fund.

BFBB—WAPA will forecast the Basin Fund Beginning Balance for the next CY.

BFBB = \$117,508,000

BFTB—The Basin Fund Target Balance is based on the applicable tiered percentage, or minimum value, of the Basin Fund Beginning Balance derived from the CRC Tiers table with a minimum BFTB set at \$40 million.

BFTB = BFBB less 40 percent, see Tier iii (BFBB < 120 million, BFBB > 90 million)

= \$117,508,000 – \$47,003,200
= \$70,504,800

PAR—Projected Annual Revenue is WAPA’s estimate of revenue for the next CY.

PAR = \$190,628,000

PAE—Projected Annual Expenses is WAPA’s estimate of expenses for the next CY. The PAE includes all cash outflows from the Basin Fund including capital expenses, O&M, revenue transfers to Reclamation, and returns to Treasury.

PAE = \$249,187,000

NR—Net Revenue equals revenues minus expenses.

NR = PAR – PAE
= \$190,628,000 – 249,187,000
= \$ – 58,559,000

NB—Net Balance is the Basin Fund Beginning Balance plus net revenue.

NB = BFBB + NR
= \$117,508,000 + (– 58,559,000)
= \$58,949,000

Step Two: Determine the forecasted energy purchases expenses.

EA—The Sustainable Hydro Power Energy (from Customer contracts) and Project Use allocations.

EA = 5,135 (GWh)

HE—WAPA’s forecast of Hydro Energy available during the next FY developed from Reclamation’s August 24-month Study.

HE = 4,459 (GWh)

FE—Forecasted Energy purchases are the difference between the Sustainable Hydro Power allocation and the forecasted hydro energy available for the next CY or the anticipated firming purchases for the next year.

FE = EA–HE or anticipated purchases = 676 (GWh, anticipated)

FFC—The forecasted energy price for the next CY per MWh. WAPA currently uses Argus to estimate market prices for purchase power.

FFC = \$30.57 per MWh

FX—Forecasted energy purchase power expenses based on the current year’s August 24-month Study, representing an estimate of the total costs of firming purchases for the coming CY.

FX = FE*FFC*1000
= 676 * \$30.57*1000
= \$20,665,320

Step Three: Determine the amount of Funds Available (FA) to expend on firming energy purchases and then determine additional revenue to be recovered (FARR). The following two formulas (FA1, FA2) will be used to determine FA; *the lesser of the two will be used.* Funds available shall not be less than zero.

A. Basin Fund Balance Factor (FA1)

If the Net Balance is greater than the Basin Fund Target Balance, then the value for forecasted energy purchased power expenses (FX) is used. If the net balance is less than the Basin Fund Target Balance, then the Forecasted Energy Purchased Power Expenses, subtracted by the difference between the Basin Fund Target Balance and the Net Balance, is used.

FA1 = If (NB >BFTB, FX, FX—(BFTB—NB))

If the Net Balance is greater than the Basin Fund Target Balance, then FA1 = FX.

= \$58,949,000 (NB) is greater than \$70,504,800 (BFTB) then:
= \$20,665,320 (FX)

If the Net Balance is less than the Basin Fund Target Balance (as it is in this example), then this equation would be used to determine FA1:

$$\begin{aligned} \text{FA1} &= \text{FX} - (\text{BFTB} - \text{NB}) \\ &= \$20,665,320 (\text{FX}) - (\$70,504,800 \\ &\quad (\text{BFTB}) - \$58,949,000 (\text{NB})) \\ &= \$9,109,520 \end{aligned}$$

B. Basin Fund Revenue Factor (FA2)

The second factor ensures WAPA collects sufficient funds to meet the Basin Fund Target Balance as long as the amount needed does not exceed the forecasted purchase expense (FX):

In the situation, there is *no* projected positive net revenue:

$$\text{FA2} = \text{If } (\text{NR} > -(\text{BFBB} - \text{BFTB}), \text{FX}, \text{FX} + \text{NR} + (\text{BFBB} - \text{BFTB}))$$

If the Net Revenue (loss) value does not result in a loss that exceeds the allowable decrease value of the Basin Fund Beginning Balance $(-\text{BFBB} - \text{BFTB})$, then $\text{FA2} = \text{FX}$:

$$\begin{aligned} &= -\$58,559,000 (\text{NR}) \text{ is greater} \\ &\quad \text{than } -(\$117,508,000 - \$70,504,800) \\ &\quad \text{then:} \\ &= \$20,665,320 (\text{FX}) \text{ else:} \end{aligned}$$

If the Net Revenue (loss) results in a loss that exceeds the allowable decrease value of the Basin Fund Beginning Balance $(-\text{BFBB} - \text{BFTB})$, then $\text{FX} + \text{NR} + (\text{BFBB} - \text{BFTB})$:

$$\begin{aligned} &= \$20,665,320 (\text{FX}) + (-\$58,559,000) \\ &\quad (\text{NR}) + (\$117,598,000 - \$70,504,800) \\ &= \$9,109,520 \end{aligned}$$

FA—Determine funds available for purchasing firming energy by using the lesser of FA1 and FA2.

FA1 and FA2 are equal, so:

$$\text{FA} = \$9,109,520 (\text{FX})$$

FARR—Calculate the additional revenue to be recovered by subtracting the Funds Available from the forecasted energy purchased power expenses.

$$\begin{aligned} \text{FARR} &= \text{FX} - \text{FA} \\ &= \$20,665,320 (\text{FX}) - \$9,109,520 (\text{FA}) \\ &= \$11,555,800 \end{aligned}$$

Step four: Determine the difference between the Market Price and the SLCA/IP energy rate.

SLIP—SLCA/IP energy rate from Rate Schedule SLIP F11

$$\text{SLIP} = \$11.43 \text{ per MWh}$$

NRATE—Difference between the Market Price and the SLCA/IP energy rate

$$\begin{aligned} \text{NRATE} &= \text{FFC} - \text{SLIP} \\ &= \$30.57 (\text{FFC}) - \$11.43 (\text{SLIP}) \\ &= \$19.14 \text{ per MWh} \end{aligned}$$

Step five: Once the funds available for purchases have been determined, the

CRC can be calculated and the Waiver Level (WL) can be determined.

A. Cost Recovery Charge

The CRC will be a charge to recover the additional revenue (FARR) required as calculated in Step 3. The CRC will apply to all customers who choose not to request a waiver of the CRC, as discussed below. The CRC equals the additional revenue to be recovered divided by the total energy allocation to all customers for the CY.

$$\begin{aligned} \text{CRC} &= \text{FARR}/(\text{EA} * 1,000) \\ &= \$11,555,800 (\text{FARR}) / (5,135 (\text{EA}) * \\ &\quad 1,000) \\ &= \$ 2.25 \text{ mills/kWh} \end{aligned}$$

B. Waiver Level (WL)

WAPA will establish a WL that provides WAPA the ability to reduce purchased power expenses by scheduling less energy than what is contractually required. Therefore, for those customers who voluntarily schedule no more energy than their proportionate share of the WL, WAPA will waive the CRC for that year. After the Funds Available have been determined, the WL will be set at the sum of the energy that can be provided through hydro generation and purchased with Funds Available. The WL will not be less than the forecasted Hydro Energy.

If SHP Energy Allocation (EA) is less than forecasted Hydro Energy (HE) available, then $\text{WL} = \text{EA}$. If SHP Energy Allocation (EA) is greater than the forecasted Hydro Energy (HE) available, then $\text{WL} = (\text{EA} - ((\text{FARR}/\text{NRATE})/1000))$

$$\begin{aligned} \text{WL} &= \text{If } (\text{EA} < \text{HE}), \text{EA}, (\text{EA} - ((\text{FARR}/ \\ &\quad \text{NRATE})/1000)) \\ &= \text{If } 5,135 (\text{EA}) \text{ is less than } 4,459 (\text{HE}), \\ &\quad \text{then:} \end{aligned}$$

$$\begin{aligned} &= 5,135 (\text{EA}), \text{ else:} \\ &= 5,135 (\text{EA}) - ((\$11,555,800 (\text{FARR})/ \\ &\quad \$19.14 (\text{NRATE}))/1,000) \\ &= 4,531 (\text{GWh}) \text{ is the Waiver Level} \end{aligned}$$

C. Waiver Level Percentage of Full SHP WLP

$$\begin{aligned} \text{WLP} &= \text{WL}/\text{EA} \\ &= 4,531/5,135 \\ &= 88.24\% \end{aligned}$$

D. CRC Energy GWh (CRCE)

$$\text{CRCE} = \text{EA} - \text{WL}$$

$$= 5,135 - 4,531$$

$$= 604 \text{ GWh}$$

E. CRC Level Percentage of Full SHP (CRCEP)

$$\begin{aligned} \text{CRCEP} &= \text{CRCE}/\text{EA} \\ &= 604/5,135 \\ &= 11.76\% \end{aligned}$$

F. Reduction in Capacity (RISC):

SHP capacity reductions will be made, for those customers taking the CRC waiver, to maintain each customer's existing monthly Load Factor percentage at the same level provided by the full SHP capacity and energy allocation.

$$\begin{aligned} \text{RISC} &= \text{CRCEP} \\ &= 11.76\% \end{aligned}$$

Trigger for Water Release Criteria

In the event that Reclamation's 24-month Study projects that Glen Canyon Dam water releases will drop below 8.23 MAF in a water year (October through September), WAPA will recalculate the CRC to include those lower estimates of hydropower generation and the estimated costs for the additional purchase power necessary. WAPA, as in the yearly projection for the CRC, will give the Customers a 45-day notice to request a waiver of the CRC if they do not want to have the CRC charge added to their energy bills. This recalculation will remain in effect for the remainder of the current CY.

If the annual water release volumes from Glen Canyon Dam return to 8.23 MAF or higher during the trigger implementation, a new CRC will be calculated for the next month, and the Customer will be notified.

Narrative PYA Discussion

Since the annual determination of the CRC is based upon estimates, an annual, prior-year adjustment (PYA) will be calculated. The CRC PYA for the next subsequent year will be determined by comparing the prior year's estimated firming energy cost to the prior year's actual firming energy cost for the energy provided above the WL. The PYA will result in an increase or decrease to a customer's firm energy costs over the course of the following year. See Table 3 below for an example of the PYA.

TABLE 3—PYA CALCULATION

PYA CALCULATION			
	Description	Example	Formula/Source
Step one: Determine actual expenses and purchases for previous year's firming. This data will be obtained from WAPA's financial statements at the end of the CY.			
PFX	Prior Year Actual Firming Expenses (\$)	\$11,020,808	Monthly Income Statements.
PFE	Prior Year Actual Firming Energy (GWh)	490	Financial Settlements Data.
Step two: Determine the actual firming cost for the CRC portion.			
EAC	Sum of the energy allocations of customers subject to the PYA (GWh).	3,266	
FFC	Forecasted Firming Energy Cost—(\$/MWh)	\$30.57	From CRC Calculation.
AFC	Actual Firming Energy Cost—(\$/MWh)	\$22.49	PFX/PFE.
CRCEP	CRC Energy Percentage	11.76%	From CRC Calculation.
CRCE	Purchased Energy for the CRC (GWh)	384	EAC*CRCEP.
Step three: Determine Revenue Adjustment (RA) and PYA.			
RA	Revenue Adjustment (\$)	(\$3,102,720)	(AFC-FFC)*CRCE*1,000.
PYA	Prior Year Adjustment (mills/kWh)	(.95 mills)/kWh	(RA/EAC)/1,000.

Narrative PYA Example

Narrative PYA Example Only (assumes that a CRC was needed for the previous year).

Step one: Determine actual expenses and purchases for previous year's firming. This data will be obtained from WAPA's financial statements at end of the FY.

PFX—Prior year actual firming expense.

PFX = \$11,020,808

PFE—Prior year actual firming energy.

PFE = 490 GWh

Step two: Determine the actual firming cost for the CRC portion.

EAC—Sum of the energy allocations of customers who were assessed the CRC for the prior year.

EAC = 3,266 GWh

CRCE—The amount of CRC Energy needed.

CRCE = EAC * CRCEP

$$= 3,266 * .1176$$

$$= 384 \text{ GWh}$$

AFC—The Actual Firming Energy Cost is the PFX divided by the PFE.

$$AFC = (PFX/PFE)/1,000$$

$$= (\$11,020,808/490)/1,000$$

$$= \$22.49/\text{MWh}$$

Step three: Determine Revenue Adjustment and PYA.

RA—The Revenue Adjustment is Actual Firming Energy Cost less Forecasted Firming Energy Cost times Purchased Energy for the CRC.

$$RA = (AFC - FFC) * CRCE * 1,000$$

$$= (\$22.49 - \$30.57) * 384 * 1,000$$

$$= (\$3,102,720)$$

PYA—The PYA is the Revenue Adjustment divided by the SHP Energy Allocation for the CRC Customers in the prior year only and will be applied to those same customers.

$$PYA = (RA/EAC)/1,000$$

$$= (-\$3,102,720/3,266)/1,000$$

$$= -.95 \text{ mills/kWh}$$

The Customers' PYA will be based on their prior CY's energy multiplied by the PYA mills/kWh to determine the dollar value that will be assessed. The Customer will be charged or credited for this dollar amount equally in the remaining months of the next year's billing cycle. WAPA will complete this calculation by March 1 of each year. Therefore, if the PYA is calculated in March, the charge/credit will be spread over the remaining 9 months of the CY (April through December).

CRC Schedule for Customers:

Consistent with the procedures at 10 CFR 903, WAPA will provide its customers with information concerning the anticipated CRC for the upcoming CY by October 1. The established CRC will be in effect for the entire CY. The table below displays the time frame for determining the amount of purchases needed, developing customers' load schedules, and making purchases.

TABLE 4—CRC SCHEDULE

Task	Respective dates under table CRC tiers		
	i, ii, and iii	iv ¹	v ²
24-month Study (Forecast used to Model Projections).	August 1	August 1	Monthly Study.
CRC Notice to Customers	October 1	February 1	Monthly.
Waiver Request Submitted by Customers.	November 15	October 1	Within 30 days.
CRC Effective	January 1	April 1	Updated Monthly.
		Within 45 days	
		January 1	
		July 1	

Notes:

¹ Under a Water Release Criteria Trigger, this schedule will change. Customers will be notified that a CRC will be implemented in 90 days. WAPA will provide its Customers with information concerning the anticipated CRC and give them 45 days to request a waiver or accept the CRC. The established CRC will be in effect for 12 months from the date implemented unless superseded by another CRC.

²If it is determined during the additional reviews, under tier v, that a CRC is necessary, Customers will be notified that a CRC will be implemented in 60 days. WAPA will provide its Customers with information concerning the anticipated CRC and give them 30 days to request a waiver or accept the CRC. The established CRC will be in effect for 12 months from the date implemented unless superseded by another CRC.

Billing Demand:

The billing demand will be the greater of:

1. The highest 30-minute integrated demand measured during the month up to, but not more than, the delivery obligation under the power sales contract, or

2. The Contract Rate of Delivery.

Billing Energy:

The billing energy will be the energy measured during the month up to, but not more than, the delivery obligation under the power sales contract.

Adjustment for Waiver:

Customers can choose not to take the full SHP energy supplied as determined in the attached formulas for CRC and will be billed the Energy and Capacity rates listed above, but not the CRC.

Adjustment for Transformer Losses:

If delivery is made at transmission voltage, but metered on the low-voltage side of the substation, the meter readings will be increased to compensate for transformer losses as provided in the contract.

Adjustment for Power Factor:

The Customer will be required to maintain a power factor at all points of measurement between 95 percent lagging and 95 percent leading.

Adjustment for Western Replacement Power:

Pursuant to the Customer's Firm Electric Service Contract, as amended, WAPA will bill the Customer for its proportionate share of the costs of Western Replacement Power (WRP) within a given time period. WAPA will include in the monthly power bill the cost of the WRP and the incremental administrative costs associated with WRP.

Adjustment for Customer Displacement Power Administrative Charges:

WAPA will include in the Customer's regular monthly power bill the incremental administrative costs associated with Customer Displacement Power.

Rate Schedule SP-NW5

ATTACHMENT H to Tariff
(Supersedes Rate Schedule SP-NW4)

**United States Department of Energy
Western Area Power Administration**

**Colorado River Storage Project
Management Center Colorado River
Storage Project**

Network Integration Transmission Service (Approved Under Rate Order No. WAPA-190)

Effective:

Rate Schedule SP-NW5 will be placed into effect on an interim basis on the first day of the first full-billing period beginning on or after October 1, 2020, and will remain in effect until FERC confirms, approves, and places the rate schedules into effect on a final basis through September 30, 2025, or until the rate schedules are superseded.

Applicable:

The Transmission Customer will compensate the Colorado River Storage Project each month for Network Integration Transmission Service under the applicable Network Integration Transmission Service Agreement and the formula rate described herein.

Formula Rate:

$$\text{Monthly Charge} = \frac{\text{Annual Transmission Revenue Requirement for Network Integration Transmission Service}}{12} \times \text{Transmission Customer's Load-Ratio Share}$$

A calculated Annual Transmission Revenue Requirement for Network Integration Transmission Service will go into effect every October 1 based on the above formula and updated financial and operational data. WAPA will notify the transmission customer annually of the recalculated annual Revenue Requirement on or before September 1.

Billing:

Billing determinants for the formula rate above will be as specified in the service agreement. Billing will occur monthly under the formula rate.

Adjustment for Losses:

Losses incurred for service under this rate schedule will be accounted as agreed to by the parties in accordance

with the service agreement. If losses are not fully provided by a transmission customer, charges for financial compensation may apply.

Rate Schedule SP-PTP9
SCHEDULE 7 to Tariff
(Supersedes Schedule SP-PTP8)

**United States Department of Energy
Western Area Power Administration**

**Colorado River Storage Project
Management Center Colorado River
Storage Project**

Firm Point-to-Point Transmission Service (Approved Under Rate Order No. WAPA-190)

Effective:

Rate Schedule SP-PTP9 will be placed into effect on an interim basis on the first day of the first full-billing period beginning on or after October 1, 2020, and will remain in effect until FERC confirms, approves, and places the rate schedules into effect on a final basis through September 30, 2025, or until the rate schedules are superseded.

Applicable:

The Transmission Customer will compensate the Colorado River Storage Project each month for Reserved Capacity under the applicable Firm Point-To-Point Transmission Service Agreement and the formula rate described herein.

Formula Rate:

$$\text{Firm Point-To-Point Transmission Rate} = \frac{\text{Annual Transmission Revenue Requirement (\$)}}{\text{Firm Transmission Capacity Reservations} + \text{Network Integration Transmission Service Capacity (kW)}}$$

A recalculated rate will go into effect every October 1 based on the above formula and updated financial and operational data. WAPA will notify the transmission customer annually of the recalculated rate on or before September 1. Discounts may be offered from time to time in accordance with WAPA's Open Access Transmission Tariff.

Billing:

The formula rate above applies to the maximum amount of capacity reserved for periods ranging from 1 hour to 1 month, payable whether used or not. Billing will occur monthly.

Adjustment for Losses:

Losses incurred for service under this rate schedule will be accounted for as agreed to by the parties in accordance with the service agreement. If losses are not fully provided by a transmission customer, charges for financial compensation may apply.

Rate Schedule SP–NFT8

SCHEDULE 8 to Tariff

(Supersedes Schedule SP–NFT7)

**United States Department of Energy
Western Area Power Administration**

**Colorado River Storage Project
Management Center Colorado River
Storage Project**

Non-Firm Point-To-Point Transmission Service (Approved Under Rate Order No. WAPA–190)

Effective:

Rate Schedule SP–NFT8 will be placed into effect on an interim basis on the first day of the first full-billing period beginning on or after October 1, 2020, and will remain in effect until FERC confirms, approves, and places the rate schedules into effect on a final basis through September 30, 2025, or until the rate schedules are superseded.

Applicable:

The Transmission Customer will compensate the Colorado River Storage Project each month for Non-Firm, Point-to-Point Transmission Service under the applicable Non-Firm, Point-to-Point Transmission Service Agreement and the formula rate described herein.

Formula Rate:

Maximum Non-Firm Point-To-Point Transmission Rate = Firm Point-To-Point Transmission Rate

A recalculated rate will go into effect every October 1 based on the above formula and updated financial and load data. WAPA will notify the transmission customer annually of the recalculated rate on or before September 1. Discounts may be offered from time-to-time in accordance with WAPA's Open Access Transmission Tariff.

Billing:

The formula rate above applies to the maximum amount of capacity reserved for periods ranging from 1 hour to 1 month, payable whether used or not. Billing will occur monthly.

Adjustment for Losses:

Power and energy losses incurred in connection with the transmission and delivery of power and energy under this rate schedule shall be supplied by the customer in accordance with the service contract. If losses are not fully provided by a transmission customer, charges for financial compensation may apply.

Rate Schedule SP–UU2

SCHEDULE 10 to Tariff

(Supersedes Schedule SP–UU1)

**United States Department of Energy
Western Area Power Administration**

**Colorado River Storage Project
Management Center Colorado River
Storage Project**

Unreserved Use Penalties (Approved Under Rate Order No. WAPA–190)

Effective:

Rate Schedule SP–UU2 will be placed into effect on an interim basis on the first day of the first full-billing period beginning on or after October 1, 2020, and will remain in effect until FERC confirms, approves, and places the rate schedules into effect on a final basis through September 30, 2025, or until the rate schedules are superseded.

Applicable:

The Transmission Customer shall compensate the Colorado River Storage Project (CRSP) each month for any unreserved use of the transmission system (Unreserved Use) under the applicable transmission service rates as outlined herein. Unreserved Use occurs when an eligible customer uses transmission service that it has not reserved or a transmission customer uses transmission service in excess of its reserved capacity. Unreserved Use may also include a customer's failure to curtail transmission when requested.

Penalty Rate:

The penalty rate for a Transmission Customer that engages in Unreserved Use is 200 percent of CRSP's approved transmission service rate for point-to-point (SP–PTP9) transmission service assessed as follows:

(i) The Unreserved Use Penalty for a single hour of Unreserved Use is based upon the rate for daily firm PTP service.

(ii) The Unreserved Use Penalty for more than one assessment for a given duration (e.g., daily) increases to the next longest duration (e.g., weekly).

(iii) The Unreserved Use Penalty for multiple instances of Unreserved Use (e.g., more than 1 hour) within a day is based on the rate for daily firm PTP

service. The Unreserved Use Penalty charge for multiple instances of Unreserved Use isolated to 1 calendar week would result in a penalty based on the rate for weekly firm PTP service.

The Unreserved Use Penalty charge for multiple instances of Unreserved Use during more than 1 week in a calendar month will be based on the rate for monthly firm PTP service.

A Transmission Customer that exceeds its firm reserved capacity at any point of receipt or point of delivery or an eligible customer that uses transmission service at a point of receipt or point of delivery that it has not reserved is required to pay for all ancillary services identified in WAPA's Open Access Transmission Tariff that were provided by the CRSP and associated with the Unreserved Use. The Transmission Customer will pay for ancillary services based on the amount of transmission service it used and did not reserve.

Rate:

The rate for Unreserved Use Penalties is 200 percent of WAPA's approved rate for firm point-to-point transmission service assessed as described above. Any change to the rate for Unreserved Use Penalties will be listed in a revision to this rate schedule issued under applicable Federal laws and policies and made part of the applicable service agreement.

Rate Schedule SP–EI5

SCHEDULES 4 & 9 to Tariff

(Supersedes Rate Schedule SP–EI4)

**United States Department of Energy
Western Area Power Administration**

**Colorado River Storage Project
Management Center Colorado River
Storage Project**

Energy and Generator Imbalance Services (Approved Under Rate Order No. WAPA–190)

Effective:

Rate Schedule SP–EI5 will be placed into effect on an interim basis on the first day of the first full-billing period beginning on or after October 1, 2020, and will remain in effect until FERC confirms, approves, and places the rate schedules into effect on a final basis through September 30, 2025, or until the rate schedules are superseded.

Applicable:

To all CRSP Transmission Customers receiving this service.

Formula Rates:

Provided through the Western Area Colorado Missouri (WACM) Balancing Authority under Rate Schedules L–AS4 and L–AS9, or as superseded.

Rate Schedule SP–SSR5

SCHEDULES 5 & 6 to Tariff
(Supersedes Rate Schedule SP–SSR4)

**United States Department of Energy
Western Area Power Administration**

**Colorado River Storage Project
Management Center Colorado River
Storage Project**

*Operating Reserves—Spinning and
Supplemental Reserve Services
(Approved Under Rate Order No.
WAPA–190)*

Effective:

Rate Schedule SP–SSR5 will be placed into effect on an interim basis on the first day of the first full-billing period beginning on or after October 1, 2020, and will remain in effect until FERC confirms, approves, and places the rate schedules into effect on a final basis through September 30, 2025, or until the rate schedules are superseded.

Applicable:

To all CRSP Transmission Customers receiving this service.

Formula Rate:

The Transmission Customer serving loads within the transmission provider's balancing authority must acquire Spinning and Supplemental Reserve services from CRSP, from a third party, or by self-supply.

Rate Schedule SP–SS1

**United States Department of Energy
Western Area Power Administration**

**Colorado River Storage Project
Management Center Colorado River
Storage Project**

*Sale of Surplus Products (Approved
Under Rate Order No. WAPA–190)*

Effective:

The first day of the first full billing period beginning on or after October 1, 2020, and extending through September 30, 2025, or until superseded by another rate schedule, whichever occurs earlier.

Applicable:

This Rate Schedule applies to the sale of the following Salt Lake City Area Integrated Projects (SLCA/IP) surplus energy and capacity products: energy, frequency response, regulation, and reserves. If any of the above SLCA/IP surplus products are available, SLCA/IP can make the product(s) available for sale, providing entities enter into separate agreement(s) with CRSP Marketing which will specify the terms of the sale(s).

Formula Rate:

The charge for each product will be determined at the time of the sale based on market rates, plus administrative costs. The customer will be responsible for acquiring transmission service necessary to deliver the product(s), for

which a separate charge may be incurred.

[FR Doc. 2020–18533 Filed 8–21–20; 8:45 am]

BILLING CODE 6450–01–P

**ENVIRONMENTAL PROTECTION
AGENCY**

[EPA–HQ–ORD–2015–0467; FRL–10013–85–ORD]

**Board of Scientific Counselors (BOSC)
Safe and Sustainable Water Resources
Subcommittee Meeting—October 2020**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: The Environmental Protection Agency (EPA), Office of Research and Development (ORD), gives notice of a virtual meeting of the Board of Scientific Counselors (BOSC) Safe and Sustainable Water Resources (SSWR) Subcommittee to review the initial progress on implementation of the FY 19–22 SSWR Strategic Research Action Plan (StRAP).

DATES: 1. The initial meeting will be held over two days via videoconference:

- a. Wednesday, October 28, 2020, from 12 p.m. to 5 p.m. (EDT); and
- b. Thursday, October 29, 2020, from 12 p.m. to 5 p.m. (EDT).

Attendees must register by October 27, 2020.

2. A BOSC deliberation will be held on November 13, 2020 from 11 a.m. to 2 p.m. (EDT). Attendees must register by November 12, 2020.

3. A final summary teleconference will be held on December 2, 2020 from 2 p.m. to 5 p.m. (EDT). Attendees must register by December 1, 2020.

Meeting times are subject to change. These series of meetings are open to the public. Comments must be received by October 27, 2020, to be considered by the subcommittee. Requests for the draft agenda or making a presentation at the meeting will be accepted until October 27, 2020.

ADDRESSES: Instructions on how to connect to the videoconference will be provided upon registration at <https://www.eventbrite.com/e/us-epa-bosc-safe-and-sustainable-water-resources-subcommittee-meeting-tickets-113549724282>.

Submit your comments to Docket ID No. EPA–HQ–ORD–2015–0467 by one of the following methods:

- www.regulations.gov: Follow the online instructions for submitting comments.
- *Note:* Comments submitted to the www.regulations.gov website are

anonymous unless identifying information is included in the body of the comment.

- *Email:* Send comments by electronic mail (email) to: ORD.Docket@epa.gov, Attention Docket ID No. EPA–HQ–ORD–2015–0467.

- *Note:* Comments submitted via email are not anonymous. The sender's email will be included in the body of the comment and placed in the public docket which is made available on the internet.

Instructions: All comments received, including any personal information provided, will be included in the public docket without change and may be made available online at

www.regulations.gov. Information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute will not be included in the public docket, and should not be submitted through www.regulations.gov or email. For additional information about the EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/dockets/>.

Public Docket: Publicly available docket materials may be accessed *Online* at www.regulations.gov.

Copyrighted materials in the docket are only available via hard copy. The telephone number for the ORD Docket Center is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Officer (DFO), Tom Tracy, via phone/voicemail at: (202) 564–6518; or via email at: tracy.tom@epa.gov.

Any member of the public interested in receiving a draft agenda, attending the meeting, or making a presentation at the meeting should contact Tom Tracy no later than October 27, 2020.

SUPPLEMENTARY INFORMATION: The Board of Scientific Counselors (BOSC) is a federal advisory committee that provides advice and recommendations to EPA's Office of Research and Development on technical and management issues of its research programs. The meeting agenda and materials will be posted to <https://www.epa.gov/bosc>.

Proposed agenda items for the meeting include, but are not limited to, the following: Watersheds and Progress of StRAP Implementation.

Information on Services Available: For information on translation services, access, or services for individuals with disabilities, please contact Tom Tracy at (202) 564–6518 or tracy.tom@epa.gov. To request accommodation of a disability, please contact Tom Tracy at least ten days prior to the meeting to

give the EPA adequate time to process your request.

Authority: Pub. L. 92–463, 1, Oct. 6, 1972, 86 Stat. 770.

Mary Ross,

Director, Office of Science Advisor, Policy, and Engagement.

[FR Doc. 2020–18516 Filed 8–21–20; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sunshine Act Notice

TIME AND DATE: Thursday, August 27, 2020, 1:00 p.m. Eastern Time

PLACE: Because of the COVID–19 pandemic, the meeting will be held as an audio-only conference.

STATUS: The meeting will be closed to the public.

MATTERS TO BE CONSIDERED: The following item will be considered at the meeting:

Formal Opinion Letter Discussing the Commission's Authority under Section 707 of the Civil Rights Act of 1964

Closed Session

The Legal Counsel has certified that, in his opinion, the Commission meeting scheduled for August 27, 2020 at 1 p.m. (and portions of any subsequent meeting within the following 30 days to which those same matters may be carried over) concerning a Formal Opinion Letter discussing the Commission's authority under section 707 of the Civil Rights Act of 1964 may properly be closed under the 10th exemption to the Government in the Sunshine Act, 5 U.S.C. 552b(c)(10), and Commission regulation at 29 CFR 1612.4(j).

NOTE: (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides information about Commission meetings on its website, www.eeoc.gov, and provides a recorded announcement a week in advance on future Commission sessions.)

Please telephone (202) 663–7100 (voice) or email commissionmeetingcomments@eeoc.gov at any time for information on this meeting.

CONTACT PERSON FOR MORE INFORMATION: Bernadette B. Wilson, Executive Officer on (202) 663–4077.

Bernadette B. Wilson,

Executive Officer, Executive Secretariat.

[FR Doc. 2020–18667 Filed 8–20–20; 4:15 pm]

BILLING CODE 6570–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0790; FRS 17014]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before October 23, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email PRA@fcc.gov and to Nicole.Ongele@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0790.

Title: Section 68.110 (c), Availability of Inside Wiring Information.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 200 respondents; 1,200 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: Recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Mandatory. Providers of wireline telecommunications services that willfully or repeatedly fail to comply with this rule are subject to forfeitures under 47 CFR 1.80. Statutory authority for this collection of information is contained in 47 U.S.C. 151, 154, 201–205, 218, 220 and 405 of the Communications Act of 1934, as amended.

Total Annual Burden: 1,200 hours.

Total Annual Cost: \$5,000.

Privacy Act Impact Assessment: No Impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting that respondents submit any confidential trade secrets or proprietary information to the FCC.

Needs and Uses: Section 68.110(c) requires that any available technical information concerning carrier-installed wiring on the customer's side of the demarcation point, including copies of existing schematic diagrams and service records, shall be provided by the telephone company upon request of the building owner or agent thereof. The provider of wireline telecommunications services may charge the building owner a reasonable fee for this service, which shall not exceed the cost involved in locating and copying the documents. In the alternative, the provider may make these documents available for review and copying by the building owner or his agent. In this case, the wireline telecommunications carrier may charge a reasonable fee, which shall not exceed the cost involved in making the documents available, and may also require the building owner or his agent to pay a deposit to guarantee the documents' return. The information is needed so that building owners may choose to contract with an installer of their choice on inside wiring maintenance and installation services to modify existing wiring or assist with the installation of additional inside wiring.

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2020-18474 Filed 8-21-20; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Privacy Act of 1974; System of Records

AGENCY: Federal Retirement Thrift Investment Board (FRTIB).

ACTION: Notice of a New System of Records.

SUMMARY: Pursuant to the Privacy Act of 1974, the Federal Retirement Thrift Investment Board (FRTIB) proposes to establish a new system of records. Records contained in this system will be used to investigate and prevent potential intrusions into FRTIB network boundaries, to investigate and prevent misuse of information within FRTIB's network boundaries, and to investigate and prevent the compromise or misuse of FRTIB information.

DATES: This system will become effective upon its publication in today's **Federal Register**, with the exception of the routine uses which will be effective on September 23, 2020. FRTIB invites written comments on the routine uses and other aspects of this system of records. Submit any comments by September 23, 2020.

ADDRESSES: You may submit written comments to FRTIB by any one of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the website instructions for submitting comments.

- *Fax:* (202) 942-1676.
- *Mail or Hand Delivery:* Office of General Counsel, Federal Retirement Thrift Investment Board, 77 K Street NE, Suite 1000, Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT:

Megan Grumbine, Senior Agency Official for Privacy, Federal Retirement Thrift Investment Board, Office of General Counsel, 77 K Street NE, Suite 1000, Washington, DC 20002, (202) 942-1600. For access to any of the FRTIB's system of records, contact Amanda Haas, FOIA Officer, Office of General Counsel, at the above address and phone number.

SUPPLEMENTARY INFORMATION: FRTIB proposes to establish a new system of records entitled, "FRTIB-22, Cybersecurity Investigation Records." The Agency employs a variety of

network monitoring tools and security tools to protect the Agency's networks, systems, and data. The records contained in this system are used to investigate and prevent potential intrusions into FRTIB network boundaries, to investigate and prevent misuse of information within FRTIB's network boundaries, and to investigate and prevent the compromise or misuse of FRTIB information. This system of records is required to protect FRTIB information from unauthorized access, use, modification, disclosure, or destruction and to comply with the requirements of the Federal Information Security Modernization Act (FISMA).

FRTIB proposes to apply thirteen routine uses to FRTIB-22.

Megan Grumbine,

General Counsel and Senior Agency Official for Privacy.

SYSTEM NAME AND NUMBER:

FRTIB-22, Cybersecurity Investigation Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are located at the Federal Retirement Thrift Investment Board, 77 K Street NE, Suite 1000, Washington, DC 20002. Records may also be kept at an additional location for Business Continuity purposes.

SYSTEM MANAGER:

Chief Technology Officer, Federal Retirement Thrift Investment Board, 77 K Street NE, Suite 1000, Washington, DC 20002, (202) 942-1600.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 8474; and 44 U.S.C. 3101.

PURPOSES OF THE SYSTEM:

The records in this system of records are used to investigate and prevent potential intrusions into FRTIB network boundaries, to investigate and prevent misuse of information within FRTIB's network boundaries, and to investigate and prevent the compromise or misuse of FRTIB information.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system of records contains information on Thrift Savings Plan (TSP) participants and beneficiaries, FRTIB employees, FRTIB contractors, and any third party individuals with access to FRTIB systems, networks, computers, or data, or those have been alleged to have accessed or attempted to access FRTIB systems, networks, computers, or data without authorization.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system include: First and last name, telephone number, username, email address, media access control (MAC) address, internet protocol (IP) address, and network traffic data, and logs. Because network monitoring tools and security tools are used to analyze email and network traffic and to monitor user activity on FRTIB's network, these tools can capture a variety of data types including but not limited to: Name; social security number; TSP account number; date of birth; address; email address; and financial information.

RECORD SOURCE CATEGORIES:

Records are provided by the Agency's network monitoring tools and the Agency's security tools. The network monitoring tools inspect incoming and outgoing network traffic and include the Agency's data loss prevention (DLP) capabilities. The security tools analyze user activity within the FRTIB network and include the Agency's security information and event management tool.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information about covered individuals may be disclosed without consent as permitted by the Privacy Act of 1974, as amended, 5 U.S.C. 552a(b); and:

1. Routine Use—Audit: A record from this system of records may be disclosed to an agency, organization, or individual for the purpose of performing an audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to FRTIB officers and employees.

2. Routine Use—Breach Mitigation and Notification: Response to Breach of FRTIB Records: A record from this system of records may be disclosed to appropriate agencies, entities, and persons when (1) FRTIB suspects or has confirmed that there has been a breach of the system of records; (2) FRTIB has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, FRTIB (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in

connection with FRTIB's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

3. **Routine Use—Response to Breach of Other Records:** A record from this system of records may be disclosed to another Federal agency or Federal entity, when FRTIB determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

4. **Routine Use—Congressional Inquiries:** A record from this system of records may be disclosed to a Congressional office from the record of an individual in response to an inquiry from that Congressional office made at the request of the individual to whom the record pertains.

5. **Routine Use—Contractors, *et al.*:** A record from this system of records may be disclosed to contractors, grantees, experts, consultants, the agents thereof, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for FRTIB, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to FRTIB officers and employees.

6. **Routine Use—Investigations, Third Parties:** A record from this system of records may be disclosed to third parties during the course of a law enforcement investigation to the extent necessary to obtain information pertinent to the investigation, provided disclosure is appropriate to the proper performance of the official duties of the third party officer making the disclosure.

7. **Routine Use—Investigations, Other Agencies:** A record from this system of records may be disclosed to appropriate Federal, state, local, tribal, or foreign government agencies or multilateral governmental organizations for the purpose of investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, license, or treaty where FRTIB determines that the information would assist in the enforcement of civil or criminal laws.

8. **Routine Use—Law Enforcement Intelligence:** A record from this system

of records may be disclosed to a Federal, state, tribal, local, or foreign government agency or organization, or international organization, lawfully engaged in collecting law enforcement intelligence information, whether civil or criminal, or charged with investigating, prosecuting, enforcing or implementing civil or criminal laws, related rules, regulations or orders, to enable these entities to carry out their law enforcement responsibilities, including the collection of law enforcement intelligence.

9. **Routine Use—Law Enforcement Referrals:** A record from this system of records may be disclosed to an appropriate Federal, state, tribal, local, international, or foreign agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

10. **Routine Use—Litigation, DOJ or Outside Counsel:** A record from this system of records may be disclosed to the Department of Justice, FRTIB's outside counsel, other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when: (1) FRTIB, or (2) any employee of FRTIB in his or her official capacity, or (3) any employee of FRTIB in his or her individual capacity where DOJ or FRTIB has agreed to represent the employee, or (4) the United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and FRTIB determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which FRTIB collected the records.

11. **Routine Use—Litigation, Opposing Counsel:** A record from this system of records may be disclosed to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena.

12. **Routine Use—NARA/Records Management:** A record from this system of records may be disclosed to the National Archives and Records Administration (NARA) or other Federal

Government agencies pursuant to the Federal Records Act.

13. **Routine Use—Security Threat:** A record from this system of records may be disclosed to Federal and foreign government intelligence or counterterrorism agencies when FRTIB reasonably believes there to be a threat or potential threat to national or international security for which the information may be useful in countering the threat or potential threat, when FRTIB reasonably believes such use is to assist in anti-terrorism efforts, and disclosure is appropriate to the proper performance of the official duties of the person making the disclosure.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained in electronic form, including on computer databases and cloud-based services, all of which are securely stored.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by name, email address, log identification number, internet protocol (IP) address, media access control (MAC) address, or FRTIB username.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

These records are maintained in accordance with General Records Schedule 3.1 (General Technology Management Records), items 11 or 20 or GRS 3.2 (Information System Security Records) item 10, 30, and 31 issued by the National Archives and Records Administration (NARA).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

FRTIB has adopted appropriate administrative, technical, and physical controls in accordance with FRTIB's security program to protect the security, confidentiality, availability, and integrity of the information, and to ensure that records are not disclosed to or accessed by unauthorized individuals. Electronic records are stored on computer systems and protected by role-based access to users with passwords set by authorized users that must be changed periodically.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records within this system must submit a request pursuant to 5 CFR part 1630. Attorneys or other persons acting on behalf of an individual must provide written authorization from that individual, such as Power of Attorney, in order for the representative to act on their behalf.

CONTESTING RECORDS PROCEDURES:

See Record Access Procedures above.

NOTIFICATION PROCEDURES:

See Record Access Procedures above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

[FR Doc. 2020-18271 Filed 8-21-20; 8:45 am]

BILLING CODE 6760-01-P

**GENERAL SERVICES
ADMINISTRATION**

[OMB Control No. 3090-0315; Docket No. 2020-0001; Sequence No. 6]

**Information Collection; Ombudsman
Inquiry/Request Instrument**

AGENCY: Office of Acquisition Policy, Office of the Procurement Ombudsman (OPO), General Services Administration (GSA).

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the OMB a request to review and approve a renewal to an existing information collection requirement regarding OMB Control No. 3090-0315; Ombudsman Inquiry/Request Instrument.

DATES: Submit comments on or before October 23, 2020.

ADDRESSES: Submit comments regarding this collection through <http://www.regulations.gov> and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202-501-4755 or GSARegSec@gsa.gov.

Instructions: Please submit comments only and cite Information Collection 3090-315; Ombudsman Inquiry/Request Instrument, in all correspondence related to this collection. Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Maria Swaby, GSA Procurement Ombudsman & Industry Liaison, at

telephone 202-208-0291, or maria.swaby@gsa.gov.

SUPPLEMENTARY INFORMATION:**A. Purpose**

OPO wants to place an online intake Instrument on the GSA Ombudsman's web page for receiving inquiries from vendors who are currently doing business with, or interested in doing business with GSA. The inquiries will be collected by the GSA Ombudsman and routed to the appropriate office for resolution and/or implementation in the case of recommendations for process or program improvements. Reporting of the data collected will help highlight thematic issues that vendors encounter with GSA acquisition programs, processes or policies, and identify areas where training is needed. The information collected will also assist in identifying and analyzing patterns and trends to help improve efficiencies and lead to improvements in current practices.

B. Annual Reporting Burden

Maximum Potential Respondents: 118.

Responses per Respondent: 1.

Total Maximum Potential Annual Responses: 118.

Hours per Response: .25.

Total Burden Hours: 29.5.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary, whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division by calling 202-501-4755 or emailing GSARegSec@gsa.gov. Please cite OMB Control No. 3090-0315, Ombudsman Inquiry/Request Instrument, in all correspondence.

Beth Anne Killoran,

Deputy Chief Information Officer.

[FR Doc. 2020-18494 Filed 8-21-20; 8:45 am]

BILLING CODE 6820-61-P

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES****Centers for Medicare & Medicaid
Services**

[CMS-7059-N]

**Announcement of the Advisory Panel
on Outreach and Education (APOE)
September 23, 2020 Virtual Meeting**

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces the next meeting of the APOE (the Panel) in accordance with the Federal Advisory Committee Act. The Panel advises and makes recommendations to the Secretary of the U.S. Department of Health and Human Services (HHS) and the Administrator of the Centers for Medicare & Medicaid Services (CMS) on opportunities to enhance the effectiveness of consumer education strategies concerning the Health Insurance Marketplace®, Medicare, Medicaid, and the Children's Health Insurance Program (CHIP). This meeting is open to the public.

DATES:

Meeting Date: Wednesday, September 23, 2020 from 12:00 p.m. to 5:00 p.m. eastern daylight time (e.d.t).

Deadline for Meeting Registration, Presentations, Special Accommodations and Comments: Wednesday, September 9, 2020, 5:00 p.m. (e.d.t).

ADDRESSES:

Meeting Location: Virtual. All those who RSVP will receive the link to attend.

Presentations and Written Comments: Presentations and written comments should be submitted to: Lisa Carr, Designated Federal Official (DFO), Office of Communications, Centers for Medicare & Medicaid Services, 200 Independence Avenue SW, Mailstop 325G HHH, Washington, DC 20201, 202-690-5742, or via email at APOE@cms.hhs.gov.

Registration: The meeting is open to the public, but attendance is limited to the space available. Persons wishing to attend this meeting must register at the website <https://www.eventbrite.com/e/apoe-september-23-2020-virtual-meeting-tickets-114295017474> or by contacting the DFO listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice, by the date listed in the **DATES** section of this notice. Individuals requiring sign language interpretation or other special accommodations should contact the DFO at the address listed in the **ADDRESSES** section of this notice by

the date listed in the **DATES** section of this notice.

FOR FURTHER INFORMATION CONTACT: Lisa Carr, Designated Federal Official, Office of Communications, 200 Independence Avenue SW, Mailstop 325G HHH, Washington, DC 20201, 202–690–5742, or via email at APOE@cms.hhs.gov.

Additional information about the APOE is available at: <https://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/APOE>. Press inquiries are handled through the CMS Press Office at (202) 690–6145.

SUPPLEMENTARY INFORMATION:

I. Background and Charter Renewal Information

A. Background

The Advisory Panel for Outreach and Education (APOE) (the Panel) is governed by the provisions of the Federal Advisory Committee Act (FACA) (Pub. L. 92–463), as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of federal advisory committees. The Panel is authorized by section 1114(f) of the Social Security Act (42 U.S.C. 1314(f)) and section 222 of the Public Health Service Act (42 U.S.C. 217a).

The Secretary of the U.S. Department of Health and Human Services (HHS) (the Secretary) signed the charter establishing the Citizen's Advisory Panel on Medicare Education¹ (the predecessor to the APOE) on January 21, 1999 (64 FR 7899) to advise and make recommendations to the Secretary and the Administrator of the Centers for Medicare & Medicaid Services (CMS) on the effective implementation of national Medicare education programs, including with respect to the Medicare+Choice (M+C) program added by the Balanced Budget Act of 1997 (Pub. L. 105–33).

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108–173) expanded the existing health plan options and benefits available under the M+C program and renamed it the Medicare Advantage (MA) program. CMS has had substantial responsibilities to provide information to Medicare beneficiaries about the range of health plan options available and better tools to evaluate these options. The successful MA program implementation required CMS to consider the views and policy input from a variety of private sector constituents and to develop a

broad range of public-private partnerships.

In addition, Title I of the MMA authorized the Secretary and the Administrator of CMS (by delegation) to establish the Medicare prescription drug benefit. The drug benefit allows beneficiaries to obtain qualified prescription drug coverage. In order to effectively administer the MA program and the Medicare prescription drug benefit, we have substantial responsibilities to provide information to Medicare beneficiaries about the range of health plan options and benefits available, and to develop better tools to evaluate these plans and benefits.

The Patient Protection and Affordable Care Act (Pub. L. 111–148) and Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152) (collectively referred to as the Affordable Care Act) expanded the availability of other options for healthcare coverage and enacted a number of changes to Medicare as well as to Medicaid and CHIP. Qualified individuals and qualified employers are now able to purchase private health insurance coverage through a competitive marketplace, called an Affordable Insurance Exchange (also called Health Insurance Marketplace[®], or Marketplace^{® 2}). In order to effectively implement and administer these changes, we must provide information to consumers, providers, and other stakeholders through education and outreach programs regarding how existing programs will change and the expanded range of health coverage options available, including private health insurance coverage through the Marketplace[®]. The APOE (the Panel) allows us to consider a broad range of views and information from interested audiences in connection with this effort and to identify opportunities to enhance the effectiveness of education strategies concerning the Affordable Care Act.

The scope of this Panel also includes advising on issues pertaining to the education of providers and stakeholders with respect to the Affordable Care Act and certain provisions of the Health Information Technology for Economic and Clinical Health (HITECH) Act enacted as part of the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. 111–5).

On January 21, 2011, the Panel's charter was renewed and the Panel was renamed the Advisory Panel for Outreach and Education. The Panel's

charter was most recently renewed on January 19, 2019, and will terminate on January 19, 2021 unless renewed by appropriate action.

B. Charter Renewal

In accordance with the January 19, 2019, charter, the APOE will advise the HHS and CMS on developing and implementing education programs that support individuals who are enrolled in or eligible for Medicare, Medicaid, CHIP, or coverage available through the Health Insurance Marketplace[®] and other CMS programs. The scope of this Federal Advisory Committee Act (FACA) group also includes advising on education of providers and stakeholders with respect to healthcare reform and certain provisions of the HITECH Act enacted as part of the ARRA.

The charter will terminate on January 19, 2021, unless renewed by appropriate action. The APOE was chartered under 42 U.S.C. 217a, section 222 of the Public Health Service Act, as amended. The APOE is governed by provisions of Public Law 92–463, as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees.

In accordance with the renewed charter, the APOE will advise the Secretary of Health and Human Services and the CMS Administrator concerning optimal strategies for the following:

- Developing and implementing education and outreach programs for individuals enrolled in, or eligible for, Medicare, Medicaid, the CHIP, and coverage available through the Health Insurance Marketplace[®] and other CMS programs.
- Enhancing the federal government's effectiveness in informing Medicare, Medicaid, CHIP, or the Health Insurance Marketplace[®] consumers, issuers, providers, and stakeholders, pursuant to education and outreach programs of issues regarding these programs, including the appropriate use of public-private partnerships to leverage the resources of the private sector in educating beneficiaries, providers, partners and stakeholders.
- Expanding outreach to vulnerable and underserved communities, including racial and ethnic minorities, in the context of Medicare, Medicaid, the CHIP and the Health Insurance Marketplace[®] education programs, and other CMS programs as designated.
- Assembling and sharing an information base of "best practices" for helping consumers evaluate health coverage options.
- Building and leveraging existing community infrastructures for information, counseling, and assistance.

¹ We note that the Citizen's Advisory Panel on Medicare Education is also referred to as the Advisory Panel on Medicare Education (65 FR 4617). The name was updated in the Second Amended Charter approved on July 24, 2000.

² Health Insurance Marketplace^{®SM} and Marketplace^{®SM} are service marks of the U.S. Department of Health & Human Services.

- Drawing the program link between outreach and education, promoting consumer understanding of health care coverage choices, and facilitating consumer selection/enrollment, which in turn support the overarching goal of improved access to quality care, including prevention services, envisioned under the Affordable Care Act.

The current members of the Panel as of February 28, 2020 are: E. Lorraine Bell, Chief Officer, Population Health, Catholic Charities USA; Nazleen Bharmal, Medical Director of Community Partnerships, Cleveland Clinic; Angie Boddie, Director of Health Programs, National Caucus and Center on Black Aging, Inc.; Julie Carter, Senior Federal Policy Associate, Medicare Rights Center; Scott Ferguson, Director of Care Transitions and Population Health, Mount Sinai St. Luke's Hospital; Leslie Fried, Senior Director, Center for Benefits Access, National Council on Aging; David Goldberg, President and CEO of Mon Health System; Jean-Venable Robertson Goode, Professor, Department of Pharmacotherapy and Outcomes Science, School of Pharmacy, Virginia Commonwealth University; Ted Henson, Director of Health Center Performance and Innovation, National Association of Community Health Centers; Joan Ilardo, Director of Research Initiatives, Michigan State University, College of Human Medicine; Cheri Lattimer, Executive Director, National Transitions of Care Coalition; Cori McMahon, Vice President, Tridium; Alan Meade, Director of Rehab Services, Holston Medical group; Michael Minor, National Director, H.O.P.E. HHS Partnership, National Baptist Convention USA, Incorporated; Jina Ragland, Associate State Director of Advocacy and Outreach, AARP Nebraska; Morgan Reed, Executive Director, Association for Competitive Technology; Margot Savoy, Chair, Department of Family and Community Medicine, Temple University Physicians; Congresswoman Allyson Schwartz, President and CEO, Better Medicare Alliance; and; Tia Whitaker, Statewide Director, Outreach and Enrollment, Pennsylvania Association of Community Health Centers.

II. Provisions of This Notice

In accordance with section 10(a) of the FACA, this notice announces a meeting of the APOE. The agenda for the September 23, 2020 meeting will include the following:

- Welcome and listening session with CMS leadership
- Recap of the previous (June 25, 2020) meeting

- CMS programs, initiatives, and priorities
- An opportunity for public comment
- Meeting summary, review of recommendations, and next steps

Individuals or organizations that wish to make a 5-minute oral presentation on an agenda topic should submit a written copy of the oral presentation to the DFO at the address listed in the **ADDRESSES** section of this notice by the date listed in the **DATES** section of this notice. The number of oral presentations may be limited by the time available. Individuals not wishing to make an oral presentation may submit written comments to the DFO at the address listed in the **ADDRESSES** section of this notice by the date listed in the **DATES** section of this notice.

III. Meeting Participation

The meeting is open to the public, but attendance is limited to registered participants. Persons wishing to attend this meeting must register at the website <https://www.eventbrite.com/e/apoe-september-23-2020-virtual-meeting-tickets-114295017474> or contact the DFO at the address or number listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice by the date specified in the **DATES** section of this notice. This meeting will be held virtually. Individuals who are not registered in advance will be unable to attend the meeting.

IV. Collection of Information

This document does not impose information collection requirements, that is, reporting, recordkeeping, or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Seema Verma, having reviewed and approved this document, authorizes Lynette Wilson, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Authority: Sec. 1114(f) of the Social Security Act (42 U.S.C. 1314(f)), sec. 222 of the Public Health Service Act (42 U.S.C. 217a), and sec. 10(a) of Pub. L. 92-463 (5 U.S.C. App. 2, sec. 10(a) and 41 CFR part 102-3).

Dated: August 17, 2020.

Lynette Wilson,

Federal Register Liaison, Department of Health and Human Services.

[FR Doc. 2020-18535 Filed 8-21-20; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Third Amendment to Declaration Under the Public Readiness and Emergency Preparedness Act for Medical Countermeasures Against COVID-19

ACTION: Notice of amendment.

SUMMARY: The Secretary issues this amendment pursuant to section 319F-3 of the Public Health Service Act to add additional categories of Qualified Persons and amend the category of disease, health condition, or threat for which he recommends the administration or use of the Covered Countermeasures.

DATES: This amendment to the Declaration published on March 17, 2020 (85 FR 15198) is effective as of August 24, 2020.

FOR FURTHER INFORMATION CONTACT: Robert P. Kadlec, MD, MTM&H, MS, Assistant Secretary for Preparedness and Response, Office of the Secretary, Department of Health and Human Services, 200 Independence Avenue SW, Washington, DC 20201; Telephone: 202-205-2882.

SUPPLEMENTARY INFORMATION: The Public Readiness and Emergency Preparedness Act (PREP Act) authorizes the Secretary of Health and Human Services (the Secretary) to issue a Declaration to provide liability immunity to certain individuals and entities (Covered Persons) against any claim of loss caused by, arising out of, relating to, or resulting from the manufacture, distribution, administration, or use of medical countermeasures (Covered Countermeasures), except for claims involving "willful misconduct" as defined in the PREP Act. Under the PREP Act, a Declaration may be amended as circumstances warrant.

The PREP Act was enacted on December 30, 2005, as Public Law 109-148, Division C, § 2. It amended the Public Health Service (PHS) Act, adding section 319F-3, which addresses liability immunity, and section 319F-4, which creates a compensation program. These sections are codified at 42 U.S.C. 247d-6d and 42 U.S.C. 247d-6e, respectively. Section 319F-3 of the PHS Act has been amended by the Pandemic and All-Hazards Preparedness Reauthorization Act (PAHPRA), Public Law 113-5, enacted on March 13, 2013 and the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Public Law 116-136, enacted on March 27,

2020, to expand Covered Countermeasures under the PREP Act.

On January 31, 2020, the Secretary declared a public health emergency pursuant to section 319 of the PHS Act, 42 U.S.C. 247d, effective January 27, 2020, for the entire United States to aid in the response of the nation's health care community to the COVID-19 outbreak. Pursuant to section 319 of the PHS Act, the Secretary renewed that declaration on April 26, 2020, and July 25, 2020. On March 10, 2020, the Secretary issued a Declaration under the PREP Act for medical countermeasures against COVID-19 (85 FR 15198, Mar. 17, 2020) (the Declaration). On April 10, the Secretary amended the Declaration under the PREP Act to extend liability immunity to covered countermeasures authorized under the CARES Act (85 FR 21012, Apr. 15, 2020). On June 4, the Secretary amended the Declaration to clarify that covered countermeasures under the Declaration include qualified countermeasures that limit the harm COVID-19 might otherwise cause.

The Secretary now amends section V of the Declaration to identify as qualified persons covered under the PREP Act, and thus authorizes, certain State-licensed pharmacists to order and administer, and pharmacy interns (who are licensed or registered by their State board of pharmacy and acting under the supervision of a State-licensed pharmacist) to administer, any vaccine that the Advisory Committee on Immunization Practices (ACIP) recommends to persons ages three through 18 according to ACIP's standard immunization schedule (ACIP-recommended vaccines).¹

The Secretary also amends section VIII of the Declaration to clarify that the category of disease, health condition, or threat for which he recommends the administration or use of the Covered Countermeasures includes not only COVID-19 caused by SARS-CoV-2 or a virus mutating therefrom, but also other diseases, health conditions, or threats that may have been caused by COVID-19, SARS-CoV-2, or a virus mutating therefrom, including the decrease in the rate of childhood immunizations, which will lead to an increase in the rate of infectious diseases.

¹ The only vaccines that ACIP has recommended are authorized or approved by the Food and Drug Administration (FDA). PREP Act coverage here is limited to covered persons ordering and administering FDA-authorized or FDA-approved vaccines.

Description of This Amendment by Section

Section V. Covered Persons

Under the PREP Act and the Declaration, a "qualified person" is a "covered person." Subject to certain limitations, a covered person is immune from suit and liability under Federal and State law with respect to all claims for loss caused by, arising out of, relating to, or resulting from the administration or use of a covered countermeasure if a declaration under subsection (b) has been issued with respect to such countermeasure. "Qualified person" includes

(A) a licensed health professional or other individual who is authorized to prescribe, administer, or dispense such countermeasures under the law of the State in which the countermeasure was prescribed, administered, or dispensed; or

(B) "a person within a category of persons so identified in a declaration by the Secretary" under subsection (b) of the PREP Act.

42 U.S.C. 247d-6d(i)(8).²

By this amendment to the Declaration, the Secretary identifies an additional category of persons who are qualified persons under section 247d-6d(i)(8)(B).³

On May 8, 2020, CDC reported, "The identified declines in routine pediatric vaccine ordering and doses administered might indicate that U.S. children and their communities face increased risks for outbreaks of vaccine-preventable diseases," and suggested that a decrease in rates of routine childhood vaccinations were due to changes in healthcare access, social distancing, and other COVID-19 mitigation strategies.⁴ The report also stated that "[p]arental concerns about potentially exposing their children to COVID-19 during well child visits

² See Advisory Opinion on the Public Readiness and Emergency Preparedness Act and the March 10, 2020 Declaration under the Act, 5-6 (May 19, 2020), <https://www.hhs.gov/sites/default/files/prep-act-advisory-opinion-hhs-ogc.pdf> (last visited Aug. 5, 2020).

³ See Advisory Opinion 20-02 on the Public Readiness and Emergency Preparedness Act and the Secretary's Declaration under the Act, 3-5 (May 19, 2020), <https://www.hhs.gov/sites/default/files/advisory-opinion-20-02-hhs-ogc-prep-act.pdf> (setting forth PREP Act's legal framework for identifying a "qualified person" and preemption of state law that is different from, or is in conflict with, that designation).

⁴ Jeanne M. Santoli et al., *Effects of the COVID-19 Pandemic on Routine Pediatric Vaccine Ordering and Administration—United States, 2020*, 69 MMWR 591, 592 (2020), <https://www.cdc.gov/mmwr/volumes/69/wr/pdfs/mm6919e2-H.pdf> (last visited July 15, 2020); see also Melissa Jenco, *AAP urges vaccination as rates drop due to COVID-19*, AAP News (May 8, 2020), <https://www.aappublications.org/news/2020/05/08/covid19vaccinations050820> (last visited July 15, 2020).

might contribute to the declines observed."⁵

On July 10, 2020, CDC reported its findings of a May survey it conducted to assess the capacity of pediatric health care practices to provide immunization services to children during the COVID-19 pandemic. The survey, which was limited to practices participating in the Vaccines for Children program, found that, as of mid-May, 15 percent of Northeast pediatric practices were closed, 12.5 percent of Midwest practices were closed, 6.2 percent of practices in the South were closed, and 10 percent of practices in the West were closed. Most practices had reduced office hours for in-person visits. When asked whether their practices would likely be able to accommodate new patients for immunization services through August, 418 practices (21.3 percent) either responded that this was not likely or the practice was permanently closed or not resuming immunization services for all patients, and 380 (19.6 percent) responded that they were unsure. Urban practices and those in the Northeast were less likely to be able to accommodate new patients compared with rural practices and those in the South, Midwest, or West.⁶

In response to these troubling developments, CDC and the American Academy of Pediatrics have stressed, "Well-child visits and vaccinations are essential services and help make sure children are protected."⁷

The Secretary re-emphasizes that important recommendation to parents and legal guardians here: If your child is due for a well-child visit, contact your pediatrician's or other primary-care provider's office and ask about ways that the office safely offers well-child visits and vaccinations.

Many medical offices are taking extra steps to make sure that well-child visits can occur safely during the COVID-19 pandemic, including:

- Scheduling sick visits and well-child visits during different times of the

⁵ Jeanne M. Santoli et al., *Effects of the COVID-19 Pandemic on Routine Pediatric Vaccine Ordering and Administration—United States, 2020*, 69 MMWR 591, 592 (2020), <https://www.cdc.gov/mmwr/volumes/69/wr/pdfs/mm6919e2-H.pdf> (last visited July 15, 2020).

⁶ Tara M. Vogt, *Provision of Pediatric Immunization Services During the COVID-19 Pandemic: an Assessment of Capacity Among Pediatric Immunization Providers Participating in the Vaccines for Children Program—United States, May 2020*, 69 MMWR 859, 859-61, <https://www.cdc.gov/mmwr/volumes/69/wr/pdfs/mm6927a2-H.pdf> (last visited July 15, 2020).

⁷ *Routine Vaccination During the COVID-19 Outbreak*, CDC, <https://www.cdc.gov/vaccines/parents/visit/vaccination-during-COVID-19.html> (last visited July 14, 2020).

day or days of the week, or at different locations.

- Asking patients to remain outside until it is time for their appointments to reduce the number of people in waiting rooms.

- Adhering to recommended social (physical) distancing and other infection-control practices, such as the use of masks.

The decrease in childhood-vaccination rates is a public health threat and a collateral harm caused by COVID-19. Together, the United States must turn to available medical professionals to limit the harm and public health threats that may result from decreased immunization rates. We must quickly do so to avoid preventable infections in children, additional strains on our healthcare system, and any further increase in avoidable adverse health consequences—particularly if such complications coincide with additional resurgence of COVID-19.

Together with pediatricians and other healthcare professionals, pharmacists are positioned to expand access to childhood vaccinations. Many States already allow pharmacists to administer vaccines to children of any age.^{8,9} Other

⁸ For purposes of this amendment, “State” shall have the same meaning ascribed to it in 42 U.S.C. 201(f). Under section 201(f), “State” includes the several States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

⁹ See, e.g., Ala. Code § 34-23-1(5), (21) (2020); Ala. Admin. Code r. 680-X-2-.14(1) (2000); Alaska Stat. Ann. § 08.80.168(a) (West 2020); Cal. Bus. & Prof. Code § 4052(a)(11) (West 2020); Colo. Code Regs. § 719-1:19.00.00 (West 2020); Ga. Code Ann. § 43-34-26.1 (West 2020); Idaho Code Ann. § 54-1704 (West 2020); Idaho Code Ann. § 37-201 (West 2020); Ind. Code Ann. § 25-26-13-31.2(a) (West 2020); Iowa Admin. Code § 657-39.10(6) (2020); La. Admin. Code tit. 46, Pt. LIII, § 521 (2020); Mich. Comp. Laws Ann. § 333.9204 (2020); Miss. Code Ann. § 73-21-73(a), (dd) (West 2000); MO 20 CSR 2220-6.040; MO 20 CSR 2220-6.050; Neb. Rev. Stat. Ann. §§ 38-2806, 38-2837 (West 2020); 175 Neb. Admin. Code. § 8.003.01A(3)(m)(4)(a) (2020); N.H. Rev. Stat. § 318:16-b (2020); Nev. Admin. Code § 639.2971 (2020); N.M. Stat. Ann. § 61-11-2(A), (G), (CC) (West 2020); Okla. Stat. Ann. tit. 59, § 353.30 (West 2020); Or. Rev. Stat. § 689.645 (West 2020); <https://www.oregon.gov/oha/PH/PreventionWellness/VACCINES/IMMUNIZATION/IMMUNIZATIONPROVIDER/RESOURCES/Pages/pharmacy.aspx#:~:text=Resource%20Resources%20for%20Oregon%20Pharmacists,a%20patient%20of%20any%20age> (last visited Aug. 13, 2020); S.C. Code Ann. § 40-43-190 (2020); S.D. Codified Laws § 36-11-2, S.D. Codified Laws § 36-11-19.1; Tenn. Code Ann. § 63-10-204(1), 39(A) (West 2020); Tex. Occ. Code Ann. § 551.003(33) (2020); 22 Tex. Admin. Code § 295.15(e) (2020); Utah Code Ann. § 58-17b-102(1), (57) (West 2020); Utah Admin. Code R156-17b-621(5) (2020); Va. Code Ann. § 54.1-3408(I) (2020); Wash. Rev. Code Ann. § 18.64.011(1), (28) (West 2020); Wis. Stat. Ann. § 450.035 (West 2020). While these states allow pharmacists to administer vaccines to children of any age, some impose

States permit pharmacists to administer vaccines to children depending on the age—for example, 2, 3, 5, 6, 7, 9, 10, 11, or 12 years of age and older.¹⁰ Few States restrict pharmacist-administered vaccinations to only adults.¹¹ Many States also allow properly trained individuals under the supervision of a trained pharmacist to administer those vaccines.¹²

Pharmacists are well positioned to increase access to vaccinations, particularly in certain areas or for certain populations that have too few pediatricians and other primary-care providers, or that are otherwise medically underserved.¹³ As of 2018, nearly 90 percent of Americans lived within five miles of a community

additional requirements. See, e.g., Cal. Bus. & Prof. Code §§ 4052(a)(11), 4052.8 (permitting pharmacists to administer any vaccine listed on the routine immunization schedules recommended by the Advisory Committee on Immunization Practices to persons three years of age and older, but requiring the pharmacist to administer immunizations to persons under three years of age only pursuant to a protocol with a prescriber); Colo. Code Regs. § 719-1:19.00.00 (West 2020) (requiring that pharmacists administer vaccines and immunizations “per authorization of a physician”).

¹⁰ See, e.g., Ariz. Rev. Stat. Ann. § 32-1974(B) (2020); Ark. Code Ann. § 17-92-101 (2020); D.C. Mun. Reg. Tit. 17 sec. 6512.10 (2012); Haw. Rev. Stat. § 461-11.4 (West 2019); 225 Ill. Comp. Stat. Ann. 85/3(d) (West 2020); Kan. Stat. Ann. § 65-1635a (2020); Ky. Rev. Stat. Ann. § 315.010(22) (West 2020); Me. Rev. Stat. Ann. tit. 32, § 13831 (West 2020); Md. Code Ann., Health Occ. § 12-508 (2020); 247 Mass. Code Regs. 16.03 (2020); Minn. Stat. Ann. § 151.01 (West 2020); Mont. Code Ann. § 37-7-105 (West 2019); N.J. Stat. Ann. § 45:14-63 (West 2020); N.Y. Comp. Codes R. & Regs. tit. 8, § 63.9 (2020); N.C. Gen. Stat. Ann. § 90-85.15B (West 2020); N.D. Cent. Code Ann. § 43-15-01 (West 2020); Ohio Rev. Code Ann. § 4729.41 (West 2020); 63 Pa. Cons. Stat. § 390-9.2 (West 2020); P.R. Laws tit. 20, § 410c (2018); 5 R.I. Gen. Laws Ann. § 5-19-1-31 (West 2020); W.Va. Code Ann. § 30-5-7 (West 2020); Wyo. Stat. Ann. § 33-24-157 (2020).

¹¹ See, e.g., Conn. Gen. Stat. § 20-633(a) (West 2012); 24 Del. Code Ann. § 2502(23)(h) (West 2020); Fla. Stat. Ann. § 465.189(1) (West 2020); Vt. Admin. R. of Board of Pharm. § 10.35 (West 2020).

¹² See, e.g., Or. Admin. R. 855-019-0270 (2020) (“[A]n intern who is appropriately trained and qualified in accordance with Section (3) of this rule may perform the same duties as a pharmacist, provided that the intern is supervised by an appropriately trained and qualified pharmacist.”).

¹³ See, e.g., *Guidance for Pharmacists and Pharmacy Technicians in Community Pharmacies during the COVID-19 Response*, CDC, <https://www.cdc.gov/coronavirus/2019-ncov/hcp/pharmacies.html> (last updated June 28, 2020) (“As a vital part of the healthcare system, pharmacies play an important role in providing medicines, therapeutics, vaccines, and critical health services to the public.”); Kimberly McKeirnan & Gregory Sarchet, *Implementing Immunizing Pharmacy Technicians in a Federal Healthcare Facility*, 7 *Pharmacy* 1, 7 (2019), <https://www.mdpi.com/2226-4787/7/4/152/htm> (last visited Aug. 5, 2020) (HHS Indian Health Service study demonstrating “the effective implementation of immunization-trained pharmacy technicians and the positive impact utilization of pharmacy support personnel can create” on childhood vaccination rates in medically underserved populations).

pharmacy.¹⁴ Pharmacies often offer extended hours and added convenience. What is more, pharmacists are trusted healthcare professionals with established relationships with their patients. Pharmacists also have strong relationships with local medical providers and hospitals to refer patients as appropriate.

For example, pharmacists already play a significant role in annual influenza vaccination. In the early 2018-19 season, they administered the influenza vaccine to nearly a third of all adults who received the vaccine.¹⁵ Given the potential danger of serious influenza and continuing COVID-19 outbreaks this autumn and the impact that such concurrent outbreaks may have on our population, our healthcare system, and our whole-of-nation response to the COVID-19 pandemic, we must quickly expand access to influenza vaccinations. Allowing more qualified pharmacists to administer the influenza vaccine to children will make vaccinations more accessible.

Therefore, the Secretary amends the Declaration to identify State-licensed pharmacists (and pharmacy interns acting under their supervision if the pharmacy intern is licensed or registered by his or her State board of pharmacy) as qualified persons under section 247d-6d(i)(8)(B) when the pharmacist orders and either the pharmacist or the supervised pharmacy intern administers vaccines to individuals ages three through 18 pursuant to the following requirements:

- The vaccine must be FDA-authorized or FDA-approved.
- The vaccination must be ordered and administered according to ACIP’s standard immunization schedule.¹⁶
- The licensed pharmacist must complete a practical training program of at least 20 hours that is approved by the Accreditation Council for Pharmacy Education (ACPE). This training

¹⁴ *Get to Know Your Pharmacist*, CDC, <https://www.cdc.gov/features/pharmacist-month/index.html> (last visited July 14, 2020).

¹⁵ *Early-Season Flu Vaccination Coverage—United States, November 2018*, CDC, <https://www.cdc.gov/flu/fluavxview/nifs-estimates-nov2018.htm> (last visited July 14, 2020).

¹⁶ See *Immunization Schedules: For Health Care Providers*, CDC, <https://www.cdc.gov/vaccines/schedules/hcp/index.html> (last visited July 14, 2020). The immunization schedule recommends that certain vaccines be administered only to children of a certain age. For example, the second dose of both the measles, mumps, and rubella vaccine, as well as the varicella vaccine, should not be administered until a child is between four and six years old. See *Recommended Child and Adolescent Immunization Schedule for ages 18 years or younger, United States, 2020*, CDC (Jan. 29, 2020), <https://www.cdc.gov/vaccines/schedules/downloads/child/0-18yrs-child-combined-schedule.pdf> (last visited Aug. 5, 2020).

program must include hands-on injection technique, clinical evaluation of indications and contraindications of vaccines, and the recognition and treatment of emergency reactions to vaccines.¹⁷

- The licensed or registered pharmacy intern must complete a practical training program that is approved by the ACPE. This training program must include hands-on injection technique, clinical evaluation of indications and contraindications of vaccines, and the recognition and treatment of emergency reactions to vaccines.¹⁸

- The licensed pharmacist and licensed or registered pharmacy intern must have a current certificate in basic cardiopulmonary resuscitation.¹⁹

- The licensed pharmacist must complete a minimum of two hours of ACPE-approved, immunization-related continuing pharmacy education during each State licensing period.²⁰

- The licensed pharmacist must comply with recordkeeping and reporting requirements of the jurisdiction in which he or she administers vaccines, including informing the patient's primary-care provider when available, submitting the required immunization information to the State or local immunization information system (vaccine registry), complying with requirements with respect to reporting adverse events, and complying with requirements whereby the person administering a vaccine must review the vaccine registry or other

vaccination records prior to administering a vaccine.²¹

- The licensed pharmacist must inform his or her childhood-vaccination patients and the adult caregivers accompanying the children of the importance of a well-child visit with a pediatrician or other licensed primary-care provider and refer patients as appropriate.²²

These requirements are consistent with those in many States that permit licensed pharmacists to order and administer vaccines to children and permit licensed or registered pharmacy interns acting under their supervision to administer vaccines to children.²³

Administering vaccinations to children age three and older is less complicated and requires less training and resources than administering vaccinations to younger children. That is because ACIP generally recommends administering intramuscular injections in the deltoid muscle for individuals age three and older.²⁴ For individuals less than three years of age, ACIP generally recommends administering intramuscular injections in the anterolateral aspect of the thigh muscle.²⁵ Administering injections in the thigh muscle often presents additional complexities and requires additional training and resources including additional personnel to safely position the child while another healthcare professional injects the vaccine.²⁶

Moreover, as of 2018, 40% of three-year-olds were enrolled in preprimary programs (*i.e.* preschool or kindergarten programs).²⁷ Preprimary programs are beginning in the coming weeks or months, so the Secretary has concluded that it is particularly important for individuals ages three through 18 to receive ACIP-recommended vaccines according to ACIP's standard immunization schedule. All States require children to be vaccinated against certain communicable diseases as a condition of school attendance. These laws often apply to both public and private schools with identical immunization and exemption provisions.²⁸ As nurseries, preschools, kindergartens, and schools reopen, increased access to childhood vaccinations is essential to ensuring children can return.

Notwithstanding any State or local scope-of-practice legal requirements, (1) qualified licensed pharmacists are identified as qualified persons to order and administer ACIP-recommended vaccines and (2) qualified State-licensed or registered pharmacy interns are identified as qualified persons to administer the ACIP-recommended vaccines ordered by their supervising qualified licensed pharmacist.²⁹

Both the PREP Act and the June 4, 2020 Second Amendment to the Declaration define "covered countermeasures" to include qualified pandemic and epidemic products that "limit the harm such pandemic or epidemic might otherwise cause."³⁰ The troubling decrease in ACIP-recommended childhood vaccinations and the resulting increased risk of associated diseases, adverse health conditions, and other threats are categories of harms otherwise caused by

¹⁷ *Cf.*, *e.g.*, Cal. Bus. & Prof. Code § 4052.8; 3 Colo. Code Regs. § 719-1.19.00.00; 856 Ind. Admin. Code 4-1-1; 46 La. Admin. Code tit. 46Part LIII, § 521; Nev. Admin. Code § 639.2973; 22 Tex. Admin. Code § 295.15(c).

¹⁸ *Cf.*, *e.g.*, Ark. Admin. Code § 070.00.9-09-00-0002; 3 Colo. Code Regs. § 719-1.19.00.00; Nev. Admin. Code § 639.2973; N.H. Rev. Stat. § 318:16-d; Ohio Rev. Code Ann. § 4729.41(B); Or. Admin. R. 855-019-0270 (2020); S.C. Code Ann. §§ 40-43-190(B)(1), (4); Utah Admin. Code r. 156R-17b-621(5); Vt. Admin. Code 20-4-1400:10.35.

¹⁹ *Cf.*, *e.g.*, Ariz. Admin. Code § R4-23-411(D)(3); Conn. Gen. Stat. § 20-633(b); D.C. Mun. Regs. tit. 17, § 6512.3; 856 Ind. Admin. Code 4-1-1(c); Iowa Admin. Code r. 657-39.10(2)(A); Kan. Stat. Ann. § 65-1635a(a); La. Admin. Code tit. 46 Part LIII, § 521(D); Me. Rev. Stat. Ann. tit. 32, § 13832; Md. Code Ann., Health Occ. § 12-508(b)(2)(ii); Mont. Code Ann. § 37-7-101(24)(b); N.J. Admin. Code § 13:39-4.21(b)(2); N.D. Cent. Code Ann. § 43-15-31.5; Or. Admin. R. 855-019-0270 (2020); 63 Pa. Stat. Ann. § 390-9.2;(a)(2) 216 R.I. Code R. § 40-15-1.11; S.C. Code Ann. §§ 40-43-190(B)(4); S.D. Admin. R. 20:51:28-02; W. Va. Code Stat. R. § 15-12-4; Wyo. Admin. Code 059.0001.16 § 7.

²⁰ *Cf.*, *e.g.*, AR ADC § 070.00.9-09-00-0002; 3 Colo. Code Regs. § 719-1.19.00.00; N.J. Stat. Ann. § 13:39-4.21; S.C. Code Ann. §§ 40-43-190(B)(1), (5); 22 Tex. Admin. Code § 295.15(c); Utah Admin. Code r. 156-17b-621(5); 59-0001-16 Wyo. Code R. § 7.

²¹ *Cf.*, *e.g.*, Ala. Admin. Code. r. 680-X-2.14; Ariz. Admin. Code § R4-23-411(E); AR ADC § 070.00.9-09-00-0002; Cal. Code Regs. tit. 16, § 1746.4; Conn. Gen. Stat. § 20-633(b); 225 Ill. Comp. Stat. Ann. 85/3(d)(4); Kan. Stat. Ann. § 65-1635a(a); Mont. Admin. R. 24.174.503; Nev. Rev. Stat. Ann. § 454.213(s); N.H. Rev. Stat. § 318:16-d; N.J. Stat. Ann. § 45:14-63; N.Y. Comp. Codes R. & Regs. tit. 8, § 63.9; N.D. Cent. Code Ann. § 43-15-31.5; Or. Admin. r. 855-019-0280; 216-40; R.I. Code R. § 15-1.11; S.C. Code Ann. §§ 40-43-190(B)(1), (5); S.D. Admin. R. 20:51:28:04; Tenn. Code Ann. § 53-10-211; 22 Tex. Admin. Code § 295.15(c); 04-230 Vt. Code R. § 10.35; Va. Code Ann. § 54.1-3408; Wis. Stat. Ann. § 450.035.

²² *See, e.g.*, Letter from Kathleen E. Toomey, M.D., M.P.H., Comm'r and State Health Officer, Ga. Dep't of Pub. Health, available at <https://www.gpha.org/immunization/> (last visited July 15, 2020).

²³ *See, e.g.*, AL ST § 34-23-53; 12 AAC 52.992; Cal. Bus. & Prof. Code § 4052; Cal. Bus. & Prof. Code § 4052.8(b); 3 Colo. Code Regs. § 719-1.19.00.00; Ga. Code Ann., § 43-34-26.1; 856 IAC 4-1-1; Iowa Code § 39.10(2)(a); N.M. Admin. Code 16.19.26; Okla. Admin. Code 535:10-11-5; Code 1976 § 40-43-190 (South Carolina).

²⁴ Vaccine Recommendations and Guidelines of the ACIP, <https://www.cdc.gov/vaccines/hcp/acip-recs/general-recs/administration.html> (last visited July 29, 2020).

²⁵ *Id.*

²⁶ *Id.*; Nicole E. Omecene, *et al.*, *Implementation of pharmacist-administered pediatric vaccines in the United States: major barriers and potential solutions for the outpatient setting*, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6594428/> (last visited July 29, 2020).

²⁷ Preschool and Kindergarten Enrollment, https://nces.ed.gov/programs/coe/indicator_cfa.asp (last visited July 29, 2020).

²⁸ State School Immunization Requirements and Vaccine Exemption Laws, <https://www.cdc.gov/php/docs/school-vaccinations.pdf>, (last visited July 29, 2020).

²⁹ Nothing herein shall affect federal law requirements in 42 CFR part 455, subpart E regarding screening and enrollment of Medicare and Medicaid providers. Moreover, nothing herein shall preempt State laws that permit additional individuals to administer vaccines that ACIP recommends to persons age 18 or younger according to ACIP's standard immunization schedule. For example, Idaho permits pharmacy technicians who meet certain requirements to administer vaccines under the supervision of an immunizing pharmacist. Such technicians can still administer vaccines to the extent they would have been able to absent publication of this amendment. Moreover, pharmacists and pharmacy interns may still order or administer vaccines to individuals ages two or younger to the extent authorized under State law.

³⁰ 42 U.S.C. 247d-d(6)(7)(A); 85 FR 35-100, 35-102.

COVID-19 as set forth in Sections VI and VIII of this Declaration.³¹ Hence, such vaccinations are “covered countermeasures” under the PREP Act and the June 4, 2020 Second Amendment to the Declaration.

Nothing in this Declaration shall be construed to affect the National Vaccine Injury Compensation Program, including an injured party’s ability to obtain compensation under that program. Covered countermeasures that are subject to the National Vaccine Injury Compensation Program authorized under 42 U.S.C. 300aa-10 *et seq.* are covered under this Declaration for the purposes of liability immunity and injury compensation only to the extent that injury compensation is not provided under that Program. All other terms and conditions of the Declaration apply to such covered countermeasures.

Section VIII. Category of Disease, Health Condition, or Threat

As discussed, the troubling decrease in ACIP-recommended childhood vaccinations and the resulting increased risk of associated diseases, adverse health conditions, and other threats are categories of harms otherwise caused by COVID-19. The Secretary therefore amends section VIII, which describes the category of disease, health condition, or threat for which he recommends the administration or use of the Covered Countermeasures, to clarify that the category of disease, health condition, or threat for which he recommends the administration or use of the Covered Countermeasures is not only COVID-19 caused by SARS-CoV-2 or a virus mutating therefrom, but also other diseases, health conditions, or threats that may have been caused by COVID-19, SARS-CoV-2, or a virus mutating therefrom, including the decrease in the rate of childhood immunizations, which will lead to an increase in the rate of infectious diseases.

Amendments to Declaration

Amended Declaration for Public Readiness and Emergency Preparedness Act Coverage for medical countermeasures against COVID-19.

Sections V and VIII of the March 10, 2020 Declaration under the PREP Act

for medical countermeasures against COVID-19, as amended April 10, 2020 and June 4, 2020, are further amended pursuant to section 319F-3(b)(4) of the PHS Act as described below. All other sections of the Declaration remain in effect as published at 85 FR 15198 (Mar. 17, 2020) and amended at 85 FR 21012 (Apr. 15, 2020) and 85 FR 35100 (June 8, 2020).

1. Covered Persons, section V, delete in full and replace with:

V. Covered Persons
42 U.S.C. 247d-6d(i)(2), (3), (4), (6), (8)(A) and (B)

Covered Persons who are afforded liability immunity under this Declaration are “manufacturers,” “distributors,” “program planners,” “qualified persons,” and their officials, agents, and employees, as those terms are defined in the PREP Act, and the United States.

In addition, I have determined that the following additional persons are qualified persons: (a) Any person authorized in accordance with the public health and medical emergency response of the Authority Having Jurisdiction, as described in Section VII below, to prescribe, administer, deliver, distribute or dispense the Covered Countermeasures, and their officials, agents, employees, contractors and volunteers, following a Declaration of an emergency; (b) any person authorized to prescribe, administer, or dispense the Covered Countermeasures or who is otherwise authorized to perform an activity under an Emergency Use Authorization in accordance with Section 564 of the FD&C Act; (c) any person authorized to prescribe, administer, or dispense Covered Countermeasures in accordance with Section 564A of the FD&C Act; and (d) a State-licensed pharmacist who orders and administers, and pharmacy interns who administer (if the pharmacy intern acts under the supervision of such pharmacist and the pharmacy intern is licensed or registered by his or her State board of pharmacy), vaccines with the Advisory Committee on Immunization Practices (ACIP) recommends to persons ages three through 18 according to ACIP’s standard immunization schedule.

Such State-licensed pharmacists and the State-licensed or registered interns under their supervision are qualified persons only if the following requirements are met:

- The vaccine must be FDA-authorized or FDA-approved.
- The vaccination must be ordered and administered according to ACIP’s standard immunization schedule.

- The licensed pharmacist must complete a practical training program of at least 20 hours that is approved by the Accreditation Council for Pharmacy Education (ACPE). This training program must include hands-on injection technique, clinical evaluation of indications and contraindications of vaccines, and the recognition and treatment of emergency reactions to vaccines.

- The licensed or registered pharmacy intern must complete a practical training program that is approved by the ACPE. This training program must include hands-on injection technique, clinical evaluation of indications and contraindications of vaccines, and the recognition and treatment of emergency reactions to vaccines.

- The licensed pharmacist and licensed or registered pharmacy intern must have a current certificate in basic cardiopulmonary resuscitation.

- The licensed pharmacist must complete a minimum of two hours of ACPE-approved, immunization-related continuing pharmacy education during each State licensing period.

- The licensed pharmacist must comply with recordkeeping and reporting requirements of the jurisdiction in which he or she administers vaccines, including informing the patient’s primary-care provider when available, submitting the required immunization information to the State or local immunization information system (vaccine registry), complying with requirements with respect to reporting adverse events, and complying with requirements whereby the person administering a vaccine must review the vaccine registry or other vaccination records prior to administering a vaccine.

- The licensed pharmacist must inform his or her childhood-vaccination patients and the adult caregiver accompanying the child of the importance of a well-child visit with a pediatrician or other licensed primary-care provider and refer patients as appropriate.

Nothing in this Declaration shall be construed to affect the National Vaccine Injury Compensation Program, including an injured party’s ability to obtain compensation under that program. Covered countermeasures that are subject to the National Vaccine Injury Compensation Program authorized under 42 U.S.C. 300aa-10 *et seq.* are covered under this Declaration for the purposes of liability immunity and injury compensation only to the extent that injury compensation is not provided under that Program. All other

³¹ Jeanne M. Santoli et al., *Effects of the COVID-19 Pandemic on Routine Pediatric Vaccine Ordering and Administration—United States, 2020*, 69 MMWR No. 19, at 591–93 (May 15, 2020), <https://www.cdc.gov/mmwr/volumes/69/wr/mm6919e2.htm>; Cristi A. Bramer et al., *Decline in Child Vaccination Coverage During the COVID-19 Pandemic—Michigan Care Improvement Registry, May 2016–May 2020*, 69 MMWR No. 20, at 630–31 (May 22, 2020), <https://www.cdc.gov/mmwr/volumes/69/wr/mm6920e1.htm>.

terms and conditions of the Declaration apply to such covered countermeasures.

2. Category of Disease, Health Condition, or Threat, section VIII, delete in full and replace with:

VIII. Category of Disease, Health Condition, or Threat

42 U.S.C. 247d–6d(b)(2)(A)

The category of disease, health condition, or threat for which I recommend the administration or use of the Covered Countermeasures is not only COVID–19 caused by SARS-CoV–2 or a virus mutating therefrom, but also other diseases, health conditions, or threats that may have been caused by COVID–19, SARS-CoV–2, or a virus mutating therefrom, including the decrease in the rate of childhood immunizations, which will lead to an increase in the rate of infectious diseases.

Authority: 42 U.S.C. 247d–6d.

Dated: August 19, 2020.

Alex M. Azar II,

Secretary of Health and Human Services.

[FR Doc. 2020–18542 Filed 8–20–20; 4:15 pm]

BILLING CODE 4150–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Tick-Borne Disease Working Group

AGENCY: Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: As required by the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) is hereby giving notice that the Tick-Borne Disease Working Group (TBDWG) will hold a virtual meeting. The meeting will be open to the public. For this meeting, the TBDWG will review the draft 2020 report to the HHS Secretary and Congress and review and approve graphics and images for the report. The 2020 report will address ongoing tick-borne disease research, including research related to causes, prevention, treatment, surveillance, diagnosis, diagnostics, and interventions for individuals with tick-borne diseases; advances made pursuant to such research; federal activities related to tick-borne diseases; and gaps in tick-borne disease research.

DATES: The meeting will be held online via webcast on September 15, 2020 and September 22, 2020 from 9:00 a.m. to 2:30 p.m. ET both days (times are

tentative and subject to change). The confirmed times and agenda items for the meeting will be posted on the TBDWG web page at <https://www.hhs.gov/ash/advisory-committees/tickbornedisease/meetings/2020-9-15/index.html> when this information becomes available.

FOR FURTHER INFORMATION CONTACT:

James Berger, Designated Federal Officer for the TBDWG; Office of Infectious Disease and HIV/AIDS Policy, Office of the Assistant Secretary for Health, Department of Health and Human Services, Mary E. Switzer Building, 330 C Street SW, Suite L600, Washington, DC, 20024. *Email:* tickbornedisease@hhs.gov; *Phone:* 202–795–7608.

SUPPLEMENTARY INFORMATION: The registration link will be posted on the website at <https://www.hhs.gov/ash/advisory-committees/tickbornedisease/meetings/2020-9-15/index.html> when it becomes available. After registering, you will receive an email confirmation with a personalized link to access the webcast on September 15, 2020 and September 22, 2020

The public will have an opportunity to present their views to the TBDWG orally during the meeting's public comment session or by submitting a written public comment. Comments should be pertinent to the meeting discussion. Persons who wish to provide verbal or written public comment should review instructions at <https://www.hhs.gov/ash/advisory-committees/tickbornedisease/meetings/2020-9-15/index.html> and respond by midnight September 4, 2020 ET. Verbal comments will be limited to three minutes each to accommodate as many speakers as possible during the 30 minute session. Written public comments will be accessible to the public on the TBDWG web page prior to the meeting.

Background and Authority: The Tick-Borne Disease Working Group was established on August 10, 2017, in accordance with Section 2062 of the 21st Century Cures Act, and the Federal Advisory Committee Act, 5 U.S.C. App., as amended, to provide expertise and review federal efforts related to all tick-borne diseases, to help ensure interagency coordination and minimize overlap, and to examine research priorities. The TBDWG is required to submit a report to the HHS Secretary and Congress on their findings and any recommendations for the federal response to tick-borne disease every two years.

Dated: August 12, 2020.

James J. Berger,

Designated Federal Officer, Tick-Borne Disease Working Group, Office of Infectious Disease and HIV/AIDS Policy.

[FR Doc. 2020–18519 Filed 8–21–20; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel RFA–DK–20–503 Limited Competition: TEDDY Data Coordinating Center.

Date: October 7, 2020.

Time: 3:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Dianne Camp, Ph.D., Scientific Review Officer, Review Branch, Division of Extramural Activities, NIDDK, National Institutes of Health, Room 7013, 6707 Democracy Boulevard, Bethesda, MD 20892–2542. (301) 5947682, campd@extra.nidk.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: August 18, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–18438 Filed 8–21–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute Of Arthritis And Musculoskeletal And Skin Diseases 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 Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

The meeting will be open to the public online as indicated below, with attendance limited to online participation only. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

Date: September 1, 2020.

Open: 10:00 a.m. to 12:45 p.m.

Agenda: To discuss program policies and issues.

Place: National Institutes of Health, Bethesda, MD, (Virtual Meeting).

Virtual Access: The meeting will be videocast and can be accessed from the NIH Videocast <http://videocast.nih.gov>. Please note, the link to the videocast meeting will be posted within a week of the meeting date. Any member of the public may submit written comments no later than 15 days after the meeting.

Closed: 2:00 p.m.–3:30 p.m.

Agenda: To Review and Evaluate Grant Applications.

Contact Person: Melinda Nelson, Acting Director, National Institute of Arthritis and Musculoskeletal and Skin Diseases, Grants Management Branch, 45 Center Drive, Natcher Building, Room 5A49, Bethesda, MD 20892, (301) 594–3535, mn23z@nih.gov. (Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Any interested person may file written comments with the committee by forwarding the 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.

Dated: August 18, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–18441 Filed 8–21–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings 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: Center for Scientific Review Special Emphasis Panel Small Business: Low Vision, Ocular Biomedical and Bioengineering Technology Development.

Date: September 14, 2020.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Susan Gillmor, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, (240) 762–3076, susan.gillmor@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel NIH Research Enhancement Award (R15) in Oncological Sciences.

Date: September 16, 2020.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Svetlana Kotliarova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, Bethesda, MD 20892, (301) 594–7945, kotliars@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 18, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–18439 Filed 8–21–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Heart, Lung, and Blood Advisory 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.

Name of Committee: National Heart, Lung, and Blood Advisory Council.

Date: September 15, 2020.

Open: 8:00 a.m. to 11:00 a.m.

Agenda: To discuss program policies and issues.

Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Room 206–Q, Bethesda, MD 20892, (Virtual Meeting).

Open: 1:30 p.m. to 4:00 p.m.

Agenda: To discuss program policies and issues.

Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Room 206–Q, Bethesda, MD 20892, (Virtual Meeting).

Virtual Access: The meeting will be videocast and can be accessed from the NIH Videocast. Please note, the link to the videocast meeting will be posted within a week of the meeting date on the NHLBI Council website: <https://www.nhlbi.nih.gov/about/advisory-and-peer-review-committees/advisory-council>.

Contact Person: Laura K. Moen, Ph.D., Director, Division of Extramural Research Activities, National Heart, Lung, and Blood Institute, National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20892, 301–435–0260, moen@mail.nih.gov.

Any interested person may file written comments with the committee by forwarding the 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. Any member of the public may submit written comments no later than 15 days after the meeting.

Information is also available on the Institute's/Center's home page: www.nhlbi.nih.gov/meetings/nhlbac/index.htm, where an agenda and any additional information for the meeting will be posted when available. (Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: August 18, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020-18440 Filed 8-21-20; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE-2020-0009; EEEE500000 20XE1700DX EX1SF0000.EAQ000; OMB Control Number 1014-0024]

Agency Information Collection Activities; Plans and Information

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before October 23, 2020.

ADDRESSES: Send your comments on this information collection request (ICR) by either of the following methods listed below:

- Electronically go to <http://www.regulations.gov>. In the Search box, enter BSEE-2020-0009 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.

- Email kye.mason@bsee.gov, fax (703) 787-1546, or mail or hand-carry comments to the Department of the Interior; Bureau of Safety and Environmental Enforcement; Regulations and Standards Branch; ATTN: Nicole Mason; 45600 Woodland Road, Sterling, VA 20166. Please

reference OMB Control Number 1014-0024 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Nicole Mason by email at kye.mason@bsee.gov or by telephone at (703) 787-1607.

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct, or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies 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.

We are especially interested in public comment addressing the following:

- Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- How might the agency minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. 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: Regulations implementing plans and information responsibilities are under 30 CFR part 250, subpart B, and are among those delegated to BSEE. This request also covers any related Notices to Lessees and Operators (NLTs) that BSEE issues to clarify, supplement, or provide additional guidance on some aspects of our regulations.

For § 250.282—Post-Approval Requirements for the EP, DPP, and DOCD: While the information is submitted to BOEM, BSEE analyzes and evaluates the information and data collected under this section of subpart B to verify that an ongoing/completed OCS operation is/was conducted in compliance with established environmental standards placed on the activity.

For §§ 250.287–295—Deepwater Operations Plan (DWOP): BSEE analyzes and evaluates the information and data collected under this section of subpart B to ensure that planned operations are safe; will not adversely affect the marine, coastal, or human environment; and will conserve the resources of the OCS. We use the information to make an informed decision on whether to approve the proposed DWOPs, or whether modifications are necessary without the analysis and evaluation of the required information.

Title of Collection: 30 CFR 250, Subpart B, Plans and Information.

OMB Control Number: 1014-0024.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Potential respondents include Federal OCS oil, gas, and sulfur lessees and/or operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Currently there are approximately 60 Oil and Gas Drilling and Production Operators in the OCS. Not all the potential respondents will submit information in any given year, and some may submit multiple times.

Total Estimated Number of Annual Responses: 31.

Estimated Completion Time per Response: Varies from 50 hours to 2,200 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 44,458.

Respondent's Obligation: Most responses are mandatory; while some are required to obtain or retain a benefit.

Frequency of Collection: Submissions are generally on occasion.

Total Estimated Annual Nonhour Burden Cost: \$68,381.

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.*).

Amy White,

Acting Chief, Regulations and Standards Branch.

[FR Doc. 2020-18453 Filed 8-21-20; 8:45 am]

BILLING CODE 4310-VH-P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE-2020-0010; EEEE50000 20XE1700DX EX1SF0000.EAQ000; OMB Control Number 1014-0008]

Agency Information Collection Activities; Well Control and Production Safety Training

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of Information Collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before October 23, 2020.

ADDRESSES: Send your comments on this information collection request (ICR) by either of the following methods listed below:

- Electronically go to <http://www.regulations.gov>. In the Search box, enter BSEE-2020-0010 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.

- Email kye.mason@bsee.gov, fax (703) 787-1546, or mail or hand-carry comments to the Department of the Interior; Bureau of Safety and Environmental Enforcement; Regulations and Standards Branch; ATTN: Nicole Mason; 45600 Woodland Road, Sterling, VA 20166. Please reference OMB Control Number 1014-0008 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Nicole Mason by email at kye.mason@bsee.gov or by telephone at (703) 787-1607.

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct, or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies 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.

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 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 using 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. We will include or summarize each comment in our request to OMB to approve this ICR. 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: The regulations at 30 CFR 250, Subpart O, Well Control and Production Safety Training, concern training requirements for certain personnel working on the OCS and is the subject of this collection. This request also covers the related Notices

to Lessees and Operators (NTLs) that BSEE issues to clarify, supplement, or provide additional guidance on some aspects of our regulations.

BSEE uses the information collected under subpart O regulations to ensure that workers in the OCS are properly trained with the necessary skills to perform their jobs in a safe and pollution-free manner.

In some instances, we may conduct oral interviews of offshore employees to evaluate the effectiveness of a company's training program. The oral interviews are used to gauge how effectively the companies are implementing their own training program.

Title of Collection: 30 CFR 250, Subpart O, Well Control and Production Safety Training.

OMB Control Number: 1014-0008.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Potential respondents include Federal OCS oil, gas, and sulfur lessees and/or operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Currently there are approximately 60 Oil and Gas Drilling and Production Operators in the OCS. Not all the potential respondents will submit information in any given year, and some may submit multiple times.

Total Estimated Number of Annual Responses: 5.

Estimated Completion Time per Response: Varies from 4 hours to 69 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 148.

Respondent's Obligation: Responses are mandatory.

Frequency of Collection: Submissions are generally 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.*).

Amy White,

Acting Chief, Regulations and Standards Branch.

[FR Doc. 2020-18449 Filed 8-21-20; 8:45 am]

BILLING CODE 4310-VH-P

DEPARTMENT OF THE INTERIOR**Bureau of Safety and Environmental Enforcement**

[Docket ID BSEE–2020–0012; EEEE50000 20XE1700DX EX1SF0000.EAQ000; OMB Control Number 1014–0017]

Agency Information Collection Activities; Safety and Environmental Management Systems

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before October 23, 2020.

ADDRESSES: Send your comments on this information collection request (ICR) by either of the following methods listed below:

- Electronically go to <http://www.regulations.gov>. In the Search box, enter BSEE–2020–0012 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.
- Email kye.mason@bsee.gov, fax (703) 787–1546, or mail or hand-carry comments to the Department of the Interior; Bureau of Safety and Environmental Enforcement; Regulations and Standards Branch; ATTN: Nicole Mason; 45600 Woodland Road, Sterling, VA 20166. Please reference OMB Control Number 1014–0017 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Nicole Mason by email at kye.mason@bsee.gov or by telephone at (703) 787–1607.

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct, or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies 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.

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 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 using 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. We will include or summarize each comment in our request to OMB to approve this ICR. 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: Regulations governing Safety and Environmental Management Systems (SEMS) are covered in 30 CFR 250, Subpart S and are the subject of this collection. This request also covers any related Notices to Lessees and Operators (NLTs) that BSEE issues to clarify, supplement, or provide additional guidance on some aspects of our regulations.

We consider the information to be critical for us to monitor industry's operations record of safety and environmental management on the OCS. The Subpart S regulations hold the operator accountable for the overall safety of the offshore facility, including ensuring that all employees, contractors, and subcontractors have safety policies and procedures in place that support the implementation of the operator's SEMS program and align with the principles of

managing safety. An operator's SEMS program must describe management's commitment to safety and the environment, as well as policies and procedures to assure safety and environmental protection while conducting OCS operations (including those operations conducted by all personnel on the facility). BSEE will use the information obtained by submittals and observed via SEMS audits to ensure that operations on the OCS are conducted safely, as they pertain to both human and environmental factors, and in accordance with BSEE regulations, including industry practices incorporated by reference within the regulations. Job Safety Analyses (JSA's) and other recordkeeping required by the SEMS regulation will be reviewed diligently by BSEE during inspections and other oversight activities and by SEMS auditors during regulatory required audits, to ensure that industry is using the documentation required by the SEMS regulation to manage their safety and environmental risks.

Information on Form BSEE–0131, which the SEMS regulation requires to be submitted to BSEE annually, includes company identification, number of company/contractor injuries and/or illnesses suffered, company/contractor hours worked, EPA National Pollutant Discharge Elimination System (NPDES) permit non-compliances, and oil spill volumes for spills less than 1 barrel. Such information is reported on a calendar year basis, with data broken out by calendar quarter. The information is used to develop industry average incident rates that help to describe how well the offshore oil and gas industry is performing. Operators use these incident rates to benchmark against their own performance, and to focus on areas that need improvement. Using the produced data allows BSEE to better focus our regulatory and research programs on areas where the performance measures indicate that operators are having difficulty meeting our expectations. BSEE will be more effective in leveraging resources by redirecting research efforts, promoting appropriate regulatory initiatives, and shifting inspection and Directed Audit program emphasis based on performance results.

Title of Collection: 30 CFR part 250, subpart S, Safety and Environmental Management Systems (SEMS).

OMB Control Number: 1014–0017.
Form Number: BSEE–0131,

Performance Measures Data.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Potential respondents include Federal

OCS oil, gas, and sulfur lessees and/or operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Currently there are approximately 60 Oil and Gas Drilling and Production Operators in the OCS. Not all the potential respondents will submit information in any given year, and some may submit multiple times.

Total Estimated Number of Annual Responses: 686.

Estimated Completion Time per Response: Varies from 39 hours to 11,926 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 1,487,634.

Respondent's Obligation: Responses are mandatory.

Frequency of Collection: Submissions are on occasion.

Total Estimated Annual Nonhour Burden Cost: \$3,259,727.

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.*).

Amy White,

Acting Chief, Regulations and Standards Branch.

[FR Doc. 2020-18450 Filed 8-21-20; 8:45 am]

BILLING CODE 4310-VH-P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE-2020-0008; EEEE500000 20XE1700DX EX1SF0000.EAQ000; OMB Control Number 1014-0021]

Agency Information Collection Activities; Operations in the Outer Continental Shelf for Minerals Other than Oil, Gas, and Sulphur

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before October 23, 2020.

ADDRESSES: Send your comments on this information collection request (ICR) by either of the following methods listed below:

- Electronically go to <http://www.regulations.gov>. In the Search box, enter BSEE-2020-0008 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.

- Email kye.mason@bsee.gov, fax (703) 787-1546, or mail or hand-carry comments to the Department of the Interior; Bureau of Safety and Environmental Enforcement; Regulations and Standards Branch; ATTN: Nicole Mason; 45600 Woodland Road, Sterling, VA 20166. Please reference OMB Control Number 1014-0021 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Nicole Mason by email at kye.mason@bsee.gov or by telephone at (703) 787-1607.

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct, or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies 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.

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 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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

We are especially interested in public comment addressing the following:

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. 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: BSEE will use the information required by 30 CFR 282 to determine if lessees are complying with the regulations that implement the mining operations program for minerals other than oil, gas, and sulphur. Specifically, BSEE will use the information:

- To ensure that operations for the production of minerals other than oil, gas, and sulphur in the OCS are conducted in a manner that will result in orderly resource recovery, development, and the protection of the human, marine, and coastal environments.

- To ensure that adequate measures will be taken during operations to prevent waste, conserve the natural resources of the OCS, and to protect the environment, human life, and correlative rights.

- To determine if suspensions of activities are in the national interest, to facilitate proper development of a lease including reasonable time to develop a mine and construct its supporting facilities, and to allow for the construction or negotiation for use of transportation facilities.

- To identify and evaluate the cause(s) of a hazard(s) generating a suspension, the potential damage from a hazard(s) and the measures available to mitigate the potential for damage.

- For technical evaluations that provide a basis for BSEE to make informed decisions to approve, disapprove, or require modification of the proposed activities.

Title of Collection: 30 CFR 282, Operations in the Outer Continental Shelf for Minerals Other than Oil, Gas, and Sulphur.

OMB Control Number: 1014-0021.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Potential respondents include Federal OCS oil, gas, and sulfur lessees and/or

operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Currently there are approximately 60 Oil and Gas Drilling and Production Operators in the OCS. Not all the potential respondents will submit information in any given year, and some may submit multiple times.

Total Estimated Number of Annual Responses: 16.

Estimated Completion Time per Response: Varies from 1 hour to 20 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 56.

Respondent's Obligation: Required to obtain or retain a benefit, or Voluntary.

Frequency of Collection: Submissions are generally on occasion.

Total Estimated Annual Nonhour Burden Cost: \$100,000.

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.*).

Amy White,

Acting Chief, Regulations and Standards Branch.

[FR Doc. 2020-18451 Filed 8-21-20; 8:45 am]

BILLING CODE 4310-VH-P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE-2020-0014; EEEE50000 20XE1700DX EX1SF0000.EAQ000; OMB Control Number 1014-0007]

Agency Information Collection Activities; Oil-Spill Response Requirements for Facilities Located Seaward of the Coastline

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before October 23, 2020.

ADDRESSES: Send your comments on this information collection request (ICR) by either of the following methods listed below:

- Electronically go to <http://www.regulations.gov>. In the Search box, enter BSEE-2020-0014 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.

- Email kye.mason@bsee.gov, fax (703) 787-1546, or mail or hand-carry comments to the Department of the Interior; Bureau of Safety and Environmental Enforcement; Regulations and Standards Branch; ATTN: Nicole Mason; 45600 Woodland Road, Sterling, VA 20166. Please reference OMB Control Number 1014-0007 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Nicole Mason by email at kye.mason@bsee.gov or by telephone at (703) 787-1607.

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct, or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies 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.

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 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 using 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. We will include or summarize each comment in our request to OMB to approve this ICR. 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: The Federal Water Pollution Control Act (FWPCA), as amended by the Oil Pollution Act of 1990 (OPA), requires that a spill-response plan be submitted for offshore facilities prior to February 18, 1993. The OPA specifies that after that date, an offshore facility may not handle, store, or transport oil unless a plan has been submitted. Regulations at 30 CFR 254 establish requirements for spill-response plans for oil-handling facilities seaward of the coastline, including associated pipelines. BSEE uses the information collected under 30 CFR 254 to determine compliance with OPA by lessees/operators. Specifically, BSEE needs the information to:

- Determine that lessees/operators have an adequate plan and are sufficiently prepared to implement a quick and effective response to a discharge of oil from their facilities or operations.
 - Review plans prepared under the regulations of a State and submitted to BSEE to satisfy the requirements in 30 CFR 254 to ensure that they meet minimum requirements of OPA.
 - Verify that personnel involved in oil-spill response are properly trained and familiar with the requirements of the spill-response plans and to lead and witness spill-response exercises.
 - Assess the sufficiency and availability of contractor equipment and materials.
 - Verify that enough quantities of equipment are available and in working order.
 - Oversee spill-response efforts and maintain official records of pollution events.
 - Assess the efforts of lessees/operators to prevent oil spills or prevent substantial threats of such discharges.
- Title of Collection:** 30 CFR 254, Oil-Spill Response Requirements for Facilities Located Seaward of the Coastline.
- OMB Control Number:** 1014-0007.
Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public:

Potential respondents include Federal OCS oil, gas, and sulfur lessees and/or operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Currently there are approximately 60 Oil and Gas Drilling and Production Operators in the OCS. Not all the potential respondents will submit information in any given year, and some may submit multiple times.

Total Estimated Number of Annual Responses: 1,675.

Estimated Completion Time per Response: Varies from .5 hour to 165 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 60,989.

Respondent's Obligation: Most responses are mandatory; while some are required to obtain or retain a benefit.

Frequency of Collection: Submissions are on occasion, monthly, annually, and biennially.

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.*).

Amy White,

Acting Chief, Regulations and Standards Branch.

[FR Doc. 2020-18457 Filed 8-21-20; 8:45 am]

BILLING CODE 4310-VH-P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE-2020-0011; EEEE500000 20XE1700DX EX1SF0000.EAQ000; OMB Control Number 1014-0005]

Agency Information Collection Activities; Relief or Reduction in Royalty Rates

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before October 23, 2020.

ADDRESSES: Send your comments on this information collection request (ICR) by either of the following methods listed below:

- Electronically go to <http://www.regulations.gov>. In the Search box, enter BSEE-2020-0011 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.

- Email kye.mason@bsee.gov, fax (703) 787-1546, or mail or hand-carry comments to the Department of the Interior; Bureau of Safety and Environmental Enforcement; Regulations and Standards Branch; ATTN: Nicole Mason; 45600 Woodland Road, Sterling, VA 20166. Please reference OMB Control Number 1014-0005 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Nicole Mason by email at kye.mason@bsee.gov or by telephone at (703) 787-1607.

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct, or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies 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.

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 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 using 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. We will include or summarize each comment in our request to OMB to approve this ICR. 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: This authority and responsibility are among those delegated BSEE. The regulations at 30 CFR part 203, are the subject of this collection. This request also covers the related Notices to Lessees and Operators (NLTs) that BSEE issues to clarify, supplement, or provide additional guidance on some aspects of our regulations. The information collected under 30 CFR part 203, Relief or Reduction in Royalty Rates is used in our efforts to make decisions on the economic viability of leases requesting a suspension or elimination of royalty or net profit share. These decisions have enormous monetary impact on both the lessee and the Federal government. Royalty relief can lead to increased production of natural gas and oil, creating profits for lessees, and royalty and tax revenues for the Federal government that they might not otherwise receive. We could not make an informed decision without the collection of information required by 30 CFR part 203.

Title of Collection: 30 CFR part 203, Relief or Reduction in Royalty Rates.

OMB Control Number: 1014-0005.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Potential respondents include Federal OCS oil, gas, and sulfur lessees and/or operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Currently there are approximately 60 Oil and Gas Drilling and Production Operators in the OCS. Not all the potential respondents will submit information in any given year, and some may submit multiple times.

Total Estimated Number of Annual Responses: 28.

Estimated Completion Time per Response: Varies from 1 hour to 2,000 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 724.

Respondent's Obligation: Some responses are mandatory; while others are required to obtain or retain a benefit.

Frequency of Collection: Submissions are generally on occasion.

Total Estimated Annual Nonhour Burden Cost: \$27,950.

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.*).

Amy White,

Acting Chief, Regulations and Standards Branch.

[FR Doc. 2020-18455 Filed 8-21-20; 8:45 am]

BILLING CODE 4310-VH-P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE-2020-0013; EEEE500000 20XE1700DX EX1SF0000.EAQ000; OMB Control Number 1014-0023]

Agency Information Collection Activities; Pollution Prevention and Control

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of Information Collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before October 23, 2020.

ADDRESSES: Send your comments on this information collection request (ICR) by either of the following methods listed below:

- Electronically go to <http://www.regulations.gov>. In the Search box, enter BSEE-2020-0013 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.
- Email kye.mason@bsee.gov, fax (703) 787-1546, or mail or hand-carry

comments to the Department of the Interior; Bureau of Safety and Environmental Enforcement; Regulations and Standards Branch; ATTN: Nicole Mason; 45600 Woodland Road, Sterling, VA 20166. Please reference OMB Control Number 1014-0023 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Nicole Mason by email at kye.mason@bsee.gov or by telephone at (703) 787-1607.

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct, or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies 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.

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 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 using 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. We will include or summarize each comment in our request to OMB to approve this ICR. 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: This authority and responsibility are among those delegated to BSEE. The regulations at 30 CFR 250, subpart C requirements concern pollution prevention and control and are the subject of this collection. This request also covers any related Notices to Lessees and Operators (NLTs) that BSEE issues to clarify, supplement, or provide additional guidance on some aspects of our regulations.

The information collected under Subpart C is used in our efforts to:

- Record the location of items lost overboard to aid in recovery during site clearance activities on the lease;
- conduct operations according to all applicable regulations, requirements, and in a safe and workmanlike manner;
- properly handle for the protection of OCS workers and the environment the discharge or disposal of drill cuttings, sand, and other well solids, including those containing naturally occurring radioactive materials (NORM); and

- inspect facilities daily for the prevention of pollution and ensure that any observed problems are corrected.

Title of Collection: 30 CFR part 250, subpart C, Pollution Prevention and Control.

OMB Control Number: 1014-0023.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Potential respondents include Federal OCS oil, gas, and sulfur lessees and/or operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Currently there are approximately 60 Oil and Gas Drilling and Production Operators in the OCS. Not all the potential respondents will submit information in any given year, and some may submit multiple times.

Total Estimated Number of Annual Responses: 3,273.

Estimated Completion Time per Response: Varies from 1 hour to 134 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 137,940.

Respondent's Obligation: Responses are mandatory.

Frequency of Collection: Submissions are generally on occasion, weekly, and daily.

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.*).

Amy White,

Acting Chief, Regulations and Standards Branch.

[FR Doc. 2020-18452 Filed 8-21-20; 8:45 am]

BILLING CODE 4310-VH-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1214]

Certain Height-Adjustable Desk Platforms and Components Thereof; Institution of Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on July 20, 2020, under section 337 of the Tariff Act of 1930, as amended, on behalf of Versa Products Inc. of Los Angeles, California. Supplements to the complaint were filed on July 22, July 31, and August 7, 2020. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain height-adjustable desk platforms and components thereof by reason of infringement of certain claims of U.S. Patent No. 10,485,336 (“the ‘336 Patent”). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute. The complainant requests that the Commission institute an investigation and, after the investigation, issue a general exclusion order, or in the alternative a limited exclusion order, and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD

terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in § 210.10 of the Commission’s Rules of Practice and Procedure, 19 CFR 210.10 (2020).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on August 17, 2020, Ordered That—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation is instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1-4 of the ‘336 Patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to § 210.10(b)(1) of the Commission’s Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is “desk platform that sits on an existing desk or work surface and can be adjusted to different heights using an electric mechanism”;

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

Versa Products Inc., 14105 Avalon Blvd., Los Angeles, CA 90061-2637

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Varidesk LLC, 1221 Belt Line Rd. #500, Coppell, TX 75019

CKNAPP Sales, Inc., 195 E. Martin Dr., Goodfield, IL 61742

Loctek, Inc., 6475 Las Positas Rd., Livermore, CA 94551

Loctek Ergonomic Technology Corporation No. 588, Qihang South Road, Yinzhou Economic Development Zone, Zhanqi Town, Yinzhou District, Ningbo City, Zhejiang Province, China 315191

Zhejiang Loctek Smart Drive Technology Co., Ltd., Science & Technology Zone, Jiangshan Town, Yinzhou District, Ningbo City, Zhejiang Province, China 315191

Amazon Import Inc., 9910 Baldwin Place, El Monte, CA 91731

Stand Steady Company, LLC, 5724 Highway 280 East, Birmingham, AL 35242

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with § 210.13 of the Commission’s Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), as amended in 85 FR 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainant of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: August 18, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020-18388 Filed 8-21-20; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701-TA-632-635 and 731-TA-1466-1468 (Final)]

Fluid End Blocks From China, Germany, India, and Italy; Scheduling of the Final Phase of Countervailing Duty and Anti-Dumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping and countervailing duty investigation Nos. 701-TA-632-635 and 731-TA-1466-1468 (Final) pursuant to the Tariff Act of 1930 (“the Act”) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of fluid end blocks from China, Germany, India, and Italy, provided for in subheadings 7218.91.00, 7218.99.00, 7224.90.00, 7326.19.00, 7326.90.86, and 8413.91.90 of the Harmonized Tariff Schedule of the United States. The Department of Commerce (“Commerce”) has preliminarily determined imports of fluid end blocks from China, Germany, India, and Italy to be subsidized and imports of fluid end blocks from Germany and Italy to be sold at less-than-fair-value. In addition, Commerce has made a preliminary negative determination of sales at less-than-fair value in the antidumping duty investigation of fluid end blocks from India.

DATES: July 23, 2020.

FOR FURTHER INFORMATION CONTACT: Kristina Lara ((202) 205-3386), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission’s TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<https://www.usitc.gov>). The public record for these investigations may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION: Scope.—For purposes of these investigations, Commerce has defined the subject merchandise as “forged steel fluid end blocks (fluid end blocks), whether in finished or unfinished form, and which are typically used in the manufacture or service of hydraulic pumps. The term ‘forged’ is an industry term used to describe the grain texture of steel resulting from the application of localized compressive force. Illustrative forging standards include, but are not limited to, American Society for Testing and Materials (ASTM) specifications A668 and A788. For purposes of this investigation, the term ‘steel’ denotes metal containing the following chemical elements, by weight: (i) Iron greater than or equal to 60 percent; (ii) nickel less than or equal to 8.5 percent; (iii) copper less than or equal to 6 percent; (iv) chromium greater than or equal to 0.4 percent, but less than or equal to 20 percent; and (v) molybdenum greater than or equal to 0.15 percent, but less than or equal to 3 percent. Illustrative steel standards include, but are not limited to, American Iron and Steel Institute (AISI) or Society of Automotive Engineers (SAE) grades 4130, 4135, 4140, 4320, 4330, 4340, 8630, 15-5, 17-4, F6NM, F22, F60, and XM25, as well as modified varieties of these grades.”¹

The products included in the scope of these investigations may enter under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7218.91.0030, 7218.99.0030, 7224.90.0015, 7224.90.0045, 7326.19.0010, 7326.90.8688, or 8413.91.9055. While these HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigations is dispositive.

Background.—The final phase of these investigations is being scheduled pursuant to sections 705(b) and 731(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)), as a result of affirmative preliminary determinations by Commerce that certain benefits which constitute subsidies within the meaning of § 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China, Germany, India, and Italy of fluid end blocks, and that such products from Germany and Italy are being sold in the United States at less than fair value within the meaning of § 733 of the Act (19 U.S.C. 1673b). The investigations were requested in petitions filed on December 19, 2019, by

Ellwood City Forge Company, Ellwood Quality Steels Company, and Ellwood National Steel Company (collectively the “Ellwood Group”), Ellwood City, Pennsylvania; A. Finkl & Sons (“Finkl Steel”), Chicago, Illinois; and FEB Fair Trade Coalition (an ad hoc coalition whose members include the Forging Industry Association, the Ellwood Group, and Finkl Steel), Cleveland, Ohio.

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission’s Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Although Commerce has preliminarily determined that imports of fluid end blocks from India are not being and are not likely to be sold in the United States at less than fair value, for purposes of efficiency the Commission hereby waives rule 207.21(b)² so that the final phase of the investigations may proceed concurrently in the event that Commerce makes a final affirmative determination with respect to such imports.

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission’s rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Please note the Secretary’s Office will accept only electronic filings during this time. Filings must be made through the Commission’s Electronic Document Information System (EDIS, <https://edis.usitc.gov>.) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

¹ For a complete definition, please see Commerce’s scope in 85 FR 44500, 85 FR 44513, or 85 FR 44517, July 23, 2020.

² § 207.21(b) of the Commission’s rules provides that, where Commerce has issued a negative preliminary determination, the Commission will publish a Final Phase Notice of Scheduling upon receipt of an affirmative final determination from Commerce.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on November 9, 2020, and a public version will be issued thereafter, pursuant to § 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on Tuesday, December 1, 2020. Information about the place and form of the hearing, including about how to participate in and/or view the hearing, will be posted on the Commission's website at <https://www.usitc.gov/calendarpad/calendar.html>. Interested parties should check the Commission's website periodically for updates.

Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before November 24, 2020. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held on November 30, 2020, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the

provisions of § 207.23 of the Commission's rules; the deadline for filing is November 17, 2020. Parties should file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules and provided in hearing procedures, and posthearing briefs, which must conform with the provisions of § 207.25 of the Commission's rules. The deadline for filing posthearing briefs is December 10, 2020. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before December 10, 2020. On December 28, 2020, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before December 30, 2020, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures*, available on the Commission's website at https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf, elaborates upon the Commission's procedures with respect to filings.

Additional written submissions to the Commission, including requests pursuant to § 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

By order of the Commission.

Issued: August 18, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–18443 Filed 8–21–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1199]

Certain Tobacco Heating Articles and Components Thereof; Commission Determination Not to Review an Initial Determination Granting Complainants' Motion for Leave to Amend the Complaint and Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (“ID”) (Order No. 9) of the presiding administrative law judge (“ALJ”) granting the complainants’ motion for leave to amend the complaint and notice of investigation.

FOR FURTHER INFORMATION CONTACT:

Lynde Herzbach, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3228. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: On May 15, 2020, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), based on a complaint filed by RAI Strategic Holdings, Inc., R.J. Reynolds Vapor Company, and R.J. Reynolds Tobacco Company, all of Winston-Salem, North Carolina (collectively, “Complainants”). See 85 FR 29482–83. The complaint, as supplemented, alleges a violation of section 337 based upon the importation of certain tobacco heating articles and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 9,839,238; 9,901,123; and

9,930,915 (“the ‘915 patent”). The complaint also alleges the existence of a domestic industry. The notice of investigation names five respondents: Altria Client Services LLC, Altria Group, Inc., and Philip Morris USA, Inc., all of Richmond, Virginia; Philip Morris International Inc. of New York, New York; and Philip Morris Products S.A. of Neuchatel, Switzerland (collectively, “Respondents”). See *id.* The Office of Unfair Import Investigations (“OUII”) is also a party to the investigation. See *id.*

On July 13, 2020, Complainants filed a motion seeking leave to amend the complaint and notice of investigation to add allegations that Respondents infringe claim 3 of the ‘915 patent. On July 23, 2020, Respondents filed an opposition. That same day, OUII filed a response supporting Complainants’ motion. On July 27, 2020, Complainants filed a motion seeking leave to submit a reply brief in support of its motion. The subject ID grants the motion for leave and Complainants’ reply is deemed filed.

On July 29, 2020, the ALJ issued the subject ID (Order No. 9) granting Complainants’ motion for leave to amend the complaint and notice of investigation. Order No. 9 (July 29, 2020). The subject ID finds that Complainants’ motion is supported by good cause pursuant to Commission Rule 210.14(b) (19 CFR 210.14(b)) and that there is no prejudice if the motion is granted. No party petitioned for review of the subject ID.

The Commission has determined not to review the subject ID.

The Commission vote for this determination took place on August 18, 2020.

The authority for the Commission’s determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission’s Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.
Issued: August 18, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–18477 Filed 8–21–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1215]

Certain Mobile Electronic Devices and Laptop Computers; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on July 17, 2020, under section 337 of the Tariff Act of 1930, as amended, on behalf of Maxell, Ltd. of Japan. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain mobile electronic devices and laptop computers by reason of infringement of certain claims of U.S. Patent No. 7,203,517 (“the ‘517 patent”); U.S. Patent No. 8,982,086 (“the ‘086 patent”); U.S. Patent No. 7,199,821 (“the ‘821 patent”); U.S. Patent No. 10,129,590 (“the ‘590 patent”); and U.S. Patent No. 10,176,848 (“the ‘848 patent”). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute. The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and a cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Pathenia Proctor, Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission’s Rules of Practice and Procedure, 19 CFR 210.10 (2020).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on August 18, 2020, Ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted

to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 9 and 10 of the ‘517 patent; claims 1–4 of the ‘086 patent; claims 1, 4, 6, and 7 of the ‘821 patent; claims 1–10 of the ‘590 patent; and claims 8, 10–13, and 15–20 of the ‘848 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission’s Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is “mobile devices, tablets, smartwatches, and laptop computers sold under the Apple brand name”;

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:
Maxell, Ltd., 1 Koizumi, Oyamazaki, Oyamazaki-cho, Otokuni-gun, Kyoto, Japan

(b) The respondent is the following entity alleged to be in violation of section 337, and is the party upon which the complaint is to be served:
Apple Inc., One Apple Park Way, Cupertino, CA 95014

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondent in accordance with section 210.13 of the Commission’s Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), as amended in 85 FR 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainant of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of the respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.
Issued: August 19, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020-18537 Filed 8-21-20; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1160]

Certain Replacement Automotive Service and Collision Parts and Components Thereof; Commission Determination To Issue a Limited Exclusion Order and Cease and Desist Orders Against Defaulting Respondents; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (the "Commission") has determined to issue a limited exclusion order and cease and desist orders against the following respondents found in default in this investigation: AJ Auto Spare Parts FZE of Dubai, United Arab Emirates; John Auto Spare Parts Co. LLC of Dubai, United Arab Emirates; and Cuong Anh Co. Ltd. of Ninh Binh Province, Vietnam (collectively, "the Defaulting Respondents"). The Commission has also determined to impose a bond equal to one hundred (100) percent of the entered value of the infringing products imported during the period of Presidential review. The investigation is hereby terminated.

FOR FURTHER INFORMATION CONTACT: Benjamin S. Richards, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708-5453. Copies of non-confidential documents filed in connection with this

investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: On June 7, 2019, the Commission instituted the above-referenced investigation based on a complaint filed by Hyundai Motor America, Inc. of Fountain Valley, California and Hyundai Motor Company of Seoul, Republic of Korea (collectively, "Hyundai"). 84 FR 26703-04 (June 7, 2019). The complaint alleges a violation of 19 U.S.C. 1337, as amended ("Section 337"), in the importation, sale for importation, or sale in the United States after importation of certain gray market Hyundai parts in the categories of belts, body exterior and interior parts, brakes, wheel hubs, cooling system parts, drivetrain parts, electrical parts, emission parts, engine parts, exhaust parts, fuel/air pumps, oil/air/cabin air filters and parts, heat and A/C parts, ignition parts, steering parts, suspension parts, transmission parts, wheels and parts, wiper and washer parts, and accessories that infringe one or more of Hyundai's U.S. Trademark Registration Nos. 1,104,727; 3,991,863; 1,569,538; and 4,065,195. *Id.* at 26704. The complaint further alleges that a domestic industry exists in the United States. *Id.*

The Commission's notice of investigation named Direct Technologies International, Inc. ("DTI") of North Miami Beach, Florida; AJ Auto Spare Parts FZE ("AJ Auto") and John Auto Spare Parts Co. LLC ("John Auto"), both of Dubai, United Arab Emirates; and Cuong Anh Co. Ltd. ("Cuong Anh") of Ninh Binh Province, Vietnam as respondents. The Office of Unfair Import Investigations was not named as a party to this investigation.

On November 25, 2019, the Commission determined not to review an initial determination ("ID") granting Hyundai's unopposed motion to find respondents AJ Auto, John Auto, and Cuong Anh (collectively, the "Defaulting Respondents") in default. Order No. 17 (Nov. 5, 2019), *not reviewed*, Comm'n Notice (Nov. 25, 2019). Thereafter, on January 24, 2020, Hyundai filed a declaration seeking immediate entry of a limited exclusion order against the Defaulting

Respondents and any of their affiliated companies, parents, subsidiaries, and related business entities, successors or assigns.

On February 18, 2020, the Commission determined not to review an ID granting Hyundai's unopposed motion for summary determination that Hyundai satisfies the domestic industry requirement of section 337. Order No. 26 (Jan. 16, 2020), *not reviewed*, Comm'n Notice (Feb. 18, 2020).

On March 26, 2020, the Commission determined not to review an ID granting a joint motion by Hyundai and DTI to terminate the investigation as to DTI based on a consent order. Order No. 36 (Mar. 5, 2020), *not reviewed*, Comm'n Notice (Mar. 26, 2020). The Commission concurrently issued a consent order directed to DTI, found that Hyundai's January 24, 2020 declaration for immediate relief against the Defaulting Respondents was moot, and requested briefing on the issues of remedy, bonding, and the public interest with respect to the Defaulting Respondents. Comm'n Notice, 2-3 (Mar. 26, 2020).

On April 9, 2020, Hyundai filed the sole response to the Commission's request for briefing. No replies or other submissions were received.

Upon review of the record, and in the absence of any response from the Defaulting Respondents or from other interested persons or government agencies, and having concluded that it would not be contrary to the public interest to do so, the Commission has determined to issue a limited exclusion order and cease and desist orders against the Defaulting Respondents. The Commission has further determined to set a bond in the amount of one hundred (100) percent of the entered value of the covered products.

The investigation is hereby terminated.

While temporary remote operating procedures are in place in response to COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Hyundai complete service for any party/parties without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

The Commission vote for this determination took place on August 18, 2020.

The authority for the Commission's determination is contained in Section

337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: August 18, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020-18446 Filed 8-21-20; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

[OMB Number: 1121-0220]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension without Change, of a Previously Approved Collection

AGENCY: Office of Justice Programs, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice, Office of Justice Programs, Bureau of Justice Assistance is submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: The Department of Justice encourages public comment and will accept input until October 23, 2020.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Hope Janke, Attorney Advisor, Office of Justice Programs, Bureau of Justice Assistance, 810 Seventh Street NW, Washington, DC 20531, *Hope.D.Janke@ojp.usdoj.gov*, 202-307-2858.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Assistance, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

1. *Type of Information Collection:*

Extension, without change, of a currently approved collection.

2. *The Title of the Form/Collection:*

Public Safety Officers' Benefits (PSOB) Program Applications Package (including currently approved collections: Public Safety Officers' Death Benefits Applications (1121-0024 and 1121-0025), Public Safety Officers' Disability Benefits Application (1121-0166), Public Safety Officers' Educational Assistance Application (1121-0220), and a new form titled: Public Safety Officers' Appeal Request Application).

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* None. The application for this program can be accessed online at: <https://psob.bja.ojp.gov/>. The Bureau of Justice Assistance, in the Office of Justice Programs serves as the hosting component.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Public Safety Officers who were permanently and totally disabled in the line of duty; eligible survivors of Public Safety Officers who were killed in the line of duty; eligible spouses and children who receive PSOB death benefits, or whose spouse or parent received the PSOB disability benefit.

Abstract: BJA's Public Safety Officers' Benefits (PSOB) Office will use the Public Safety Officers' Benefits Program Applications Package (including: The Public Safety Officers' Death Benefits Application, the Public Safety Officers' Disability Benefits Application, the Public Safety Officers' Educational Assistance Application, the Public Safety Officers' Appeal Request Application) to collect and confirm the following:

• *Public Safety Officer Death Benefits Application:* BJA's Public Safety Officers' Benefits (PSOB) Office will use the Public Safety Officer Death Benefits Application information to confirm the eligibility of applicants to receive Public Safety Officers' Death Benefits.

Eligibility is dependent on several factors, including Public Safety Officer status, an injury sustained in the line of duty, and the claimant status in the beneficiary hierarchy according to the PSOB Act. In addition, information to help the PSOB Office identify an individual is collected, such as a Social Security number for the Public Safety Officer, telephone numbers, and email addresses.

• *Public Safety Officer Disability Benefits Application:* BJA's Public Safety Officers' Benefits (PSOB) Office will use the PSOB Disability Application information to confirm the eligibility of applicants to receive Public Safety Officers' Disability Benefits. Eligibility is dependent on several factors, including Public Safety Officer status, injury sustained in the line of duty, and the total and permanent nature of the line of duty injury. In addition, information to help the PSOB Office identify individuals is collected, such as Social Security number for the Public Safety Officer, telephone numbers, and email addresses.

• *Public Safety Officer Educational Assistance Application:* BJA's Public Safety Officers' Benefits (PSOB) Office will use the Public Safety Officer Educational Assistance Application information to confirm the eligibility of applicants to receive Public Safety Officer Educational Assistance benefits. Eligibility is dependent on several factors, including the applicant having received or being eligible to receive a portion of the PSOB Death Benefit, or having a spouse or parent who received the PSOB Disability Benefit. Also considered are the applicant's age and the schools being attended. In addition, information to help BJA identify an individual is collected, such as contact numbers and email addresses.

• *Public Safety Officer Appeal Request Application:* BJA's Public Safety Officers' Benefits (PSOB) Office will use the Public Safety Officer Appeal Request Application information to confirm the eligibility of applicants who wish to appeal a previous Public Safety Officers' Death and Disability Benefit determination. Changes to the report form have been made in an effort to streamline the application process and eliminate requests for information that are either irrelevant or already being collected by other means.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:*

• *Public Safety Officer Death Benefits Application:* An estimate of the total number of respondents and the amount

of time needed for an average respondent to respond is as follows: It is estimated that no more than 350 respondents will apply a year. Each application takes approximately 360 minutes to complete.

- **Public Safety Officer Disability Benefits Application:** An estimate of the total number of respondents and the amount of time needed for an average respondent to respond is as follows: It is estimated that no more than 100 respondents will apply a year. Each application takes approximately 300 minutes to complete.

- **Public Safety Officer Educational Assistance Application:** It is estimated that no more than 200 respondents will apply a year. Each application takes approximately 30 minutes to complete.

- **Public Safety Officer Appeal Request Application:** It is estimated that no more than 75 respondents will apply a year. Each application takes approximately 30 minutes to complete.

6. *An estimate of the total public burden (in hours) associated with the collection:*

- **Public Safety Officer Death Benefits Application:** An estimate of the total public burden (in hours) associated with the collection: Total Annual Reporting Burden: 350×360 minutes per application = 126,000 minutes/by 60 minutes per hour = 2,100 hours.

- **Public Safety Officer Disability Benefits Application:** An estimate of the total public burden (in hours) associated with the collection: Total Annual Reporting Burden: 100×300 minutes per application = 30,000 minutes/by 60 minutes per hour = 500 hours.

- **Public Safety Officer Educational Assistance Application:** The estimated public burden associated with this collection is 100 hours. It is estimated that respondents will take 30 minutes to complete an application. The burden hours for collecting respondent data sum to 100 hours (200 respondents \times 0.5 hours = 100 hours).

- **Public Safety Officer Appeal Request Application:** An estimate of the total public burden (in hours) associated with the collection: Total Annual Reporting Burden: 75×30 minutes per application = 2,250 minutes/by 60 minutes per hour = 37.5 hours.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: August 19, 2020.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2020-18546 Filed 8-21-20; 8:45 am]

BILLING CODE 4410-18-P

DEPARTMENT OF JUSTICE

[OMB Number 1121-0319]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension, with Change, of a Previously Approved Collection for which Approval has Expired: National Survey of Youth in Custody, 2017-2018

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until October 23, 2020.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Jessica Strop, Statistician, Bureau of Justice Statistics, 810 Seventh Street NW, Washington, DC 20531 (email: jessica.stroop@usdoj.gov; telephone: 202-598-7610).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

1. *Type of Information Collection:* Extension of an approved information collection request.

2. *The Title of the Form/Collection:* National Survey of Youth in Custody, 2017-2018.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form numbers not available at this time. The Bureau of Justice Statistics, Office of Justice Programs, Department of Justice is the sponsor for the collection.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local, or Tribal Government. Other: Federal Government, Business or other for-profit, Not-for-profit institutions. The work under this clearance will be used to develop and implement surveys to produce estimates for the incidence and prevalence of sexual assault within juvenile correctional facilities as required under the Prison Rape Elimination Act of 2003 (Pub. L. 108-79). Juvenile facility points of contact will be asked to fill out an online survey gathering facility-level characteristics. Sampled youth in custody will be asked to complete an audio computer-assisted self-interview about their experiences inside the facility.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 354 facility points of contact will spend approximately one hour filling out the facility characteristics questionnaire. It is estimated that 8,690 youth respondents will spend approximately 7 minutes going through the assent process and 35 minutes on average responding to the survey.

6. *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 12,533 total burden hours associated with this collection (including gathering facility-level information, obtaining parental consent, administrative records, and roster processing). If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and

Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: August 19, 2020.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2020-18548 Filed 8-21-20; 8:45 am]

BILLING CODE 4410-18-P

DEPARTMENT OF LABOR

Employment and Training Administration

Workforce Information Advisory Council (WIAC)

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of virtual meetings.

SUMMARY: Notice is hereby given that the WIAC will meet for three days, virtually. Information for public attendance at the virtual meeting will be posted at www.dol.gov/agencies/eta/wioa/wiac/meetings several days prior to the meeting date. The meeting will be open to the public.

DATES: The meetings will take place over a three day time period, beginning Tuesday September 8, 2020, and ending Thursday September 10, 2020. The meetings will begin at 1 p.m. EDT and conclude no later than 5 p.m. EDT on each day. Public statements and requests for special accommodations or to address the Advisory Council must be received by September 1, 2020.

ADDRESSES: Information for public attendance at the virtual meeting will be posted at www.dol.gov/agencies/eta/wioa/wiac/meetings several days prior to the meeting date. If problems arise accessing the meeting, please contact Donald Haughton, Unit Chief in the Division of National Programs, Tools, and Technical Assistance, Employment and Training Administration, U.S. Department of Labor, at 202-693-2784.

FOR FURTHER INFORMATION CONTACT: Steven Rietzke, Chief, Division of National Programs, Tools, and Technical Assistance, Employment and Training Administration, U.S. Department of Labor, Room C-4510, 200 Constitution Ave. NW, Washington, DC 20210; Telephone: 202-693-3912. Mr. Rietzke is the Designated Federal Officer for the WIAC.

SUPPLEMENTARY INFORMATION:

Background: This meeting is being held pursuant to Sec. 308 of the Workforce Innovation and Opportunity Act of 2014 (WIOA) (Pub. L. 113-128), which amends Sec. 15 of the Wagner-

Peysner Act of 1933 (29 U.S.C. 491-2). The WIAC is an important component of the Workforce Innovation and Opportunity Act. The WIAC is a Federal Advisory Committee of workforce and labor market information experts representing a broad range of national, State, and local data and information users and producers. The WIAC was established in accordance with provisions of the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. App.) and will act in accordance with the applicable provisions of FACA and its implementing regulation at 41 CFR 102-3. The purpose of the WIAC is to provide recommendations to the Secretary of Labor, working jointly through the Assistant Secretary for Employment and Training and the Commissioner of Labor Statistics, to address: (1) The evaluation and improvement of the nationwide workforce and labor market information (WLMI) system and statewide systems that comprise the nationwide system; and (2) how the Department and the States will cooperate in the management of those systems. These systems include programs to produce employment-related statistics and State and local workforce and labor market information.

The Department of Labor anticipates the WIAC will accomplish its objectives by: (1) Studying workforce and labor market information issues; (2) seeking and sharing information on innovative approaches, new technologies, and data to inform employment, skills training, and workforce and economic development decision making and policy; and (3) advising the Secretary on how the workforce and labor market information system can best support workforce development, planning, and program development. Additional information is available at www.dol.gov/agencies/eta/wioa/wiac/meetings.

Purpose: The WIAC is currently in the process of identifying and reviewing issues and aspects of the WLMI system and statewide systems that comprise the nationwide system and how the Department and the States will cooperate in the management of those systems. As part of this process, the Advisory Council meets to gather information and to engage in deliberative and planning activities to facilitate the development and provision of its recommendations to the Secretary in a timely manner.

Agenda: Members will study and discuss the current status of the WLMI system and begin to develop ideas for improving the WLMI system. The committee may hear general information from subject matters experts in BLS and ETA. A detailed agenda will be

available at www.dol.gov/agencies/eta/wioa/wiac/meetings shortly before the meetings commence.

The Advisory Council will open the floor for public comment. The first opportunity for public comment is expected to be at 3 p.m. EDT on September 10, 2020; however, that time may change at the WIAC chair's discretion. Once the member discussion, public comment period, and discussion of next steps and new business has concluded, the meeting will adjourn.

The full agenda for the meeting, and changes or updates to the agenda, will be posted on the WIAC's web page, www.dol.gov/agencies/eta/wioa/wiac/meetings.

Attending the meeting: Members of the public who require reasonable accommodations to attend the meeting may submit requests for accommodations via email to the email address indicated in the **FOR FURTHER INFORMATION CONTACT** section with the subject line "September 2020 WIAC Meeting Accommodations" by the date indicated in the **DATES** section. Please include a specific description of the accommodations requested and phone number or email address where you may be contacted if additional information is needed to meet your request.

Public statements: Organizations or members of the public wishing to submit written statements may do so by mailing them to the person and address indicated in the **FOR FURTHER INFORMATION CONTACT** section by the date indicated in the **DATES** section or transmitting them as email attachments in PDF format to the email address indicated in the **FOR FURTHER INFORMATION CONTACT** section with the subject line "September 2020 WIAC Meeting Public Statements" by the date indicated in the **DATES** section. Submitters may include their name and contact information in a cover letter for mailed statements or in the body of the email for statements transmitted electronically. Relevant statements received before the date indicated in the **DATES** section will be included in the record of the meeting. No deletions, modifications, or redactions will be made to statements received, as they are public records. Please do not include personally identifiable information in your public statement.

Requests to Address the Advisory Council: Members of the public or representatives of organizations wishing to address the Advisory Council should forward their requests to the contact indicated in the **FOR FURTHER INFORMATION CONTACT** section, or contact

the same by phone, by the date indicated in the **DATES** section. Oral presentations will be limited to 10 minutes, time permitting, and shall proceed at the discretion of the Council chair. Individuals with disabilities, or others who need special accommodations, should indicate their needs along with their request.

John Pallasch,

Assistant Secretary for Employment and Training Administration.

[FR Doc. 2020-18480 Filed 8-21-20; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Information Collection Activities; Comment Request

AGENCY: Bureau of Labor Statistics, Department of Labor.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the "Annual Refiling Survey." A copy of the proposed information collection request can be obtained by contacting the individual listed below in the

ADDRESSES section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before October 23, 2020.

ADDRESSES: Send comments to Carol Rowan, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue NE, Washington, DC 20212. Written comments also may be transmitted by email to BLS_PRA_Public@bls.gov.

FOR FURTHER INFORMATION CONTACT: Carol Rowan, BLS Clearance Officer, at 202-691-7628 (this is not a toll free number). (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The Quarterly Census of Employment and Wages (QCEW) program is a federal/state cooperative effort which compiles monthly employment data, quarterly wages data, and business identification information from employers subject to state Unemployment Insurance (UI) laws. These data are collected from state Quarterly Contribution Reports (QCRs) submitted to State Workforce Agencies (SWAs). The states send micro-level employment and wages data, supplemented with the names, addresses, and business identification information of these employers, to the BLS. The state data are used to create the BLS sampling frame, known as the longitudinal QCEW data.

To ensure the continued accuracy of these data, the information supplied by employers must be periodically verified and updated. For this purpose, the Annual Refiling Survey (ARS) is used in conjunction with the UI tax reporting system in each state. The information collected by the ARS is used to review the existing industry code assigned to each establishment as well as the physical location of the business establishment. As a result, changes in the industrial and geographical compositions of our economy are captured in a timely manner and reflected in the BLS statistical programs.

The ARS also asks employers to identify new locations in the state. If these employers meet QCEW program reporting criteria, then a Multiple Worksite Report (MWR) is sent to the employer requesting employment and wages for each worksite each quarter. Thus, the ARS is also used to identify new potential MWR-eligible employers.

II. Current Action

Office of Management and Budget clearance is being sought for a revision to the ARS.

Once every three years, the SWAs survey employers that are covered by the state's UI laws to ensure that state records correctly reflect the business activities and locations of those employers. States survey approximately one-third of their businesses each year and largely take care of the entire universe of covered businesses over a three-year cycle. The selection criterion for surveying establishments is based on the nine-digit Federal Employer Identification Number of the respondent.

BLS constantly pursues a growing number of automated reporting options to reduce employer burden and costs

and to take advantage of more efficient methods and procedures. Even given such actions, mailing remains an important part of the survey. The BLS developed a one-page letter rather than mailing forms for ARS solicitation. This letter explains the purpose of the ARS and provides respondents with a unique Web ID and password. Respondents are directed to the BLS online web collection system to verify or to update their geographic and industry information. Additionally, BLS staff review selected, large multi-worksites national employers rather than surveying these employers with traditional ARS forms. This central review reduces postage costs incurred by the states in sending letters or forms. It also reduces respondent burden, as the selected employers do not have to return forms either. BLS continues to use a private contractor to handle various administrative aspects of the survey to reduce the costs associated with the ARS. This initiative is called the Centralized Annual Refiling Survey (CARS). Under CARS, BLS effectively utilizes the commercial advantages related to printing and mailing large volumes of survey letters. Finally, BLS continues to make use of email addresses collected from the ARS and from the state Unemployment Insurance agencies for solicitation purposes. Use of email for solicitation reduces the overall cost of data collection. BLS will also continue to make use of email solicitation of small establishments that had been excluded from the ARS for budgetary reasons. Since collection costs for email solicitation are minimal, these respondents can continue to be added back to the ARS at little cost to the government.

III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
 - Enhance the quality, utility, and clarity of the information to be collected.
 - Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other

technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Title of Collection: Annual Refiling Survey.
OMB Number: 1220-0032.
Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit, Not-for-profit institutions, and farms.

ARS collection instrument	Total responses	Frequency	Estimated time per response	Total burden (hours)
BLS NVS Non-mandatory	397,000	once	5 minutes	33,083
BLS NVS Mandatory	444,000	once	5 minutes	37,000
BLS NVM Non-mandatory	22,000	once	15 minutes	5,500
BLS NVM Mandatory	24,000	once	15 minutes	6,000
BLS NCA Non-mandatory	91,000	once	10 minutes	15,167
BLS NCA Mandatory	120,000	once	10 minutes	20,000
Totals	1,098,000			116,750

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, on August 18, 2020.

Leslie Bennett,
Acting Chief, Division of Management Systems.
 [FR Doc. 2020-18460 Filed 8-21-20; 8:45 am]
BILLING CODE 4510-24-P

Plaza SW, Washington, DC 20260-1000.
 Telephone: (202) 268-4800.

Michael J. Elston,
Secretary.
 [FR Doc. 2020-18595 Filed 8-20-20; 11:15 am]
BILLING CODE 7710-12-P

Period for member organizations to transition to the utilization of ports that connect to the Exchange using Pillar technology; (2) extend the Decommission Period that begins once the Transition Period ends; and (3) extend the effective date that the Exchange would prorate the monthly fee for ports activated on or after July 1, 2019. The Exchange proposes to implement these changes to its Price List effective August 10, 2020.⁴ The proposed rule change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

POSTAL SERVICE

Board of Governors; Sunshine Act Meeting

TIME AND DATE: August 17, 2020, at 7:30 p.m.

PLACE: Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Administrative Issues.
2. Strategic Issues.

On August 17, 2020, a majority of the members of the Board of Governors of the United States Postal Service voted unanimously to hold and to close to public observation a special meeting in Washington, DC, via teleconference. The Board determined that no earlier public notice was practicable.

General Counsel Certification: The General Counsel of the United States Postal Service has certified that the meeting may be closed under the Government in the Sunshine Act.

CONTACT PERSON FOR MORE INFORMATION: Michael J. Elston, Secretary of the Board, U.S. Postal Service, 475 L’Enfant

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-89591; File No. SR-NYSE-2020-68]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Price List Regarding Port Fees

August 18, 2020.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”),² and Rule 19b-4 thereunder,³ notice is hereby given that on August 10, 2020, New York Stock Exchange LLC (“NYSE” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List to (1) extend the Transition

¹ 15 U.S.C. 78s(b)(1).
² 15 U.S.C. 78a.
³ 17 CFR 240.19b-4.

⁴ The Exchange originally filed to amend the Price List on July 31, 2020 (SR-NYSE-2020-64). SR-NYSE-2020-64 was subsequently withdrawn and replaced by this filing.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to provide additional time for member organizations to transition from older to newer and more efficient Pillar technology. The Exchange is not proposing to adjust the amount of the port fees or the fees charged to offset the Exchange's continuing costs of supporting legacy ports, which will remain at the current level for all market participants.

Effective July 3, 2019, the Exchange introduced transition pricing designed to provide member organizations an extended transition period to connect to the Exchange using Pillar technology with no fee increase. Specifically, the Exchange (1) adopted a cap on monthly fees for the use of certain ports connecting to the Exchange for the billing months July 2019 through March 2020 (the "Transition Period"); (2) adopted a Decommission Extension Fee applicable for the billing months April 2020 through September 2020 (the "Decommission Period") for legacy port connections; and (3) prorated the monthly fee for certain ports activated after July 1, 2019, effective April 1, 2020.⁵

Effective March 2, 2020, the Exchange (1) extended the end of the Transition Period from March 2020 to August 2020 for member organizations to transition to the utilization of ports that connect to the Exchange using Pillar technology; (2) shortened the Decommission Period from six months (April 2020-September 2020) to four months (September-December 2020); (3) extended the effective date that the Exchange would prorate the monthly fee for certain ports activated on or after July 1, 2019 from April 1, 2020 to September 1, 2020; and (4) revised the fees charged for legacy port connections during the Decommission Period.⁶

The Exchange proposes to:

- extend the end of the Transition Period from August 2020 to October 2020;
- extend the beginning of the Decommission Period from September 2020 to November 2020 and the end of the Decommission Period from December 2020 to February 2021; and
- extend the effective date that the Exchange would prorate the monthly fee

⁵ See Securities Exchange Act Release No. 86360 (July 11, 2019), 84 FR 34210 (SR-NYSE-2019-39).

⁶ See Securities Exchange Act Release No. 88373 (March 12, 2020), 85 FR 15533 (SR-NYSE-2020-14).

for ports activated on or after July 1, 2019 from September 1, 2020 to November 1, 2020.

The Exchange would continue to provide a cap on how much member organizations would be charged for ports during the proposed extra two months of the Transition Period so that they would not incur additional charges during the transition to Pillar communication protocols. Moreover, the Exchange would retain a four month period during which the few firms that do not transition during the proposed longer Transition Period would be charged fees to offset the Exchange's continuing costs of supporting legacy ports but proposes to extend the beginning and end dates for this period.

The Exchange proposes to implement these changes to its Price List effective August 10, 2020.⁷

Competitive Environment

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. 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."⁸

As the Commission itself recognized, the market for trading services in NMS stocks has become "more fragmented and competitive."⁹ Indeed, equity trading is currently dispersed across 13 exchanges,¹⁰ 31 alternative trading systems,¹¹ and numerous broker-dealer internalizers and wholesalers. Based on publicly-available information, no single exchange has more than 20% of the market share of executed volume of

⁷ The Exchange originally filed to amend the Price List on July 31, 2020 (SR-NYSE-2020-64). SR-NYSE-2020-64 was subsequently withdrawn and replaced by this filing.

⁸ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37495, 37499 (June 29, 2005) (S7-10-04) (Final Rule) ("Regulation NMS").

⁹ See Securities Exchange Act Release No. 51808, 84 FR 5202, 5253 (February 20, 2019) (File No. S7-05-18) (Transaction Fee Pilot for NMS Stocks Final Rule) ("Transaction Fee Pilot").

¹⁰ See Cboe Global Markets, U.S. Equities Market Volume Summary, available at http://markets.cboe.com/us/equities/market_share/. See generally <https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html>.

¹¹ See FINRA ATS Transparency Data, available at <https://otctransparency.finra.org/otctransparency/AtsIssueData>. A list of alternative trading systems registered with the Commission is available at <https://www.sec.gov/foia/docs/atstlist.htm>.

equity trades (whether excluding or including auction volume).¹² The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, including ports, in response to fee changes. Accordingly, the Exchange's fees, including port fees, are reasonably constrained by competitive alternatives and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

The Exchange is proposing these changes in the context of a competitive environment in which market participants can and do shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. Because ports are used by member organizations to trade electronically on the Exchange, fees associated with ports are subject to these same competitive forces. The Exchange believes that the proposal represents a reasonable attempt to provide member organizations with additional time to effect an orderly transition to upgraded technology without incurring additional costs.

Proposed Rule Change

Member organizations enter orders and order instructions, and receive information from the Exchange, by establishing a connection to a gateway that uses communication protocols that map to the order types and modifiers described in Exchange rules. These gateway connections, also known as logical port connections, are referred to as "ports" on the Exchange's Price List. Legacy ports connect with the Exchange via a Common Customer Gateway (known as "CCG") that accesses its equity trading systems ("Phase I ports"). Beginning July 1, 2019, the Exchange began making available ports using Pillar gateways to its member organizations ("Phase II ports").

Extension of the Date To Prorate Ports

The Exchange currently makes available ports that provide connectivity to the Exchange's trading systems (*i.e.*, ports for entry of orders and/or quotes ("order/quote entry ports")) and charges \$550 per port per month. Designated Market Makers ("DMMs") are not charged for the first 12 ports per month that connect to the Exchange.¹³ The

¹² See Cboe Global Markets U.S. Equities Market Volume Summary, available at http://markets.cboe.com/us/equities/market_share/.

¹³ DMMs completed the transition to Phase II ports last year.

Exchange also currently makes ports available for drop copies and charges \$550 per port per month,¹⁴ except that DMMs are not charged for drop copy ports that connect to the Exchange.

During the ongoing first phase of the Exchange's transition pricing, the fees charged for both order/quote entry and drop copy ports are, with certain exceptions, capped at—and thus not charged for more than—the total number of both order/quote entry and drop copy ports that the member organization has activated as of its June 2019 invoice.

Effective September 1, 2020, the Exchange will prorate fees for order/quote entry and drop copy ports activated after July 1, 2019, to the number of trading days that a port is eligible for production trading with the Exchange, including any scheduled early closing days.

The Exchange proposes to extend the effective date for the prorating of order/quote entry and drop copy ports to November 1, 2020 to coincide with the end of the proposed extended Transition Period in October 2020, discussed below.

Extension of the Transition Period

Currently, during the billing months of July 2019 through August 2020 (the "Transition Period"), the total number of ports charged per member organization is capped at the total number of ports that the member organization activated as of the June 2019 invoice, which was the last full month prior to the introduction of the new gateways (the "Transition Cap"). Transition Cap pricing is available until the earlier of (1) the end of the Transition Period, *i.e.*, August 2020, or (2) the billing month during which a member organization fully transitions to using only ports that communicate using Pillar phase II protocols. If during the Transition Period, a member organization increases the number of Phase I ports above the Transition Cap, those ports would be charged at the current rates for order/quote entry ports and drop copy ports. Finally, if during the Transition Period a member organization has a total number of ports below the Transition Cap, the Exchange would charge a member organization for their actual number of ports.

The Exchange proposes to extend the Transition Period by two months to October 2020. As proposed, the charge per port (order/quote entry and drop copy) would remain at \$550 per port per

month. DMMs would continue not to be charged for drop copy ports and for their first 12 order/quote entry ports per month that connect to the Exchange, and then charged \$550 per order/quote entry port that connects to the Exchange per month thereafter.

The purpose of Transition Period pricing is to cap port fees to allow member organizations additional time to implement technology changes necessary to connect to the Exchange using the Phase II ports without incurring additional Exchange fees. As of June 2020, only 65% of Phase I ports have been cancelled. Based on the Exchange's experience to date, the Exchange believes that an additional two months will be necessary to provide sufficient time for all member organizations, regardless of size, to be able to complete the necessary changes and transition fully to the Phase II ports.

Extension of the Decommission Period

Currently, member organizations that have not transitioned to Phase II ports and are still utilizing Phase I ports during the billing months of September 2020 through December 2020 (*i.e.*, the Decommission Period), would, in addition to the current port fees, be charged a Decommission Extension Fee of \$1,000 per port per month, increasing by \$1,000 per port for each month for any ports that communicate using Pillar phase I protocols. As per the Price List, ports using Pillar phase I protocols would no longer be available beginning January 1, 2021.

The Exchange proposes that the Decommission Period would begin in November 2020, after the end of the proposed longer Transition Period, and end four months later. As proposed, the Decommission Period would commence in November 2020 and end in February 2021. As a result, the Price List would also be amended to provide that ports using Pillar phase I protocols would no longer be available beginning March 1, 2021.

As noted above, the Exchange believes that extending the Transition Period would provide sufficient time for member organizations to fully transition to Phase II ports and eliminate their use of Phase I ports. To the extent that member organizations do not complete the transition during the Transition Period, the Exchange will offer member organizations the ability to choose to continue using Phase I ports until March 2021.

The proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any problems that member

organizations would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹⁵ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹⁶ in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Changes are Reasonable

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, 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."¹⁷

As the Commission itself recognized, the market for trading services in NMS stocks has become "more fragmented and competitive."¹⁸ Indeed, equity trading is currently dispersed across 13 exchanges,¹⁹ 31 alternative trading systems,²⁰ and numerous broker-dealer internalizers and wholesalers. Based on publicly-available information, no single exchange has more than 20% of the market share of executed volume of equity trades (whether excluding or including auction volume).²¹ The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, including ports,

¹⁵ 15 U.S.C. 78f(b).

¹⁶ 15 U.S.C. 78f(b)(4) & (5).

¹⁷ See Regulation NMS, 70 FR at 37499.

¹⁸ See Transaction Fee Pilot, 84 FR at 5253.

¹⁹ See Cboe Global Markets, U.S. Equities Market Volume, available at http://markets.cboe.com/us/equities/market_share/. See generally <https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html>.

²⁰ See FINRA ATS Transparency Data, available at <https://otctransparency.finra.org/otctransparency/AtsIssueData>. A list of alternative trading systems registered with the Commission is available at <https://www.sec.gov/foia/docs/atlist.htm>.

²¹ See Cboe Global Markets U.S. Equities Market Volume Summary, available at http://markets.cboe.com/us/equities/market_share/.

¹⁴ Only one fee per drop copy port applies, even if receiving drop copies from multiple order/quote entry ports.

in response to fee changes. Accordingly, the Exchange's fees, including port fees, are reasonably constrained by competitive alternatives and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

If a particular exchange charges excessive fees for connectivity, impacted members and non-members may opt to terminate their connectivity arrangements with that exchange, and adopt a possible range of alternative strategies, including routing to the applicable exchange through another participant or market center or taking that exchange's data indirectly. Accordingly, if the Exchange charges excessive fees, it would stand to lose not only connectivity revenues but also revenues associated with the execution of orders routed to it, and, to the extent applicable, market data revenues. The Exchange believes that this competitive dynamic imposes powerful restraints on the ability of any exchange to charge unreasonable fees for connectivity.

Given this competitive environment, the proposal represents a fair and reasonable attempt to provide member organizations with additional time to make an orderly transition to upgraded technology without increasing their costs. As noted, as of June 2020, 35% of legacy ports have not been cancelled. If a member organization is unable to complete this transition within the additional two months of the extended Transition Period, the pricing is designed so that only those few member organizations that may not transition within that time period would pay for the Exchange to continue to support their Phase I ports.

The Proposal is an Equitable Allocation of Fees

The Exchange believes its proposal equitably allocates its fees among its market participants. The Exchange is not proposing to adjust the amount of the port fees or the fees charged fees to offset the Exchange's continuing costs of supporting legacy ports, which will remain at the current level for all market participants. Rather, the proposal would provide additional time for member organizations to transition from older to newer and more efficient Pillar technology and would charge the same fee for those few member organizations that choose not to transition to Phase II ports during the extended Transition Period.

The Exchange believes that the proposal to pro-rate port fees beginning November 1, 2020, is also an equitable allocation of fees since it would apply

equally to all member organizations that connect to the Exchange, who would equally receive the benefit of being charged only for the connectivity utilized during any trading month beginning in November 1, 2020. As noted above, to the extent a member organization continues to use ports activated before July 1, 2019 to connect to the Exchange during the new November 1, 2020 date and any subsequent months, the Exchange believes it is fair and equitable to continue to charge flat fees for such ports until such time that connection to the Exchange through the use of Phase I ports is no longer available beginning March 1, 2021.

The proposal constitutes an equitable allocation of fees because all similarly situated member organizations and other market participants that choose to connect to the Exchange through the use of Phase I ports during the Decommission Period would continue to be charged the same, unchanged Decommission Extension Fee. Moreover, as noted above, the Exchange proposes a longer transition period which the Exchange expects should be more than sufficient for all member organizations, regardless of size, to transition to Phase II ports before the Decommission Fee goes into effect.

The Proposal is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory. In the prevailing competitive environment, member organizations are free to disfavor the Exchange's pricing if they believe that alternatives offer them better value, and are free to discontinue to connect to the Exchange through its ports. As noted, the Exchange is offering upgraded connections in an effort to keep pace with changes in the industry and evolving customer needs as new technologies emerge and products continue to develop and change.

The proposal neither targets nor will it have a disparate impact on any particular category of market participant. The Exchange believes that the proposal does not permit unfair discrimination because the proposal would be applied to all similarly situated member organizations and other market participants would be charged the same rates, which will remain unchanged.

The Exchange believes that the proposal does not permit unfair discrimination because the Exchange will be making available both the Phase I and Phase II ports available to all member organizations during the extended Transition Period on an equal

basis. Accordingly, no member organization already operating on the Exchange would be disadvantaged by this allocation of fees. For the same reasons, the Exchange believes that the proposal would not permit unfair discrimination between member organizations.

Similarly, the Decommission Extension Fee would apply equally to all member organizations that choose to connect to the Exchange through the use of such ports during the proposed Decommission Period. If a member organization becomes subject to the Decommission Fee, it would only be because such firm chose not to complete its transition to the Phase II ports by the end of the proposed Transition Period. While the Exchange cannot predict with certainty whether any firms would be subject to the Decommission Fee, and if so, which ones, the Exchange anticipates that it would be a limited set of member organizations that would incur such fees.

The Exchange believes that the proposal to pro-rate port fees does not permit unfair discrimination because it would apply equally to all member organizations that connect to the Exchange, who would equally receive the benefit of being charged only for the connectivity utilized during any trading month beginning November 1, 2020. As noted, to the extent a member organization continues to use ports activated before July 1, 2019 to connect to the Exchange during November 1, 2020 and any subsequent months, the Exchange believes it is fair, equitable and not unfairly discriminatory to continue to charge flat fees for such ports until such time that connection to the Exchange through the use of old ports is no longer available beginning March 1, 2021.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,²² the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes would provide additional time for member

²² 15 U.S.C. 78f(b)(8).

organizations to transition from older to newer and more efficient Pillar technology with no fee increase and offset the Exchange's continuing costs of supporting the Phase I ports for the few firms that do not transition to the new ports during the longer transition period without any change to the fees currently charged by the Exchange for the use of ports to connect to the Exchange's trading systems.

Intramarket Competition. The Exchange does not believe the proposed rule change would impose any burden on intramarket competition that is not necessary or appropriate because it would apply to all member organizations equally that connect to the Exchange. All member organizations, regardless of size, will be eligible for the transition pricing through the extended Transition Period ending October 2020 and will be eligible to connect via either Phase I or Phase II ports during this period. In addition, all member organizations will be subject to the Decommission Fee on an equal basis if they do complete the transition to Phase II ports by the end of the new October 2020 date. As noted, the Exchange anticipates that a low percentage of member organizations would be subject to the proposed Decommission Fee, and the firms likely to be subject to such fee would be larger firms that could more easily absorb the cost of that fee. The Exchange further believes that by extending the Transition Period, all member organizations have an equal opportunity to timely transition to Phase II ports before the Decommission Fee would take effect.

Intermarket Competition. The Exchange does not believe the proposed rule change would impose any burden on intermarket competition that is not necessary or appropriate because the Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. The Exchange believes that fees for connectivity are constrained by the robust competition for order flow among exchanges and non-exchange markets.

As noted, the no single exchange has more than 20% of the market share of executed volume of equity trades (whether excluding or including auction volume).²³ The Exchange believes that the ever-shifting market share among the exchanges from month to month

demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, including ports, in response to fee changes. Accordingly, the Exchange's fees, including port fees, are reasonably constrained by competitive alternatives and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

The Exchange is proposing these changes in the context of a competitive environment in which market participants can and do shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. Because ports are used by member organizations to trade electronically on the Exchange, fees associated with ports are subject to these same competitive forces. The Exchange therefore believes that the proposal would not impose an undue burden on intermarket competition because the purpose of this filing is not to change the rates charged for ports or to offset the Exchange's continuing costs of supporting legacy ports but rather to provide member organizations with more time to effect an orderly transition to upgraded technology without needing to incur any additional costs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)²⁴ of the Act and subparagraph (f)(2) of Rule 19b-4²⁵ thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)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-NYSE-2020-68 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSE-2020-68. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2020-68, and should be submitted on or before September 14, 2020.

²³ See Cboe Global Markets U.S. Equities Market Volume Summary, available at http://markets.cboe.com/us/equities/market_share/.

²⁴ 15 U.S.C. 78s(b)(3)(A).

²⁵ 17 CFR 240.19b-4(f)(2).

²⁶ 15 U.S.C. 78s(b)(2)(B).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁷

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2020-18462 Filed 8-21-20; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-89593; File No. SR-FICC-2020-006]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change To Provide for a Passive Acknowledgement Process and Make Other Changes

August 18, 2020.

I. Introduction

On June 19, 2020, Fixed Income Clearing Corporation (“FICC”) 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 proposed rule change SR-FICC-2020-006. The proposed rule change was published for comment in the **Federal Register** on July 7, 2020.³ The Commission did not receive any comment letters on the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

FICC proposes to modify its Government Securities Division (“GSD”) Rulebook (“GSD Rules”) and its Mortgage-Backed Securities Division (“MBS”) and together with GSD, each, a “Division”) Clearing Rules (“MSBD Rules,” and together with the GSD Rules, “Rules”) ⁴ in order to (i) provide for a passive acknowledgement process whereby any settling bank that does not timely acknowledge that it will settle its Funds-Only (Cash) Settlement Figures (as defined below) with FICC (*i.e.*, acknowledge its intention to pay to or collect from FICC), or notify the Settlement Agent (as defined below) of its refusal to settle for one or more

members ⁵ for which it is the designated GSD Funds-Only Settling Bank or MBS Cash Settling Bank (collectively, “FICC Settling Banks”) and has not otherwise been in contact with the Settlement Agent, would be deemed to have acknowledged its Funds-Only (Cash) Settlement Figures, (ii) codify FICC’s discretion to exclude a FICC Settling Bank’s balance from the National Settlement Service (“NSS”) file in certain circumstances, and (iii) make certain technical and conforming changes.

A. Current Funds-Only (Cash) Settlement Process

Each Division provides a standardized, automated method for settling funds-only, for GSD, and cash, for MBS, settlement (collectively, “Funds-Only (Cash) Settlement”) obligations, respectively, between each Division and its respective members’ FICC Settling Banks. Each member designates a FICC Settling Bank to settle its Funds-Only (Cash) Settlement obligations with FICC. Settlement is effected via the NSS.⁶

On each business day, as applicable, each Division calculates either a Funds-Only Settlement Amount or Cash Balance figure, respectively, for each member and reports to each member and its respective FICC Settling Bank a Net Funds-Only Settlement Figure ⁷ (for GSD) and either a Total Debit Cash Balance Figure or a Total Credit Cash Balance Figure ⁸ (for MBS)

⁵ The use of “members” here refers to any participant that is required to appoint a Funds-Only Settling Bank or Cash Settling Bank, which includes GSD Netting Members, GSD Centrally Cleared Institutional Triparty (“CCIT”) Members, GSD Sponsoring Members, and MBS Clearing Members. References hereinafter to the term “members” shall be used for ease of reference. See GSD Rule 13, Section 4(a) and MBS Rule 3A, Section (a), *supra* note 4.

⁶ GSD Rule 13, Section 5(i) and MBS Rule 11, Section 9(i), *supra* note 4. For a general description of the NSS, see National Settlement Service, available at <https://www.frb.org/financial-services/national-settlement-service/index.html>.

⁷ Net Funds-Only Settlement Figure means the net amount of the Funds-Only Settlement Amounts of the Netting Members for which a Funds-Only Settling Bank Member is acting. GSD Rule 1, *supra* note 4. For GSD, Funds-Only Settlement Amounts reflect: (i) Changes in the value of securities when they are marked to market, (ii) cash adjustments related to securities trades, (iii) the pass-through of coupon payments for term repos or trade obligations that cross a coupon date, and (iv) other items, such as billing invoices. GSD Rule 13, Section 1, *supra* note 4.

⁸ Total Debit Cash Balance Figure means the sum of the Cash Balances which are debits of the Members for which a Cash Settling Bank Member is acting. MBS Rule 1, *supra* note 4. Total Credit Cash Balance Figures means the sum of the Cash Balances which are credits of the Members for which a Cash Settling Bank Member is acting. MBS Rule 1, *supra* note 4. For MBS, Cash

(collectively, “Funds-Only (Cash) Settlement Figures”). The Depository Trust Company (“DTC”) acts as Settlement Agent ⁹ for both GSD’s funds-only and MBS’s cash settlement process.

Once the FICC Settling Banks receive their Funds-Only (Cash) Settlement Figures from the Settlement Agent, the FICC Settling Banks submit either (1) acknowledgement that they will settle their Funds-Only (Cash) Settlement Figures with FICC or (2) refusal to settle such amounts on behalf of one or more of their respective members.¹⁰ The acknowledgement or refusal submission occurs through a designated terminal system.¹¹ If all of the FICC Settling Banks submit acknowledgements of their intent to settle, then DTC, as Settlement Agent, would submit the requisite file to the relevant Federal Reserve Bank (“FRB”) for processing through the NSS.¹²

If a FICC Settling Bank notifies the Settlement Agent that the FICC Settling Bank refuses to pay the Funds-Only (Cash) Settlement Figure for a member, then FICC would exclude that member’s amount and the Settlement Agent would provide the FICC Settling Bank with a new Funds-Only (Cash) Settlement Figure that no longer includes the excluded member’s amount. The FICC Settling Bank must then immediately send a message to the Settlement Agent acknowledging the new amount.¹³ The Settlement Agent would then submit the requisite file to the FRB for processing through the NSS.

Settlement amounts reflect: (i) The To Be Announced (“TBA”) Transaction Adjustment Payment, (ii) Net Pool Transaction Adjustment Payment, (iii) principal and interest payments for failing net pool settlement obligations (to the extent that they are not handled by the FedWire Securities Service Automated Claims Adjustment Process), and (iv) other items, such as Factor Update Adjustments and billing invoices. MBS Rule 11, Section 7, *supra* note 4.

⁹ DTC Settlement Operations acts as the Settlement Agent for GSD and MBS. “Settlement Agent” means the bank or trust company that FICC may, from time to time, designate to act as its agent for purposes of interfacing with NSS for funds-only settlement pursuant to GSD Rule 13 (for GSD) and for Cash Settlement pursuant to MBS Rule 11. GSD Rule 1 and MBS Rule 1, *supra* note 4.

¹⁰ A FICC Settling Bank that settles only for itself may not refuse to settle for itself and, therefore, may opt out of the requirement to acknowledge its Funds-Only (Cash) Settlement Figures. GSD Rule 13, Section 5(b) and MBS Rule 11, Section 9, *supra* note 4. The passive acknowledgement process would not apply to such FICC Settling Banks that have chosen to opt out. See Notice, *supra* note 3, at 40723-24.

¹¹ GSD Rule 13, Section 5(b) and MBS Rule 11, Section 9(b), *supra* note 4.

¹² GSD Rule 13, Section 5(i) and MBS Rule 11, Section 9(i), *supra* note 4.

¹³ GSD Rule 13, Section 5(c) and MBS Rule 11, Section 9(c), *supra* note 4.

²⁷ 17 CFR 200.30-3(a)(12), (59).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 89193 (June 30, 2020), 85 FR 40723 (July 7, 2020) (SR-FICC-2020-006) (“Notice”).

⁴ Capitalized terms not defined herein are defined in the Rules, available at <http://www.dtcc.com/legal/rules-and-procedures>.

The deadline for FICC Settling Banks to acknowledge or refuse is 30 minutes prior to the time at which debits and credits are executed via the NSS.¹⁴ If a FICC Settling Bank does not acknowledge or refuse by this time, the Settlement Agent would use the most recent contact information available to contact the FICC Settling Bank. If the Settlement Agent is unable to contact the FICC Settling Bank or does not receive a response from the FICC Settling Bank as to the acknowledgement or refusal, FICC would determine whether to request an NSS extension while also determining whether to remove the FICC Settling Bank's Funds-Only (Cash) Settlement Figure from the NSS file.

Under the current process, failure of a FICC Settling Bank to timely respond to the Settlement Agent after the Settlement Agent posts final settlement figures creates uncertainty with respect to timely completion of settlement at FICC. FICC states that it designed the proposed rule change to address this issue as discussed below.¹⁵

B. Proposed Rule Change

FICC proposes to establish an "Acknowledgement Cutoff Time" after which FICC would apply the passive acknowledgement process. The Acknowledgement Cutoff Time would be defined as the later of: (i) 30 minutes after the FICC Settling Banks have been notified that such payment is due, or (ii) 30 minutes prior to the times established by FICC for the execution of Funds-Only (Cash) Settlement debits and credits via NSS.

1. Passive Acknowledgement Process

If a FICC Settling Bank (i) does not submit either (1) an acknowledgement that it would settle the Funds-Only (Cash) Settlement Figure with FICC, or (2) a refusal to pay the Funds-Only (Cash) Settlement Figure, by the Acknowledgement Cutoff Time, and (ii) has not been in contact with the Settlement Agent, then the Settlement Agent would attempt to contact the FICC Settling Bank. This passive acknowledgement process would also apply in situations where the FICC Settling Bank receives a new Funds-Only (Cash) Settlement Figure after such FICC Settling Bank's refusal to pay the prior Funds-Only (Cash) Settlement

Figure for one or more members. Additionally, to facilitate the Settlement Agent's ability to contact FICC Settling Banks, FICC proposes to revise the Rules to state that each FICC Settling Bank must ensure that it maintains accurate contact details with the Settlement Agent so that the Settlement Agent may contact the FICC Settling Bank regarding this settlement process and any settlement issues.

If the FICC Settling Bank cannot be reached, then the FICC Settling Bank would be deemed to have acknowledged that it will settle such Funds-Only (Cash) Settlement Figure with FICC. The FICC Settling Bank's balance will then, in the ordinary course of settlement processing, be debited from or credited to its FRB account through the NSS process along with the other FICC Settling Banks.

However, if the Settlement Agent is able to contact the FICC Settling Bank who notifies the Settlement Agent that it needs more time to determine whether to acknowledge or refuse, then the FICC Settling Bank would not be deemed to have acknowledged its Funds-Only (Cash) Settlement Figure. In this circumstance, the FICC Settling Bank balance would not, as a matter of course, be included in the NSS file unless the FICC Settling Bank subsequently affirmatively acknowledges the balance before the Settlement Agent submits the NSS file.

2. Discretion to Exclude Funds-Only (Cash) Settlement Figures From the NSS File

FICC represents that, although it would maintain flexibility for FICC Settling Banks requesting extra time, it must facilitate timely settlement via NSS for the other Settling Banks.¹⁶ Therefore, FICC proposes to retain its discretion to remove the FICC Settling Bank's Funds-Only (Cash) Settlement Figure from the NSS file if: (1) Passive acknowledgement does not apply because the FICC Settling Bank has notified the Settlement Agent that it cannot yet acknowledge or refuse its Funds-Only (Cash) Settlement Figure, and (2) the payment deadline (*i.e.*, the time by which it must execute settlement via the NSS)¹⁷ established by FICC is approaching. According to FICC, its discretion in this circumstance would facilitate timely processing of the NSS file for the other FICC Settling Banks.¹⁸

3. Technical and Conforming Changes

FICC proposes to make certain technical and conforming changes to the Rules to enhance clarity. First, FICC proposes to revise the Rules to add a new defined term "Acknowledgement Cutoff Time."¹⁹ Second, FICC proposes to replace certain references to the "Corporation," the "Corporation's Operations area," and "DTC" with "Settlement Agent" for accuracy and consistency and to clarify the role of the Settlement Agent under the relevant Rules.²⁰ In addition, FICC proposes to move certain current subsections and to revise the subsection numbers in the relevant Rules to enhance clarity and accuracy.²¹

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act²² directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to FICC. In particular, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act²³ for the reasons described below.

Section 17A(b)(3)(F) of the Act requires, in part, that the rules be designed to promote the prompt and accurate clearance and settlement of securities transactions.²⁴ As stated in Section II.A above, the failure of a FICC Settling Bank to timely acknowledge that it will settle its Funds-Only (Cash) Settlement Figure with FICC or refuse to pay its Funds-Only (Cash) Settlement Figure creates uncertainty with respect to the timely completion of Funds-Only (Cash) Settlement at FICC. Additionally, circumstances in which a FICC Settling Bank has requested more time to either acknowledge or refuse its Funds-Only (Cash) Settlement Figure could create uncertainty with respect to the timely completion of Funds-Only (Cash) Settlement at FICC via NSS because FICC would not be able to submit the NSS file that includes the balance of the requesting FICC Settling Bank.

¹⁴ For GSD, the NSS execution times are 10:00 a.m. and 3:15 p.m.; for MBSB, these times are 10:00 a.m. and 2:45 p.m. GSD Schedule of Timeframes, *supra* note 4, and MBSB Processing Schedule and Timeframes, available at <http://www.dtcc.com/clearing-services/ficc-mbsd/ficc-mbsd-user-documentation>.

¹⁵ See Notice, *supra* note 3, at 40724.

¹⁶ See Notice, *supra* note 3, at 40725.

¹⁷ *Supra* note 14.

¹⁸ See Notice, *supra* note 3, at 40725.

¹⁹ See *id.*

²⁰ See *id.* at 40725–40726.

²¹ See *id.* at 40725.

²² 15 U.S.C. 78s(b)(2)(C).

²³ 15 U.S.C. 78q-1(b)(3)(F).

²⁴ *Id.*

The introduction of a passive acknowledgement process, in which a FICC Settling Bank has not responded by the Acknowledgement Cutoff Time and cannot be reached by the Settlement Agent would be deemed to have passively acknowledged its Funds-Only (Cash) Settlement Figure, could enhance settlement certainty because it would allow FICC to submit the NSS file for settlement of all FICC Settling Banks' obligations despite an unresponsive FICC Settling Bank. Additionally, the change to expressly allow FICC to exclude a FICC Settling Bank's balance from the NSS file, where the FICC Settling Bank has requested more time, would allow FICC to submit the NSS file without the FICC Settling Bank's balance and thus complete Funds-Only (Cash) Settlement for all other members. Therefore, the Commission believes the changes are designed to promote the prompt and accurate clearance and settlement of securities transactions, consistent with Section 17A(b)(3)(F) of the Act.²⁵

Further, the technical and conforming changes should ensure that the Rules remain clear and accurate to FICC members. Having clear and accurate Rules should facilitate FICC members' understanding of those rules and provide members with increased predictability and certainty regarding their obligations. Therefore, the Commission believes the technical and conforming changes would also promote the prompt and accurate clearance and settlement of securities, consistent with Section 17A(b)(3)(F) of the Act.²⁶

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and, in particular, with the requirements of Section 17A of the Act²⁷ and the rules and regulations promulgated thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act²⁸ that proposed rule change SR-FICC-2020-006, be, and hereby is, approved.²⁹

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁰

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020-18464 Filed 8-21-20; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, the Securities and Exchange Commission will hold an Open Meeting on Wednesday, August 26, 2020 at 10:00 a.m.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will begin at 10:00 a.m. (ET) and will be open to the public via audio webcast only on the Commission's website at www.sec.gov.

MATTERS TO BE CONSIDERED: The subject matter of the open meeting will be the Commission's broader efforts to (1) modernize and improve the Commission's disclosure framework in light of the changes in our capital markets and domestic and global economy, and (2) simplify, harmonize, and improve the exempt offering framework under the Securities Act to promote capital formation and expand investment opportunities while maintaining and enhancing appropriate investor protections. The specific matters to be considered are:

(1) Whether to adopt amendments to modernize the description of business, legal proceedings, and risk factor disclosures that registrants are required to make pursuant to Regulation S-K. These disclosure items, which have not undergone significant revisions in over 30 years, would be updated to account for developments since the rules' adoption or last revision, to improve disclosure for investors, and to simplify compliance for registrants. Specifically, the amendments are intended to improve the readability of disclosure documents, as well as discourage repetition and the disclosure of information that is not material.

(2) Whether to adopt amendments to the definition of "accredited investor" in Commission rules and the definition of "qualified institutional buyer" in Rule 144A under the Securities Act to update and improve the definition to

identify more effectively investors that have sufficient financial sophistication to participate in certain private investment opportunities. The amendments are the product of years of efforts by the Commission and its staff to consider and analyze possible approaches to revising the accredited investor definition.

CONTACT PERSON FOR MORE INFORMATION:

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact Vanessa A. Countryman, Office of the Secretary, at (202) 551-5400.

Dated: August 19, 2020.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2020-18612 Filed 8-20-20; 11:15 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Wednesday, August 26, 2020.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at <https://www.sec.gov>.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topic:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to enforcement proceedings.

²⁵ *Id.*

²⁶ *Id.*

²⁷ 15 U.S.C. 78q-1.

²⁸ 15 U.S.C. 78s(b)(2).

²⁹ In approving the proposed rule change, the Commission considered the proposals' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

³⁰ 17 CFR 200.30-3(a)(12).

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551-5400.

Dated: August 19, 2020.

Vanessa A. Countryman,
Secretary.

[FR Doc. 2020-18580 Filed 8-20-20; 11:15 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-89594; File No. SR-NASDAQ-2020-051]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 4759

August 18, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 6, 2020, The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 4759 (Data Feeds Utilized) to change the primary source of quotation data of certain market centers in the list of proprietary and network processor feeds that the Exchange utilizes for the handling, routing, and execution of orders as well as regulatory compliance processes related to those functions.

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.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to update and amend the data feeds table in Rule 4759, which sets forth on a market-by-market basis the specific proprietary and network processor feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions. Specifically, the table would be amended to reflect that the Exchange will receive a direct feed from NYSE National, Inc. (“NYSE Chicago”), NYSE Chicago, Inc. (“NYSE Chicago”), and Investors Exchange LLC (“IEX”) as its primary quotation data source and CQS/UQDF will become its secondary data source for the handling, routing and execution of orders and for performing regulatory compliance processes related to each of those functions. The change to the primary sources reflects the Exchange’s effort to include an additional source in the event the primary source is unable to provide data.

The Exchange proposes to implement the proposed rule change no later than ninety (90) days following the effective date of the proposed rule change. The Exchange notes this additional time gives the Exchange time to configure its system accordingly.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,³ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁴ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and

open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that the proposed rule change removes impediments to and perfects the mechanism of a free and open market because updating its data feeds table of market centers for which the exchange consumes quotation data through a direct feed will provide clarity to market participants. Additionally, it is necessary and consistent with the public interest and the protection of investors to update the Exchange’s table of market centers in Rule 4759 in order to provide transparency with respect to all the direct proprietary and network processor feeds from which the Exchange obtains market data.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issue; instead, its purpose is to enhance transparency with respect to the operation of the Exchange and its use of market data feeds.

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 Act⁵ and Rule 19b-4(f)(6) thereunder.⁶

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if

⁵ 15 U.S.C. 78s(b)(3)(A).

⁶ 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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78f(b).

⁴ 15 U.S.C. 78f(b)(5).

it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2020-051 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-2020-051. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish

to make available publicly. All submissions should refer to File Number SR-NASDAQ-2020-051 and should be submitted on or before September 14, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020-18465 Filed 8-21-20; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-89596; File No. SR-CBOE-2020-078]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule To Adopt a New Fee Code Related to the Execution of an Equity Leg of a Stock-Option Order

August 18, 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 10, 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, 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 Exchange, Inc. (the "Exchange" or "Cboe") is filing with the Securities and Exchange Commission ("Commission") a proposal to amend its Fees Schedule to adopt a new fee code related to the execution of an equity leg of a stock-option order. 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.

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 its fee schedule to adopt a new fee code for the equity leg of a stock-option order, which orders would yield fee code "EP", effective August 10, 2020. The Exchange also proposes to amend the description of the existing fee for the equity leg of a stock-option order, which yields fee code "EQ" and the notes sections applicable to both fee codes EP and EQ noted in the fees schedule.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 options venues to which market participants may direct their order flow. Based on publicly available information, no single options exchange has more than 17% of the market share.³ Thus, in such a low-concentrated and highly competitive market, no single options exchange possesses significant pricing power in the execution of option order flow. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue to reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain the Exchange's transaction fees, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. In response to competitive pricing, the Exchange, like

³ See Cboe Global Markets U.S. Options Market Volume Summary (August 7, 2020), available at https://markets.cboe.com/us/options/market_statistics/.

other options exchanges, offers rebates and assesses fees for certain order types executed on or routed through the Exchange.

Stock-option orders are complex instruments that constitute the purchase or sale of a stated number of units of an underlying stock or a security convertible into the underlying stock coupled with the purchase or sale of an option contract(s) on the opposite side of the market and execute in the same manner as complex orders. Through this functionality, the stock portions of stock-option strategy orders are electronically communicated by the Exchange to a designated broker-dealer (currently, Cowen is the only broker-dealer that may be designated for this service), who then manages the execution of such stock portions. In connection with the functionality, the Exchange adopted a stock handling fee of \$0.0010 per share for the processing and routing by the Exchange of the stock portion of stock-option strategy orders executed through those mechanisms.⁴ The purpose of the stock handling fee is to cover the fees charges by the outside venue that prints the trade, as well as assist in covering the Exchange's costs in matching these stock-option orders against other stock option orders on the complex book. Additionally, the Exchange also largely passes through to Trading Permit Holders ("TPHs") the fees assessed to the Exchange by the designated broker (*i.e.*, Cowen) that manages the execution of these stock portions of stock-option strategy orders. The fee schedule also provides for a cap of \$50 per execution for orders yielding fee code EQ, which aligns with how the Exchange's only current designated broker-dealer (*i.e.*, Cowen) applies a cap to the execution management of the stock portion of stock-option strategy orders.

Now, the Exchange proposes to amend its fee schedule to reflect the option of an additional designated broker-dealer, Penserra, to manage the execution of the stock portion of a stock-option strategy order. Specifically, the Exchange proposes to adopt fee code EP, which would be applicable to equity leg orders whose executions are managed by Penserra. Unlike Cowen, Penserra will not assess the Exchange fees for managing the stock-portion of a stock-option order, but rather will assess and

bill its customers directly.⁵ Therefore, the Exchange does not wish to assess the current stock handling fee which was adopted in part to recoup the fees assessed to the Exchange by the Exchange's current designated broker-dealer, Cowen. As such, the Exchange proposes to make clear that stock- portions of stock-option strategy orders managed by Penserra and yielding fee code EP will not be subject to a fee.

The Exchange next proposes to modify the current notes section of the Stock-Portion of Stock-Options Strategy Orders table. Particularly, the notes section currently provides that the Exchange shall assess a fee of \$0.0010 per share for the stock portion, which Cboe Options must route to an outside venue, of stock-option orders executed via the Complex Order Auction ("COA"), the Complex Order Book ("COB"), AIM, and SAM. The Exchange proposes to now clarify that this fee also applies to the stock-component of a QCC with Stock Orders. The Exchange notes that it made it clear that such fee would apply to these orders when it adopted QCC with Stock Orders, but that it inadvertently did not update the corresponding fees schedule and intends to do so now to avoid potential confusion.⁶ The Exchange lastly proposes to modify the description of existing fee code EQ to specify that it is applicable to equity leg orders whose executions are managed by Cowen.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act,⁷ in general, and furthers the requirements of Section 6(b)(4),⁸ in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The Exchange also believes that the proposed rule change is consistent with the objectives of Section 6(b)(5) 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, and, particularly, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that its proposed change to adopt fee code EP, which will assess no fee for stock portions of stock-option strategy order executions managed by Penserra, is consistent with Section 6(b)(4) of the Act in that the proposal is reasonable, equitable and not unfairly discriminatory. Specifically, the Exchange believes the proposal is reasonable as market participants will not be subject to a fee for the execution of the stock-portion of a stock-option order handled by one of the Exchange's designated broker-dealers, Penserra. The Exchange believes it's appropriate to not assess a fee for orders managed by Penserra as compared to those managed by Cowen, as Penserra will directly charge is customers for the stock portion of stock-option strategy orders and not charge the Exchange, unlike Cowen who does not directly charge market participants, but rather charges the Exchange, which passes that fee through to customers. Further, the Exchange believes the proposal is equitable and not unfairly discriminatory because the proposed change applies to all TPHs and all TPHs that execute stock-option orders in the complex book will have the option to utilize Penserra to manage the execution of the stock portion of its stock-option strategy orders.

Additionally, the Exchange believes that the proposed description modification to existing fee code EQ will clarify that such executions yielding fee code EQ are managed by Cowen. The Exchange believes the amendment to the current notes section clarifies that the stock handling fee also applies to the stock-portion of QCC with Stock Orders, which reduces potential confusion and maintains clarity in the rules, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on competition that is not

⁴ See Securities Exchange Act Release No. 67383 (July 10, 2012), 77 FR 41841 (July 16, 2012) (SR-CBOE-2012-063) (stating the stock portions of stock-option strategy orders will be electronically communicated by the Exchange to a designated broker-dealer, who will then manage the execution of such stock portions).

⁵ The Exchange notes it is possible Cowen directly charges fees to customers in addition to the stock handling fee the Exchange charges.

⁶ See also Securities Exchange Act Release No. 83891 (August 20, 2018) 83 FR 42949 (August 24, 2018) (SR-CBOE-2018-058).

⁷ 15 U.S.C. 78f.

⁸ 15 U.S.C. 78f(b)(4).

necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange does not believe that the proposed 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 change will apply uniformly to the stock portions of all market participants' stock-option strategy orders that are handled by Penserra, a newly designated broker-dealer. The proposed rule change provides TPHs with additional options regarding the Exchange's handling of their stock-option orders.

The Exchange does not believe that 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. As previously discussed, the Exchange operates in a highly competitive market. TPHs have numerous alternative venues that they may participate on and direct their order flow, including 15 other options exchanges. Based on publicly available information, no single options exchange has more than 17% of the market share.⁹ Therefore, no exchange possesses significant pricing power in the execution of option order flow. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. Indeed, participants can readily choose to send their orders to other exchange, and, additionally off-exchange venues, if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, 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."¹⁰ The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: "[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-

dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . ."¹¹ Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹² and paragraph (f) of Rule 19b-4¹³ 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
- Send an email to rule-comments@sec.gov. Please include File Number SR-CBOE-2020-078 on the subject line.

¹¹ *NetCoalition v. SEC*, 615 F.3d 525, 539 (DC Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(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-CBOE-2020-078*. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number *SR-CBOE-2020-078* and should be submitted on or before September 14, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020-18501 Filed 8-21-20; 8:45 am]

BILLING CODE 8011-01-P

⁹ See *supra* note 3.

¹⁰ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

¹⁴ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-89597; File No. SR-CboeEDGX-2020-041]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend its Fees Schedule

August 18, 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 10, 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, 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 EDGX Exchange, Inc. (the "Exchange" or "EDGX") is filing with the Securities and Exchange Commission ("Commission") a proposed rule change to amend the fee schedule. 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 proposes to amend its fee schedule applicable to its options trading platform ("EDGX Options") to adopt another fee for the equity leg of a stock-option order, which orders would yield fee code "EP", effective August 10, 2020. The Exchange also proposes to amend the description of the existing fee for the equity leg of a stock-option order, which yields fee code "EQ", and to establish a maximum fee per execution applicable to fee code EQ.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 options venues to which market participants may direct their order flow. Based on publicly available information, no single options exchange has more than 17% of the market share.³ Thus, in such a low-concentrated and highly competitive market, no single options exchange possesses significant pricing power in the execution of option order flow. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue to reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain the Exchange's transaction fees, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. In response to competitive pricing, the Exchange, like other options exchanges, offers rebates and assesses fees for certain order types executed on or routed through the Exchange.

Pursuant to rule filing SR-2019-CboeEDGX-039 [sic],⁴ the Exchange implemented stock-option order functionality on August 16, 2019. Stock-

option orders are complex instruments that constitute the purchase or sale of a stated number of units of an underlying stock or a security convertible into the underlying stock coupled with the purchase or sale of an option contract(s) on the opposite side of the market and execute in the same manner as complex orders. Through this functionality, the stock portions of stock-option strategy orders are electronically communicated by the Exchange to a designated broker-dealer (*i.e.*, Cowen), who then manages the execution of such stock portions. In connection with the functionality, the Exchange adopted a stock handling fee of \$0.0010 per share for the processing and routing by the Exchange of the stock portion of stock-option strategy orders executed through those mechanisms.⁵ The purpose of the stock handling fee is to cover the fees charges by the outside venue that prints the trade, as well as assist in covering the Exchange's costs in matching these stock-option orders against other stock option orders on the complex book. Additionally, the Exchange also largely passes through to Members the fees assessed to the Exchange by the designated broker (*i.e.*, Cowen) that manages the execution of these stock portions of stock-option strategy orders.

Now, the Exchange proposes to amend its fee schedule to reflect the option of an additional designated broker-dealer, Penserra, to manage the execution of the stock portion of a stock-option order. Specifically, the Exchange proposes to adopt fee code EP, which would be applicable to equity leg orders whose executions are managed by Penserra. Unlike Cowen, Penserra will not assess the Exchange fees for managing the stock-portion of a stock-option order, but rather will assess and bill its customers directly. Therefore, the Exchange does not wish to assess the current stock handling fee which was adopted in part to recoup the fees assessed to the Exchange by the Exchange's current designated broker-dealer, Cowen. As such, stock-portions of stock-option strategy orders managed by Penserra and yielding fee code EP will be free.

The Exchange also proposes to modify existing fee code EQ to specify that it is applicable to equity leg orders whose executions are managed by Cowen. Additionally, the Exchange proposes to establish a maximum fee of \$50.00 per execution under fee code EQ. The Exchange notes that Cowen currently applies the \$50 cap on a per execution

³ See Cboe Global Markets U.S. Options Market Volume Summary (August 7, 2020), available at https://markets.cboe.com/us/options/market_statistics/.

⁴ See Securities Exchange Act Release No. 86353 (July 11, 2019), 84 FR 34230 (July 17, 2019) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Add Stock-Option Order Functionality and Complex Qualified Contingent Cross ("QCC") Order With Stock Functionality, and To Make Other Changes to its Rules) (SR-CboeEDGX-2019-039).

⁵ See Securities Exchange Act Release No. 86743 (August 23, 2019) 84 FR 45606 (August 29, 2020) [sic] (SR-CboeEDGX-2019-052).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

basis. The Exchange therefore proposes to similarly cap the stock-option fee on a per execution basis, which will more closely align to how Cowen applies the cap. Additionally, the Exchange believes the proposed cap ensures that market participants do not pay extremely large fees, not more than the capped amount, for the processing and routing by the Exchange of the stock portions of stock-option orders. The Exchange notes that other exchanges, including its affiliate, Cboe Exchange, Inc., have likewise implemented substantially similar fee caps in response to their respective implementations of stock-option strategy order functionality.⁶

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act,⁷ in general, and furthers the requirements of Section 6(b)(4),⁸ in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The Exchange also believes that the proposed rule change is consistent with the objectives of Section 6(b)(5) 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, and, particularly, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that its proposed change to adopt fee code EP, which will assess no fee for stock portions of stock-option strategy order executions managed by Penserra, is consistent with Section 6(b)(4) of the Act in that the proposal is reasonable, equitable and not unfairly discriminatory. Specifically, the

Exchange believes the proposal is reasonable as market participants will not be subject to a fee for the execution of the stock-portion of a stock-option order handled by one of the Exchange's designated broker-dealers, Penserra. The Exchange believes it's appropriate to not assess a fee for orders managed by Penserra as compared to those managed by Cowen, as Penserra will directly charge its customers for the stock portion of stock-option strategy orders and not charge the Exchange, unlike Cowen who does not directly charge market participants, but rather charges the Exchange. Further, the Exchange believes the proposal is equitable and not unfairly discriminatory because the proposed change applies to all TPHs and all TPHs that execute stock-option orders in the complex book will have the option to utilize Penserra to manage the execution of the stock portion of its stock-option strategy orders.

Additionally, the Exchange believes that the proposed description modification to existing fee code EQ will clarify that such executions are managed by Cowen. Furthermore, the Exchange believes its proposed change relating to how it caps the stock-option order fee is reasonable because the Exchange is capping the transactions the same way Cowen caps (and bills the Exchange) for these orders. The Exchange believes that its proposal to cap fee code EQ at \$50.00 per execution is also reasonable because it will limit the amount a market participant will be assessed for the routing and processing by the Exchange of the stock portion of stock-option strategy orders. As noted above, the proposed fee cap is identical to fees assessed by other options exchanges for stock legs executed as a part of stock-option strategy orders.⁹ As such, stock-option strategy orders are available on other options exchanges and participants can readily direct order flow to another exchange if they deem other exchanges' fees to be more favorable.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange 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. Specifically, the Exchange does not believe that the proposed change will impose any

burden on intramarket competitions that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed change will apply uniformly to the stock portions of all market participants' stock-option strategy orders.

The Exchange does not believe that 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. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including 15 other options exchanges. Based on publicly available information, no single options exchange has more than 17% of the market share.¹⁰ Therefore, no exchange possesses significant pricing power in the execution of option order flow. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. The proposed cap to fee code EQ is substantially similar to fee caps offered by the Exchange's affiliate, Cboe Options, and other competing exchanges,¹¹ therefore, the Exchange believes that the proposed rule change appropriately reflects this competitive environment. Indeed, participants can readily choose to send their orders to other exchange, and, additionally off-exchange venues, if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, 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 The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: "[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing

⁶ See Securities Exchange Act Release No. 85909 (May 21, 2019), 84 FR 24587 (May 28, 2019) (SR-EMERALD-2019-21); Securities Exchange Act Release No. 83788 (August 7, 2018), 83 FR 40110 (August 13, 2018) (SR-MIAX-2018-18); and Securities Exchange Act Release No. 67383 (July 10, 2012), 77 FR 41841 (July 16, 2012) (SR-CBOE-2012-063).

⁷ 15 U.S.C. 78f.

⁸ 15 U.S.C. 78f(b)(4).

⁹ See *supra* note 6.

¹⁰ See *supra* note 5.

¹¹ See *supra* note 6.

¹² See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . .".¹³ Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁴ and paragraph (f) of Rule 19b-4¹⁵ 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
- Send an email to rule-comments@sec.gov. Please include File Number SR-CboeEDGX-2020-041 on the subject line.

¹³ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(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-CboeEDGX-2020-041. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change.

Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CboeEDGX-2020-041 and should be submitted on or before September 14, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020-18469 Filed 8-21-20; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-39, OMB Control No. 3235-0049]

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services,

¹⁶ 17 CFR 200.30-3(a)(12).

100 F Street NE, Washington, DC 20549-2736

Extension:
Form ADV

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the "Commission") has submitted to the Office of Management and Budget ("OMB") a request for extension of the previously approved collection of information discussed below.

The title for the collection of information is "Form ADV under the Investment Advisers Act of 1940." Form ADV is a three-part investment adviser registration form. Part 1 of Form ADV contains information used primarily by the Securities and Exchange Commission (the "Commission") staff and Part 2 is the client brochure. Part 3 requires registered investment advisers that offer services to retail investors to prepare and file with the Commission, post to the adviser's website (if it has one), and deliver to retail investors a relationship summary. The Commission uses the information on Form ADV to determine eligibility for registration with us and to manage our regulatory and examination programs. Clients use the information required in Form ADV to determine whether to hire or retain an investment adviser, as well as what types of accounts and services are appropriate for their needs. This collection of information is found at 17 CFR 279.1, 17 CFR 275.203-1, 17 CFR 275.204-1 and 17 CFR 275.204-4 and is mandatory.

The Commission's examination staff use the information to determine eligibility for registration with us and to manage our regulatory, examination, and enforcement programs; it will be accorded the same level of confidentiality accorded to other responses provided to the Commission in the context of its examination and oversight program.

The respondents to this information collection are investment advisers registered with the Commission. Our latest data indicate that there were 13,520 advisers registered with the Commission as of January 30, 2020. The Commission has estimated that Form ADV imposes an annual burden of approximately 26.19 hours per respondent. Based on this figure, the Commission estimates a total annual burden of 466,505 hours for this collection of information.

The public may view background documentation for this information collection at the following website: www.reginfo.gov. Find this particular

information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to (i) www.reginfo.gov/public/do/PRAMain and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or by sending an email to: PRA_Mailbox@sec.gov.

Dated: August 19, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–18499 Filed 8–21–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89605; File No. SR–NASDAQ–2020–037]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Withdrawal of a Proposed Rule Change To Adopt a New “Early Market On Close” Order Type

August 18, 2020.

On July 6, 2020, The Nasdaq Stock Market LLC (“Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,¹ and Rule 19b–4 thereunder,² a proposed rule change to adopt a new “Early Market On Close” order type. The proposed rule change was published for comment in the **Federal Register** on July 22, 2020.³ On August 14, 2020, the Exchange withdrew the proposed rule change (SR–NASDAQ–2020–037).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–18472 Filed 8–21–20; 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. 89334 (July 16, 2020), 85 FR 44333. Comments received on the proposed rule change are available on the Commission’s website at: <https://www.sec.gov/comments/sr-nasdaq-2020-037/srnasdaq2020037.htm>.

⁴ 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89592; File No. SR–NYSENAT–2020–05]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Designation of a Longer Period for Commission Action on Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change to Establish Fees for the NYSE National Integrated Feed

August 18, 2020.

On February 3, 2020, NYSE National, Inc. (“NYSE National”) 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 establish fees for the NYSE National Integrated Feed. The proposed rule change was immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.³ The proposed rule change was published for comment in the **Federal Register** on February 20, 2020.⁴ On April 1, 2020, the Division of Trading and Markets, for the Commission pursuant to delegated authority, temporarily suspended the proposed rule change and instituted proceedings to determine whether to approve or disapprove the proposed rule change.⁵ On June 12, 2020, the Commission issued a request for information and additional comment on the proposed rule change.⁶

Section 19(b)(2) of the Act⁷ provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The date of publication of notice of filing of the proposed rule

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ See Securities Exchange Act Release No. 88211 (February 14, 2020), 85 FR 9847.

⁵ See Securities Exchange Act Release No. 88538, 85 FR 19541 (April 7, 2020).

⁶ See Securities Exchange Act Release No. 89065, 85 FR 37123 (June 19, 2020). Comments received on the proposed rule change are available on the Commission’s website at: <https://www.sec.gov/comments/sr-nyesenat-2020-05/srnyesenat202005.htm>.

⁷ 15 U.S.C. 78s(b)(2).

change was February 20, 2020. August 18, 2020, is 180 days from that date, and October 17, 2020, is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider this proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,⁸ designates October 17, 2020, as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR–NYSENAT–2020–05).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–18463 Filed 8–21–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89603; File No. SR–NASDAQ–2020–043]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 4759

August 18, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on August 5, 2020, The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 4759 (Data Feeds Utilized) to add MIAx PEARL, LLC (“MIAx PEARL”) and MEMX LLC (“MEMX”) to the list of market centers under Rule 4759 and provide that the Exchange will utilize CQS/UQDF.

The text of the proposed rule change is available on the Exchange’s website at

⁸ *Id.*

⁹ 17 CFR 200.30–3(a)(5)(7).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

<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.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In anticipation of their planned launches,³ the Exchange proposes to amend the table in Rule 4759 to include MIAAX Pearl and MEMX. The Exchange will use securities information processor ("SIP") data, *i.e.*, CQS SIP data, for securities reported under the Consolidated Quotation System and Consolidated Quotation Plan and UQDF SIP data for securities reported under the Nasdaq Unlisted Trading Privileges Plan to obtain MIAAX Pearl and MEMX quotation information. At this stage, no secondary source for MIAAX Pearl and MEMX will be used.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁴ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁵ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that the proposed rule change removes impediments to and perfects the

mechanism of a free and open market because adding MIAAX Pearl and MEMX to its list of market centers for which the Exchange consumes quotation data. Moreover, it is necessary and consistent with the public interest and the protection of investors to update the Exchange's table of market centers in order to provide transparency with respect to all the direct proprietary and network processor feeds from which the Exchange obtains market data.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issue; instead, its purpose is to enhance transparency with respect to the operation of the Exchange and its use of market data feeds.

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 Act⁶ and Rule 19b-4(f)(6) thereunder.⁷

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act⁸ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)⁹ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive

the 30-day operative delay. Waiver of the operative delay would allow the Exchange to disclose the updated list of market centers for which the Exchange consumes quotation data, and the source of the quotation data, at the time that MIAAX Pearl and MEMX become operational. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change as operative upon filing.¹⁰

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

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-2020-043 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-2020-043. 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

¹⁰ 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).

³ MIAAX Pearl Equities will begin trading in September 2020, pending SEC approval. See MIAAX Pearl Alerts available at, <https://www.miaaxoptions.com/alerts/2020/02/14/miaax-pearl-equities-exchange-codes-and-important-dates-regarding-launch-new>. MEMX is expected to launch on September 4, 2020. See MEMX Update from Jonathan Kellner, dated June 11, 2020, available at <https://memx.com/memx-update/>.

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(5).

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 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.

⁸ 17 CFR 240.19b-4(f)(6).

⁹ 17 CFR 240.19b-4(f)(6)(iii).

with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2020-043 and should be submitted on or before September 14, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2020-18471 Filed 8-21-20; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-89590; File No. SR-OCC-2020-010]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Concerning the Commingling of Certain Non-Customer Margin Assets with Clearing Fund Contributions in The Options Clearing Corporation's Account at the Federal Reserve Bank of Chicago

August 18, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 7, 2020, the Options Clearing Corporation ("OCC") 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 primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change by OCC would set forth new interpretations and policies to OCC Rules 604 (Form of Margin Assets) and 1002 (Clearing Fund Contributions) to provide OCC with express authority to hold cash Clearing Fund contributions and certain non-customer cash margin assets in its account at the Federal Reserve Bank of Chicago at the same time. The proposed changes to OCC's Rules are included in Exhibit 5 of filing SR-OCC-2020-010. Material proposed to be added is underlined and material proposed to be deleted is marked in strikethrough text. All terms with initial capitalization that are not defined herein have the same meaning as set forth in the OCC By-Laws and Rules.³

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

Background

As part of OCC's designation as a systemically important financial market utility by the Financial Stability Oversight Council on July 18, 2012, OCC is eligible pursuant Section 806 of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 to request the use of certain accounts and services of Federal Reserve Banks. OCC has been approved by the Board of Governors of the Federal Reserve System to maintain an account at the Federal Reserve Bank of Chicago ("Federal Reserve Bank Account") to hold, among other things, cash deposits from its Clearing Members to satisfy

margin and Clearing Fund requirements.⁴ However, OCC Rules 1002(c) and 604(d) (described in more detail below) impose certain restrictions on the manner in which OCC must hold Clearing Fund contributions and margin assets.⁵ Consistent with these requirements, OCC currently holds only cash Clearing Fund contributions in its Federal Reserve Bank Account and separately holds cash margin assets of Clearing Members in accounts with commercial banks.

Congress established the Federal Reserve System, comprised of the Board of Governors, the Federal Open Markets Committee, and twelve Federal Reserve Banks, in 1913 as the central bank of the U.S. "to provide the nation with a safer, more flexible, and more stable monetary and financial system."⁶ The Commission's rules for covered clearing agencies⁷ like OCC expressly promote the use of central bank services for a variety of purposes, including using central bank services to: conduct money settlements,⁸ satisfy requirements regarding custody of qualifying liquid resources,⁹ and enhance management of liquidity risk.¹⁰ OCC is proposing amendments to Rules 604 and 1002 that, as described below, would permit OCC to commingle cash Clearing Fund contributions and certain non-customer cash margin assets of Clearing Members in its Federal Reserve Bank Account.

Proposed Change

Cash Margin Assets

OCC Rule 604(d) states that certain cash margin assets of Clearing Members ("Specified Cash Margin Assets") must be deposited to the credit of OCC in an

⁴ See Federal Reserve Bank of Chicago authorization to provide accounts and services to Options Clearing Corporation and Chicago Mercantile Exchange, Inc., in accordance with the Dodd-Frank Act and Regulation HH, approved March 15, 2016 (<https://www.federalreserve.gov/releases/h2/20160319/h2.pdf>). OCC has also been approved to maintain two additional accounts to serve as customer segregated accounts as defined under Section 4d of the Commodity Exchange Act. Since these accounts are segregated margin accounts, the change discussed herein does not impact the activation of these accounts.

⁵ See OCC Rule 604(d) (allowing OCC to deposit margin assets of Clearing Members "with such banks, trust companies or other depositories as the Board of Directors may select") and Rule 1002(c) (allowing OCC to deposit Clearing Fund contributions "in approved custodians"). Article I, Section 1.A.(3) defines term "approved custodian" to mean "a bank or trust company approved the Chief Executive Officer, or Chief Operating Officer."

⁶ Board of Governors of the Federal Reserve System, *Federal Reserve Act* (March 10, 2017), <https://www.federalreserve.gov/aboutthefed/fract.htm>.

⁷ 17 CFR 240.17Ad-22(a)(5).

⁸ 17 CFR 240.17Ad-22(e)(9).

⁹ 17 CFR 240.17Ad-22(a)(14)(i), (e)(7)(ii).

¹⁰ 17 CFR 240.17Ad-22(e)(7)(iii).

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ OCC's By-Laws and Rules can be found on OCC's public website: <https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules>.

account or accounts,¹¹ designated as Clearing Member margin accounts, with such banks, trust companies or other depositories as the Board of Directors may select. Rule 604(d) further states that such Specified Cash Margin Assets shall not be commingled with funds of OCC or used by OCC as working capital. Under OCC's By-Laws and Rules, OCC has a lien on margin assets of a Clearing Member to be able to satisfy obligations of the Clearing Member to OCC; however, OCC does not have authority to use the margin assets of one Clearing Member to satisfy obligations to OCC of a different Clearing Member.¹²

OCC proposes to add Interpretation and Policy .18 to Rule 604 to provide that, notwithstanding anything else in Rule 604, Specified Cash Margin Assets held by OCC as non-customer margin assets and deposited to the credit of OCC in its Federal Reserve Bank Account may be deposited in accounts that are not designated as Clearing Member margin accounts and may be commingled with cash Clearing Fund contributions.

Cash Clearing Fund Contributions

OCC Rule 1002(c) states in relevant part that cash Clearing Fund contributions may from time to time be partially or wholly invested by OCC for its account in Government securities, and to the extent that such contributions are not so invested they "shall be deposited by OCC in a separate account or accounts for Clearing Fund contributions in approved custodians, provided that such account or accounts may commingle the Clearing Fund contributions of different Clearing Members." As noted, OCC currently holds only cash Clearing Fund contributions in its Federal Reserve Bank Account.

OCC proposes to add Interpretation and Policy .04 to Rule 1002 to provide that, notwithstanding the aforementioned requirements of Rule 1002(c), Clearing Fund contributions deposited in an account at a Federal Reserve Bank may be commingled in the account with Specified Cash Margin

Assets that are non-customer margin assets in accordance with the requirements of proposed Interpretation and Policy .18 to Rule 604.

As described above, the purpose of the proposed interpretations and policies is to provide OCC with clear authority to be able to maintain Specified Cash Margin Assets that are non-customer margin assets and cash Clearing Fund contributions in its Federal Reserve Bank Account at the same time. OCC currently maintains a single Federal Reserve Bank Account for assets that are not required to be segregated under Section 4d of the Commodity Exchange Act, so the Specified Cash Margin Assets that are non-customer margin assets and cash Clearing Fund contributions would be commingled in this account. OCC believes that the ability to hold such margin and cash Clearing Fund contributions in its Federal Reserve Bank Account at the same time would be consistent with Commission rules for covered clearing agencies¹³ that encourage the use of central bank services. OCC notes that it would not be required to hold all non-customer margin cash in its Federal Reserve Bank Account and that it may continue to maintain some or all non-customer margin cash at creditworthy commercial banks that are approved custodians for OCC.¹⁴

All other OCC By-Laws and Rules pertaining to margin assets and Clearing Fund contributions would be unchanged and apply as they do currently, regardless of whether margin assets or Clearing Fund contributions are held in commercial bank accounts or in OCC's Federal Reserve Bank Account. For example, Specified Margin Assets of a Clearing Member that are held in OCC's Federal Reserve Bank Account would continue to only have a lien on Specified Margin Assets to satisfy obligations of that particular Clearing Member to OCC.

(2) Statutory Basis

Section 17A(b)(3)(F) of the Exchange Act requires, among other things, that the rules of a clearing agency must be designed to promote the prompt and accurate clearance and settlement of securities transactions, safeguard securities and funds in its custody or control or for which it is responsible, and comply with the provisions of the Exchange Act and the rules and regulations thereunder.¹⁵ The proposed rule change would allow OCC to

maintain Specified Cash Margin Assets of Clearing Members that are non-customer margin assets with cash Clearing Fund contributions in its Federal Reserve Bank Account. The proposed rule change would provide OCC with an additional approved custodian at which OCC can hold such assets in a manner that minimizes the custody risk of those assets and ensures prompt access to such assets when needed, thereby promoting the prompt and accurate clearance and settlement of securities transactions and the safeguarding the securities and funds in OCC's custody or control or for which it is responsible.

Exchange Act Rule 17Ad-22(e)(16) requires OCC, as a covered clearing agency, to establish, implement, maintain, and enforce written policies and procedures reasonably designed to safeguard its own and its Clearing Members' assets, minimize the risk of loss and delay in access to these assets, and invest such assets in instruments with minimal credit, market, and liquidity risks.¹⁶ In adopting Rule 17Ad-22(e)(16), the Commission stated that in satisfying the requirements a covered clearing agency should consider, among other things: (i) Whether it holds its own and its participants' assets at supervised and regulated entities that have robust accounting practices, safekeeping procedures, and internal controls that fully protect these assets; (ii) whether it has prompt access to its assets and the assets provided by participants, when required; and (iii) whether it evaluates and understands its exposures to its custodian banks, taking into account the full scope of its relationships with each.¹⁷

OCC believes that the proposed rule change is consistent with these considerations. As part of the U.S. central banking system, the Federal Reserve Bank of Chicago, where OCC maintains its account, is among the safest and most sound depository institutions in the world. Therefore, the ability to maintain Specified Cash Margin Assets that are non-customer assets and cash Clearing Fund contributions in the account at the same time would provide OCC with an additional approved custodian for such assets that would appropriately safeguard those assets and minimize the risk of OCC's loss or delay in access to

¹¹ OCC Rule 604(d) expressly excludes from these Specified Cash Margin Assets those funds that are: (i) Deposited in respect of a segregated futures account (which must be held in accordance with the provisions of Section 4d of the Commodity Exchange Act and regulations thereunder); (ii) invested by OCC pursuant to Rule 604(a); or (iii) credited by OCC to a liquidating settlement account pursuant to Chapter XI of OCC's Rules.

¹² See OCC By-Laws Article I., Sections 1.G.(1) (defining the term "general lien") and R.(7) (defining the term "restricted lien"); see also OCC By-Laws Article VI, Section 3 (specifying the application of general and restricted liens to Clearing Member margin assets credited to different OCC account types).

¹³ See *supra* notes 8–10 and accompanying text.

¹⁴ See *supra* note 5.

¹⁵ 15 U.S.C. 78q-1(b)(3)(F).

¹⁶ 17 CFR 240.17Ad-22(e)(16).

¹⁷ See Exchange Act Release No. 78961 (September 28, 2016), 81 FR 70786, 70837 (October 13, 2016) (File No. S7-03-14).

them consistent with Exchange Act Rule 17Ad-22(e)(16).¹⁸

Moreover, and as noted above, provisions in Exchange Act Rules 17Ad-22(e)(7) and (9) also promote the use of central bank services by a covered clearing agency to conduct money settlements,¹⁹ satisfy requirements regarding custody of qualifying liquid resources²⁰ and enhance management of liquidity risk.²¹ Accordingly, providing OCC with clear authority to use its Federal Reserve Bank Account to custody Specified Cash Margin Assets that are non-customer margin assets and cash Clearing Fund contributions at the same time is generally consistent with these provisions.

The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Exchange Act²² requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. OCC does not believe that the proposed rule change would impact or impose any burden on competition. The proposed rule change is designed to facilitate OCC's ability to appropriately safeguard Specified Cash Margin Assets that are non-customer margin assets and cash Clearing Fund contributions using OCC's Federal Reserve Bank Account. The proposed rule change would apply equally to all Clearing Members in that all Specified Cash Margin Assets that are non-customer margin assets and cash Clearing Fund contributions of Clearing Members would be eligible to be maintained in OCC's Federal Reserve Bank Account. Therefore, the proposal does not favor or disfavor any Clearing Member or group of Clearing Members compared to others.

For the foregoing reasons, OCC believes that the proposed rule change is in the public interest, would be consistent with the requirements of the Exchange Act applicable to clearing agencies, and would not impact or impose a burden on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on the proposed rule change were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Exchange 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-OCC-2020-010 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-OCC-2020-010. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than

those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's website at <https://www.theocc.com/about/publications/bylaws.jsp>.

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-OCC-2020-010 and should be submitted on or before September 14, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2020-18461 Filed 8-21-20; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-203, OMB Control No. 3235-0195]

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736.

Extension:

Rule 17Ab2-1, Form CA-1.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for approval of extension of the previously approved collection of information provided for in Rule 17Ab2-1 (17 CFR 240.17Ab2-1) and Form CA-1: Registration of Clearing Agencies (17 CFR 249b.200) under the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a *et seq.*).

Rule 17Ab2-1 and Form CA-1 require clearing agencies to register with the

²³ 17 CFR 200.30-3(a)(12).

¹⁸ 17 CFR 240.17Ad-22(e)(16).

¹⁹ 17 CFR 240.17Ad-22(e)(9).

²⁰ 17 CFR 240.17Ad-22(a)(14)(i), (e)(7)(ii).

²¹ 17 CFR 240.17Ad-22(e)(7)(iii).

²² 15 U.S.C. 78q-1(b)(3)(I).

Commission and to meet certain requirements with regard to, among other things, the clearing agency's organization, capacities, and rules. The information is collected from the clearing agency upon the initial application for registration on Form CA-1. Thereafter, information is collected by amendment to the initial Form CA-1 when changes in circumstances that render certain information on Form CA-1 inaccurate, misleading, or incomplete necessitate modification of the information previously provided to the Commission.

The Commission uses the information disclosed on Form CA-1 to (i) determine whether an applicant meets the standards for registration set forth in Section 17A of the Exchange Act, (ii) enforce compliance with the Exchange Act's registration requirement, and (iii) provide information about specific registered clearing agencies for compliance and investigatory purposes. Without Rule 17Ab2-1, the Commission could not perform these duties as statutorily required.

The Commission staff estimates that the average Form CA-1 requires approximately 340 hours to complete and submit for approval, and that on average, the Commission receives one application each year. The Commission staff estimates that completion of an initial Form CA-1 will result in an internal cost of compliance of approximately \$132,140 per year. The Commission staff estimates that it receives one amendment per year, and that an amendment requires approximately 60 hours of the exempt or registered clearing agency's staff time. The Commission staff estimates that amendment of a filed Form CA-1 will result in an internal cost of compliance of approximately \$25,480 per year. Therefore, the aggregate hour burden is approximately 400 hours per year (340 + 60) and the aggregate internal cost of compliance is approximately \$157,620 per year (\$132,140 + \$25,480).

The external costs associated with work on Form CA-1 include fees charged by outside lawyers and accountants to assist the applicant or registrant to collect and prepare the information sought by the form (though such consultations are not required by the Commission). The Commission staff estimates that these external costs are more likely when novel questions arise under a new application, rather than under periodic review and amendment. The staff estimates an annual external cost of 45 hours of an Attorney's time (estimated at \$420 per hour) and 10 hours of a Senior Accountant's time (estimated at \$219 per hour) for

preparation of the Form CA-1, resulting in an aggregate external cost of approximately \$21,090 per year (18,900 + 2,190).

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.

The public may view background documentation for this information collection at the following website: www.reginfo.gov. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to (i) www.reginfo.gov/public/do/PRAMain and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or by sending an email to: PRA_Mailbox@sec.gov.

Dated: August 19, 2020.

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2020-18498 Filed 8-21-20; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-89607; File No. SR-NYSEArca-2020-75]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Equities Fees and Charges

August 18, 2020.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 ("Act")² and Rule 19b-4 thereunder,³ notice is hereby given that, on August 12, 2020, NYSE Arca, Inc. ("NYSE Arca" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III 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.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Equities Fees and Charges ("Fee Schedule") to (1) adopt a step up tier for ETP Holders adding liquidity in Non-Displayed Limit Orders in Tapes A, B and C securities with a per share price at or above \$1.00; (2) adopt a step up tier for ETP Holders adding liquidity in Round Lots and Odd Lots in Tapes A, B and C securities with a per share price below \$1.00; and (3) amend the base rate for adding and removing liquidity in Round Lots and Odd Lots in Tapes A, B and C securities with a per share price below \$1.00. The proposed rule change is available on the Exchange's website at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to (1) adopt a step up tier for ETP Holders⁴ adding liquidity in Non-Displayed Limit Orders⁵ in Tapes A, B and C securities with a per share price at or above \$1.00; (2) adopt a step up tier for ETP Holders adding liquidity in Round Lots and Odd Lots in Tapes A, B and C securities with a per share price below \$1.00; and (3) amend the base rate for adding and removing liquidity in Round Lots and Odd Lots in Tapes A, B and C securities with a per share price below \$1.00.

The proposed changes respond to the current competitive environment where

⁴ All references to ETP Holders in connection with this proposed fee change include Market Makers.

⁵ A Non-Displayed Limit Order is a limit order that is not displayed and does not route. See NYSE Arca Rule 7.31-E(d)(2).

order flow providers have a choice of where to direct liquidity-providing orders by offering further incentives for ETP Holders to send additional liquidity to the Exchange.

The Exchange proposes to implement the fee changes effective August 12, 2020.⁶

Background

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. 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.”⁷

As the Commission itself recognized, the market for trading services in NMS stocks has become “more fragmented and competitive.”⁸ Indeed, equity trading is currently dispersed across 13 exchanges,⁹ numerous alternative trading systems,¹⁰ and broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange currently has more than 20% market share (whether including or excluding auction volume).¹¹ Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, the Exchange currently has less than 10% market share of executed volume of equities trading.¹²

The Exchange believes that the ever-shifting market share among the

exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products. While it is not possible to know a firm’s reason for shifting order flow, the Exchange believes that one such reason is because of fee changes at any of the registered exchanges or non-exchange venues to which a firm routes order flow. With respect to non-marketable order flow that would provide liquidity on an Exchange against which market makers can quote, ETP Holders can choose from any one of the 13 currently operating registered exchanges to route such order flow. Accordingly, competitive forces constrain exchange transaction fees that relate to orders that would provide liquidity on an exchange.

In response to the competitive environment described above, the Exchange has established incentives for ETP Holders who submit orders that provide liquidity on the Exchange. The proposed fee change is designed to attract additional order flow to the Exchange by offering a new pricing tier to incentivize ETP Holders to step up their liquidity-providing Non-Displayed Limit Orders in Tapes A, B and C securities, a new step up pricing tier for Round Lots and Odd Lots in Tapes A, B and C securities with a share price of less than \$1.00 (“Sub-Dollar Securities”), and by amending the base rate for adding and removing liquidity in Sub-Dollar Securities.

Proposed Rule Change

Step Up Tier for Adding Liquidity in Non-Displayed Limit Orders

The Exchange proposes to adopt a step up tier that would offer credits to ETP Holders providing non-displayed liquidity to the Exchange in Tapes A, B and C securities.

As proposed, an ETP Holder that, during the billing month, sends orders that add liquidity to the Exchange in Non-Displayed Limit Orders and Mid-Point Liquidity Orders (“MPL Orders”)¹³ combined, and that has adding average daily volume (“ADV”) in Non-Displayed Limit Orders and MPL Orders combined as a percent of US Consolidated ADV (“CADV”)¹⁴ that

¹³ An MPL Order is a limit order that is not displayed and does not route, with a working price at the midpoint of the PBBO. See NYSE Arca Rule 7.31-E(d)(3). The term “PBBO” refers to the Best Protected Bid and the Best Protected Offer on NYSE Arca.

¹⁴ US CADV means the United States Consolidated Average Daily Volume for transactions reported to the Consolidated Tape, excluding odd lots through January 31, 2014 (except for purposes of Lead Market Maker pricing), and

is at least 0.02% more than the ETP Holder’s July 2020 Limit Non-Displayed Order ADV and MPL Order ADV combined as a percent of US CADV (“Non-Displayed and MPL Baseline”) would receive a credit for Non-Displayed Limit Orders, as follows:

- \$0.0004 per share for ETP Holders with at least 0.02% more but less than 0.05% than the ETP Holder’s Non-Displayed and MPL Baseline;
- \$0.0010 per share for ETP Holders with at least 0.05% more but less than 0.10% than the ETP Holder’s Non-Displayed and MPL Baseline;
- \$0.0015 per share for ETP Holders with at least 0.10% more but less than 0.15% than the ETP Holder’s Non-Displayed and MPL Baseline; and
- \$0.0020 per share for ETP Holders with at least 0.15% more than the ETP Holder’s Non-Displayed and MPL Baseline.

For example, assume an ETP Holder has an adding ADV in MPL Orders of 0.04% of US CADV and an adding ADV in Limit Non-Displayed Orders of 0.02% of US CADV, for a combined total of 0.06% of US CADV in the baseline month of July 2020. Assume further that the same ETP Holder has adding ADV in MPL Orders of 0.06% of US CADV and an adding ADV in Limit Non-Displayed Orders of 0.03% of US CADV for a combined total of 0.09% of US CADV in a billing month. The ETP Holder in the above example would then have a combined step up in MPL Orders and Limit Non-Displayed Orders of 0.03% of US CADV (0.09% – 0.06%), which would qualify the ETP Holder for a credit of \$0.0004 per share for Non-Displayed Limit Orders for that billing month.

The purpose of this proposed change is to incentivize ETP Holders to increase the liquidity-providing orders in Non-Displayed Limit Orders and MPL Orders they send to the Exchange, which would support the quality of price discovery on the Exchange and provide additional liquidity for incoming orders. As noted above, the Exchange operates in a competitive environment, particularly as it relates to attracting non-marketable orders, which add liquidity to the Exchange. Because the proposed tier requires an ETP Holder to increase the volume of its trades in orders that add liquidity over that ETP Holder’s July 2020 baseline, the Exchange believes that the proposed credits would provide an incentive for all ETP Holders to send

excludes volume on days when the market closes early and on the date of the annual reconstitution of the Russell Investments Indexes. Transactions that are not reported to the Consolidated Tape are not included in US CADV. See Fee Schedule, footnote 3.

⁶ The Exchange originally filed to amend the Fee Schedule on August 3, 2020 (SR-NYSEArca-2020-73). SR-NYSEArca-2020-73 was subsequently withdrawn and replaced by this filing.

⁷ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (File No. S7-10-04) (Final Rule) (“Regulation NMS”).

⁸ See Securities Exchange Act Release No. 51808, 84 FR 5202, 5253 (February 20, 2019) (File No. S7-05-18) (Transaction Fee Pilot for NMS Stocks Final Rule) (“Transaction Fee Pilot”).

⁹ See Choe Global Markets, U.S. Equities Market Volume Summary, available at https://markets.cboe.com/us/equities/market_share. See generally <https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html>.

¹⁰ See FINRA ATS Transparency Data, available at <https://otctransparency.finra.org/otctransparency/AtsIssueData>. A list of alternative trading systems registered with the Commission is available at <https://www.sec.gov/foia/docs/atstlist.htm>.

¹¹ See Choe Global Markets, U.S. Equities Market Volume Summary, available at http://markets.cboe.com/us/equities/market_share/.

¹² See *id.*

additional liquidity to the Exchange in order to qualify for it.

The Exchange does not know how much order flow ETP Holders choose to route to other exchanges or to off-exchange venues. Since the tier's requirements utilize an increase in volume from the most recent month, the Exchange does not know how many ETP Holders could qualify for the proposed tiered credits based on their current trading profile on the Exchange, but the Exchange notes that, since the lowest step up is only an Adding ADV of 0.02% of US CADV in Non-Displayed Limit Orders and MPL Orders combined, the Exchange believes that a number of ETP Holders could qualify if they so choose. However, without having a view of ETP Holders' activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any ETP Holder directing orders to the Exchange in order to qualify for the new tier.

Step Up Tier for Adding Liquidity in Sub-Dollar Securities

As described in greater detail below, the Exchange proposes to adopt a step up tier that would offer credits to ETP Holders adding liquidity in Sub-Dollar Securities. Currently, the Exchange charges a fee equal to 0.3% of the total dollar value for orders that take liquidity from the Book. The Exchange does not currently offer any credits to ETP Holders for adding liquidity to the Exchange in Sub-Dollar Securities.

As proposed, an ETP Holder that, during the billing month, on a daily basis, measured monthly, has an Adding ADV of 1 million shares with a per share price below \$1.00 ("Sub-Dollar Adding Orders"), and that directly executes providing volume in Sub-Dollar Adding Orders equal to at least 0.20% of the CADV with a per share price below \$1.00 ("Sub-Dollar CADV") over the ETP Holder's July 2020 Sub-Dollar Adding ADV taken as a percentage of Sub Dollar CADV ("Sub-Dollar Baseline"), would receive a credit for orders that provide liquidity to the Book in Sub-Dollar Adding Orders, as follows:

- 0.0005% of the total dollar value for an increase of at least 0.20% more but less than 0.50% of Sub-Dollar CADV over the Sub-Dollar Baseline;
- 0.0010% of the total dollar value for an increase of at least 0.50% more but less than 0.75% of Sub-Dollar CADV over the Sub-Dollar Baseline;
- 0.00125% of the total dollar value for an increase of at least 0.75% more but less than 1.0% of Sub-Dollar CADV over the Sub-Dollar Baseline; and

- 0.0015% of the total dollar value for an increase of at least 1.0% more of Sub-Dollar CADV over the Sub-Dollar Baseline.

For example, assume an ETP Holder has an adding ADV in Sub-Dollar Adding Orders of 1 million shares in the baseline month of July 2020 when the Sub-Dollar CADV was 1 billion shares, for an adding ADV in Sub-Dollar Adding Orders of 0.10% of Sub-Dollar CADV. Assume further that the same ETP Holder has adding ADV in Sub-Dollar Adding Orders of 4 million shares in the billing month when the Sub-Dollar CADV was again 1 billion shares, for an adding ADV in Sub-Dollar Adding Orders of 0.40% of Sub-Dollar CADV. The ETP Holder in the above example would then have a step up in Sub-Dollar Adding Orders of 0.30% of Sub-Dollar CADV (0.40% - 0.10%), which would qualify the ETP Holder to receive a credit of 0.0005% of the total dollar value for orders that provide liquidity to the Book in Sub-Dollar Adding Orders for that billing month.

Base Rate for Adding and Removing Liquidity in Sub-Dollar Securities

As noted above, the Exchange currently does not provide any credit for orders that provide liquidity to the Book and charges a fee equal to 0.3% of the total dollar value for orders that take liquidity from the Book. With this proposed rule change, the Exchange proposes to adopt a base credit of \$0.00004 per share for adding liquidity in Sub-Dollar Securities and lower the base rate for removing liquidity in Sub-Dollar Securities to 0.295% of the total dollar value for orders that take liquidity from the Book.

In connection with this proposed fee change, the Exchange also proposes the following two changes to the Fee Schedule: (1) Insert the word "fee" after "0.295%" to clarify the application of a fee for Sub-Dollar Securities; and (2) amend footnote 4 of the Fee Schedule by deleting the entire second sentence which currently states that "Rebates will not be paid for executions in securities priced under \$1.00."

Trading in Sub-Dollar Securities has intensified in recent months, often affected in some way by the current macroeconomic turmoil. The purpose of this proposed change is to incentivize ETP Holders to increase the liquidity-providing orders in Sub-Dollar Securities they send to the Exchange, which would support the quality of price discovery on the Exchange and provide additional liquidity for incoming orders. The proposed credit for adding liquidity and lower fee for removing liquidity in Sub-Dollar

Securities is intended to increase order flow that would interact with liquidity present on the Exchange.

As noted above, the Exchange operates in a competitive environment, particularly as it relates to attracting non-marketable orders, which add liquidity to the Exchange. Because, as proposed, the step up tier requires an ETP Holder to increase the volume of its trades in orders that add liquidity over that ETP Holder's July 2020 baseline, the Exchange believes that the proposed credits would provide an incentive for all ETP Holders to send additional liquidity to the Exchange in order to qualify for it. The Exchange believes the proposed credit for orders that add liquidity combined with the lower base rate for orders that would remove liquidity would also incentivize ETP Holders to direct liquidity adding and removing orders in low priced securities to the Exchange.

U.S. equity market volumes have been remarkably high since the end of February 2020. Extreme volumes in recent weeks are reportedly driven by retail traders, leading to record off-exchange (or TRF) market share; 5 of the 8 highest TRF market share days ever occurred in the 5 consecutive trading sessions between June 3 and June 9.¹⁵ The Exchange does not know how much order flow ETP Holders choose to route to other exchanges or to off-exchange venues. The Exchange believes the proposed credit for adding liquidity in Sub-Dollar Securities and the proposed lower fee for removing liquidity in Sub-Dollar Securities should serve as an incentive for ETP Holders to direct more of their orders in these securities to the Exchange.

Additionally, since the proposed step up tier's requirements utilize an increase in volume from the most recent month, the Exchange does not know how many ETP Holders could qualify for the proposed tiered credits based on their current trading profile on the Exchange, but the Exchange notes that, since the lowest step up is an Adding ADV of 0.20% of Sub-Dollar CADV, the Exchange believes that ETP Holders could qualify if they so choose. However, without having a view of ETP Holders' activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any ETP Holder directing orders to the Exchange in order to qualify for the new tier. The Exchange cannot predict with

¹⁵ See Data Insights, Market volume & off-exchange trading: more than a retail story, at <https://www.nyse.com/data-insights/market-volume-and-off-exchange-trading>.

certainty how many ETP Holders would avail themselves of this opportunity, but additional liquidity-providing orders would benefit all market participants because it would provide greater execution opportunities on the Exchange.

The proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any significant problems that market participants would have in complying with the proposed changes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹⁶ in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,¹⁷ in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Fee Change Is Reasonable

As discussed above, the Exchange operates in a highly fragmented and competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, 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.”¹⁸

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue to reduce use of certain categories of products, in response to fee changes. With respect to non-marketable orders that provide liquidity on an Exchange, ETP Holders can choose from any one of the 13 currently operating registered exchanges to route such order flow. Accordingly, competitive forces reasonably constrain exchange transaction fees that relate to orders that would provide displayed liquidity on an exchange. Stated otherwise, changes to exchange transaction fees can have a

direct effect on the ability of an exchange to compete for order flow.

Given this competitive environment, the proposal represents a reasonable attempt to attract additional order flow to the Exchange.

Step Up Tier for Adding Liquidity in Non-Displayed Limit Orders

Given the competitive environment, the proposed Step Up Tier for Adding Liquidity in Non-Displayed Limit Orders and MPL Orders combined would provide an incentive for ETP Holders to route additional liquidity providing orders to the Exchange in Tapes A, B and C securities.

As noted above, the Exchange operates in a highly competitive environment, particularly for attracting non-marketable order flow that provides liquidity on an exchange. The Exchange believes it is reasonable to provide a higher credit for orders that provide additional liquidity. The Exchange believes that requiring ETP Holders to have an Adding ADV in Non-Displayed Limit Orders and MPL Orders combined that is at least 0.02% of US CADV over that ETP Holder’s July 2020 adding liquidity in Non-Displayed Limit Orders and MPL Orders combined taken as a percentage of US CADV in order to qualify for the proposed Step Up Tier is reasonable because it would encourage additional non-displayed liquidity on the Exchange and because market participants benefit from the greater amounts of liquidity and price improvement present on the Exchange.

Similarly, the Exchange believes that it is reasonable to provide a higher credit to ETP Holders that meet the requirements of the Step Up Tier that add additional liquidity in Non-Displayed Limit Orders and MPL Orders. Since the proposed Step Up Tier would be new with a requirement for increased Adding ADV over the baseline month, no ETP Holder currently qualifies for the proposed pricing tier. While there are a number of ETP Holders that could qualify for the proposed higher credit, the Exchange has no way of knowing whether the proposed rule change would result in any ETP Holder qualifying for the tier without a view of ETP Holder activity on other exchanges and off exchange venues. The Exchange believes the proposed higher credit is reasonable as it would provide an additional incentive for ETP Holders to direct their order flow to the Exchange and provide meaningful added levels of liquidity in order to qualify for the higher credit, thereby contributing to depth and market quality on the Exchange.

Step Up Tier for Adding Liquidity in Sub-Dollar Securities

The Exchange believes the proposal to adopt the Step Up Tier for Adding Liquidity in Sub-Dollar Securities is reasonable as it would serve as an incentive to market participants to increase the orders in Sub-Dollar Securities sent directly to NYSE Arca and therefore provide liquidity that supports the quality of price discovery and promotes market transparency. The Exchange believes the proposed pricing tier is reasonable because it would allow ETP Holders to receive credits that were not previously available on the Exchange. Moreover, the addition of the proposed pricing tier would benefit market participants whose increased order flow would provide meaningful added levels of liquidity thereby contributing to the depth and market quality on the Exchange.

The Exchange notes that volume-based incentives and discounts have been widely adopted by exchanges,¹⁹ including the Exchange,²⁰ and are reasonable, equitable and non-discriminatory because they are open to all ETP Holders on an equal basis and provide additional credits that are reasonably related to the value to an exchange’s market quality and associated higher levels of market activity.

Base Rate for Adding and Removing Liquidity in Sub-Dollar Securities

The Exchange believes that the proposed rate change for ETP Holders will incentivize submission of additional liquidity in Sub-Dollar Securities to a public exchange to qualify for the proposed credit of \$0.00004 per share for adding liquidity and lower fee of 0.295% of the total dollar value for removing liquidity, thereby promoting price discovery and transparency and enhancing order execution opportunities for ETP Holders. The Exchange believes that the proposed credit for orders that add liquidity to the Exchange is reasonable because it would incentivize ETP Holders to direct more order flow in

¹⁹ See e.g., Cboe BZX U.S. Equities Exchange (“BZX”) Fee Schedule, Footnote 1, Add Volume Tiers which provide enhanced rebates between \$0.0028 and \$0.0032 per share for displayed orders where BZX members meet certain volume thresholds.

²⁰ See e.g., Fee Schedule, Step Up Tier, Step Up Tier 2, Step Up Tier 3 and Step Up Tier 4, which provide enhanced rebates between \$0.0025 and \$0.0033 per share in Tape A Securities, between \$0.0022 and \$0.0034 per share in Tape B Securities, and between \$0.0025 and \$0.0033 per share in Tape C Securities for orders that provide displayed liquidity where ETP Holders meet certain volume thresholds.

¹⁶ 15 U.S.C. 78f(b).

¹⁷ 15 U.S.C. 78f(b)(4) and (5).

¹⁸ See Regulation NMS, 70 FR at 37499.

Sub-Dollar Securities to the Exchange. The Exchange notes that the proposed credit would be greater than credits offered on other markets. For example, BZX and the Nasdaq Stock Market (“Nasdaq”) do not provide any credit for orders in Sub-Dollar Securities that add liquidity.²¹ While Cboe EDGX U.S. Equities Exchange (“EDGX”) offers a credit of \$0.00003 per share for orders in Sub-Dollar Securities that add liquidity, the credit proposed by this rule change would be greater but comparable than that offered by EDGX.²²

The Exchange further believes that the proposed revised fee for orders that remove liquidity from the Exchange is reasonable because it would incentivize ETP Holders to remove additional liquidity from the Exchange, thereby increasing the number of orders adding liquidity executed on the Exchange and improving overall liquidity on a public exchange, resulting in lower costs for ETP Holders that qualify for the rates. The Exchange notes that the proposed fee would be lower than comparable fees offered on other markets. For example, both BZX and Nasdaq currently charge a fee of 0.30% of total dollar value for removing liquidity in securities priced below \$1.00.²³

On the backdrop of the competitive environment in which the Exchange currently operates, the proposed rule change is a reasonable attempt to increase liquidity on the Exchange and improve the Exchange’s market share relative to its competitors.

The Proposed Fee Change Is an Equitable Allocation of Fees and Credits

The Exchange believes its proposal equitably allocates its fees among its market participants by fostering liquidity provision and stability in the marketplace.

Step Up Tier for Adding Liquidity in Non-Displayed Limit Orders

The Exchange believes that the proposed Step Up Tier is equitable because the magnitude of the additional credit is not unreasonably high relative to the tiered credits for Non-Displayed Limit orders that add liquidity offered

by, for example, the New York Stock Exchange, which range from \$0.0005 per share to \$0.0018 per share. The Exchange believes the proposed rule change would improve market quality for all market participants on the Exchange and, as a consequence, attract more liquidity to the Exchange, thereby improving market-wide quality and price discovery.

The Exchange believes that requiring ETP Holders to having an Adding ADV in Non-Displayed Limit Orders and MPL Orders combined in Tapes A, B and C CADV that is at least 0.02% of US CADV over that ETP Holder’s July 2020 adding liquidity in Non-Displayed Limit Orders and MPL Orders taken as a percentage of US CADV in order to qualify for the proposed credits would also encourage additional displayed liquidity on the Exchange. Since the proposed Step Up Tier would be new, no ETP Holder currently qualifies for it, but without a view of ETP Holder activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any ETP Holder qualifying for the tier.

The Exchange believes the proposed credit is reasonable as it would provide an additional incentive for ETP Holders to direct their order flow to the Exchange and provide meaningful added levels of liquidity in order to qualify for the higher credit, thereby contributing to depth and market quality and increased price improvement on the Exchange. The proposal neither targets nor will it have a disparate impact on any particular category of market participant. All ETP Holders would be eligible to qualify for the proposed credit if they increase their Adding ADV in Non-Displayed Limit Orders and MPL Orders combined over their own baseline of order flow.

The Exchange believes that offering a higher step up credit for providing liquidity if the step up requirements for Tape A, Tape B and Tape C securities are met, will continue to attract order flow and liquidity to the Exchange, thereby providing additional price improvement opportunities on the Exchange and benefiting investors generally. As to those market participants that do not presently qualify for the adding liquidity credits, the proposal will not adversely impact their existing pricing or their ability to qualify for other credits provided by the Exchange.

Step Up Tier for Adding Liquidity in Sub-Dollar Securities

The Exchange believes the proposed pricing tier is equitable because it

would allow ETP Holders to receive credits that were not previously available on the Exchange. Moreover, the addition of the proposed Step Up Tier would benefit market participants whose increased order flow in Sub-Dollar Securities would provide meaningful added levels of liquidity thereby contributing to the depth and market quality on the Exchange. Given that the proposed Step Up Tier would be a new pricing tier that requires ETP Holders to step up, no ETP Holder currently qualifies for the proposed credit. And without having a view of ETP Holders’ activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any ETP Holders qualifying for this tier. However, the Exchange believes the proposed pricing tier, which requires an ETP Holder to increase the volume of its trades in orders that add liquidity over that ETP Holder’s July 2020 baseline, would provide an incentive for ETP Holders to continue to submit liquidity-providing order flow, which would promote price discovery and increase execution opportunities for all ETP Holders. The proposed change would thereby encourage the submission of additional liquidity in Sub-Dollar Securities to a national securities exchange, thus promoting price discovery and transparency and enhancing order execution opportunities for ETP Holders from the substantial amounts of liquidity present on the Exchange, which would benefit all market participants on the Exchange.

The Exchange believes that offering higher step up credits for providing liquidity if the step up requirements for Sub-Dollar securities are met, will attract increased order flow and liquidity to the Exchange, thereby providing additional price improvement opportunities on the Exchange and benefiting investors generally. As to those market participants that do not qualify for the adding liquidity credits by increasing order flow and liquidity, the proposal will not adversely impact their existing pricing or their ability to qualify for other credits provided by the Exchange.

Base Rate for Adding and Removing Liquidity in Sub-Dollar Securities

The Exchange believes that, for the reasons discussed above, the proposed change to the base rate for adding and removing liquidity in Sub-Dollar Securities would incentivize ETP Holders to direct a greater amount of liquidity to the Exchange to qualify for the proposed credit of \$0.00004 per share when adding liquidity and lower

²¹ See BZX Fee Schedule, at https://markets.cboe.com/us/equities/membership/fee_schedule/bzx/. See also Nasdaq Price List, at <http://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2>.

²² See EDGX Fee Schedule, at https://markets.cboe.com/us/equities/membership/fee_schedule/edgx/.

²³ See BZX Fee Schedule, at https://markets.cboe.com/us/equities/membership/fee_schedule/bzx/. See also Nasdaq Price List, at <http://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2>.

removing fee of 0.295% of total dollar value, thereby increasing the number of orders that are executed on the Exchange and improving overall liquidity on a public exchange. A number of ETP Holders currently transact in Sub-Dollar Securities and they would all qualify for the proposed increased credit for adding liquidity and lower fee for removing liquidity based on their current trading profile on the Exchange. The Exchange believes additional ETP Holders could qualify for the new rates if they choose to direct order flow in Sub-Dollar Securities to the Exchange.

The Exchange believes that the proposed rule change is equitable because maintaining or increasing the proportion of Sub-Dollar Securities that are executed on a registered national securities exchange (rather than relying on certain available off-exchange execution methods) would contribute to investors' confidence in the fairness of their transactions and would benefit all investors by deepening the Exchange's liquidity pool, supporting the quality of price discovery, promoting market transparency and improving investor protection.

The Proposed Fee Change Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory. In the prevailing competitive environment, ETP Holders are free to disfavor the Exchange's pricing if they believe that alternatives offer them better value.

The proposal is not unfairly discriminatory because it neither targets nor will it have a disparate impact on any particular category of market participant.

Step Up Tier for Adding Liquidity in Non-Displayed Limit Orders

The Exchange believes it is not unfairly discriminatory to provide additional per share step up credits for adding liquidity in Non-Displayed Limit Orders and MPL Orders, as the proposed credits would be provided on an equal basis to all ETP Holders that add liquidity by meeting the new proposed Step Up Tier's requirements. For the same reason, the Exchange believes it is not unfairly discriminatory to provide additional incrementally higher credits for increased adding ADV over the ETP Holder's July 2020 adding liquidity in Non-Displayed Limit Orders and MPL Orders combined taken as a percentage of US CADV because the proposed higher credits would equally encourage all ETP Holders to provide additional liquidity on the Exchange in

Non-Displayed Limit Orders and MPL Orders. As noted, the Exchange believes that the proposed credit would provide an incentive for ETP Holders to send additional liquidity to the Exchange in order to qualify for the additional credits. The Exchange also believes that the proposed change is not unfairly discriminatory because it is reasonably related to the value to the Exchange's market quality associated with higher volume. Finally, the submission of orders to the Exchange is optional for ETP Holders in that they could choose whether to submit orders to the Exchange and, if they do, the extent of its activity in this regard.

Step Up Tier for Adding Liquidity in Sub-Dollar Securities

The Exchange believes it is not unfairly discriminatory to provide additional per share step up credits for adding liquidity in Sub-Dollar Securities, as the proposed credits would be provided on an equal basis to all ETP Holders that add liquidity by meeting the new proposed Step Up Tier's requirements. For the same reason, the Exchange believes it is not unfairly discriminatory to provide additional incrementally higher credits for increased adding ADV over the ETP Holder's July 2020 adding liquidity in Sub-Dollar Securities taken as a percentage of US CADV because the proposed higher credits would equally encourage all ETP Holders to provide additional liquidity on the Exchange in Sub-Dollar Securities.

The proposed pricing tier would also serve as an incentive to ETP Holders to increase the level of orders sent directly to NYSE Arca in order to qualify for, and receive the proposed credits that were not previously available on the Exchange. The Exchange believes that the proposed pricing tier would provide an incentive for ETP Holders to send additional liquidity to the Exchange in order to qualify for the credits. The Exchange also believes that the proposed change is not unfairly discriminatory because it is reasonably related to the value to the Exchange's market quality associated with higher volume.

The Exchange believes that the proposed rule change is not unfairly discriminatory because maintaining or increasing the proportion of Sub-Dollar Securities that are executed on a registered national securities exchange (rather than relying on certain available off-exchange execution methods) would contribute to investors' confidence in the fairness of their transactions and would benefit all investors by deepening the Exchange's liquidity

pool, supporting the quality of price discovery, promoting market transparency and improving investor protection. Finally, the submission of orders in Sub-Dollar Securities to the Exchange is optional for ETP Holders in that they could choose whether to submit such orders to the Exchange and, if they do, the extent of its activity in this regard.

Base Rate for Adding and Removing Liquidity in Sub-Dollar Securities

The proposed credit for orders that add liquidity and revised fees for orders that remove liquidity from the Exchange are also not unfairly discriminatory because proposed increased credit and lower fee would be applied to all similarly situated ETP Holders who would all be eligible for the same fee and credit on an equal basis. Accordingly, no ETP Holder already operating on the Exchange would be disadvantaged by this allocation of fees and credits. Further, the Exchange believes the proposal would provide an incentive for ETP Holders to direct additional order flow in Sub-Dollar Securities to the Exchange, to the benefit of all market participants.

The Exchange also believes that the proposed change is not unfairly discriminatory because it is reasonably related to the value to the Exchange's market quality associated with higher volume. The Exchange believes the proposed increased credit and lower fee would incentivize ETP Holders to send more orders to the Exchange, which would support the quality of price discovery on the Exchange and provide additional liquidity for incoming orders. Further, the submission of orders to the Exchange is optional for ETP Holders in that they could choose whether to submit orders to the Exchange and, if they do, the extent of its activity in this regard.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,²⁴ the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and

²⁴ 15 U.S.C. 78f(b)(8).

enhancing order execution opportunities for ETP Holders. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."²⁵

Intramarket Competition. The proposed changes are designed to respond to the current competitive environment and to attract additional order flow to the Exchange. The Exchange believes that the proposed changes would continue to incentivize market participants to direct order flow to the Exchange. Greater liquidity benefits all market participants on the Exchange by providing more trading opportunities and encourages ETP Holders to send orders, thereby contributing to robust levels of liquidity, which benefits all market participants on the Exchange. The proposed credits and lower fees would be available to all similarly-situated market participants, and, as such, the proposed change would not impose a disparate burden on competition among market participants on the Exchange. As such, the Exchange believes the proposed amendments to its Fee Schedule would not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. As noted above, the Exchange's market share of intraday trading (*i.e.*, excluding auctions) is currently less than 10%. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with off-exchange venues. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange does not believe its proposed fee change can impose any burden on intermarket competition.

The Exchange believes that the proposed change could promote competition between the Exchange and other execution venues, including those that currently offer similar order types and comparable transaction pricing, by

encouraging additional orders to be sent to the Exchange for execution.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)²⁶ of the Act and subparagraph (f)(2) of Rule 19b-4²⁷ thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)²⁸ 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-NYSEArca-2020-75 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2020-75. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use

only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2020-75 and should be submitted on or before September 14, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁹

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2020-18467 Filed 8-21-20; 8:45 am]

BILLING CODE 8011-01-P

DEPARTMENT OF STATE

[Public Notice: 11178]

Privacy Act of 1974; System of Records

AGENCY: Department of State.

ACTION: Notice of a new system of records.

SUMMARY: Information in Secretariat Contact Records is used to facilitate Department communication with domestic and foreign interlocutors.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this system of records notice is effective upon publication, with the exception of the routine uses that are subject to a 30-day period during which interested persons may submit comments to the

²⁶ 15 U.S.C. 78s(b)(3)(A).

²⁷ 17 CFR 240.19b-4(f)(2).

²⁸ 15 U.S.C. 78s(b)(2)(B).

²⁹ 17 CFR 200.30-3(a)(12).

²⁵ See Regulation NMS, 70 FR at 37498-99.

Department. Please submit any comments by September 23, 2020.

ADDRESSES: Questions can be submitted by mail, email or by calling Eric F. Stein, the Senior Agency Official for Privacy, on (202) 485-2051. If mail, please write to: U.S Department of State; Office of Global Information Systems; A/GIS; Room, 1417, 2201 C St., NW; Washington, D C 20520. If email, please address the email to the Senior Agency Official for Privacy, Eric F. Stein, at *Privacy@state.gov*. Please write "Secretariat Contact Records, State-84" on the envelope or the subject line of your email.

FOR FURTHER INFORMATION CONTACT: Eric F. Stein, Senior Agency Official for Privacy; U.S. Department of State; Office of Global Information Services, A/GIS; Room 1417, 2201 C St. NW; Washington, DC 20520 or by calling (202) 485-2051.

SUPPLEMENTARY INFORMATION: None.

SYSTEM NAME AND NUMBER:

Secretariat Contact Records, State-84.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Department of State ("Department"), located at 2201 C Street NW, Washington, DC 20520.

SYSTEM MANAGER(S):

Director, Operations Center, 2201 C Street NW, Washington, DC 20520, *operationscenter@state.gov*, (202) 647-1512.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

8 U.S.C. 1104 (Powers and Duties of the Secretary of State).

PURPOSE(S) OF THE SYSTEM:

Information in the Secretariat Contact Records is used to facilitate Department communication with domestic and foreign interlocutors. These records are maintained by the Operations Center staff and used to establish calls when needed by the Secretary of State to discuss foreign policy matters. Additional data is collected in the form of call notes that help clarify contact methods.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who interact with Department of State officials on matters of official business. The Privacy Act defines an individual at 5 U.S.C. 552a(a)(2) as a United States citizen or lawful permanent resident.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contact information related to individuals who interact with

Department of State officials on matters of official business. These records include name, email addresses, phone numbers, and job title. These records may also include information about the individual's previous interactions with the Department of State, such as the purpose and date of a call connected by the Department of State's Operations Center and notes to clarify contact methods for the individual.

RECORD SOURCE CATEGORIES:

These records contain information that is primarily obtained from the individual who is the subject of the records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Secretariat Contact Records may be disclosed:

(a) To appropriate agencies, entities, and persons when (1) the Department of State suspects or has confirmed that there has been a breach of the system of records; (2) the Department of State has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Department of State (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department of State efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(b) To another Federal agency or Federal entity, when the Department of State determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(c) A contractor of the Department having need for the information in the performance of the contract, but not operating a system of records within the meaning of 5 U.S.C. 552a(m).

(d) An agency, whether federal, state, local or foreign, where a record indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, so that the recipient agency can fulfill its

responsibility to investigate or prosecute such violation or enforce or implement the statute, rule, regulation, or order.

(e) The Federal Bureau of Investigation, the Department of Homeland Security, the National Counter-Terrorism Center (NCTC), the Terrorist Screening Center (TSC), or other appropriate federal agencies, for the integration and use of such information to protect against terrorism, if that record is about one or more individuals known, or suspected, to be or to have been involved in activities constituting, in preparation for, in aid of, or related to terrorism. Such information may be further disseminated by recipient agencies to Federal, State, local, territorial, tribal, and foreign government authorities, and to support private sector processes as contemplated in Homeland Security Presidential Directive/HSPD-6 and other relevant laws and directives, for terrorist screening, threat-protection and other homeland security purposes.

(f) A congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

(g) A court, adjudicative body, or administrative body before which the Department is authorized to appear when (a) the Department; (b) any employee of the Department in his or her official capacity; (c) any employee of the Department in his or her individual capacity where the U.S. Department of Justice ("DOJ") or the Department has agreed to represent the employee; or (d) the Government of the United States, when the Department determines that litigation is likely to affect the Department, is a party to litigation or has an interest in such litigation, and the use of such records by the Department is deemed to be relevant and necessary to the litigation or administrative proceeding.

(h) The Department of Justice ("DOJ") for its use in providing legal advice to the Department or in representing the Department in a proceeding before a court, adjudicative body, or other administrative body before which the Department is authorized to appear, where the Department deems DOJ's use of such information relevant and necessary to the litigation, and such proceeding names as a party or interests:

(a) The Department or any component of it;

(b) Any employee of the Department in his or her official capacity;

(c) Any employee of the Department in his or her individual capacity where DOJ as agreed to represent the employee; or

(d) The Government of the United States, where the Department determines that litigation is likely to affect the Department or any of its components.

(i) The National Archives and Records Administration and the General Services Administration: For records management inspections, surveys and studies; following transfer to a Federal records center for storage; and to determine whether such records have sufficient historical or other value to warrant accessioning into the National Archives of the United States.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored on electronic media. A description of standard Department of State policies concerning storage of electronic records is found here <https://fam.state.gov/FAM/05FAM/05FAM0440.html>.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Secretariat Contact Records information is retrieved almost exclusively through a name or phone number search. Other fields, such as address or title, are available for retrieval, but are rarely used.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retired and destroyed in accordance with published Department of State Records Disposition Schedules as approved by the National Archives and Records Administration (NARA) and outlined here <https://foia.state.gov/Learn/RecordsDisposition.aspx>. Secretariat Contact Records are governed by Records Schedule A-03-006-10 which covers temporary customer/client records that may be deleted when they are superseded, become obsolete or the customer/client requests the agency remove the records. More specific information may be obtained by writing to the following address: U.S. Department of State; Director, Office of Information Programs and Services; A/GIS/IPS; 2201 C Street NW; Room B-266; Washington, DC 20520.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

All users are given cyber security awareness training which covers the procedures for handling Sensitive but Unclassified information, including personally identifiable information (PII). Annual refresher training is mandatory. In addition, all Foreign Service and Civil Service employees and those Locally Employed Staff who handle PII are required to take the Foreign Service

Institute's distance learning course instructing employees on privacy and security requirements, including the rules of behavior for handling PII and the potential consequences if it is handled improperly. Access to the Department of State, its annexes and posts abroad is controlled by security guards and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. Access to computerized files is password-protected and under the direct supervision of the system manager. The system manager has the capability of printing audit trails of access from the computer media, thereby permitting regular and ad hoc monitoring of computer usage. When it is determined that a user no longer needs access, the user account is disabled.

Before being granted access to Secretariat Contact Records, a user must first be granted access to the Department of State computer system. Remote access to the Department of State network from non-Department owned systems is authorized only through a Department approved access program. Remote access to the network is configured with the authentication requirements contained in the Office of Management and Budget Circular Memorandum A-130. All Department of State employees and contractors with authorized access have undergone a background security investigation.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to or to amend records pertaining to themselves should write to U.S. Department of State; Director, Office of Information Programs and Services; A/GIS/IPS; 2201 C Street, N.W; Room B-266; Washington, DC 20520. The individual must specify that he or she wishes the Secretariat Contact Records to be checked. At a minimum, the individual must include: full name (including maiden name, if appropriate) and any other names used; current mailing address and zip code; date and place of birth; notarized signature or statement under penalty of perjury; a brief description of the circumstances that caused the creation of the record (including the city and/or country and the approximate dates) which gives the individual cause to believe that the Secretariat Contact Records include records pertaining to him or her. Detailed instructions on Department of State procedures for accessing and amending records can be found at the Department's FOIA website located at <https://foia.state.gov/Request/Guide.aspx>.

CONTESTING RECORD PROCEDURES:

Individuals who wish to contest record procedures should write to U.S. Department of State; Director, Office of Information Programs and Services; A/GIS/IPS; 2201 C Street NW; Room B-266; Washington, DC 20520.

NOTIFICATION PROCEDURES:

Individuals who have reason to believe that this system of records may contain information pertaining to them may write to U.S. Department of State; Director, Office of Information Programs and Services; A/GIS/IPS; 2201 C Street NW; Room B-266; Washington, DC 20520. The individual must specify that he or she wishes the Secretariat Contact Records to be checked. At a minimum, the individual must include: full name (including maiden name, if appropriate) and any other names used; current mailing address and zip code; date and place of birth; notarized signature or statement under penalty of perjury; a brief description of the circumstances that caused the creation of the record (including the city and/or country and the approximate dates) which gives the individual cause to believe that the Secretariat Contact Records include records pertaining to him or her.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Dated: August 17, 2020.

Eric F. Stein,

Senior Agency Official for Privacy, Acting Deputy Assistant Secretary, Office of Global Information Services, Bureau of Administration, Department of State.

[FR Doc. 2020-18532 Filed 8-21-20; 8:45 am]

BILLING CODE 4710-24-P

DEPARTMENT OF STATE

[Public Notice: 11188]

Determination Pursuant to the Foreign Missions Act

Pursuant to the authority vested in the Secretary of State by the laws of the United States including the Foreign Missions Act (22 U.S.C. 4301 *et seq.*) and delegated pursuant to Department of State Delegation of Authority No. 214 of September 20, 1994, I hereby determine that the Confucius Institute United States Center, and any successor entity, including their real property and personnel, is a foreign mission within the meaning of 22 U.S.C. 4302(a)(3).

Furthermore, I hereby determine it to be reasonably necessary to protect the interests of the United States to require

the representative offices and operations in the United States of the above noted entities, and their agents or employees acting on their behalf, to comply with the terms and conditions specified by the Department of State's Office of Foreign Missions relating to the above noted entities' activities in the United States.

At a minimum such terms and conditions shall include a requirement for the Confucius Institute United States Center, and its successor entity, to:

1. By October 31, 2020, prepare a report detailing all financial and other support that CIUS has provided or will provide to Confucius Institutes, Confucius Classrooms, or other educational institutions in the United States in calendar years 2018, 2019, and 2020. This report must be updated and submitted bi-annually every April 30 and October 31.

2. By October 31, 2020, provide a list of all PRC citizens referred to or assigned by CIUS to a Confucius Institute or Confucius Classroom in the United States since 2016, their current citizenship or visa status, and whether and where they are currently assigned in the United States. This report must be updated and submitted bi-annually every April 30 and October 31.

3. Provide OFM with 60 days notice prior to dispersing funds, personnel, or other resources in support of new Confucius Institutes or other educational organizations in the United States.

4. By October 31, 2020, provide OFM with courtesy copies of curriculum materials that CIUS has provided to individual Confucius Institutes and other U.S.-based educational institutions for use in calendar years 2016–2020. Courtesy copies of future curricular materials must be submitted to OFM as they are distributed.

Finally, I determine that the requirements established by Designation 2020–2, dated June 5, 2020, will not be applied to the above-referenced entities unless and until further notice.

Clifton C. Seagroves,

*Acting Director, Office of Foreign Missions,
Department of State.*

[FR Doc. 2020–18525 Filed 8–21–20; 8:45 am]

BILLING CODE 4710–43–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Product Exclusions and Amendments: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of product exclusions and amendments.

SUMMARY: In September 2018, the U.S. Trade Representative imposed additional duties on goods of China with an annual trade value of approximately \$200 billion as part of the action in the Section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation. The U.S. Trade Representative initiated a product exclusion process in June 2019, and interested persons have submitted requests for the exclusion of specific products. This notice announces the U.S. Trade Representative's determination to grant certain exclusions and make technical amendments to previously announced exclusions.

DATES: As stated in the September 20, 2019 notice, product exclusions will apply from September 24, 2018 to August 7, 2020. The amendments announced in this notice are retroactive to the date the original exclusions were published and do not extend the period for the original exclusions. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

FOR FURTHER INFORMATION CONTACT: For general questions about this notice, contact Associate General Counsel Philip Butler or Megan Grimball, or Director of Industrial Goods Justin Hoffmann at (202) 395–5725. For specific questions on customs classification or implementation of the product exclusions identified in the Annex to this notice, contact traderemedy@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

A. Background

For background on the proceedings in this investigation, please see the prior notices including 82 FR 40213 (August 24, 2017), 83 FR 14906 (April 6, 2018), 83 FR 28710 (June 20, 2018), 83 FR 33608 (July 17, 2018), 83 FR 38760 (August 7, 2018), 83 FR 47974 (September 21, 2018), 83 FR 49153 (September 28, 2018), 83 FR 65198 (December 19, 2018), 84 FR 7966 (March

5, 2019), 84 FR 20459 (May 9, 2019), 84 FR 29576 (June 24, 2019), 84 FR 38717 (August 7, 2019), 84 FR 46212 (September 3, 2019), 84 FR 49591 (September 20, 2019), 84 FR 57803 (October 28, 2019), 84 FR 61674 (November 13, 2019), 84 FR 65882 (November 29, 2019), 84 FR 69012 (December 17, 2019), 85 FR 549 (January 6, 2020), 85 FR 6674 (February 5, 2020), 85 FR 9921 (February 20, 2020), 85 FR 15015 (March 16, 2020), 85 FR 17158 (March 26, 2020), 85 FR 23122 (April 24, 2020), 85 FR 27489 (May 8, 2020), 85 FR 32094 (May 28, 2020), 85 FR 38000 (June 24, 2020), and 85 FR 42968 (July 15, 2020).

Effective September 24, 2018, the U.S. Trade Representative imposed additional 10 percent *ad valorem* duties on goods of China classified in 5,757 full and partial subheadings of the Harmonized Tariff Schedule of the United States (HTSUS), with an approximate annual trade value of \$200 billion. See 83 FR 47974, as modified by 83 FR 49153. In May 2019, the U.S. Trade Representative increased the additional duty to 25 percent. See 84 FR 20459. On June 24, 2019, the U.S. Trade Representative established a process by which stakeholders could request exclusion of particular products classified within an eight-digit HTSUS subheading covered by the \$200 billion action from the additional duties. See 84 FR 29576 (the June 24 notice).

Under the June 24 notice, requests for exclusion had to identify the product subject to the request in terms of the physical characteristics that distinguish the product from other products within the relevant eight-digit HTSUS subheading covered by the \$200 billion action. Requestors also had to provide the ten-digit HTSUS subheading most applicable to the particular product requested for exclusion, and could submit information on the ability of U.S. Customs and Border Protection to administer the requested exclusion. Requestors were asked to provide the quantity and value of the Chinese-origin product that the requestor purchased in the last three years. With regard to the rationale for the requested exclusion, requests had to address the following factors:

- Whether the particular product is available only from China and, specifically, whether the particular product and/or a comparable product is available from sources in the United States and/or third countries.
- Whether the imposition of additional duties on the particular product would cause severe economic harm to the requestor or other U.S. interests.

• Whether the particular product is strategically important or related to “Made in China 2025” or other Chinese industrial programs.

The June 24 notice stated that the U.S. Trade Representative would take into account whether an exclusion would undermine the objective of the Section 301 investigation.

The June 24 notice required submission of requests for exclusion from the \$200 billion action no later than September 30, 2019, and noted that the U.S. Trade Representative periodically would announce decisions. In August 2019, the U.S. Trade Representative granted an initial set of exclusion requests. See 84 FR 38717. The U.S. Trade Representative granted additional exclusions in September, October, November and December 2019, and January, February, March, April, May, June and July 2020. See 84 FR 49591; 84 FR 57803; 84 FR 61674; 84 FR 65882; 84 FR 69012; 85 FR 549; 85 FR 6674; 85 FR 9921; 85 FR 15015; 85 FR 17158; 85 FR 23122; 85 FR 27489; 85 FR 32094; 85 FR 38000; 85 FR 42968. The Office of the United States Trade Representative regularly updates the status of each pending request on the Exclusions Portal at <https://exclusions.ustr.gov/s/docket?docketNumber=USTR-2019-0005>.

B. Determination To Grant Certain Exclusions

Based on evaluation of the factors set forth in the June 24 notice, which are summarized above, pursuant to sections 301(b), 301(c), and 307(a) of the Trade Act of 1974, as amended, and in accordance with the advice of the interagency Section 301 Committee, the U.S. Trade Representative has determined to grant the product exclusions in the Annex to this notice. The U.S. Trade Representative’s determination also takes into account advice from advisory committees and any public comments on the pertinent exclusion requests. As set forth in the Annex, the exclusions are reflected in two specially prepared product descriptions that respond to two exclusion requests. In accordance with the June 24 notice, the exclusions are available for any products that meet the description in the Annex, regardless of whether the importer benefitting from the product exclusion filed an exclusion request. Further, the scope of an exclusion is governed by the scope of the product descriptions in the Annex and not by the product description found in any particular request for exclusion.

C. Technical Amendments to Exclusions

Paragraph A of the Annex contains eight technical amendments to U.S. note 20(qq)(100), U.S. note 20(ll)(17), and U.S. notes 20(yy)(78)-(83) to subchapter III of chapter 99 of the HTSUS, as set out in the Annexes of the notices published at 84 FR 57803 (October 28, 2019), 85 FR 6674 (February 5, 2020), and 85 FR 27489 (May 8, 2020).

ANNEX

A. Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on September 24, 2018, and before August 7, 2020, U.S. note 20(aaa) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified by inserting the following exclusions in numerical order after exclusion (79):

1. (80) Wallets, whether or not with wrist straps, of reinforced plastics, each measuring at least 17.5 cm long by 2 cm wide by 11 cm high and not more than 19 cm long by 2 cm wide by 11 cm high (described in statistical reporting number 4202.32.1000)

2. (81) Mixtures containing N,N-dimethyldodecan-1-amine (CAS No. 112-18-5) and N,N-dimethyltetradecan-1-amine (CAS No. 112-75-4) (described in statistical reporting number 3824.99.9297)

B. Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on September 24, 2018, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified:

1. U.S. note 20(qq)(100) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States, is modified by deleting “(described in statistical reporting number 9403.20.0050)” and inserting “(described in statistical reporting number 9403.20.0050 or 9403.20.0078)” in lieu thereof.

2. U.S. note 20(ll)(17) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States, is modified by deleting “Imitation leather fabrics, of manmade fibers impregnated, coated, covered or laminated with 75 percent polyvinyl chloride (PVC) by weight” and inserting “Imitation leather fabrics, of manmade fibers impregnated, coated, covered or laminated with a minimum of 60% polyvinyl chloride (PVC) and 75% plastics by weight” in lieu thereof.

3. U.S. note 20(yy)(78) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States, is modified by deleting “each measuring at least 141 cm but not more than 413 cm in length, at least 67 cm but not more than 179 cm in width and at least 47 cm but not more than 67 cm in height” and inserting “each measuring at least 119 cm but not more than 475 cm in length, at least 56 cm but not more than 206 cm in width and at least 39 cm but not more than 78 cm in height” in lieu thereof.

4. U.S. note 20(yy)(79) to subchapter III of chapter 99 of the Harmonized Tariff

Schedule of the United States, is modified by deleting “each measuring at least 105 cm but not more than 146 cm in length, at least 67 cm but not more than 77 cm in width and at least 42 cm but not more than 77 cm in height” and inserting “each measuring at least 89 cm but not more than 168 cm in length, at least 56 cm but not more than 89 cm in width and at least 35 cm but not more than 89 cm in height” in lieu thereof.

5. U.S. note 20(yy)(80) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States, is modified by deleting “each measuring at least 83 cm but not more than 240 cm in length, at least 39 cm but not more than 100 cm in width and at least 17 cm but not more than 93 cm in height” and inserting “each measuring at least 70 cm but not more than 276 cm in length, at least 33 cm but not more than 115 cm in width and at least 14 cm but not more than 107 cm in height” in lieu thereof.

6. U.S. note 20(yy)(81) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States, is modified by deleting “each measuring at least 67 cm but not more than 608 cm in length, at least 50 cm but not more than 75 cm in width and at least 14 cm but not more than 34 cm in height” and inserting “each measuring at least 56 cm but not more than 700 cm in length, at least 42 cm but not more than 87 cm in width and at least 11 cm but not more than 39 cm in height” in lieu thereof.

7. U.S. note 20(yy)(82) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States, is modified by deleting “each measuring at least 47 cm but not more than 75 cm in length, at least 37 cm but not more than 57 cm in width and at least 29 cm but not more than 108 cm in height” and inserting “each measuring at least 39 cm but not more than 87 cm in length, at least 31 cm but not more than 65 cm in width and at least 24 cm but not more than 125 cm in height” in lieu thereof.

8. U.S. note 20(yy)(83) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States, is modified by deleting “each measuring at least 88 cm but not more than 217 cm in length, at least 39 cm but not more than 95 cm in width and at least 9 cm but not more than 22 cm in height” and inserting “each measuring at least 74 cm but not more than 250 cm in length, at least 33 cm but not more than 110 cm in width and at least 7 cm but not more than 26 cm in height” in lieu thereof.

Joseph Barloon,

General Counsel, Office of the United States Trade Representative.

[FR Doc. 2020-18517 Filed 8-21-20; 8:45 am]

BILLING CODE 3290-F0-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2010-0093]

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 9, 2020, Virginia & Truckee Railroad Company (VTRR) 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, Railroad Freight Car Safety Standards. FRA assigned the petition Docket Number FRA–2010–0093.

Specifically, VTRR seeks to extend its previous special approval under 49 CFR 215.203, *Restricted cars*, and relief from 49 CFR 215.303, *Stenciling of restricted cars*, for three overage freight cars: Caboose V&T 50, open air car V&T 55, and boxcar V&T 54. It also requests to add one car, caboose V&T 25, to the current docket. All cars are owned by VTRR and are not interchanged in regular freight operations with other railroads.

VTRR explains it conducts annual comprehensive shop inspections and detailed center plate inspections and maintains and services the cars in compliance with all applicable regulations with the exception of the relief granted.

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 8, 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/privacy> Notice for the privacy notice of www.regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

*Associate Administrator for Railroad Safety,
Chief Safety Officer.*

[FR Doc. 2020–18530 Filed 8–21–20; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2020–0027–N–19]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), U.S. Department of Transportation (DOT).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, FRA seeks approval of the Information Collection Request (ICR) abstracted below. Before submitting this ICR to the Office of Management and Budget (OMB) for approval, FRA is soliciting public comment on specific aspects of the activities identified in the ICR.

DATES: Interested persons are invited to submit comments on or before October 23, 2020.

ADDRESSES: Submit comments and recommendations for the proposed ICR to Ms. Hodan Wells, Information Collection Clearance Officer at email: hodan.wells@dot.gov or telephone: (202) 493–0440. Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent

notice and include them in its information collection submission to OMB for approval.

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days’ notice to the public to allow comment on information collection activities before seeking OMB approval of the activities. See 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. Specifically, FRA invites interested parties to comment on the following ICR regarding: (1) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (2) the accuracy of FRA’s estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways for FRA to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology. See 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1).

FRA believes that soliciting public comment may reduce the administrative and paperwork burdens associated with the collection of information that Federal regulations mandate. In summary, FRA reasons that comments received will advance three objectives: (1) Reduce reporting burdens; (2) organize information collection requirements in a “user-friendly” format to improve the use of such information; and (3) accurately assess the resources expended to retrieve and produce information requested. See 44 U.S.C. 3501.

The summary below describes the ICR that FRA will submit for OMB clearance as the PRA requires:

Title: Track Safety Standards; Concrete Crossties.

OMB Control Number: 2130–0592.

Abstract: In 2011, FRA mandated specific requirements for effective concrete crossties, for rail fastening systems connected to concrete crossties, and for automated inspections of track constructed with concrete crossties. FRA uses the information collected under 49 CFR 213.234 to ensure automated track inspections of track constructed with concrete crossties are carried out as specified in the rule to supplement visual inspections by Class I and Class II railroads, intercity passenger railroads, and commuter railroads.

Type of Request: Extension with change (revised estimates) of a currently approved collection.

Affected Public: Businesses.
Form(s): N/A.
Respondent Universe: 30 railroads.

Frequency of Submission: On occasion.
Reporting Burden:

CFR Section ¹	Respondent universe	Total annual responses	Average time per responses	Total annual burden hours	Total cost equivalent ²
213.234(e)—Automated inspection of track constructed with concrete crossties—Exception reports listing all exception to §213.109(d)(4).	30 railroads	125 reports	15 minutes	31 hours	\$1,813
—(g) Procedure for integrity of data—Track owners to institute procedures for maintaining the integrity of the data collected by the measurement system.	30 railroads	30 revised procedures.	2 hours	60 hours	7,200
—(h)(3) Training—Track owners to provide annual training in handling rail seat deterioration exceptions to all persons designated as fully qualified under §213.7 and whose territories are subject to the requirements of §213.234—Recordkeeping.	30 railroads	2,250 records of trained employees.	5 minutes	188 hours	10,875
Total	30 railroads	2,405 Responses.	N/A	279 Hours	19,888

Total Estimated Annual Responses: 2,405.

Total Estimated Annual Burden: 279 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: \$19,888.

Under 44 U.S.C. 3507(a) and 5 CFR 1320.5(b) and 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Brett A. Jortland,

Deputy Chief Counsel.

[FR Doc. 2020–18482 Filed 8–21–20; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC’s Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC’s determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons

are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC’s website (www.treas.gov/ofac).

Notice of OFAC Actions

On August 12, 2020, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

Entities

1. PARTHIA CARGO LLC, 1 AK 01, Jebel Ali South Zone, Jebel Ali Free Zone, Dubai, United Arab Emirates; Office 203, Bur Dubai, Souk Al Kabeer, Dubai, United Arab Emirates; P.O. Box: 33393, Dubai, United Arab Emirates; P.O. Box: 44439, Dubai, United Arab Emirates; website www.parthiacargo.com; Additional Sanctions Information—Subject to Secondary Sanctions; Chamber of Commerce Number 56868 (United Arab Emirates); Registration Number 515161 (United Arab Emirates) [SDGT] [IFSR] (Linked To: MAHAN AIR; Linked To: MAHDAVI, Amin).

Designated pursuant to section 1(a)(iii)(C) of Executive Order 13224 of September 23,

2001, “Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism,” 66 FR 49079, 3 CFR, 2002 Comp., p. 786, (E.O. 13224), as amended by Executive Order 13886 of September 9, 2019, “Modernizing Sanctions to Combat Terrorism,” 84 FR 48041, (E.O. 13224, as amended), for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, MAHAN AIR, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

2. DELTA PARTS SUPPLY FZC (a.k.a. DELTA PARTS SUPPLY), Q1–04–048/A Saif Zone, P.O. Box 124119, Sharjah, United Arab Emirates; Saif Zone, Sharjah, United Arab Emirates; Additional Sanctions Information—Subject to Secondary Sanctions [SDGT] [IFSR] (Linked To: MAHAN AIR).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, MAHAN AIR, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

Individual

1. MAHDAVI, Amin, Number 1304 Bahar2 JBR, Dubai 44439, United Arab Emirates; DOB 12 Feb 1967; POB Mashad, Iran; citizen Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male (individual) [SDGT] [IFSR].

Designated pursuant to section 1(a)(iii)(B) of E.O. 13224, as amended, for owning or controlling, directly or indirectly, PARTHIA CARGO LLC, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

¹ **Note:** The current inventory estimates a total burden of 4,875 hours while the requesting inventory estimates a total burden of 279 hours. FRA determined some of the estimates were double counted and/or outdated, while other estimates

were not PRA requirements, thus leading to the increased figures in the current inventory, which were decreased accordingly in this notice. Also, totals may not add due to rounding.

² The dollar equivalent cost is derived from the Surface Transportation Board’s Full Year Wage A&B data series using the appropriate employee group hourly wage rate that includes a 75-percent overhead charge.

Dated: August 12, 2020.

Andrea M. Gacki,

*Director, Office of Foreign Assets Control,
U.S. Department of the Treasury.*

[FR Doc. 2020-18527 Filed 8-21-20; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Alcohol and Tobacco Tax and Trade Bureau Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before September 23, 2020 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAmain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: 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:

Alcohol and Tobacco Tax and Trade Bureau (TTB)

1. Title: Tax Information Authorization.

OMB Control Number: 1513-0001.

Type of Review: Extension without change of a currently approved collection.

Description: In general, Federal law at 5 U.S.C. 552 prohibits the disclosure of confidential business information obtained by the Government, and 26 U.S.C. 6103 prohibits disclosure of tax returns and taxpayer-related information unless disclosure is specifically authorized by that section. However, a taxpayer or other regulated

person may authorize a representative to receive their otherwise confidential tax or business information. Form TTB F 5000.19 is used by respondents to authorize a representative who does not have a power of attorney to receive such confidential information from TTB. TTB uses the information provided on the form to identify the respondent's representative and the scope of their authority to obtain the otherwise confidential information.

Form: TTB F 5000.19.

Affected Public: Business or other for-profit; Individuals or households.

Estimated Number of Respondents: 50.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 50.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden

Hours: 50.

2. Title: Referral of Information.

OMB Control Number: 1513-0003.

Type of Review: Extension without change of a currently approved collection.

Description: TTB personnel, during the course of their duties, sometimes discover apparent violations of statutes and regulations under the jurisdiction of State, local, and tribal government agencies. Using form TTB F 5000.21, TTB personnel refer information regarding such violations to the appropriate external agencies, if such disclosures are authorized under the IRC at 26 U.S.C. 6103 or by other Federal laws. The referral form includes a section for the external agencies to respond to TTB regarding their action on such referrals. This form provides a consistent means of conveying the relevant information to external agencies, and it facilitates information-sharing between TTB and external agencies to support enforcement efforts. The response that TTB requests from State, local, and tribal government agencies also provides information as to the utility of the referrals and potential enforcement actions that these external agencies take against entities that are also regulated by TTB.

Form: TTB F 5000.21.

Affected Public: State, local, and tribal governments.

Estimated Number of Respondents: 100.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 100.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden

Hours: 100 hours.

3. Title: Usual and Customary

Business Records Relating to Denatured Spirits, TTB REC 5150/1.

OMB Control Number: 1513-0062.

Type of Review: Extension without change of a currently approved collection.

Description: Denatured distilled spirits may be used for industrial purposes in the manufacture of non-beverage products. To prevent diversion of denatured spirits to taxable beverage use, the IRC at 26 U.S.C. 5271-5275 imposes a system of permits, bonds, recordkeeping, and reporting requirements on persons that procure or use such alcohol, and the Secretary of the Treasury (the Secretary) is authorized to issue regulations regarding those matters. Under those IRC authorities, the TTB regulations in 27 CFR part 20 require industrial alcohol users to keep certain usual and customary business records which track denatured spirits. TTB uses the required records to account for denatured spirits and to ensure compliance with statutory provisions.

Form: TTB REC 5150/01.

Affected Public: Business or other for-profits; State, local, and tribal governments.

Estimated Number of Respondents: 3,440.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 3,440.

Estimated Time per Response: None (Under the OMB regulations 5 CFR 1320.3(b)(2), regulatory requirements to maintain usual and customary records kept during the normal course of business place no burden on respondents as defined in the Paperwork Reduction Act.).

Estimated Total Annual Burden

Hours: None.

4. Title: Application for Registration for Tax-Free Firearms and Ammunition Transactions Under 26 U.S.C. 4221.

OMB Control Number: 1513-0095.

Type of Review: Extension without change of a currently approved collection.

Description: In general, the IRC at 26 U.S.C. 4181 imposes Federal excise tax on firearms and ammunition sold by manufacturers and importers. However, under 26 U.S.C. 4221, no excise tax is imposed on certain sales of firearms and ammunition, provided that the seller and purchaser of the articles (with certain exceptions) are registered, in the form and manner the Secretary prescribes by regulation, as required by 26 U.S.C. 4222. Under that IRC authority, the TTB regulations at 27 CFR 53.140 provide for registration using form TTB F 5300.28. In addition, registrants may subsequently file notifications on their letterhead to make

certain amendments to the information previously provided on that form.

Form: TTB F 5300.28.

Affected Public: Business or other for-profits; State, local, and tribal governments.

Estimated Number of Respondents: 100.

Frequency of Response: Once.

Estimated Total Number of Annual Responses: 100.

Estimated Time per Response: 3 hours.

Estimated Total Annual Burden Hours: 300 hours.

5. *Title:* Record of Carbon Dioxide Measurement in Effervescent Products Taxed as Hard Cider.

OMB Control Number: 1513-0139.

Type of Review: Extension without change of a currently approved collection.

Description: The IRC, at 26 U.S.C. 5041, defines and imposes six Federal excise tax rates on wine, which vary by the wine's alcohol and carbon dioxide content. Wines with no more than 0.392 grams of carbon dioxide per 100 milliliters are taxed as still wine at \$1.07, \$1.57, or \$3.15 per gallon, depending on their alcohol content, while wines with more than 0.392 grams of carbon dioxide per 100 milliliters are taxed as effervescent wine at \$3.30 per gallon if artificially carbonated or \$3.40 per gallon if naturally carbonated. However, under those IRC provisions, certain apple- and pear-based wines are subject to the "hard cider" tax rate of \$0.226 per gallon if the product contains no more than 0.64 grams of carbon dioxide per 100 milliliters of wine. Given the difference in tax rates which, in part, depend on the level of effervescence, the TTB regulations in 27 CFR 24.302 require proprietors who produce or receive effervescent hard cider to record the amount of carbon dioxide in the hard cider. This recordkeeping requirement is necessary to demonstrate compliance with the statutory definition of wine eligible for the hard cider tax rate.

Form: None.

Affected Public: Business or other for-profits.

Estimated Number of Respondents: 600.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 15,000.

Estimated Time per Response: 4 hours.

Estimated Total Annual Burden Hours: 60,000 hours.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: August 18, 2020.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2020-18433 Filed 8-21-20; 8:45 am]

BILLING CODE 4810-31-P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; 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 will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before September 23, 2020 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: 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:

Financial Crimes Enforcement Network (FinCEN)

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Control Number: 1506-0062.

Type of Review: Extension without change of a currently approved collection.

Description: FinCEN is issuing this notice to renew, without change, the Agency's capability to solicit feedback from the public 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. If this information is not collected, vital feedback from customers and stakeholders on the Agency's services will be unavailable.

Form: None.

Affected Public: Business or other for-profit institutions, and non-profit institutions.

Estimated Number of Respondents: 15,000.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 15,000.

Estimated Time per Response: 15 minutes to 40 minutes.

Estimated Total Annual Burden Hours: 10,000 hours.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: August 18, 2020.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2020-18434 Filed 8-21-20; 8:45 am]

BILLING CODE 4810-02-P

DEPARTMENT OF THE TREASURY

United States Mint

Notification of Citizens Coinage Advisory Committee September 22-23, 2020, Public Meeting

ACTION: Notice of meeting

Pursuant to United States Code, Title 31, section 5135(b)(8)(C), the United States Mint announces the Citizens Coinage Advisory Committee (CCAC) teleconference public meeting scheduled for September 22, 2020 and September 23, 2020.

Date: September 22, 2020 and September 23, 2020.

Time: 11:00 a.m. to 12:30 p.m. (September 22, 2020) and 9:00 a.m. to 4:30 p.m. (September 23, 2020).

Location: This meeting will occur via teleconference. Interested members of the public may dial in to listen to the meeting at (888) 330-1716, using Access Code 1137147.

Subject: Review and discussion of obverse and reverse candidate designs for the U.S. Army Silver Medal, the National Law Enforcement Memorial Commemorative Coins, three of the five Hidden Figures Congressional Gold Medals, and the David J. Ryder United States Mint Director Medal.

Interested persons should call the CCAC HOTLINE at (202) 354-7502 for the latest update on meeting time and location.

The CCAC advises the Secretary of the Treasury (Secretary) on any theme or design proposals relating to circulating

coinage, bullion coinage, Congressional Gold Medals, and national and other medals; advises the Secretary with regard to the events, persons, or places to be commemorated by the issuance of commemorative coins in each of the five calendar years succeeding the year in which a commemorative coin designation is made; and makes recommendations with respect to the mintage level for any commemorative coin recommended.

For members of the public interested in listening in to the provided call number, this is a reminder that the public attendance is for listening purposes only. Any member of the public interested in submitting matters for the CCAC's consideration is invited to submit them by email to info@ccac.gov.

FOR FURTHER INFORMATION CONTACT:

Jennifer Warren, United States Mint Liaison to the CCAC; 801 9th Street NW; Washington, DC 20220; or call 202-354-7208.

(Authority: 31 U.S.C. 5135(b)(8)(C))

Eric Anderson,

Executive Secretary, United States Mint.

[FR Doc. 2020-18447 Filed 8-21-20; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974: Computer Matching Program

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of a Modified Computer Matching Program.

SUMMARY: Pursuant to the Privacy Act of 1974, as amended, and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs, notice is hereby given that the Department of Veterans Affairs (VA) intends to conduct a computer matching program with the Internal Revenue Service (IRS). Data from the proposed match will be used to verify the unearned income of nonservice-connected veterans, and those veterans who are zero percent service-connected (noncompensable), whose eligibility for VA medical care is based on their inability to defray the cost of medical care. These veterans supply household income information that includes their spouses and dependents at the time of application for VA health care benefits.

DATES: Comments on this matching program must be received no later than 30 days after publication of this notice.

If no public comment is received during the period allowed for comment or unless otherwise published in the **Federal Register** by VA, the computer matching agreement will become effective December 31, 2020 and expires 18 months after its effective date. This match will not continue past the legislative authorized date to obtain this information.

ADDRESSES: Written comments may be submitted through www.Regulations.gov; by mail or hand-delivery to the Director, Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Ave. NW, Room 1068, Washington, DC 20420; or by fax to (202) 273-9026 (not a toll-free number). Comments should indicate that they are submitted in response to Matching Program IRS/VA. Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays). Please call (202) 461-4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at www.Regulations.gov.

FOR FURTHER INFORMATION CONTACT: Dionne Dent-Lockett, Director, Health Eligibility Center, VHA Member Services (404) 828-5302 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department of Veterans Affairs has statutory authorization under 38 U.S.C. 5317, 38 U.S.C. 5106, 26 U.S.C. 6103(l)(7)(D)(viii) and 5 U.S.C. 552a to establish matching agreements and request and use income information from other agencies for purposes of verification of income for determining eligibility for benefits. 38 U.S.C. 1710(a)(2)(G), 1710(a)(3), and 1710(b) identify those veterans whose basic eligibility for medical care benefits is dependent upon their financial status. Eligibility for nonservice-connected and zero percent noncompensable service-connected veterans is determined based on the veteran's inability to defray the expenses for necessary care as defined in 38 U.S.C. 1722. This determination can affect their responsibility to participate in the cost of their care through copayments and their assignment to an enrollment priority group. The goal of this match is to obtain IRS unearned income information data needed for the income verification process. The VA records involved in the match are "Income Verification Records—VA"

(89VA10NB). The IRS records are from the Information Return Master File (IRMF) Process File, Treas/IRS 22.061, through the Disclosure of Information to Federal, State and Local Agencies (DIFSLA) program. A copy of this notice has been sent to both Houses of Congress and OMB.

Participating Agencies: Department of Veterans Affairs/Veteran Health Administration and Internal Revenue Service.

Authority for Conducting the Matching Program: This agreement is executed under the Privacy Act of 1974, 5 United States Code (U.S.C.) § 552a, as amended by the Computer Matching and Privacy Protection Act of 1988, and the regulations and guidance promulgated thereunder.

Legal authority for the disclosures under this agreement is 38 U.S.C. 5106 and 5317, and 26 U.S.C. 6103(l)(7)(D)(viii). Under 38 U.S.C. 1710, VA/VHA has a statutory obligation to collect income information from certain applicants for medical care and to use that income data to determine the appropriate eligibility category for the applicant's medical care. 26 U.S.C. 6103(l)(7) authorizes the disclosure of tax return information with respect to net earnings from self-employment and wages, as defined by relevant sections of the Internal Revenue Code (IRC), to Federal, state, and local agencies administering certain benefit programs under Title 38 of the U.S.C.

Purpose(s): To identify and verify those veterans whose basic eligibility for medical care benefits is dependent upon their financial status and ensure they are in the correct Priority Group and copayment status.

Categories of Individuals: Nonservice-connected and zero percent noncompensable service-connected veterans who are in Priority Group 5 based on their inability to defray the expenses for necessary care as defined in 38 U.S.C. 1722.

Categories of Records: The VA records involved in the match are "Income Verification Records—VA" (89VA10NB). The IRS will provide tax return information with respect to unearned income from the Information Return Master File (IRMF) Process File, Treas/IRS 22.061. The IRS will disclose when there is a match of individual identifier, to VHA the: Payee Account Number, Payee Name and Mailing Address, Payee Taxpayer Identification Number (TIN), Payer Name and Address, Payer TIN, and Income Type and Amount.

System(s) of Records: VHA's System of Records entitled "Income Verification

Records-VA" (89VA10NB) as published at 73 FR 26192 (May 8, 2008), and updated at 78

FR 76897 (December 19, 2013) (Routine use nineteen (19)). IRS will extract return information with respect to unearned income from the Information Return Master File (IRMF) Processing File, Treasury/IRS 22.061, as published at 80 FR 54081 (September 8, 2015), through the Disclosure of Information to Federal, State and Local Agencies (DIFSLA) program.

Signing Authority

The Senior Agency Official for Privacy, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. James P. Gfrerer, Assistant Secretary for Information and Technology and Chief Information Officer, approved this document on July 9, 2020 for publication.

Dated: August 19, 2020.

Amy L. Rose,

Program Analyst, VA Privacy Service, Office of Information Security, Office of Information and Technology, Department of Veterans Affairs.

[FR Doc. 2020-18521 Filed 8-21-20; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; Matching Program

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of new matching program.

SUMMARY: The Department of Veterans Affairs (VA) has an 18 month computer matching agreement (CMA) agreement with the Federal Bureau of Prisons (BOP) regarding Veterans and caregivers who are in federal prison and are also in receipt of compensation and pension benefits. The purpose of this CMA is to re-establish the agreement between VA and the United States Department of Justice (DOJ), BOP. BOP will disclose information about individuals who are in federal prison. VBA will use this information as a match for recipients of Compensation and Pension benefits for adjustments of awards.

DATES: Comments on this matching program must be received no later than 30 days after date of publication in the **Federal Register**. If no public comment is received during the period allowed for comment or unless otherwise

published in the **Federal Register** by VA, the matching agreement will become effective 30 days after date of publication in the **Federal Register**. This matching program will begin on September 19, 2020 and end March 18, 2022.

ADDRESSES: Written comments concerning this matching program may be submitted by: Mail or hand-delivery to Director, Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1068, Washington, DC 20420; fax to (202) 273-9026; or email to <http://www.Regulations.gov>. All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461-4902 (this is not a toll-free number) for an appointment.

FOR FURTHER INFORMATION CONTACT: Eric Robinson (VBA), 202-443-6016.

SUPPLEMENTARY INFORMATION: This matching program between VA and BOP identifies VA beneficiaries who are in receipt of certain VA benefit payments and who are confined for a period exceeding 60 days due to a conviction for a felony or a misdemeanor. VA uses the BOP records provided in the match to update the master records of VA beneficiaries receiving benefits and to adjust their VA benefits, accordingly, if needed. This agreement sets forth the responsibilities of VA and BOP with respect to information disclosed pursuant to this agreement and takes into account both agencies' responsibilities under the Privacy Act of 1974, 5 U.S.C. 552a, as amended by the Computer Matching and Privacy Protection Act of 1988, as amended, and the regulations promulgated thereunder, including computer matching portions of a revision of OMB Circular No. A-130, 81 FR 49689 dated July 28, 2016.

Participating Agencies

The United States Department of Veterans Affairs (VA), as the matching recipient agency and the United States Department of Justice (DOJ), Federal Bureau of Prisons (BOP) as the matching source agency.

Authority for Conducting the Matching Program

The legal authority to conduct this match is 38 U.S.C. 1505, 5106, and 5313. Section 5106 requires any Federal department or agency to provide VA such information as VA requests for the purposes of determining eligibility for, or the amount of VA benefits, or

verifying other information with respect thereto. Section 1505 provides that no VA pension benefits shall be paid to or for any person eligible for such benefits, during the period of that person's incarceration as the result of conviction of a felony or misdemeanor, beginning on the sixty-first day of incarceration. Section 5313 provides that VA compensation or dependency and indemnity compensation above a specified amount shall not be paid to any person eligible for such benefit, during the period of that person's incarceration as the result of conviction of a felony, beginning on the sixty-first day of incarceration.

Purpose(s)

The purpose of this matching program between VA and BOP is to identify those veterans and VA beneficiaries who are in receipt of certain VA benefit payments and who are confined (see Article II.G.) for a period exceeding 60 days due to a conviction for a felony or a misdemeanor. VA has the obligation to reduce or suspend compensation, pension, and dependency and indemnity compensation benefit payments to veterans and VA beneficiaries on the 61st day following conviction and incarceration in a Federal, State, or Local institution for a felony or a misdemeanor. VA will use the BOP records provided in the match to update the master records of veterans and VA beneficiaries receiving benefits and to adjust their VA benefits, accordingly, if needed.

Categories of Individuals

Veterans who have applied for compensation for service-connected disability under 38 U.S.C. Chapter 11.

Veterans who have applied for nonservice-connected disability under 38 U.S.C. Chapter 15.

Veterans entitled to burial benefits under 38 U.S.C. Chapter 23.

Surviving spouses and children who have claimed pensions based on nonservice-connected death of a veteran under 38 U.S.C. Chapter 15.

Surviving spouses and children who have claimed death compensation based on service-connected death of a veteran under 38 U.S.C. Chapter 11.

Surviving spouses and children who have claimed dependency and indemnity compensation for service connected death of a veteran under 38 U.S.C. Chapter 13.

Parents who have applied for death compensation based on service connected death of a veteran under 38 U.S.C. Chapter 11.

Parents who have applied for dependency and indemnity

compensation for service-connected death of a veteran under 38 U.S.C. Chapter 13.

Individuals who applied for educational assistance benefits administered by VA under title 38 of the U.S. Code.

Individuals who applied for educational assistance benefits maintained by the Department of Defense under title 10 of the U.S. Code that are administered by VA.

Veterans who apply for training and employers who apply for approval of their programs under the provisions of the Emergency Veterans' Job Training Act of 1983, Public Law 98-77.

Veterans who apply for training and employers who apply for approval of their programs under the provisions of the Service Members Occupational Conversion and Training Act of 1992, Public Law 102-484.

Representatives of individuals covered by the system.

Fee personnel who may be paid by the VA which includes caregivers.

Categories of Records

The record, or information contained in the record, may include identifying information such as, last name, first name, middle name, suffix name, date of birth, date of computation begins, length of sentence, place of current confinement or destination of confinement if in-transit, **Federal Register** number, type of offense, and date of scheduled release.

System(s) of Records

Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records—VA (58 VA 21/22/28)", published at 74 FR 29275 (June 19, 2009), last amended at 84 FR 4138 on February 14, 2019. Justice/BOP-005," published on June 7, 1984 (48 FR 2371 1), republished on May 9, 2002 (67 FR 31371), January 25, 2007 (72 FR

3410) and April 26, 2012 (77 FR 24982) and last modified on February 19, 2013 (78 FR 1 1575), routine use (i).

Signing Authority

The Senior Agency Official for Privacy, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Joseph S. Stenaka, Department of Veterans Affairs Chief Privacy Officer, approved this document on July 21, 2020 for publication.

Dated: August 19, 2020.

Amy L. Rose,

Program Analyst, VA Privacy Service, Office of Information Security, Office of Information and Technology, Department of Veterans Affairs.

[FR Doc. 2020-18523 Filed 8-21-20; 8:45 am]

BILLING CODE P



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Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters; Amendments; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-HQ-OAR-2002-0058; FRL-10010-81-OAR]

RIN 2060-AU20

National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters; Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On January 31, 2013, the U.S. Environmental Protection Agency (EPA) finalized amendments to the national emission standards (NESHAP) for the control of hazardous air pollutants (HAP) at major sources from new and existing industrial, commercial, and institutional (ICI) boilers and process heaters. Subsequently, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit), in a decision issued in July 2016, remanded several of the emission standards to the EPA based on the court's review of the EPA's approach to setting those standards. In response to these remands, this action proposes to amend several numeric emission limits for new and existing boilers and process heaters consistent with the court's opinion and set compliance dates for these new emission limits. The court also remanded for further explanation the Agency's use of carbon monoxide (CO) as a surrogate for organic HAP and, in a subsequent decision in March 2018, remanded for further explanation the Agency's use of a CO threshold to represent the application of the maximum achievable control technology (MACT) for organic HAP. The proposed changes to the emissions limits will protect air quality and promote public health by reducing emissions of the HAP listed in the Clean Air Act (CAA). This action also addresses the two issues remanded to the EPA for further explanation. We are also proposing several technical clarifications and corrections.

DATES:

Comments. Comments must be received on or before October 23, 2020. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before September 23, 2020.

Public hearing. If anyone contacts us requesting a public hearing on or before August 31, 2020, we will hold a virtual public hearing. See **SUPPLEMENTARY INFORMATION** for information on requesting and registering for a public hearing.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-HQ-OAR-2002-0058, by any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov/> (our preferred method). Follow the online instructions for submitting comments.
 - *Email:* a-and-r-docket@epa.gov.
- Include Docket ID No. EPA-HQ-OAR-2002-0058 in the subject line of the message.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. 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 **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 was closed to public visitors on March 31, 2020, 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/> or email, as there is a temporary suspension of mail delivery to the EPA, and no hand deliveries are currently accepted. For further information on EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>.

If requested, the virtual hearing will be held on September 8, 2020. The hearing will convene at 9:00 a.m. Eastern Standard Time (EST) and will conclude at 3:00 p.m. EST. The EPA will announce further details on the virtual public hearing website at <https://www.epa.gov/stationary-sources-air-pollution/industrial-commercial-and-institutional-boilers-and-process-heaters>. Refer to the **SUPPLEMENTARY INFORMATION** section below for additional information.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, contact Mr. Jim Eddinger, Sector Policies and Programs Division (D243-01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle

Park, North Carolina 27711; telephone number: (919) 541-5426; and email address: edding.jim@epa.gov.

SUPPLEMENTARY INFORMATION:

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

If a public hearing is requested, the EPA will begin pre-registering speakers for the hearing upon publication of this document in the **Federal Register**. To register to speak at the virtual hearing, please use the online registration form available at <https://www.epa.gov/stationary-sources-air-pollution/industrial-commercial-and-institutional-boilers-and-process-heaters> or contact Ms. Adrian Gates at (919) 541-4860 or by email at gates.adrian@epa.gov to register to speak at the virtual public hearing. The last day to pre-register to speak at the hearing will be September 8, 2020. On September 8, 2020, the EPA will post a general agenda for the hearing that will list pre-registered speakers in approximate order at <https://www.epa.gov/stationary-sources-air-pollution/industrial-commercial-and-institutional-boilers-and-process-heaters>.

The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearing to run either ahead of schedule or behind schedule.

Each commenter will have 5 minutes to provide oral testimony. The EPA encourages commenters to provide the EPA with a copy of their oral testimony electronically (via email) by emailing it to Jim Eddinger and Adrian Gates. The EPA also recommends submitting the text of your oral testimony as written comments to the rulemaking docket.

The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral testimony and supporting information presented at the public hearing.

Please note that any updates made to any aspect of the hearing will be posted online at <https://www.epa.gov/stationary-sources-air-pollution/industrial-commercial-and-institutional-boilers-and-process-heaters>. While the

EPA expects the hearing to go forward as set forth above, if requested, please monitor our website or contact Adrian Gates at 919-541-4862 or gates.adrian@epa.gov to determine if there are any updates. The EPA does not intend to publish a document in the **Federal Register** announcing updates.

If you require the services of a translator or a special accommodation such as audio description, please pre-register for the hearing with Adrian Gates and describe your needs by August 31, 2020. The EPA may not be able to arrange accommodations without advance notice.

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA-HQ-OAR-2002-0058. All documents in the docket are listed in *Regulations.gov*. Although listed, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy. Publicly available docket materials are available electronically in *Regulations.gov*.

Instructions. Direct your comments to Docket ID No. EPA-HQ-OAR-2002-0058. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <https://www.regulations.gov/>, including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit electronically any information that you consider to be CBI or other information whose disclosure is restricted by statute. This type of information should be submitted by mail as discussed below.

The EPA may publish any comment received to its public docket. 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>.

The <https://www.regulations.gov/> website allows you to submit your

comment anonymously, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through <https://www.regulations.gov/>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any digital storage media you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at <https://www.epa.gov/dockets>.

The EPA is temporarily suspending its Docket Center and Reading Room for public visitors to reduce the risk of transmitting COVID-19. Written comments submitted by mail are temporarily suspended and no hand deliveries will be accepted. 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/>. For further information and updates on EPA Docket Center services, please visit us online at <https://www.epa.gov/dockets>.

The EPA continues to carefully and continuously monitor information from the CDC, local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID-19.

Submitting CBI. Do not submit information containing 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 information on any digital storage media that you mail to the EPA, mark the outside of the digital storage media as CBI and then identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI directly to the public docket through the procedures outlined in *Instructions* above. If you submit any digital storage media that does not contain CBI, mark

the outside of the digital storage media clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404-02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention: Docket ID No. EPA-HQ-OAR-2002-0058. Note that written comments containing CBI and submitted by mail may be delayed and no hand deliveries will be accepted.

Preamble acronyms and abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

CAA Clean Air Act
 CEDRI Compliance and Emissions Data Reporting Interface
 CBI Confidential Business Information
 CEMS continuous emission monitoring system
 CFR Code of Federal Regulations
 CO Carbon Monoxide
 EPA Environmental Protection Agency
 HAP hazardous air pollutant(s)
 HCl hydrogen chloride
 Hg mercury
 ICI industrial, commercial, and institutional
 lb/MMBtu pounds per million British thermal units
 MACT maximum achievable control technology
 MPCRF Multipollutant Control Research Facility
 NAICS North American Industry Classification System
 NESHAP national emission standards for hazardous air pollutants
 OAQPS Office of Air Quality Planning and Standards
 OMB Office of Management and Budget
 PAH polycyclic aromatic hydrocarbons
 PM particulate matter
 ppb parts per billion
 ppm parts per million
 RDL representative detection level
 tpy tons per year
 TSM total suspended matter
 UPL upper prediction limit
 VOC volatile organic compounds

Organization of this document. The information in this preamble is organized as follows:

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I. General Information

A. Executive Summary

1. Purpose of the Regulatory Action

a. Need for Regulatory Action

The NESHAP for Industrial, Commercial, and Institutional Boilers and Process Heaters was promulgated on March 21, 2011, and amended on January 31, 2013, and November 20, 2015. Environmental groups and industry submitted petitions seeking judicial review of the NESHAP. On December 23, 2016, the D.C. Circuit amended its July 29, 2016 decision to remand instead of vacate certain

emission standards where it held that the EPA had improperly excluded certain units in establishing the emission standards and remanded the use of CO as a surrogate for organic HAP for further explanation. In March 2018, the court in a separate case remanded the EPA's decision to set a limit of 130 parts per million (ppm) CO as a minimum standard for certain subcategories for further explanation. The courts did not set specific deadlines for the EPA to issue revised regulations as part of either remand.

In response to these remands, the EPA is proposing to amend several emission standards consistent with the court's opinion and proposing responses to the two issues remanded for further explanation.

b. Legal Authority

The statutory authority for this proposed rulemaking is section 112 of the CAA. Title III of the CAA Amendments was enacted to reduce nationwide air toxic emissions. Section 112(d)(2) of the CAA directs the EPA to develop NESHAP which require existing and new major sources to control emissions of HAP using MACT based standards. This NESHAP applies to all ICI boilers and process heaters located at major sources of HAP emissions.¹

2. Summary of the Major Provisions of the Regulatory Action in Question

The EPA is proposing to revise 34 different emission limits which it had previously promulgated in 2011 and amended in, 2013. Of these 34 emission limits, 28 of the limits would become more stringent and six of the limits would become less stringent. EPA is also proposing that facilities would have up to 3 years after the effective date of the final rule to demonstrate compliance with these revised emission limits. A list of each combination of subcategory and pollutant where the limits have proposed revisions is shown in Table 1.

TABLE 1—SUMMARY OF SUBCATEGORIES WITH PROPOSED REVISIONS TO EMISSION LIMITS

Subcategory	Pollutant where a limit is proposed to change
New-Solid	HCl.
New-Dry Biomass Stoker	TSM.
New-Biomass Fluidized Bed	CO, PM, TSM.

¹ See 75 FR 32016 and section 63.7575 "What definitions apply to this subpart" of 40 CFR part 63, subpart DDDDD for definitions of ICI boilers and process heaters.

TABLE 1—SUMMARY OF SUBCATEGORIES WITH PROPOSED REVISIONS TO EMISSION LIMITS—Continued

Subcategory	Pollutant where a limit is proposed to change
New-Biomass Suspension Burner.	CO, TSM.
New-Biomass Hybrid Suspension Grate.	CO.
New-Biomass Dutch Oven/Pile Burner.	PM.
New-Biomass Dutch Oven/Pile Burner.	PM.
New-Biomass Dutch Oven/Pile Burner.	CO, PM.
New-Liquid	HCl.
New-Heavy Liquid	PM, TSM.
New-Process Gas	PM.
Existing-Solid	HCl, Hg.
Existing-Coal	PM.
Existing-Coal Stoker	CO.
Existing-Dry Biomass Stoker	TSM.
Existing-Wet Biomass Stoker	CO, PM, TSM.
Existing-Biomass Fluidized Bed.	CO, PM, TSM.
Existing-Biomass Suspension Burners.	PM, TSM.
Existing-Biomass Dutch Oven/Pile Burner.	PM.
Existing-Liquid	Hg.
Existing-Heavy Liquid	PM.
Existing-Non-continental Liquid.	PM.
Existing-Process Gas	PM.

3. Costs and Benefits

We have estimated certain cost and benefits of the proposed rule, and these are found in Table 2. Present values (PV) of the net co-benefits, in 2016 dollars and discounted to 2020, are from \$655 million to \$1,575 million when using a 7-percent discount rate and from \$751 million to \$1,871 million when using a 3-percent discount rate. The equivalent annualized values (EAV) of the net co-benefits are from \$78 million to \$194 million per year when using a 7-percent discount rate and from \$92 million to \$232 million per year when using a 3-percent discount rate. All of these estimates are in 2016 dollars. The monetized benefits estimate reflects an annual average of 251 tons of fine particulate matter (PM_{2.5}) emission reductions per year and 393 tons of sulfur dioxide (SO₂) emission reductions per year. These benefits are referred to as ancillary co-benefits since these pollutants are not targeted for control in the proposal. The unmonetized benefits include: Reduced exposure to HAP, including mercury (Hg), hydrochloric acid (HCl), non-Hg metals (e.g., antimony, cadmium), formaldehyde, benzene, and polycyclic

organic matter; reduced climate effects due to reduced black carbon emissions; reduced ecosystem effects; and reduced visibility impairments. We represent the present value of unmonetized benefits from affected HAP emission reductions as a C, and this is part of the net benefits estimate. We represent the equivalent annualized value of unmonetized

benefits from affected HAP emission reductions as a D, and this is part of the net benefits estimate. These estimates also include climate co-disbenefits resulting from an increase in carbon dioxide (CO₂) emissions, a secondary impact from electricity use by additional control devices in response to the proposal. This disbenefit is \$0.09

million at a 3-percent discount rate and \$0.01 million at a 7-percent discount rate.

More information on these impacts can be found in section V of this preamble and in the Regulatory Impact Analysis (RIA) for this proposal.

TABLE 2—SUMMARY OF PRESENT VALUES AND EQUIVALENT ANNUALIZED VALUES FOR ANNUAL COSTS, MONETIZED ANCILLARY CO-BENEFITS, AND MONETIZED NET BENEFITS (INCLUDING ANCILLARY CO-DISBENEFITS) FOR THE PROPOSED RULE

[Millions of 2016 dollars]^{1 2}

		3% Discount rate	7% Discount rate
Present Value	Targeted Benefits ³	C	C
	Ancillary Co-Benefits	\$730 to \$1,650	\$630 to \$1,100
	Cost ⁴	\$130	\$100
	Net Benefits ⁵	\$600 to \$1,520 + C	\$530 to \$1,000 + C
Equivalent Annualized Value	Targeted Benefits ⁶	D	D
	Ancillary Co-Benefits	\$100 to 240	\$90 to 180
	Costs	18	17
	Net Benefits	\$80 to 220 + D	\$70 to 160 + D

¹ All estimates in this table are rounded to one decimal point, so numbers may not sum due to independent rounding.

² All estimates reflect the amendments to the ICI Boilers MACT standard included in this proposal from a baseline that includes the control technologies applied to meet the MACT standard.

³ C represents the present value of unquantified benefits from reductions in targeted HAP emissions.

⁴ The annualized present value of costs and benefits are calculated over an 8-year period from 2021 to 2028.

⁵ The total monetized ancillary co-benefits reflect the human health benefits associated with reducing exposure to PM_{2.5} through reductions of directly emitted PM_{2.5} and SO₂. Monetized ancillary co-benefits include many, but not all, health effects associated with PM_{2.5} exposure. Co-benefits are shown as a range from Krewski *et al.* (2009) to Lepeule *et al.* (2012). We do not report the total monetized ancillary co-benefits by PM_{2.5} species. The ancillary climate co-disbenefits from additional CO₂ emissions resulting from control device operations are included in the results given the rounding convention employed in this table as stated in footnote a. The net benefits calculation consists of the targeted benefits and ancillary co-benefits minus the social costs.

⁶ D represents the equivalent annualized value of unquantified benefits from reductions in targeted HAP emissions.

B. Does this action apply to me?

Table 3 of this preamble lists the NESHAP and associated regulated industrial source categories that are the subject of this proposal. Table 3 is not intended to be exhaustive, but rather provides a guide for readers regarding the entities that this proposed action is likely to affect. The proposed standards, once promulgated, will be directly applicable to the affected sources. As defined in the *Initial List of Categories of Sources Under Section 112(c)(1) of the Clean Air Act Amendments of 1990* (see 57 FR 31576, July 16, 1992) and *Documentation for Developing the Initial Source Category List, Final Report* (see EPA-450/3-91-030, July

1992), the Industrial Boiler source category includes boilers used in manufacturing, processing, mining, and refining or any other industry to provide steam, hot water, and/or electricity. The Institutional/Commercial Boilers source category includes, but is not limited to, boilers used in commercial establishments, medical centers, research centers, institutions of higher education, hotels, and laundries to provide electricity, steam, and/or hot water. Waste heat boilers are excluded from this definition. The Process Heaters source category includes, but is not limited to, secondary metals process heaters, petroleum and chemical industry process heaters, and other process heaters. A process heater is

defined as an enclosed device using controlled flame, and the unit's primary purpose is to transfer heat indirectly to a process material (liquid, gas, or solid) or to a heat transfer material (*e.g.*, glycol or a mixture of glycol and water) for use in a process unit, instead of generating steam. Process heaters do not include units used for comfort heat or space heat, food preparation for on-site consumption, or autoclaves. Waste heat process heaters are excluded from this definition. A boiler or process heater combusting solid waste is not a boiler unless the device is exempt from the definition of a solid waste incineration unit as provided in section 129(g)(1) of the CAA.

TABLE 3—SOURCE CATEGORIES AFFECTED BY THIS PROPOSED ACTION

Source category	NESHAP	NAICS code ¹	Examples of potentially regulated entities
Any industry using a boiler or process heater as defined in the final rule.	Industrial, Commercial, and Institutional Boilers and Process Heaters..	211	Extractors of crude petroleum and natural gas.
		321	Manufacturers of lumber and wood products.
		322	Pulp and paper mills.
		325	Chemical manufacturers.
		324	Petroleum refineries, and manufacturers of coal products.
		316, 326, 339	Manufacturers of rubber and miscellaneous plastic products.
		331	Steel works, blast furnaces.
		332	Electroplating, plating, polishing, anodizing, and coloring.
		336	Manufacturers of motor vehicle parts and accessories.
		221	Electric, gas, and sanitary services.
		622	Health services.
		611	Educational services.

¹ North American Industry Classification System.

C. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this action is available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this proposed action at <https://www.epa.gov/industrial-commercial-and-institutional-boilers-and-process-heaters>. Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the proposal and key technical documents at this same website.

A redline version of the regulatory language that incorporates the proposed changes in this action is available in the docket for this action (Docket ID No. EPA-HQ-OAR-2002-0058).

II. Background

On March 21, 2011, the EPA established final emission standards for ICI boilers and process heaters at major sources, reflecting the application of MACT—the Boiler MACT (76 FR 15608). On January 31, 2013, the EPA promulgated final amendments to the Boiler MACT (78 FR 7138). On November 20, 2015, the EPA promulgated additional amendments to the Boiler MACT (80 FR 72789) in response to certain reconsideration issues, but other issues remained unresolved due to pending litigation at the time these final amendments were published.

On July 29, 2016, the D.C. Circuit issued its decision in *U.S. Sugar Corp v. EPA*, 830 F.3d 579. In that decision, the court upheld the EPA’s 2013 Boiler MACT against all challenges brought by industry petitioners, and virtually all

challenges brought by environmental petitioners. However, the court vacated the MACT floor emission limits for those subcategories where the EPA had excluded certain units from its MACT-floor calculation because those units burned less than 90 percent of the subcategory defining fuel. *U. S. Sugar Corp. v. EPA*, 830 F.3d at 631. On December 23, 2016, the D.C. Circuit granted EPA’s motion for rehearing on remedy and remanded without vacatur these affected MACT standards. 844 F.3d 268. Therefore, these MACT standards have remained in effect since the court’s decision.

Additionally, the court in *U.S. Sugar* remanded the use of CO as a surrogate for non-dioxin organic HAP to the EPA for the limited purpose of addressing the potential availability of post-combustion control technologies that could control CO. In a subsequent decision on March 16, 2018, the D.C. Circuit remanded the EPA’s decision to set a limit of 130 ppm CO as a surrogate for non-dioxin organic HAP for certain subcategories, again asking the Agency to better explain its analysis supporting its decision. *Sierra Club v. EPA*, 884 F.3d 1185.

In this action, the EPA is proposing changes to certain emissions limits in the final rule and is providing additional explanation of certain issues relating to the CO standards in response to these remands. The EPA is also proposing several technical corrections.

A. What is the statutory authority for this action?

Section 112 of the CAA establishes a regulatory process to address emissions of HAP from stationary sources. CAA section 112(d) requires the Agency to

promulgate technology-based NESHAP for major sources. “Major sources” are defined in CAA Section 112(a) as sources that emit or have the potential to emit 10 tons or more per year (tpy) of a single HAP or 25 tpy or more of any combination of HAP. For major sources, the technology-based NESHAP must require the maximum degree of reduction in emissions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). These standards are commonly referred to as MACT standards.

The MACT “floor” is the minimum control level allowed for MACT standards promulgated under CAA section 112(d)(3) and may not be based on cost considerations. For new sources, the MACT floor cannot be less stringent than the emissions control that is achieved in practice by the best controlled similar source. The MACT floor for existing sources may be less stringent than floors for new sources but may not be less stringent than the average emissions limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, the EPA must also consider control options that are more stringent than the floor (*i.e.*, “beyond-the-floor” options) under CAA section 112(d)(2). We may establish beyond-the-floor standards more stringent than the floor based on considerations of the cost of achieving the emission reductions, any non-air quality health and environmental impacts, and energy requirements.

III. Discussion of the Proposed Amendments

A. Revisions to MACT Floor Emission Limits

1. Revisions to MACT Floor Ranking Methodology for Co-Fired Units

Many of the affected sources subject to numerical limits under the NESHAP involve boilers and process heaters that co-fire multiple fuel types. In the January 2013 final rule amendments, the EPA defined each subcategory using a threshold of at least 10 percent of a subcategory-defining fuel, on an annual heat input basis. These definitions were set up in a hierarchical manner. Solid fuel units must burn at least 10-percent solid fuel. Coal and solid fossil fuel units must burn at least 10-percent coal or another solid fossil fuel. Biomass units must burn at least 10-percent biomass, but less than 10-percent coal. Liquid fuel units may burn any liquid fuel but less than 10-percent coal or fossil solid, and less than 10-percent biomass. The MACT floor analysis conducted in the 2013 rulemaking used a 90-percent fuel threshold, instead of the regulatory definition of 10 percent, to group test data into subcategories for ranking the best performers and calculating the MACT floors. This approach excluded several units that were in the subcategory from the ranking analysis, which in turn excluded these boilers from consideration in upper prediction limit (UPL) calculations to establish the MACT floor.

The D.C. Circuit in *U.S. Sugar* stated that, if EPA includes a source in a subcategory, it must consider whether any source in that subcategory is a best-performing source which would then need to be accounted for in setting the MACT floor. *U.S. Sugar v. EPA*, 830 F.3d at 631. Following the EPA's request for rehearing, the court remanded standards affected by its decision to the EPA for further consideration, and the EPA is now proposing to revise the affected standards consistent with the court's opinion.

For this proposal, the same dataset used as the basis for the 2013 final rule was used as the basis of the calculations for the proposed revised standards.² The EPA performed a more detailed review of the units in the dataset that had previously been excluded from the rankings, with emphasis on the newly

identified best performers. While checking background test reports, the EPA corrected some database errors, filled information gaps for certain co-fired fuel blends, and adjusted CO instrument span measurements. However, since the proposed revisions are solely to address the remand in *U.S. Sugar*, we re-ran the MACT floor analysis to incorporate data that had been previously excluded. The rankings of each subcategory were revised to incorporate data from tests that fired at least 10 percent of a subcategory-defining fuel. This change in criteria impacted the number of units with emission test data for certain subcategories. In many cases test data for co-fired units in the 2013 Emissions Database did not quantify the exact fuel input breakdown.³ The EPA reviewed test reports that were included as background data materials for the 2013 Emissions Database and conducted outreach with selected facilities in order to verify to which subcategory the various test data belonged. Appendix B of the docketed memorandum, *Revised MACT Floor Analysis (2019) for the Industrial, Commercial, and Institutional Boilers and Process Heaters National Emission Standards for Hazardous Air Pollutants—Major Source (2019 MACT Floor Memo)*, details the revised ranking of each subcategory and compares the ranking to the previous ranking assignment from the January 2013 final rule. As was done in the January 2013 final rule, devices that were co-firing solid waste materials were excluded from the ranking unless the device was exempted from the definition of a solid waste incineration unit as provided in section 129(g)(1) of the CAA.

As part of the revisions to the ranking analysis, the EPA also made corrections to some of the emissions data, as part of its data quality review of the revised set of best performing units in each subcategory. The EPA investigated historical notes in the 2013 Emissions Database about whether certain test results were valid or were previously excluded due to data quality concerns. When historical notes had excluded data, those exclusions were carried forward into the revised analysis supporting the proposal. Because some new best performing units were identified in the ranking analysis, the EPA also reviewed test reports that were available in the rulemaking docket to verify reported emission results in the database as well as oxygen adjustment factors, and CO instrument span and CO calibration data. EPA made corrections

to the values used in the MACT floor analysis when these back-up documents suggested a correction was needed. In addition to data available from the docketed data resources, the EPA also received data correction files and a small number of additional tests from members of the American Forest and Paper Association. The EPA reviewed the additional data provided, including any supporting emission test reports to evaluate if the data were accurate and complete and representative prior to including the data in the revised ranking analysis. A summary of data changes made since version 8 of the database is available in the docketed memorandum, *Summary of 2019 Emission Database Changes for Major Source Boilers and Process Heaters*. In addition, a summary of the expected impacts of these data changes is available in the *Regulatory Impact Analysis for the Proposed ICI Boilers NESHAP Reconsideration*, which is available in the docket for this action. The changes include an increase in compliance costs as well as an increase in emission reductions as a result of the more stringent emission limits.

a. Existing Sources

Because the rankings shifted dramatically, the number of units in each of the subcategories changed, as well as the specific units that comprised the top 12 percent within the subcategory. Appendix B-1 of the 2019 MACT Floor Memo summarizes the revised number of units in the top 12 percent for each combination of subcategory and pollutant. The remainder of the worksheets in Appendix B indicate which units are identified to be among the top 12 percent.

Once the top 12 percent of units were identified, each unique combination of pollutant and subcategory data was reviewed to determine the distribution of the dataset and then calculate the UPL. The procedures for determining the data distribution and calculating the UPL remain the same as they did for the January 2013 final rule, with the exception of "limited datasets" which are those that consisted of less than seven test runs. The procedures for determining the distribution and calculating the UPL are detailed in *EPA's Response to Remand of the Record for Major Source Boilers, July 14, 2014* available in the docket for this action. Additional considerations for limited datasets are discussed in section III.A.2 of this preamble. The actual calculations and distribution assignments for each pollutant and subcategory combination are shown in

² Emissions Database for Boilers and Process Heaters Containing Stack Test, CEM, and Fuel Analysis Data Reporting under ICR No. 2286.01 and ICR No. 2286.03 (OMB Control Number 2060-0616) (version 8). Docket ID No. EPA-HQ-OAR-2002-0058-3830.

³ Ibid.

Appendix C of the 2019 MACT Floor Memo. The EPA is not soliciting comment on its use of the same methodology that it used to set the January 2013 standards, but is soliciting comment on the proposed revisions to the standards the Agency is proposing to address concerning the court's remand in *U.S. Sugar*.

Once the UPL values were calculated, the EPA reviewed whether any additional fuel variability factors were available to multiply by the calculated UPL for Hg, HCl, and total selected metals⁴ (TSM). The methodology for computing the fuel variability factor did not change since the January 2013 final rule. Instead, any changes in the fuel variability factors occurred because of changes to the units that constituted the top 12 percent for each subcategory and were, therefore, eligible for consideration in the fuel variability factor analysis. The fuel variability factor calculations are shown in Appendix A of the 2019 MACT Floor Memo. Fuel variability factors were available for solid and liquid fuel subcategories for Hg and HCl and for biomass fluidized bed, coal, and heavy liquid subcategories for TSM.

b. New Sources

Similar to existing sources, the re-ranking of the data for each new source subcategory impacted the specific units that were identified as the lowest emitting for each combination of pollutant and subcategory.

Additionally, as in the January 2013 final rule, the EPA did not allow units with a nitrogen oxides-to-CO ratio above 50 to represent a best performing boiler for CO. Instead, the EPA picked the next lowest ranked unit for the Coal Stokers. Additionally, as in the January 2013 final rule, the EPA only considered units with at least three test runs to serve as the basis of the new source floor except for cases where no other data were available. This occurred only for the TSM UPL calculations for new Biomass Suspension Burner. In that case, the second ranked unit was selected. The revisions to the emissions standards proposed here are for the limited purpose of addressing the court's remand in *U.S. Sugar*, and the EPA is not proposing or soliciting comment on other aspects of the standards or methodology used to calculate the standards.

Once the best controlled similar source for each subcategory was identified, each unique combination of

pollutant and subcategory data was reviewed to determine the distribution of the dataset and then calculate the UPL. The procedures for determining the data distribution and calculating the UPL remain the same as for the January 2013 final rule, with the exception of limited datasets that consisted of less than seven test runs or in cases where the calculated new source UPL exceeded the existing source UPL for the same subcategory. The procedures for determining the distribution and calculating the UPL are detailed in the docketed memorandum, *Revised MACT Floor Analysis (2019) for the Industrial, Commercial, and Institutional Boilers and Process Heaters National Emission Standards for Hazardous Air Pollutants—Major Source*. Many of the new source UPL calculations involved limited datasets and additional considerations for limited datasets are discussed in section III.A.2 of this preamble. The actual calculations and distribution assignments for each pollutant and subcategory combination are shown in Appendix E of the 2019 MACT Floor Memo. This appendix worksheet for each UPL calculation also shows the ranking of each unit.

Once the UPL values were calculated, the EPA reviewed whether any additional fuel variability factors were available to multiply by the calculated UPL for Hg, HCl, and TSM. The methodology for computing the fuel variability factor did not change since the January 2013 final rule. Instead, any changes in the fuel variability factors occurred because of changes to the unit selected to represent the best controlled similar source and were, therefore, eligible for consideration in the fuel variability factor analysis for new sources. The fuel variability factor calculations are shown in Appendix A of the 2019 MACT Floor Memo. Fuel variability factors were available for liquid fuel and coal subcategories for Hg and HCl, and the heavy liquid subcategory for TSM.

The EPA also incorporated the same procedures as the January 2013 final rule to ensure that the available measurement methods would provide accurate emissions measurements at the levels set for the various standards. The procedures are discussed in detail at 76 FR 80611 and the calculated values are presented in technical memoranda in the docket.⁵ The procedures remained the same, but which unit represents the new source floor did change since January 2013; so, the actual representative detection level (RDL)

calculation accordingly changed as well. The revised calculations for 3 times the RDL are presented in the documented memorandum. After computing the RDL, the UPL calculations were compared to a value equal to 3 times the RDL. In the case of new sources, if the UPL was below the 3 times RDL value then the MACT floor was set equal to 3 times the RDL.

Lastly, the EPA compared the calculated UPL, or 3 times RDL values where appropriate, to the existing source emission limits for the same pollutant and subcategory. If the new source floor was larger than the existing source floor, the EPA reviewed the data further as discussed in the UPL methodology for limited datasets in section III.A.2 of this preamble to evaluate if the unit truly reflected the best controlled similar source as determined by the Administrator and to evaluate if the UPL calculations required any adjustments to ensure that the UPL did not result in a less stringent standard for new sources. In addition to the tests conducted on limited datasets, two subcategories for new source limits required additional evaluation, as discussed below. Specific names of the facility and boiler names refer to how the boilers are identified in the MACT floor analysis to allow the reader to find these units in the related technical support memoranda.

The MACT floor dataset for particulate matter (PM) from new fluidized bed boilers designed to burn biomass includes 18 test runs from a single boiler "ORGeorgiaPacificWauna Mill, EU35—Fluidized Bed Boiler" (EU35) that we identified as the best performing unit based on average emissions. The calculated UPL for new sources exceeded the UPL calculated for existing units in the same subcategory. After determining the correct distribution and ensuring that we used the correct equation for the distribution, we evaluated the variance of this unit. Our analysis showed that this unit, identified as the best performing unit based on average emissions, has a variance that is 3 orders of magnitude higher than the second ranked unit "WIGPGreenBay2818, B10—Wastepaper Sludge-Fired Boiler 10" (B10) and an overall average (considering all stack tests, not just the minimum stack test average) that is approximately 4 times higher than the second ranked unit. This information indicates that the second ranked unit, B10, has a more consistent level of performance than the top ranked unit, EU35, and the resulting UPL calculations support this. The calculated UPL is lower for the second ranked unit, B10, than for the top

⁴ Total selected metals is the sum of the non-Hg HAP metals—arsenic, beryllium, cadmium, chromium, lead, manganese, nickel, and selenium.

⁵ See Docket ID Item Nos.: EPA-HQ-OAR-2002-0058-3837 and EPA-HQ-OAR-2002-0058-3839.

ranked unit, EU35. For these reasons, we determined that the unit with the lowest average, EU35, is not the best performing source for this subcategory and pollutant and we are instead identifying B10 as the best performing source.

The MACT floor dataset for PM from new stoker boilers designed to burn wet biomass includes nine test runs from a single boiler "IAMonsantoMuscatine, Boiler #8 EP-195" that we identified as the best performing unit based on average emissions. The calculated UPL for new sources exceeded the UPL calculated for existing units in the same subcategory. The UPL based on a lognormal equation was 10.2 times higher than the mean. After reviewing the distribution of the dataset, we found that the distribution was incorrectly flagged as lognormally distributed instead of normally distributed. The UPL based on the normal distribution no longer exceeds the UPL calculation for existing sources. The UPL based on a normal equation was 2.36 times higher than the mean. After correcting the distribution, we also evaluated the variance of this unit, which was 4 times lower than the variance of the next lowest ranked unit. For these reasons, we determined that the UPL based on the normal distribution was the appropriate basis for the new source floor for this subcategory.

2. UPL Methodology for Limited Datasets

In August 2013, the D.C. Circuit issued its decision in *National Ass'n. of Clean Water Agencies (NACWA) v. EPA*, which addressed challenges to the EPA's 2011 Sewage Sludge Incinerator (SSI) rule, issued under section 129 of the CAA. In *NACWA v. EPA*, the court remanded the EPA's use of the UPL methodology to the Agency for further explanation of how the methodology reflected the average emissions limitation achieved by the best-performing 12 percent of sources (for existing sources) and the average emissions limitation achieved by the best-performing similar source (for new sources). *NACWA v. EPA*, 734 F.3d 1115, 1151. Because the UPL methodology used in the SSI rule was the same as that used in the major source Boiler MACT, the EPA requested a remand of the record in *U.S. Sugar v. EPA* in order to address the court's decision in *NACWA v. EPA*. The EPA prepared a memorandum explaining the methodology for the UPL. This memorandum, *EPA's Response to Remand of the Record for Major Source Boilers*, provides a detailed rationale to use the UPL as the basis of setting a

MACT floor for new and existing sources, and the methodology and the explanation in the memorandum were upheld by the D.C. Circuit in *U.S. Sugar v. EPA*, 830 F.3d at 639. Following the UPL memorandum, the EPA issued a subsequent memorandum specifically addressing the application of the UPL methodology when setting MACT emission limits with limited datasets, *Approach for Applying the Upper Prediction Limit to Limited Datasets*. In that memorandum, the EPA concluded that there are additional considerations when setting MACT floors for limited datasets. The EPA is not, in this action, proposing any revisions to or soliciting comment on either the EPA's *Response to Remand of the Record for Major Source Boilers* memorandum or the limited datasets memorandum. Rather, the EPA is proposing limited revisions to certain Boiler MACT standards to address the specific issue remanded to the Agency by the court in *U.S. Sugar v. EPA*. The docketed memorandum, *Approach for Applying the Upper Prediction Limit to Limited Datasets for Boilers and Process Heaters at Major Sources*, discusses the generic methods in the previously issued limited dataset memorandum, as well as a summary of the findings for certain boiler and process heater subcategories. A summary of those findings is also discussed here.

For the ICI Boilers and Process Heaters source categories, we have limited datasets for the following subcategories and pollutants for both existing and new sources: process gas (Hg, HCl, TSM, and PM), biomass suspension burner (TSM), dry biomass stoker (TSM, PM, and CO), and coal fluidized bed coal refuse (CO). For the ICI Boilers and Process Heaters source categories, we have limited datasets for the following subcategories and pollutants for new sources: Solid (Hg and HCl), liquid (Hg and HCl), heavy liquid (TSM and PM), light liquid (TSM and PM), biomass dutch oven/pile burner (TSM), biomass fuel cell (TSM), biomass fluidized bed (TSM), biomass suspension burner (TSM), biomass suspension grate (CO), wet biomass stoker (TSM), and coal (TSM and PM). Therefore, we evaluated these specific datasets to determine whether it is appropriate to make any modifications to the UPL approach used to calculate the MACT floors. For each dataset, we performed the following steps: Selected the data distribution that best represents the dataset; ensured that the correct equation for the distribution was then applied to the data; and compared individual components of the limited

dataset to determine if the standards based on the limited dataset reasonably represent the performance of the units included in the dataset. The results of the limited dataset analyses are presented below for each subcategory and pollutant.

The MACT floor datasets for Hg, HCl, and PM from existing and new boilers designed to burn process gas include three test runs from a single boiler. In addition, there are no other process gas units in the rankings to select from for these pollutants. Using the available data, we first determined the correct distribution and ensured that we used the correct equation for each distribution. The MACT floor dataset for TSM from existing and new boilers designed to burn process gas only includes two test runs. We assumed a distribution of lognormal for this dataset. We then calculated the UPL-based limits which range from 1.2 to 3 times the average (mean) of all test runs from the best performing source. This result indicates that the emission limits are not unreasonable compared to the actual performance of the unit upon which the limits are based and are within the ranges that we see when we evaluate larger datasets using our MACT floor calculation procedures. Therefore, we determined that the emission limit reasonably accounts for variability and that no changes to the standard floor calculation procedure were warranted for this pollutant and subcategory.

The MACT floor dataset for TSM from existing and new suspension burner boilers designed to burn biomass includes three test runs from a single boiler that we identified as the best performing unit based on average emissions. In addition, there are no other biomass suspension burner units in the rankings to select from for this pollutant because the other unit with test data only has two test runs, and units with less than three test runs were not considered for UPL calculations if other data are available (see discussion in section III.A.1 of this preamble). Using the available data, we first determined the correct distribution and ensured that we used the correct equation for each distribution. We then calculated the UPL-based limit which is 1.7 times the short-term average emissions from the best performing source. This result indicates that the emission limit is not unreasonable compared to the actual performance of the unit upon which the limit is based and is within the range that we see when we evaluate larger datasets using our MACT floor calculation procedures. Therefore, we determined that the emission limit reasonably accounts for

variability and that no changes to the standard floor calculation procedure were warranted for this pollutant and subcategory.

The MACT floor dataset for TSM from existing and new stoker boilers designed to burn dry biomass includes three test runs from a single boiler. In addition, there are no other dry biomass stoker units in the rankings to select from for this pollutant. Using the available data, we first determined the correct distribution and ensured that we used the correct equation for each distribution. We then calculated the UPL-based-limit, which is approximately 2 times the short-term average emissions from the best performing source, indicating that the emission limit is not unreasonable compared to the actual performance of the unit upon which the limit is based and is within the range that we see when we evaluate larger datasets using our MACT floor calculation procedures. Therefore, we determined that the emission limit reasonably accounts for variability and that no changes to the standard floor calculation procedure were warranted for this pollutant and subcategory.

The MACT floor datasets for PM and CO from existing and new stoker boilers designed to burn dry biomass include three test runs from a single boiler that we identified as the best performing unit based on average emissions. After determining the correct distribution and ensuring that we used the correct equation for each distribution, we evaluated the variance of this unit for each pollutant, comparing it to other boilers in the same subcategory. Our analysis showed that this unit, identified as the best performing unit based on average emissions, also had the lowest variance for each pollutant, indicating that not only did it have the lowest average emissions but also the most consistent performance. Therefore, we determined that the emission limits reasonably account for variability and that no changes to our standard floor calculation procedure were warranted for this subcategory and pollutants.

The MACT floor dataset for CO from existing and new fluidized bed boilers designed to burn coal refuse includes three test runs from a single boiler. In addition, there are no other units in the rankings to select from for this pollutant. Using the available data, we first determined the correct distribution and ensured that we used the correct equation for the distribution. We then calculated the UPL-based limit which is approximately 1.5 times the short-term average emissions from the best performing source, indicating that the

emission limit is not unreasonable compared to the actual performance of the unit upon which the limit is based and is within the range that we see when we evaluate larger datasets using our MACT floor calculation procedures. Therefore, we determined that the emission limit reasonably accounts for variability and that no changes to the standard floor calculation procedure were warranted for this pollutant and subcategory.

The MACT floor dataset for Hg from new boilers designed to burn solid fuel includes six test runs from a single boiler that we identified as the best performing unit based on average emissions. After determining the correct distribution and ensuring that we used the correct equation for each distribution, we evaluated the variance of this unit, comparing it to other boilers in the same subcategory. Our analysis showed that this unit, identified as the best performing unit based on average emissions, also had the lowest variance, indicating that not only did it have the lowest average emissions but also the most consistent performance. Therefore, we determined that the emission limit reasonably accounts for variability and that no changes to our standard floor calculation procedure were warranted for this subcategory and pollutant.

The MACT floor dataset for HCl from new boilers designed to burn solid fuel includes six test runs from a single boiler "ARPotlatchForestWarren, Wellons Boiler" (Wellons Boiler) that we identified as the best performing unit based on average emissions. After determining the correct distribution and ensuring that we used the correct equation for each distribution, we compared the calculated UPL to the short-term average emissions and found that the unit had a UPL that was 81 times higher than the lowest short-term average emission test and that this ratio is not within the range that we see when we evaluate larger datasets using our MACT floor calculation procedures. Based on this, we evaluated the variance of this unit and concluded that further consideration of the best performer selection was warranted. The variance of the top ranked unit was 6 orders of magnitude higher than the variance of the next ranked unit "TXDibollTemple-Inland, PB-44" (PB-44). In addition, the Wellons Boiler six test runs were from two separate stack tests, and while the unit was the top ranked unit due to one of the stack test averages being very low, the other stack test average was 6.2 times higher. The high degree of variance in the dataset for the unit with the lowest average, Wellons Boiler, prompted us to question whether this

unit was, in fact, the best performing unit and to evaluate the dataset for PB-44. The dataset for PB-44 includes three test runs and the average emissions are only about 7 percent higher than the Wellons Boiler lowest stack test average. However, the PB-44 average emissions are actually 97 percent lower when comparing to the Wellons Boiler average for both stack tests. This information indicates that the second ranked unit, PB-44, has a more consistent level of performance than the top ranked unit, Wellons Boiler, and the resulting UPL calculations support this. The HCl UPL value is lower for PB-44 than for Wellons Boiler and the Wellons Boiler UPL exceeded the UPL for existing solid fuel boilers. For these reasons, we determined that the unit with the lowest average, Wellons Boiler, is not the best performing source for this pollutant and we are instead determining PB-44 to be the best performing source.

The MACT floor dataset for Hg from new boilers designed to burn liquid fuel includes three test runs from a single boiler that we identified as the best performing unit based on average emissions. After determining the correct distribution and ensuring that we used the correct equation for each distribution, we evaluated the variance of this unit. Our analysis showed that this unit, identified as the best performing unit based on average emissions, and the second ranked unit both have similar and extremely low variance, indicating consistent performance. Therefore, we determined that the emission limit reasonably accounts for variability and that no changes to the standard floor calculation procedure were warranted for this subcategory and pollutant.

The MACT floor dataset for HCl from new boilers designed to burn liquid fuel includes three test runs from a single boiler that we identified as the best performing unit based on average emissions. After determining the correct distribution and ensuring that we used the correct equation for each distribution, we evaluated the variance of this unit, comparing it to other boilers in the same subcategory. Our analysis showed that this unit, identified as the best performing unit based on average emissions, also had the lowest variance, indicating that not only did it have the lowest average emissions but also the most consistent performance. Therefore, we determined that the emission limit reasonably accounts for variability and that no changes to the standard floor calculation procedure were warranted for this subcategory and pollutant.

The MACT floor dataset for TSM from new boilers designed to burn heavy

liquid fuel includes three test runs from a single boiler that we identified as the best performing unit based on average emissions. After determining the correct distribution and ensuring that we used the correct equation for the distribution, we evaluated the variance of this unit, comparing it to other boilers in the same subcategory. Our analysis showed that this unit, identified as the best unit based on average emissions, had a slightly higher variance than the next ranked unit. Therefore, we also evaluated the second ranked unit and determined its distribution and applied the equation for its distribution. Comparing the calculated UPL values for the top two units, the best performing unit resulted in the lower UPL. While its variance was slightly higher, the top ranked unit's lower overall emissions and resulting UPL calculations indicate it is the best performer. Therefore, we determined that the emission limit reasonably accounts for variability and that no changes to the standard floor calculation procedure were warranted for this pollutant and subcategory.

The MACT floor dataset for PM from new boilers designed to burn heavy liquid fuel includes three test runs from a single boiler that we identified as the best performing unit based on average emissions. After determining the correct distribution and ensuring that we used the correct equation for the distribution, we evaluated the variance of this unit, comparing it to other boilers in the same subcategory. Our analysis showed that this unit, identified as the best performing unit based on average emissions, also had the lowest variance, indicating that not only did it have the lowest average emissions but also the most consistent performance. Therefore, we determined that the emission limit reasonably accounts for variability and that no changes to the standard floor calculation procedure were warranted for this pollutant and subcategory.

The MACT floor dataset for TSM from new boilers designed to burn light liquid fuel includes three test runs from a single boiler that we identified as the best performing unit based on average emissions. After determining the correct distribution and ensuring that we used the correct equation for the distribution, we evaluated the variance of this unit, comparing it to other boilers in the same subcategory. Our analysis showed that this unit, identified as the best performing unit based on average emissions, and the second ranked unit have nearly equivalent variance, indicating consistent performance. Therefore, we determined that the emission limit reasonably accounts for

variability and that no changes to the standard floor calculation procedure were warranted for this pollutant and subcategory.

The MACT floor dataset for PM from new boilers designed to burn light liquid fuel includes three test runs from a single boiler that we identified as the best performing unit based on average emissions. After determining the correct distribution and ensuring that we used the correct equation for the distribution, we evaluated the variance of this unit, comparing it to other boilers in the same subcategory. Our analysis showed that this unit, identified as the best performing unit based on average emissions, also had the lowest variance, indicating that not only did it have the lowest average emissions but also the most consistent performance. Therefore, we determined that the emission limit reasonably accounts for variability and that no changes to the standard floor calculation procedure were warranted for this pollutant and subcategory.

The MACT floor dataset for TSM from new dutch oven boilers designed to burn biomass includes three test runs from a single boiler that we identified as the best performing unit based on average emissions. After determining the correct distribution and ensuring that we used the correct equation for the distribution, we evaluated the variance of this unit, comparing it to other boilers in the same subcategory. Our analysis showed that this unit, identified as the best performing unit based on average emissions, also had the lowest variance, indicating that not only did it have the lowest average emissions but also the most consistent performance. Therefore, we determined that the emission limit reasonably accounts for variability and that no changes to the standard floor calculation procedure were warranted for this pollutant and subcategory.

The MACT floor dataset for TSM from new biomass fuel cell boilers includes six test runs from a single boiler that we identified as the best performing unit based on average emissions. After determining the correct distribution and ensuring that we used the correct equation for the distribution, we evaluated the variance of this unit, comparing it to other boilers in the same subcategory. Our analysis showed that this unit, identified as the best performing unit based on average emissions, also had the lowest variance, indicating that not only did it have the lowest average emissions but also the most consistent performance. Therefore, we determined that the emission limit reasonably accounts for variability and that no changes to the standard floor

calculation procedure were warranted for this pollutant and subcategory.

The MACT floor dataset for TSM from new fluidized bed boilers designed to burn biomass includes three test runs from a single boiler that we identified as the best performing unit based on average emissions. After determining the correct distribution and ensuring that we used the correct equation for the distribution, we evaluated the variance of this unit, comparing it to other boilers in the same subcategory. Our analysis showed that this unit, identified as the best performing unit based on average emissions, also had the lowest variance, indicating that not only did it have the lowest average emissions but also the most consistent performance. Therefore, we determined that the emission limit reasonably accounts for variability and that no changes to the standard floor calculation procedure were warranted for this pollutant and subcategory.

The MACT floor dataset for TSM from new suspension burners designed to burn biomass includes three test runs from a single boiler. In addition, there are no other biomass suspension burner units in the rankings to select from for this pollutant. Using the available data, we first determined the correct distribution and ensured that we used the correct equation for each distribution. We then calculated the UPL-based limit which is 1.7 times the short-term average emissions from the best performing source, indicating that the emission limit is not unreasonable compared to the actual performance of the unit upon which the limit is based and is within the range that we see when we evaluate larger datasets using our MACT floor calculation procedures. Therefore, we determined that the emission limit reasonably accounts for variability and that no changes to our standard floor calculation procedure were warranted for this subcategory and pollutant.

The MACT floor dataset for TSM from new stoker boilers designed to burn wet biomass includes six test runs from a single boiler "GAGPCellulose Brunswick, U700—No. 4 Power Boiler" (U700—No. 4 Power Boiler) that we identified as the best performing unit based on average emissions. After determining the correct distribution and ensuring that we used the correct equation for the distribution, we evaluated the variance of this unit, comparing it to other boilers in the same subcategory. We note that the second and third ranked units each have less than three test runs, and units with less than three test runs were not considered for UPL calculations if other data are available (see discussion in section

III.A.1 of this preamble). Our analysis showed that this unit, identified as the best performing unit based only on average emissions, has a higher variance than the fourth ranked unit

“MESDWarrenSomerset, No. 2 Power Boiler” (No. 2 Power Boiler) and an overall average (considering all stack tests, not just the minimum stack test average) that is approximately 18 percent higher than the fourth ranked unit. This information indicates that the fourth ranked unit, No. 2 Power Boiler, has a more consistent level of performance than the top ranked unit, U700—No. 4 Power Boiler, and the resulting UPL calculations support this. The calculated UPL is lower for the fourth ranked unit, No. 2 Power Boiler, than for the top ranked unit, U700—No. 4 Power Boiler. For these reasons, we determined that the unit with the lowest average, U700—No. 4 Power Boiler, is not the best performing source for this subcategory and pollutant and we are instead determining that No. 2 Power Boiler is the best performing source.

The MACT floor dataset for CO from new suspension grate boilers designed to burn biomass includes three test runs from a single boiler that we identified as the best performing unit based on average emissions. After determining the correct distribution and ensuring that we used the correct equation for each distribution, we evaluated the variance of this unit, comparing it to other boilers in the same subcategory. Our analysis showed that this unit, identified as the best unit based on average emissions, also had the lowest variance, indicating that not only did it have the lowest average emissions but also the most consistent performance. Therefore, we determined that the emission limit reasonably accounts for variability and that no changes to the standard floor calculation procedure were warranted for this subcategory and pollutant.

The MACT floor dataset for TSM from new coal boilers includes six test runs from a single boiler that we identified as the best performing unit based on average emissions. After determining the correct distribution and ensuring that we used the correct equation for each distribution, we evaluated the variance of this unit and concluded that further consideration of the best performer selection was warranted. The variance of the top ranked unit was approximately 3 times higher than the variance of the next ranked unit. The degree of variance in the dataset for the unit with the lowest average prompted us to question whether this unit was, in fact, the best performing unit and to evaluate the second ranked unit. The

second ranked unit includes 3 test runs. We calculated the UPL using data for the second ranked unit, however, and the resulting UPL was higher than when using data from the top ranked unit. While its variance was higher, the top ranked unit’s lower overall emissions and resulting UPL calculations indicate it is the best performer. Therefore, we determined that the emission limit reasonably accounts for variability and that no changes to the standard floor calculation procedure were warranted for this subcategory and pollutant.

The MACT floor dataset for PM from new coal boilers includes six test runs from a single boiler that we identified as the best performing unit based on average emissions. After determining the correct distribution and ensuring that we used the correct equation for each distribution, we evaluated the variance of this unit and concluded that further consideration of the best performer selection was warranted. The variance of the top ranked unit was approximately 2.5 times higher than the variance of the next ranked unit. The degree of variance in the dataset for the unit with the lowest average prompted us to question whether this unit was, in fact, the best performing unit and to evaluate the second ranked unit. The second ranked unit includes three test runs. We calculated the UPL using data for the second ranked unit, however, and the resulting UPL was higher than when using data from the top ranked unit. Therefore, while its variance was higher, the top ranked unit’s lower overall emissions and resulting UPL calculations indicate it is the best performer. Therefore, we determined that the emission limit reasonably accounts for variability and that no changes to the standard floor calculation procedure were warranted for this subcategory and pollutant.

The Process Gas and Coal Fluidized Bed subcategories for existing and new sources and the Heavy Liquid Fuel, Light Liquid Fuel, Pulverized Coal Boilers, and Coal Stoker subcategories for new sources have limited datasets for CO. However, the best performers have very low CO emissions and the emission limits were set equal to a minimum CO level; the applicable methodology is discussed in section III.E of this preamble.

B. Beyond-the-Floor Emission Limits

We reviewed the recalculated MACT floor emission limits that are less stringent than those in the January 2013 final rule in order to assess whether a beyond-the-floor option was technically achievable and cost-effective. To assess whether the January 2013 limits were

technically achievable we reviewed the compliance data available to the EPA through the Compliance and Emissions Data Reporting Interface (CEDRI) and WebFIRE⁶ and compared these data to the emission limits in the January 2013 final rule to assess whether those more stringent limits were being achieved in practice. Data is submitted to CEDRI by regulated entities to EPA in order to meet electronic reporting requirements of 40 CFR part 60 subpart DDDDD. These reports include performance tests, CEMS relative accuracy test audits, notifications of compliance status reports, among other items. WebFIRE displays these reports to the public and can be searched by regulatory subpart or boiler process type (e.g., fuel type, boiler size). For existing sources, with the exception of TSM at coal units, all of the compliance data available for the subcategory showed that the units were complying with the more stringent 2013 emission limit. For TSM at coal-fired units, 83 percent of the units (10 of 12) with data were below the more stringent 2013 emission limit. The two units that were not were 12 percent above the 2013 emission limit, but these units were using the emission averaging provision to comply at a common stack. To assess whether the limits were cost-effective, the EPA reviewed the control devices currently installed to determine if any cost savings would occur should the less stringent limit be selected. In all of these cases, the controls that were already installed were the same types of controls that would be required to meet either the January 2013 limits or the less stringent recalculated limits and, therefore, no additional costs would be incurred to meet the more stringent limits. There were three additional cases where the January 2013 remanded emission limit was more stringent than the recalculated emission limit, but no recent compliance data were available in these three cases. Since no data were available for PM at Gas 2 units, and TSM at biomass suspension burners or dry biomass stokers, the EPA did not select a beyond-the-floor limit for these three emission limits. In all three of these cases, where we did not have data, the changes are resulting from the revised methodology for limited datasets. The process gas unit is uncontrolled, and the dry biomass stoker and biomass suspension burner both had a multiclone installed.

⁶ U.S. Environmental Protection Agency. Compliance and Emissions Data Reporting Interface (CEDRI) <https://www.epa.gov/electronic-reporting-air-emissions/cedri> and WebFIRE database <https://www.epa.gov/electronic-reporting-air-emissions/webfire>.

Based on the review of compliance data, the EPA selected a beyond-the-

floor level for 10 of the existing source emission limits, as listed in Table 4.

TABLE 4—EXISTING SOURCE EMISSION LIMITS BASED ON BEYOND-THE-FLOOR

Existing source subcategory limit	Discussion
HCl-Liquid	All of the existing units with data available are below the 2013 emission limit.
TSM-Coal	All 10 of the existing units complying with the TSM limit were below the 2013 emission limit.
TSM-Heavy Liquid	The two existing units with data were both below the 2013 emission limit.
TSM-Light Liquid	The two existing units with data were both below the 2013 emission limit.
PM-Dry Biomass Stoker	All six of the existing units with data were below the 2013 limit.
CO-Biomass Suspension Burner	All 12 of the existing units with data were below the 2013 limit.
CO-Biomass Suspension Grate	All 99 of the existing units with data were below the 2013 limit.
CO-Dry Biomass Stoker	All six of the existing units with data were below the 2013 limit.
CO-Coal Fluidized Bed with Heat Exchanger	The one existing unit with data was below the 2013 limit.

For new sources, the EPA made a similar comparison to compliance data from new and existing boilers in order to assess whether the limits were achievable. In addition, for PM emission limits at new sources, consistent with the analysis taken during the January 2013 final rule, PM emission limits were compared to the PM limit of 0.03 pound per million British thermal units (lb/MMBtu) for new biomass boilers in 40 CFR part 60, subparts Db and Dc. Only biomass compliance data were available for new sources, and so the EPA compared both existing and new source compliance data, when available, to the emission limits in the January 2013 final

rule. For three of the limits, all of the units with available compliance data were below the more stringent January 2013 emission limit. For the PM limit at dry biomass stokers, and the TSM limit at wet biomass stokers, all of the available new source compliance data were meeting the more stringent January 2013 emission limit. Two of the limits had no new source data available for comparison, but the TSM at coal units had 50 percent of the existing units with data below the January 2013 new source limit, and 9 percent of the coal units were below the new source limit for PM. Both of these cases demonstrate that the limits are technically achievable. There

were three cases where the January 2013 remanded new source emission limit was more stringent than the emission limit calculated based on the revised MACT floor calculation methodology, but no recent compliance data were available in these four cases. These were the same three groups mentioned for existing sources, PM at Gas 2 units, and TSM at biomass suspension burners or dry biomass stokers. Due to lack of data, the EPA did not select a beyond-the-floor limit for these three emission limits. For new sources, there were seven emission limits where a beyond-the-floor level was selected, as listed in Table 5.

TABLE 5—NEW SOURCE EMISSION LIMITS BASED ON BEYOND-THE-FLOOR

New source subcategory limit	Discussion
TSM-Wet Biomass Stoker	Only one existing and one new wet stoker boiler has TSM compliance data. The new source data is below the 2013 new source limit.
TSM-Coal	Six of the 12 existing units with compliance data are below the 2013 limit for new sources. Of the ones that were above the limit, all of them were above both the 2013 limit and the remanded MACT floor emission limit. No new coal units were identified in recent compliance data.
PM-Suspension Burner	The calculated UPL is identical to the value calculated in the 2013 final rule for existing sources. However, the UPL calculation was less stringent than the new source performance standards (NSPS) limit for new boilers. Additionally, all of the 13 units with PM test data are below the 2013 limit for new sources.
PM-Dry Biomass Stoker	Of the seven units with PM test data, three units were below the 2013 emission limits for new sources, including one new dry biomass stoker boiler. Additionally, the UPL calculation was less stringent than the NSPS limit for new boilers.
PM-Coal	Of the 101 existing units with PM test data, nine units were below the 2013 emission limit for new sources. No new coal units were identified in recent compliance data.
CO-Dry Biomass Stoker	All seven of the existing units with data, including one new dry biomass stoker were below the 2013 limit.
CO-Coal Fluidized Bed with Heat Exchanger	The one existing unit with data was below the 2013 limit.

C. Revisions to Output-Based Emission Limits

The EPA reviewed the output-based emission limits, and revised as necessary, for subcategories and pollutants where the input-based emission limits were revised. There was not a corresponding revision in the output-based emission limit for certain subcategories and pollutants where the input-based emission limit was revised,

due to rounding (i.e., the input-based emission limit revision was small enough that performing the output-based calculations did not result in a different emission limit after rounding to two significant figures). We also updated the output-based emission limit calculations to use data from the current population of best performers, considering the changes to the rankings made in response to the court remands.

Specifically, we revised the steam conversion factor (steam Btu out/fuel Btu in) used to calculate the output-based limits in the units of lb/MMBtu steam output for three subcategories for existing sources: Biomass dutch oven, wet biomass, and coal stoker. We reviewed the corresponding steam conversion factors for new sources, but revisions were not necessary as a result of the new analyses. The memorandum,

Alternate Equivalent Output-Based Emission Limits for Boilers and Process Heaters Located at Major Source Facilities—2019 Revision, which is available in the docket for this action, provides details of the output-based emission limit revisions and methodology.

D. Proposed Response to the Amended Issue: CO as a Surrogate for Organic HAP

On July 29, 2016, the D.C. Circuit remanded to the EPA to address a public comment relating to the potential availability of alternative control technologies which reduce organic HAP without impacting CO emissions. In doing so, the court rejected challengers' argument that the EPA could not use CO as a surrogate for non-dioxin/furan (D/F) organic HAP and limited its remand to the Agency's failure to address evidence in the record on the potential availability of alternative control technologies. The court further noted that "it is likely" that the EPA would be able to adequately explain its use of CO on remand. *U.S. Sugar v. EPA*, 830 F.3d at 630.

It is helpful to provide some background on the EPA's decision to use CO as a surrogate in the Boiler MACT rule in order to provide the context for the EPA's action to address the *U.S. Sugar* court's remand for explanation. In the preamble to the June 2010 proposal, we presented the rationale for using CO as a surrogate for non-D/F organic HAP emitted from boilers and process heaters. We stated that CO has generally been used as a surrogate for organic HAP because CO is a good indicator of incomplete combustion and organic HAP are products of incomplete combustion. However, based on concerns that CO may not be an appropriate surrogate for D/F because, unlike other organic HAP, D/F can be formed outside the combustion unit, we proposed using CO as a surrogate only for non-D/F organic HAP. For non-D/F organic HAP, we concluded that using CO as a surrogate was a reasonable approach because minimizing CO emissions will result in minimizing non-D/F organic HAP. We stated that, for boilers and process heaters, methods used for the control of CO emissions would be the same methods used to control non-D/F organic HAP emissions. These emission control methods include achieving good combustion or using an oxidation catalyst. Standards limiting emissions of CO will also result in decreases in non-D/F organic HAP emissions (with the additional benefit of decreasing volatile organic compounds (VOC) emissions).

Establishing emission limits for specific organic HAP would be impractical and costly. Thus, we concluded that CO, which is less expensive to test for and monitor, is appropriate for use as a surrogate for non-dioxin organic HAP.

We stated in the 2010 proposal that we recognized that the level and distribution of organic HAP will vary from unit to unit. For example, the principal organic HAP emitted from coal-fired units is benzene, which accounts for about 20 percent of the organic HAP with formaldehyde accounting for about 4 percent of the organic HAP. Whereas, the principal organic HAP emitted from biomass-fired units is formaldehyde, which accounts for 34 percent of the organic HAP with benzene accounting for about 25 percent of the organic HAP.⁷ For oil-fired units, formaldehyde is the principal organic HAP, accounting for about 80 percent of the organic HAP. Limiting CO as a surrogate for only non-dioxin organic HAP would eliminate costs associated with speciating numerous compounds. We also stated that CO was preferable because many sources currently have CO continuous emission monitoring systems (CEMS).

In the 2013 final rule preamble, as part of the rationale for the 130 ppm CO minimum MACT floor level, we again explained the basis for concluding that CO is an appropriate surrogate. That is, CO is a conservative surrogate for organic HAP because organic HAP emissions are extremely low when sources operate under the good combustion conditions required to achieve low CO levels. There are myriad factors that affect combustion efficiency (CE) and, as a function of CE, CO emissions. As combustion conditions improve and hydrocarbon levels decrease, the larger and easier to combust compounds are oxidized to form smaller compounds that are, in turn, oxidized to form CO and water. As combustion continues, CO is then oxidized to form CO₂ and water. Because CO is a difficult to destroy refractory compound (*i.e.*, oxidation of CO to CO₂ is the slowest and last step in the oxidation of hydrocarbons), it is a conservative surrogate for destruction of hydrocarbons, including organic HAP.

Available control technologies for organic HAP emissions are of two types: Combustion and recovery. The combustion devices include thermal incinerators, catalytic incinerators,

flares, and boilers/process heaters. Applicable recovery devices include condensers, adsorbers, and absorbers. The combustion devices are the more commonly applied control devices, since they are capable of high removal (*i.e.*, destruction) efficiencies for almost any type of organic vapor HAP.⁸ As discussed below, the removal efficiencies of the recovery techniques generally depend on the physical and chemical characteristics of the organic HAP under consideration as well as the emission stream characteristics. Applicability of the control techniques depends on the individual emission stream under consideration. In this case, it would be emission streams from boilers and process heaters. The key emission stream characteristics and HAP characteristics that affect the applicability of each control technique are discussed below.

Thermal incinerators use combustion to control a wide variety of continuous organic HAP emission streams. Compared to the other techniques, thermal incineration is broadly applicable; that is, it is much less dependent on HAP characteristics and emission stream characteristics. Destruction efficiencies up to 99 percent or higher are achievable with thermal incineration. Thermal incineration typically is applied to emission streams that are dilute mixtures of organic HAP and air.

Catalytic incinerators are similar to thermal incinerators in design and operation except that they employ a catalyst to enhance the reaction rate. Since the catalyst allows the reaction to take place at lower temperatures, significant fuel savings may be possible with catalytic incineration. Catalytic incineration is not as broadly applicable as thermal incineration since performance of catalytic incinerators is more sensitive to pollutant characteristics and process conditions than is thermal incinerator performance. Materials in the emission stream can poison the catalyst and severely affect its performance. Destruction efficiencies of 95 percent of HAP can typically be achieved with catalytic incineration.

Flares are commonly used for disposal of waste gases during process upsets and emergencies. They are basically safety devices that are also used to destroy waste emission streams. Flares can be used for controlling almost any organic HAP emission stream.

⁷ Based on emission factors reported on the EPA web page, *AP 42, Fifth Edition, Volume 1—Chapter 1: External Combustion Sources*, located at <https://www3.epa.gov/ttn/chieff/ap42/ch01/final/c01s01.pdf>.

⁸ *Handbook Control Technologies for Hazardous Air Pollutants*, EPA/625/6-91/014, June 1991, Center for Environmental Research Information, Office of Research and Development, U.S. EPA.

Boilers or process heaters are used to control emission streams containing organic compounds. These are currently used as control devices for emission streams from several industries (e.g., refinery operations, polymers and resins operations, chemical reactor processes, and distillation operations, etc.). See 40 CFR part 63, subparts JJJ, OOO, and PPP. Typically, off-gases containing organic HAP emissions are controlled in boilers or process heaters and used as supplemental fuel if they have sufficient heating value. When used as emission control devices, boilers or process heaters can provide destruction efficiencies of greater than 98 percent.

Carbon adsorption is a recovery (non-combustion) technique commonly employed as a pollution control and/or a solvent recovery technique. It is applied to dilute mixtures of HAP and air. Removal efficiencies of 95 to 99 percent can be achieved using carbon adsorption. Outlet concentrations around 50 parts per million by volume (ppmv) can be routinely achieved with state-of-the-art systems; concentrations as low as 10 to 20 ppmv can be achieved with some compounds. Highly volatile materials (i.e., molecular weight less than about 45) do not adsorb readily on carbon; therefore, adsorption is not typically used for controlling emission streams containing such compounds. Carbon adsorption is also relatively sensitive to emission stream conditions, such as high humidity and temperatures.

Absorption is widely used as a raw material and/or a product recovery technique in separation and purification of gaseous streams containing high concentrations of VOC. As an emission control technique, it is much more commonly employed for inorganic vapors than for organic vapors. Using absorption as the primary control technique for organic vapor HAP is subject to several limitations and problems. The suitability of absorption for controlling organic vapor emissions is determined by several factors; most of these factors will depend on the specific HAP in question. For example, the most important factor is the availability of a suitable solvent. The pollutant in question should be readily soluble in the solvent for effective absorption rates.

Condensers are widely used as raw material and/or product recovery devices. They are frequently applied as preliminary air pollution control devices for removing VOC contaminants from emission streams prior to other control devices such as incinerators, adsorbers, or absorbers. Condensers are also used by themselves for controlling emission streams containing high VOC

concentrations (usually >5,000 ppmv). In these cases, removal efficiencies obtained by condensers can range from 50 to 90 percent although removal efficiencies at the higher end of the scale usually require HAP concentrations of around 10,000 ppmv or greater. Therefore, it is not possible for condensation with water as the coolant to achieve the low outlet concentrations that would be required in HAP control applications.

In summary, combustion is the more commonly applied technology for controlling organic HAP since it is capable of high removal efficiencies for organic HAP and its effectiveness does not depend on the makeup of the organic HAP stream or the organic HAP concentration. In fact, the devices regulated by the rule (boilers and process heaters) not only combust fuel for producing steam and/or process heat but serve a dual function in that they also effectively control organic HAP when good combustion conditions are present. Recovery (non-combustion) devices are not applicable on all organic HAP and are not effective on low organic HAP concentration streams. Also, recovery devices' effectiveness is dependent on an emission stream with a high organic HAP content (≤ 250 ppmv), compared to the organic HAP content of the emission streams from boilers which are around 1 ppmv for fossil fuels (coal and oil) and around 10 ppmv for biomass.⁹ Therefore, at the organic HAP levels generated and emitted from a boiler, the recovery (non-combustion) technologies would be ineffective. Furthermore, none of the best performing units employ any add-on alternative control device for controlling organic HAP. Many industrial boilers and process heaters employ post combustion controls for PM, acid gases, and/or Hg but these add-on controls do not affect emissions of CO or non-dioxin organic HAP.

For these reasons, we continue to conclude that the level of CO emissions, which indicates organic HAP reductions achieved through the use of combustion controls, is an appropriate surrogate for controlling organic HAP emissions from boilers and process heaters.

E. Proposed Response to the Amended Issue: CO 130 PPM Threshold Emission Limits

The D.C. Circuit, on March 16, 2018, issued an opinion in the Boiler MACT reconsideration case, *Sierra Club v.*

⁹ Based on emission factors reported on the EPA web page, *AP 42, Fifth Edition, Volume 1—Chapter 1: External Combustion Sources*, located at <https://www3.epa.gov/ttn/chieff/ap42/ch01/final/c01s01.pdf>.

EPA, 884 F.3d 1185, which was a petition for review by environmental groups of the 2015 reconsideration of the Boiler MACT rule. The case addressed two issues that were severed from the litigation challenging the 2013 Boiler MACT rule (*U.S. Sugar v. EPA*): (1) The 130-ppm threshold for CO standards, which, as described above, were established as a surrogate for non-dioxin organic HAP and (2) the definitions of periods of startup and shutdown and the applicable work practices to be used during those periods. The court granted the petition as to the CO issue, finding that the EPA had not provided sufficient record support for the CO concentration threshold and remanded for further explanation, but denied the petition on the startup/shutdown issue and upheld the EPA's approach as consistent with the CAA.

The court declined to revisit its opinion in *U.S. Sugar*, in which the court upheld the use of CO as a surrogate for organic HAP but remanded to the EPA to address whether there are means to reduce organic HAP other than by combustion. Against that backdrop, the court, in its decision in *Sierra Club* said the question before it was whether, assuming CO is an appropriate surrogate, the EPA's decision to establish a 130-ppm threshold as the lowest (i.e., most stringent) numeric CO limit was consistent with the requirements of the CAA. Based on a close examination of the record, the court held that the EPA had not sufficiently explained its rationale and questioned EPA's reliance on data regarding the relationship between formaldehyde and organic HAP that the EPA had previously characterized as unreliable.

The court did note that if the EPA made and adequately supported a determination that no further reduction of HAP would occur once CO levels had been reduced to 130 ppm, the threshold would be appropriate and consistent with the CAA. The court noted three specific issues it believed the Agency did not adequately address: (1) The EPA gave no reason why organic HAP emissions could not be further reduced, once CO emissions reach 130 ppm, (2) the EPA relied on formaldehyde data to support its conclusion but elsewhere stated that the same data were not a reliable indicator of organic HAP emissions at very low levels, and (3) the EPA did not adequately explain if there is a non-zero CO level below which organic HAP levels cannot be further reduced, why 130 ppm is the appropriate level. Responses to these three issues are addressed below.

In the January 31, 2013, final rule, we revised the CO emission limit for several subcategories, both new and existing, to reflect a CO level that, we stated, is consistent with MACT for organic HAP reduction. The revision was brought about by several commenters who recommended that the EPA evaluate a minimum CO standard (*i.e.*, 100 ppm corrected to 7-percent oxygen¹⁰) to serve as a lower bound surrogate for organic HAP. The commenters also provided data and information to support such a standard and noted that the EPA has taken a similar approach in other emission standards under CAA section 112. See 40 CFR part 63, subpart EEE (NESHAP for Hazardous Waste Combustors).

In the preamble to the 2013 final rule, we stated that we evaluated whether there is a minimum CO level for boilers and process heaters below which there is no further benefit in organic HAP reduction/destruction. Specifically, we evaluated the relationship between CO and formaldehyde using the available data obtained during the rulemaking. Formaldehyde was selected as the basis of the organic HAP comparison because it is the most prevalent organic HAP in the emission database and many paired tests existed for boilers and process heaters for CO and formaldehyde and because formaldehyde was the only organic HAP for which we had such data. The paired data show decreasing formaldehyde emissions with decreasing CO emissions down to CO levels around 300 ppm (with formaldehyde emissions down to less than 1 ppm), supporting the selection of CO as a surrogate for organic HAP emissions. A slight increase in formaldehyde emissions, to between 1 and 2 ppm, was observed at CO levels below around 200 ppm, suggesting a breakdown in the CO-formaldehyde relationship at low CO concentrations. At levels lower than 150 ppm, the mean levels of formaldehyde appeared to increase, as does the overall maximum value of and variability in formaldehyde emissions. However, at that time, we were not aware of any reason why formaldehyde concentrations would increase as CO concentrations continue to decrease, indicating improved combustion conditions. Our thinking at the time was that imprecise formaldehyde measurements at low concentrations (*i.e.*, 1–2 ppm) may have accounted for this slight increase in

formaldehyde emissions observed at CO levels below 130 ppm.

In the preamble of the 2013 final rule, we stated, “Based on this, we do not believe that such measurements are sufficiently reliable to use as a basis for establishing an emissions limit.” See 78 FR 7145. In that statement, we were referring to the formaldehyde measurements and, thus, to the decision to set a CO standard instead of a formaldehyde standard. Based on that analysis, we promulgated a minimum MACT floor level for CO of 130 ppm corrected to 3-percent oxygen (which is equivalent to 100 ppm corrected to 7-percent oxygen). We noted this was the same approach used to establish the CO emission limit of 100 ppm corrected to 7-percent oxygen for the Burning of Hazardous Waste in Boilers and Industrial Furnaces final rule (56 FR 7134, February 21, 1991). In that rulemaking, the EPA chose the 100-ppm (corrected to 7-percent oxygen) limit because the research indicated that while CO was a good surrogate for the destruction of organic HAP, the validity of that surrogacy was questionable at CO levels of approximately 400 ppm and below. Based on the EPA’s authority under the Resource Conservation and Recovery Act to establish standards that are protective of human health and the environment, the Agency established the 100-ppm standard. The EPA later established the 100-ppm corrected to 7-percent oxygen standard as the MACT standard for hazardous waste combustors (see 70 FR 59462) and explained why that standard was an appropriate floor (see 69 FR at 21282).

The trend that our CO—formaldehyde data present has also been observed in a study¹¹ done on polycyclic aromatic hydrocarbons (PAH) emissions from coal combustion. PAH constitute a group of organic HAP. The study presents a graph of PAH vs. excess oxygen¹² which shows that at the lowest percentage of excess oxygen (5 percent), the highest PAH amount (0.25 ppm) is measured and shows minimum PAH emissions (0.02 ppm) at 20-percent excess oxygen. The graph further shows that as the excess oxygen level increases above 20 percent, higher PAH emissions

¹¹ *Organic Atmospheric Pollutants: Polycyclic Hydrocarbons from Coal Atmospheric Fluidised Bed Combustion (AFBC)*, A.M Mastral, M.S. Callen, R. Murillo, and T. Garcia, Instituto de Carboquímica, 1999.

¹² Excess oxygen, or excess air, is commonly used to define combustion. The excess oxygen is the amount of oxygen in the incoming air not used during combustion. Inadequate excess oxygen results in unburned combustibles (fuel and CO), while too much excess oxygen results in increased flue gas flow and decreased temperature and residence time for combustion.

(about 0.06 ppm at 40 percent excess air) are observed. The study does not present corresponding CO values. However, the study does provide information showing that CO emissions continue to decrease with increasing excess oxygen levels above 20 percent, as indicated by the increased combustion efficiencies reported in the study for excess oxygen over the range of 5 to 40 percent. Combustion efficiency (CE) is a measure of the completeness of oxidation of all fuel (organic) compounds and is determined by the CE Formula: $CE = [CO_2 / (CO_2 + CO)] \times 100$.¹³ Thus, CE increases with decreasing CO levels.

The PAH study does provide a possible explanation for this phenomenon. In order to assess the PAH emissions as a function of combustion variables, the first aim of the study was to reach maximum CE. The study stated that “it can be assumed that the emissions due to bad combustion have practically been eliminated, and so the data obtained will be due to the combustion process.” The study states that at the lowest percentages of excess oxygen, the interaction between oxygen and radicals should be less favored and, as a result, the PAH amount would be higher. At the highest percentages of excess oxygen possible, interaction with PAH seemed to be minimized due to the higher gas velocities shortening the contact resulting in increasing PAH emissions.

Furthermore, the EPA’s Office of Research and Development (ORD), in support of the NESHAP from Coal- and Oil-Fired Electric Utility Steam Generating Units (also known as the Mercury and Air Toxics Standards or MATS), conducted a series of tests in the Agency’s Multipollutant Control Research Facility (MPCRF). As part of these tests, potential surrogate relationships were examined for various non-D/F organic HAP. The objective of the testing program was to collect selected HAP emission data while firing coals under varied test conditions and evaluate relationships between those concentrations and other process concentrations and/or conditions. One of the principal objectives was to measure concentrations of non-D/F organic HAP and compare to the emission of candidate surrogates (*e.g.*, CO, total hydrocarbons, *etc.*)¹⁴ Several organic HAP, discussed below and

¹³ CE formula and calculator, <https://ncalculators.com/environmental/combustion-efficiency-calculator.htm>.

¹⁴ Surrogacy Testing in the MPCRF, Prepared for U.S. EPA, Prepared by ARCADIS, March 30, 2011. See Docket ID Item No. EPA–HQ–OAR–2002–0058–3942.

¹⁰ The CO emission standards in the 2013 final rule are corrected to 3-percent oxygen. The 130 ppm CO standards in the 2013 final rule is equivalent to 100 ppm corrected to 7-percent oxygen.

presented as figures in the study's final report, were quantified from multiple tests with CO concentrations and show a similar trend.

Figure 4–16 of the MPCRF study shows the concentration of phenol, an organic HAP, plotted against concentration of CO. CO concentrations ranged from 40 to 140 ppm, at 7-percent oxygen, with phenol concentrations ranging from 0.6 parts per billion (ppb) at 40 ppm CO to 1 ppb at 140-ppm CO with the lowest phenol concentration (0.5 ppb) measured at 95-ppm CO (120-ppm CO at 3-percent oxygen).

The MPCRF study also examined formaldehyde emissions against CO concentrations. The five data points (Figure 4–17 of the study) are all for CO concentrations below 70 ppm with the lowest formaldehyde emissions (10 ppb) measured at 70-ppm CO and with higher formaldehyde emissions (57 ppb) measured at a lower CO level of 40-ppm CO.

In addition, the MPCRF study shows similar results for chloroform (another organic HAP). The five data points (Figure 4–24 of the study) show chloroform emissions of 0.038 ppb at 170-ppm CO at 3-percent oxygen, 0.025 ppb chloroform at 130-ppm CO at 3-percent oxygen, and 0.054 ppb chloroform at 40-ppm CO at 3-percent oxygen.

The MPCRF does not present any explanation on why these trends were observed. One of the goals of the MPCRF testing was to determine or demonstrate a relationship between concentrations of organic compounds and combustion conditions. However, due to low emission levels, non-detects, and other complexities, the key conclusion drawn was that the testing did not disprove an expected relationship between organic concentrations and combustion conditions.

There are myriad factors that affect CE and, as a function of CE, CO emissions. As combustion conditions improve and hydrocarbon levels decrease, the larger and easier to combust compounds are oxidized to form smaller compounds that are, in turn, oxidized to form CO and water. As combustion continues, CO is then oxidized to form CO₂ and water. Because CO is a difficult to destroy refractory compound (*i.e.*, oxidation of CO to CO₂ is the slowest and last step in the oxidation of hydrocarbons), it has been considered a conservative surrogate for destruction of hydrocarbons, including organic HAP.

Neither the PAH study nor the MPCRF study provide an explanation for the phenomenon observed in these studies. In trying to explain why this

phenomenon occurs, we know that combustion is the chemical reaction of oxygen with combustible compounds (*e.g.*, organics) and that time, temperature, and turbulence impact the speed and completeness of the combustion reaction. For complete combustion, the oxygen must come into intimate contact with the combustible molecule at sufficient temperature, and for a sufficient length of time, in order to complete the reaction. Two factors that affect reaction rates are the concentration of the reactants (oxygen and organic HAP) and the temperature of the reactants. Every combustible substance has a minimum ignition temperature, which must be attained or exceeded, in the presence of oxygen, if combustion is to ensue under the given conditions. Lower concentrations will produce a decrease in the rate of reaction and a decrease in the temperature will decrease rate of reaction. As more ambient temperature combustion air (oxygen) is added, the concentration and temperature of the reactant (organic HAP) is reduced. Thus, a potential explanation is that with the increased combustion air (oxygen), the resulting increased turbulence, while providing increased mixing, can result in more organic molecules being forced near the furnace walls, which are cold compared to the combustion zone. This can essentially slow down or quench the combustion reactions by cooling the molecules of the organic compounds to below their minimum ignition temperature. Thus, those organic HAP molecules would not be combusted and would be emitted unchanged. Any action having the effect of decreasing the reaction rate of the organic HAP will consequently result in less organic HAP being combusted and, thus, higher organic HAP emissions being observed and appear to be an increase, at higher excess oxygen (and lower CO emissions) levels.

The range of the formaldehyde measurements for the reported paired formaldehyde-CO emissions data for the 97 emission units is 0.00009 ppm (0.09 ppb) to 2.0 ppm. The mathematical average of the corresponding CO emissions from the best performing 12 percent of units, identified as those units with the lowest formaldehyde emissions, is 137 ppm.

At the time of the 2013 rulemaking, we observed that reducing CO emissions also resulted in a reduction of organic HAP emissions until a leveling off in organic HAP reduction is reached after which further reduction of CO levels appeared to result in higher levels of organic HAP emitted. Our determination that setting a CO standard

below a CO level of 130 ppm would result in no additional organic HAP reduction is supported by both the independent PAH emission study and the MPCRF study which both show similar trends. That is, organic HAP levels decreased with decreasing CO levels until a leveling off and trending upward with further decreasing CO levels. Also, based on the level of the organic HAP emissions measured in the two studies, we do not consider the formaldehyde data used in our establishment of the 130 ppm CO standard to have been imprecise and, thus, unreliable. The formaldehyde data measured at CO levels below 130 ppm reflect the variability (scatter) of organic HAP emissions when each data point is from a different unit. Whereas, the organic HAP emission results presented in the two studies, which were measured at similar low concentrations, are from tests conducted on a single unit at varying CO levels.

The seven subcategories with the 130 ppm CO level in the 2013 final rule are: (1) Pulverized Coal Boilers; (2) Coal Stokers; (3) Coal Fluidized Bed; (4) Heavy Liquid Fuel; (5) Light Liquid Fuel; (6) Non-Continental Liquid; and (7) Process Gas. Based on our review of the data in 2013, we established that a CO emission level of 130 ppm represented MACT for controlling organic HAP emissions for units in the six subcategories. Based on additional information obtained during and after the rulemaking, as discussed above, we reaffirm our conclusion that a 130-ppm CO concentration threshold represents MACT for organic HAP for the six subcategories.

IV. Results and Proposed Decisions

A. What are the resulting changes to emission limits?

Based on all of the revisions made to address the remand related to ranking and assessing co-fired units in the MACT floor calculations, the changes made for UPL calculations for small datasets, and the decisions to propose certain limits as beyond-the-floor limits, there are 34 different emission limits that we are proposing to change. The detailed list of revisions to unit rankings and revised MACT floor calculations are presented in the docketed memorandum, *Revised MACT Floor Analysis (2019) for the Industrial, Commercial, and Institutional Boilers and Process Heaters National Emission Standards for Hazardous Air Pollutants—Major Source*. Of these 34 emission limits, 28 of the limits are more stringent than the corresponding limits in the 2013 final rule. Six of the

limits are modestly less stringent, with no more than a 25-percent increase. The proposed and corresponding current limits are shown in Table 6.

TABLE 6—SUMMARY OF CHANGES TO EMISSION LIMITS IN THE PROPOSED ACTION

Subcategory	Pollutant	Current emission limit (lb/MMBtu of heat input or ppm at 3-percent oxygen for CO)	Proposed emission limit (lb/MMBtu of heat input or ppm at 3-percent oxygen for CO)
New-Solid	HCl	2.2E-02	3.0E-04
New-Dry Biomass Stoker	TSM8	4.0E-03	5.0E-03
New-Biomass Fluidized Bed	CO	230	130
New-Biomass Fluidized Bed	PM (TSM)	9.8E-03 (8.3E-05)	4.1E-03 (8.4E-06)
New-Biomass Suspension Burner	CO	2,400	220
New-Biomass Suspension Burner	TSM	6.5E-03	8.0E-03
New-Biomass Hybrid Suspension Grate	CO	1,100	180
New-Biomass Dutch Oven/Pile Burner	PM	3.2E-03	2.5E-03
New-Biomass Fuel Cell	PM	2.0E-02	1.1E-02
New-Wet Biomass Stoker	CO	620	590
New-Wet Biomass Stoker	PM	0.03	0.013
New-Liquid	HCl	4.4E-04	7.0E-05
New-Heavy Liquid	PM (TSM)	1.3E-02 (7.5E-05)	1.9E-03 (6.4E-06)
New-Process Gas	PM	6.7E-03	7.3E-03
Existing-Solid	HCl	2.2E-02	2.0E-02
Existing-Solid	Hg	5.7E-06	5.4E-06
Existing-Coal	PM	4.0E-02	3.9E-02
Existing-Coal Stoker	CO	160	150
Existing-Dry Biomass Stoker	TSM	4.0E-03	5.0E-03
Existing-Wet Biomass Stoker	CO	1,500	1,100
Existing-Wet Biomass Stoker	PM (TSM)	3.7E-02 (2.4E-04)	3.4E-02 (2.0E-04)
Existing-Biomass Fluidized Bed	CO	470	210
Existing-Biomass Fluidized Bed	PM (TSM)	1.1E-01 (1.2E-03)	2.1E-02 (6.4E-05)
Existing-Biomass Suspension Burners	PM (TSM)	5.1E-02 (6.5E-03)	4.1E-02 (8.0E-03)
Existing-Biomass Dutch Oven/Pile Burner	PM	2.8E-01	1.8E-01
Existing-Liquid	Hg	2.0E-06	7.3E-07
Existing-Heavy Liquid	PM	6.2E-02	5.9E-02
Existing-Non-Continental Liquid	PM	2.7E-01	2.2E-01
Existing-Process Gas	PM	6.7E-03	7.3E-03

The EPA requests comment on the revisions to the emission limits in light of the changes the EPA has proposed in response to the remand. Broader comments with respect to the UPL calculation methodology will not be considered within the scope of this rulemaking. The EPA will only consider data that is already available in the rulemaking record. The EPA also requests comments on its determination of beyond-the-floor emission limits for certain subcategories. The emission reduction impacts associated with these changes to the MACT floor emission limits are discussed in the docketed memorandum *Revised (2019) Methodology for Estimating Impacts for Industrial, Commercial, Institutional Boilers and Process Heaters National*

Emission Standards for Hazardous Air Pollutants.

B. What compliance dates are we proposing?

The EPA is proposing that facilities have up to 3 years after the effective date of the final rule to comply with the new emissions limits in the final rule. Before this date, facilities must continue to comply with the rule as it was finalized in 2015. This allowance is being made considering that some facilities may require additional add-on controls or monitoring equipment to be designed, purchased, and installed in order to meet the more stringent emission limits, or to modify the method of compliance based on the changes in emission limits. In addition,

units will require lead time to prepare and execute their testing plans to demonstrate compliance with the updated emission limits and to update reports to incorporate the revised emission limits. The EPA requests comment on this time frame.

C. What other actions are we proposing?

We are proposing several technical corrections. These amendments are being proposed to correct inadvertent errors that were promulgated in the final rule. We are soliciting comment only on whether the proposed changes provide the intended accuracy, clarity, and consistency. These proposed changes are described in Table 7 of this preamble. We request comment on all these proposed changes.

TABLE 7—MISCELLANEOUS PROPOSED TECHNICAL CORRECTIONS TO 40 CFR PART 63, SUBPART DDDDD

Section of subpart DDDDD	Description of proposed correction
40 CFR 63.7500(a)	Revise this paragraph to remove the comma after “paragraphs (b).”
40 CFR 63.7521(c)(1)(ii)	Revise this paragraph to remove the requirement to collect samples during the test period at 1-hour intervals.
40 CFR 63.7530(b)(4)(iii)	Revise this paragraph to remove the sentence regarding establishing the pH operating limit because establishing the pH operating limit is not required for a PM wet scrubber.
40 CFR 63.7540(a)(9)	Revise this paragraph to clarify that “certify” is intended to apply only to PM CEMS, not PM continuous parameter monitoring systems (CPMS) because PM CPMS do not have a performance specification.
40 CFR 63.7575	Revise the definition of “Other gas 1 fuel” to clarify that it is the maximum Hg concentration of 40 micrograms/cubic meter of gas. Add definition of “12-month rolling average” to clarify that the previous 12 months must be consecutive but not necessarily continuous.
Table 1 to subpart DDDDD	Revise paragraph (4) of definition “Steam output” to correct “heaters” to “headers.”
Table 7 to subpart DDDDD	Revise the output limit in item 8.a to correct for a rounding error, the value is now 4.3E–01 lb per MMBtu instead of 4.2E–01 lb per MMBtu.
Table 8 to subpart DDDDD	Revise footnote “b” to clarify that when multiple performance tests are conducted, the maximum operating load is the lower of the maximum values established during the performance tests.
Table 8 to subpart DDDDD	Revise item 8.d to clarify that the correct equations to use are Equations 7, 8, and/or 9 in 40 CFR 63.7530.

V. Summary of Cost, Environmental, and Economic Impacts

A. What are the affected sources?

As mentioned previously, this rule affects a wide range of facilities in the ICI sector that are located at major sources of HAP and have a boiler or process heater as defined in the final rule. The 2013 Emission Database for Boilers and Process Heaters estimated there were approximately 14,000 existing boilers and process heaters currently operating at 1,702 different facilities that are major sources of HAP and subject to the Boiler MACT. The vast majority of these combustion units (nearly 12,000 units) were gas-fired and in the Gas 1 subcategory, which are subject to the rule but are not subject to numeric emission limits. Another 472 units were small or limited use and were also not subject to numeric emission limits. By contrast, the EPA has reviewed compliance data

submitted to CEDRI and WebFIRE and the trade association Council of Industrial Boilers, which had provided input on units that had shutdown or switched to natural gas fuel as part of its compliance strategy. The EPA then compiled an updated estimate of units that are subject to emission limits. These data show 533 existing boilers and process heaters, of which 443 remain operational and belong in one of the subcategories that are subject to numeric emission limits. This count excludes any boilers that are no longer operational, boilers that have refueled and switched to the natural gas subcategory and are, therefore, no longer impacted by changes to emission limits, or boilers that are classified as small or limited use.

For new sources, the EPA had projected new sources anticipated to be built by 2015 from a baseline year of 2008.¹⁵ While the projections had anticipated correctly that the only new

units subject to emission limits would be new large biomass units, the actual number of new units is significantly lower than projected in the January 2013 final rule. The CEDRI and WebFIRE compliance data provided updates on eight new biomass units that are subject to emission limits and reporting compliance data. Since new units have had to comply since April 2013, these eight units reflect a new unit rate of 1.3 new units per year during the 6-year period of April 2013 through April 2019. Using these new source data, the EPA estimates that, four more biomass boilers or process heaters are expected to be constructed over the next 3 years. As such, 12 new boilers and process heaters are estimated to be affected by the proposed amendments.

Table 8 presents a summary table comparing the number of existing and new affected sources, by subcategory. The counts exclude small or limited use units.

TABLE 8—SUMMARY OF CHANGES TO NUMBER OF AFFECTED SOURCES

Subcategory	Estimate of sources in 2013 final rule	Estimate of sources in 2019 proposal
Existing-Biomass	481	285.
Existing-Coal	606	124.
Existing-Heavy Liquid	291	6.
Existing-Light Liquid	260	24.
Existing-Non-Continental Liquid	19	5.
Existing-Process Gas	78	0.
New-Biomass	78 (projected online by 2015)	8 (actual) + 4 (projected).
New-Coal	0	0.
New-Heavy Liquid	0	0.
New-Light Liquid	0	0.
New-Non-Continental Liquid	0	0.
New-Process Gas	0	0.

¹⁵ See docketed memorandum: *Revised New Unit Analysis Industrial, Commercial, and Institutional*

Boilers and Process Heaters National Emission Standards for Hazardous Air Pollutants—Major

Source. November 2011. Docket ID Item No. EPA–HQ–OAR–2002–0058–3388.

B. What are the air quality impacts?

Table 9 of this preamble illustrates, for each basic fuel subcategory, the incremental emissions reductions that would be achieved by the proposed amendments. The reductions are all additional to the reductions accounted for in the January 2013 final rule for both new and existing sources. Nationwide emissions of selected HAP (i.e., HCl, hydrogen fluoride, Hg, metals) would be reduced by an additional 37.35 tpy as compared to the estimates in the January 2013 final rule. This additional decrease is due mainly to

changes to certain emission limits that are anticipated to achieve additional reductions. The proposed amendments are expected to result in an additional 34 tpy of reductions in HCl emissions. The proposed amendments are also expected to have a modest effect on Hg, with an estimated additional reduction of 3.96 lbs per year. Emissions of filterable PM would decrease by 333 tpy, of which 251 tpy is PM_{2.5}, due to the proposed amendments. Emissions of non-Hg metals (i.e., antimony, arsenic, beryllium, cadmium, chromium, cobalt, lead, manganese, nickel, and selenium)

would decrease by 2.3 tpy. In addition, the proposed amendments are estimated to result in an additional 393 tpy of reductions in SO₂ emissions. A discussion of the methodology used to estimate emissions, emissions reductions, and incremental emission reductions is presented in the memorandum, *Revised (2019) Methodology for Estimating Impacts for Industrial, Commercial, Institutional Boilers and Process Heaters National Emission Standards for Hazardous Air Pollutants*, which is available in the docket for this action.

TABLE 9—SUMMARY OF TOTAL EMISSIONS REDUCTIONS FOR THE PROPOSED RULE
[Tons/Yr]

Source	Subcategory	HCl	PM	Non-Hg metals ¹	Hg
Exiting Units	Coal	9.8	0	0	1.88E-03
	Biomass	14.5	333	2.3	1.79E-04
New Units	Biomass	9.8	0	0	0

¹ Antimony, arsenic, beryllium, cadmium, chromium, cobalt, lead, manganese, nickel, and selenium.

C. What are the cost impacts?

We estimated the total capital costs of the proposed amendments to be about \$83 million and the total annualized costs to be about \$22 million in 2016 dollars. The total capital and annual costs include costs for control devices, testing, and monitoring associated with the changes to the emission limits.

These costs are incremental to the costs presented in the January 2013 final rule in the sense that they show where units with compliance data must install add-on controls or modify compliance strategies in order to meet the more stringent limits in this proposal. Table 10 of this preamble shows the total capital and annual cost impacts of the proposed rule for each subcategory. The

cost methodology and results are documented in the memorandum, *Revised (2019) Methodology for Estimating Impacts for Industrial, Commercial, Institutional Boilers and Process Heaters National Emission Standards for Hazardous Air Pollutants*, which is available in the docket for this action.

TABLE 10—SUMMARY OF TOTAL CAPITAL AND ANNUAL COSTS FOR NEW AND EXISTING SOURCES FOR THE PROPOSED RULE
[2016\$]

Source	Subcategory	Estimated/ projected number of affected units	Capital costs (10 ⁶ \$)	Testing and monitoring annualized costs (10 ⁶ \$/yr)	Annualized cost (10 ⁶ \$/yr)
Existing Units	Coal	2	0.803	0.006	0.327
	Biomass	26	81.1	0.267	20.5
New Units	Solid units (all biomass)	5	0.952	0.017	0.653

In addition, another way to present compliance costs is the PV. A PV is an estimate of costs that is a discounted stream of the annualized costs for the proposal calculated for the present day. The PV in 2016 of the costs is \$103.7 million at a discount rate of 7 percent and \$128.1 million at 3 percent. Calculated as an EAV, which is consistent with the PV of costs in 2016, the costs are \$17.4 million at a discount rate of 7 percent and \$18.3 million at a

discount rate of 3 percent. These estimates are also in 2016 dollars. More information on the PV and EAV estimates can be found in the RIA for this proposal that is in the docket for this action.

D. What are the secondary impacts?

The EPA estimated the additional water usage that would result from installing wet scrubbers to meet the proposed amended emission limits for

HCl would be 0.64 million gallons per year for new and existing sources compared to the current baseline. In addition to the increased water usage, an additional 0.27 million gallons per year of wastewater would be produced for new and existing sources. The annual costs of treating the additional wastewater are approximately \$1,830. These additional costs are accounted for in the control cost estimates.

The EPA estimated the additional solid waste that would result due to the proposed amendments to be 1,550 tpy for new and existing sources. Solid waste is generated from flyash and dust captured in fabric filters and electrostatic precipitators (ESP) installed for PM and Hg controls as well as from spent materials from wet scrubbers and sorbent injection systems installed for additional HCl controls. The costs of handling the additional solid waste generated are \$74,100. These costs are also accounted for in the control costs estimates.

The EPA estimated the proposed amendments would result in an increase of about 29.5 million kilowatts per year in national energy usage from the electricity required to operate control devices, such as wet scrubbers, ESPs, and fabric filters which are expected to be installed to meet the proposed rule. This energy requirement is estimated to result in an increase of approximately 17,740 tpy CO₂ based on emissions related to additional energy consumption.

A discussion of the methodology used to estimate impacts is presented in the *Revised (2019) Methodology for Estimating Impacts for Industrial, Commercial, Institutional Boilers and Process Heaters National Emission Standards for Hazardous Air Pollutants*, which is available in the docket for this action.

E. What are the economic impacts?

The EPA conducted an economic impact analysis for this proposal, as detailed in the *Regulatory Impact Analysis for the Proposed ICI Boilers NESHAP Reconsideration*, which is available in the docket for this action. The economic impacts of the proposal

are calculated as the percentage of total annualized costs incurred by affected parent owners to their annual revenues. This ratio of total annualized costs to annual revenues provides a measure of the direct economic impact to parent owners of affected facilities while presuming no passthrough of costs to consumers of output produced by these facilities. We estimate that none of the 26 parent owners affected by this proposal will incur total annualized costs of 0.70 percent or greater of their revenues. Thus, these economic impacts are quite low for the affected companies and the multiple affected industries, and consumers of affected output should experience minimal price changes.

F. What are the benefits?

The EPA reports the estimated impact on health benefits from changes in PM_{2.5} and SO₂ emissions. The estimated health co-benefits are the monetized value of the human health benefits among populations exposed to changes in PM_{2.5}. These benefits are co-benefits in this analysis since these pollutants are not targeted for control by this proposal. This rule is expected to alter the emissions of PM_{2.5} (and SO₂). Due to the small change in emissions expected, we used the “benefit per ton” (BPT) approach to estimate the benefits of this rulemaking. The EPA has applied this approach in several previous RIAs¹⁶ in which the economic value of human health impacts are derived at the national level based on previously established source-receptor relationships from photochemical air quality modeling.¹⁷ These BPT estimates provide the total monetized human health benefits (the sum of premature mortality and premature

morbidity) of reducing 1 ton of PM_{2.5} (or PM_{2.5} precursor such as nitrogen oxide or SO₂) from a specified source. Specifically, in this analysis, we multiplied the estimates from the “Industrial Point Sources” sector by the corresponding emission reductions. This assumes that the emissions reductions from this proposed rule for industrial boilers scale linearly with the BPT Industrial Point Sources sector. The method used to derive these estimates is described in the Technical Support Document on estimating the BPT of reducing PM_{2.5} and its precursors from 17 sectors.¹⁸ One limitation of using the BPT approach is an inability to provide estimates of the health benefits associated with exposure to HAP (HCl, for example), CO, nitrogen dioxide, or ozone. The photochemical modeled emissions of the industrial point source sector-attributable PM_{2.5} concentrations used to derive the BPT values may not match the change in air quality resulting from the emissions controls. The PM_{2.5} emission reductions resulting from this rule are approximately 0.4 percent of the PM_{2.5} annual emissions and 0.04 percent of the SO₂ emissions attributable to the BPT Industrial Point Sources. For this reason, the health co-benefits reported in Table 11 may be larger, or smaller, than those realized through this rule. We are taking comment on the modeling assumptions behind the benefits analysis results mentioned above as well as the utility of performing full-form (*i.e.*, full-scale) photochemical modeling for the final rule.

Table 11 summarizes the monetized PM-related health benefits per ton or reducing precursor pollutant emissions, using discount rates of 3 percent and 7 percent.

TABLE 11—ESTIMATED PM_{2.5}-RELATED BENEFITS PER TON OF PROPOSED ICI BOILERS AND PROCESS HEATERS MACT RECONSIDERATION

Pollutant	Epidemiologic study used to quantify PM-related premature deaths			
	Krewski et al. (2009)		Lepeule et al. (2012)	
	BPT (3-percent discount rate)	BPT (7-percent discount rate)	BPT (3-percent discount rate)	BPT (7-percent discount rate)
PM _{2.5}	\$330,000	\$300,000	\$790,000	\$690,000
SO ₂	52,000	47,000	120,000	100,000

¹⁶ U.S. EPA, *Regulatory Impact Analysis for the Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone in 27 States; Correction of SIP Approvals for 22 States*, June 2011; *Regulatory Impact Analysis for the Final Mercury and Air Toxics Standards*, December 2011;

and *Regulatory Impact Analysis for the Particulate Matter National Ambient Air Quality Standards*; December 2012.

¹⁷ Fann N, Fulcher CM, Hubbell BJ. The influence of location, source, and emission type in estimates of the human health benefits of reducing a ton of

air pollution. *Air Qual Atmos Health*. 2009;2(3):169–176. doi:10.1007/s11869-009-0044-0.

¹⁸ U.S. EPA, Technical Support Document. *Estimating the Benefit per Ton of Reducing PM_{2.5} Precursors from 17 Sectors*. February 2018.

Table 12 summarizes the range of estimated benefits by pollutant for the two BPT estimates at discount rates of 3 percent and 7 percent.

TABLE 12—ESTIMATED PM_{2.5}-RELATED HEALTH BENEFITS OF PROPOSED ICI BOILERS AND PROCESS HEATERS MACT RECONSIDERATION

Epidemiologic study used to quantify PM and SO ₂ -related premature deaths				
Pollutant	Krewski et al. (2009)		Lepeule et al. (2012)	
	Benefits (millions of 2016\$, 3-percent discount rate)	Benefits (millions of 2016\$, 7-percent discount rate)	Benefits (millions of 2016\$, 3-percent discount rate)	Benefits (millions of 2016\$, 7-percent discount rate)
PM _{2.5}	\$84	\$76	\$200	\$170
SO ₂	21	19	49	40
Total	110	95	250	210

All BPT estimates have inherent limitations. Specifically, all national-average BPT estimates reflect the geographic distribution of the modeled emissions, which may not exactly match the emission reductions in this rulemaking, and they may not reflect local variability in population density, meteorology, exposure, baseline health incidence rates, or other local factors for any specific location. The photochemical modeled emissions of the industrial point source sector-attributable PM_{2.5} concentrations used to derive the BPT values may not match well the change in air quality resulting from the emissions controls. For this reason, the health benefits reported here may be larger, or smaller, than those realized by this rule.

There are also climate disbenefits from the increase in CO₂ emissions that result from the increase in national energy use from control device operation. The disbenefits are \$0.09 million at a 3-percent discount rate and \$0.01 million at a 7-percent discount rate. These calculations reflect the domestic social cost of carbon for CO₂ for 2025, the year for which benefits are estimated that is an approximation for 2023, the year of full rule compliance. These disbenefits are included in the estimates of benefits and net benefits for this proposal.

The benefit analysis for this proposal is detailed in the *Regulatory Impact Analysis for the Proposed ICI Boilers and Process Heaters NESHAP Reconsideration*, which is available in the docket for this action.

VI. Request for Comments

The EPA is seeking comments on the issues raised in this proposal. It will not respond to comments addressing any other issues. Specifically, the EPA is seeking comments on the revised MACT floor emission limit calculations,

including any comments or corrections to the underlying data used to compute those emission limits, the selection of beyond-the-floor limits for certain subcategories. The EPA is also seeking input on the inventory of units used to quantify the impacts of these proposed amendments, which relied on real compliance data submitted to CEDRI and WebFIRE through April 2019, and the methodology used to quantify the impacts analysis discussed in section V of this preamble. The EPA is also seeking comments on the accuracy of the control technology assessment and/or whether there are other compliance options available to meet the proposed revised emissions limits. Finally, we request comment on the Agency’s approach for using a Benefit per-Ton value to quantify benefits as well as the utility of performing full-form modeling for the final rule.

The current version of this regulation contains language which details how facilities that seek to monitor CO₂ in lieu of oxygen as part of their CEMS used to demonstrate compliance with the CO emission limits in this subpart must have this approach approved as an alternative method before doing so. The EPA is seeking comment on replacing the requirement to have approval of an alternative test method with a required methodology to be followed when monitoring CO₂ in lieu of oxygen as the diluent for CO which would account for any changes in CO₂ emission levels caused by a control device, etc. Additionally, the EPA believes it is appropriate to expand this language to the monitoring of all pollutants when CO₂ is used as the diluent and seeks comment on this as well. Finally, in the course of reviewing the monitoring language under 40 CFR part 63, subpart DDDDD, the EPA is proposing to remove several requirements for the continuous monitoring of moisture and flow which

were found to be unnecessary. We also seek comment on these revisions. A draft of the language we would propose to accomplish these revisions is included in the docket.

VII. Statutory and Executive Order Reviews

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

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

This action is an economically significant regulatory action that was submitted to OMB for review. Any changes made in response to OMB recommendations have been documented in the docket. The RIA for the ICI Boilers NESHAP Reconsideration contains the estimated costs, benefits, and other impacts associated with this action, and it is available in the docket.

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

This action is expected to be an Executive Order 13771 regulatory action. Details on the estimated costs of this proposed rule can be found in the EPA’s analysis of the potential costs and benefits associated with this action, which is the RIA for this proposal.

C. Paperwork Reduction Act (PRA)

The new information collection activities imposed by this proposed rule have been submitted for approval to OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 2028.10. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to agency policies set forth in 40 CFR part 2, subpart B.

The proposed amendments change several emission limits as part of the EPA's response to the remand granted on December 23, 2016, by the D.C. Circuit. The changes result in more stringent emission limits in some cases, which is expected to require additional recordkeeping and reporting burden. This increase is a result of additional monitoring and control devices anticipated to be installed to comply with the more stringent emission limits in the proposed amendments. With additional control devices, comes additional control device parametric monitoring, or in the case of CO, continuous emissions monitoring, and the associated records of that monitoring that must be maintained on-site and reported. Over the next 3 years, approximately 25 respondents operating existing large solid fuel-fired boilers and three respondents operating new solid fuel-fired boilers will be impacted by the new requirements under the standard as a result of these amendments. In addition to the costs to install and maintain records of additional monitoring equipment, the ICR details other additional record keeping and reporting burden changing records associated with adjusting operating parameter limit values, modifying monitoring plans, and familiarizing themselves with the changes in the proposed amendments.

Respondents/affected entities:

Owners or operators of ICI boilers and process heaters.

Respondent's obligation to respond: Mandatory, 40 CFR part 63.

Estimated number of respondents: 28.

Frequency of response: Semi-annual, annual, periodic.

Total estimated burden: 1,080 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: \$307,000 (per year), includes \$180,000 annualized capital or operation and maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule. The EPA will respond to any ICR-related comments in the final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. Of the 26 entities determined to be impacted by this action, only one is a small entity. This small entity is expected to not incur any costs associated with this action. More information on these small entity impacts is available in the RIA for this proposal.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The action affects private industry and does not impose economic costs on State or local governments.

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

This action does not have tribal implications as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified in Executive Order 13175.

Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying to those regulatory actions that concern environmental health or safety risks that the 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. The energy impacts estimated for this proposed rule increased only slightly the energy impacts estimated for the March 21, 2011, final rule which was concluded not to be a significant regulatory action under Executive Order 13211. Therefore, we conclude that this proposed rule, when implemented, 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

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

The documentation for this decision is contained in the preamble to the March 2011 final rule (see 76 FR 15662). For the March 2011 final rule, the EPA determined that the rule would not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any

minority or low-income population. Compared to the final rule, the proposed amendments are somewhat more stringent for some subcategories and, thus, the overall increased health benefits demonstrate that the conclusion from the environmental justice analysis conducted for the final rule are still valid.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Andrew Wheeler, Administrator.

For the reasons stated in the preamble, 40 CFR part 63 is proposed to be amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

1. The authority citation for part 63 continuous to read as follows:

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

Subpart DDDDD—National Emission Standards For Hazardous Air Pollutants For Major Sources: Industrial, Commercial, And Institutional Boilers And Process Heaters

2. Section 63.7500 is amended by revising paragraph (a) introductory text and paragraphs (a)(1), (c), and (e) to read as follows:

63.7500 What emission limitations, work practice standards, and operating limits must I meet?

(a) You must meet the requirements in paragraphs (a)(1) through (3) of this section, except as provided in paragraphs (b) through (e) of this section. You must meet these requirements at all times the affected unit is operating, except as provided in paragraph (f) of this section.

(1) You must meet each emission limit and work practice standard in Tables 1 through 3, and 11 through 15 to this subpart that applies to your boiler or process heater, for each boiler or process heater at your source, except as provided under 63.7522. The output-based emission limits, in units of pounds per million Btu of steam output, in Tables 1 or 2 to this subpart are an alternative applicable only to boilers and process heaters that generate either steam, cogenerate steam with electricity, or both. The output-based emission limits, in units of pounds per megawatt-hour, in Tables 1 or 2 to this subpart are

an alternative applicable only to boilers that generate only electricity. Boilers that perform multiple functions (cogeneration and electricity generation) or supply steam to common headers would calculate a total steam energy output using equation 21 of 63.7575 to demonstrate compliance with the output-based emission limits, in units of pounds per million Btu of steam output, in Tables 1 or 2 to this subpart. If you operate a new boiler or process heater, you can choose to comply with alternative limits as discussed in paragraphs (a)(1)(i) through (a)(1)(iv) of this section, but on or after [DATE 3 YEARS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE Federal Register], you must comply with the emission limits in Table 1 to this subpart. If you operate an existing boiler or process heater, you can choose to comply with alternative limits as discussed in paragraphs (a)(1)(v) of this section, but on or after [DATE 3 YEARS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE Federal Register] you must comply with the emission limits in Table 2 to this subpart.

(i) If your boiler or process heater commenced construction or reconstruction after June 4, 2010, and before May 20, 2011, you may comply with the emission limits in Table 11 or 14 to this subpart until January 31, 2016.

(ii) If your boiler or process heater commenced construction or reconstruction on or after May 20, 2011, and before December 23, 2011, you may comply with the emission limits in Table 12 or 14 to this subpart until January 31, 2016.

(iii) If your boiler or process heater commenced construction or reconstruction on or after December 23, 2011, and before April 1, 2013, you may comply with the emission limits in Table 13 or 14 to this subpart until January 31, 2016.

(iv) If you operate a new boiler or process heater, you may comply with the emission limits in Table 1 or 14 until you must comply with the emission limits in Table 1 to this subpart.

(v) If you operate an existing boiler or process heater, you may comply with the emission limits in Table 2 or 15 until you must comply with the emission limits in Table 2 to this subpart.

(c) Limited-use boilers and process heaters must complete a tune-up every 5 years as specified in 63.7540. They are not subject to the emission limits in

Tables 1 and 2 or 11 through 15 to this subpart, the annual tune-up, or the energy assessment requirements in Table 3 to this subpart, or the operating limits in Table 4 to this subpart.

* * * * *

(e) Boilers and process heaters in the units designed to burn gas 1 fuels subcategory with a heat input capacity of less than or equal to 5 million Btu per hour must complete a tune-up every 5 years as specified in 63.7540. Boilers and process heaters in the units designed to burn gas 1 fuels subcategory with a heat input capacity greater than 5 million Btu per hour and less than 10 million Btu per hour must complete a tune-up every 2 years as specified in 63.7540. Boilers and process heaters in the units designed to burn gas 1 fuels subcategory are not subject to the emission limits in Tables 1 and 2 or 11 through 15 to this subpart, or the operating limits in Table 4 to this subpart.

* * * * *

3. Section 63.7505 is amended by revising paragraph (c) to read as follows:

63.7505 What are my general requirements for complying with this subpart?

* * * * *

(c) You must demonstrate compliance with all applicable emission limits using performance stack testing, fuel analysis, or continuous monitoring systems (CMS), including a continuous emission monitoring system (CEMS), continuous opacity monitoring system (COMS), continuous parameter monitoring system (CPMS), or particulate matter continuous parameter monitoring system (PM CPMS), where applicable. You may demonstrate compliance with the applicable emission limit for hydrogen chloride (HCl), mercury, or total selected metals (TSM) using fuel analysis if the emission rate calculated according to 63.7530(c) is less than the applicable emission limit. For gaseous fuels, you may not use fuel analyses to comply with the TSM alternative standard or the HCl standard. Otherwise, you must demonstrate compliance for HCl, mercury, or TSM using performance stack testing, if subject to an applicable emission limit listed in Tables 1, 2, or 11 through 15 to this subpart.

* * * * *

4. Section 63.7510 is amended by revising paragraph (a) introductory text and paragraphs (b), (c), (f), and (j) to read as follows:

§ 63.7510 What are my initial compliance requirements and by what date must I conduct them?

(a) For each boiler or process heater that is required or that you elect to demonstrate compliance with any of the applicable emission limits in Tables 1 or 2 or 11 through 15 of this subpart through performance (stack) testing, your initial compliance requirements include all the following:

* * * * *

(b) For each boiler or process heater that you elect to demonstrate compliance with the applicable emission limits in Tables 1 or 2 or 11 through 15 to this subpart for HCl, mercury, or TSM through fuel analysis, your initial compliance requirement is to conduct a fuel analysis for each type of fuel burned in your boiler or process heater according to § 63.7521 and Table 6 to this subpart and establish operating limits according to § 63.7530 and Table 8 to this subpart. The fuels described in paragraph (a)(2)(i) and (ii) of this section are exempt from these fuel analysis and operating limit requirements. The fuels described in paragraph (a)(2)(ii) of this section are exempt from the chloride fuel analysis and operating limit requirements. Boilers and process heaters that use a CEMS for mercury or HCl are exempt from the performance testing and operating limit requirements specified in paragraph (a) of this section for the HAP for which CEMS are used.

(c) If your boiler or process heater is subject to a carbon monoxide (CO) limit, your initial compliance demonstration for CO is to conduct a performance test for CO according to Table 5 to this subpart or conduct a performance evaluation of your continuous CO monitor, if applicable, according to § 63.7525(a). Boilers and process heaters that use a CO CEMS to comply with the applicable alternative CO CEMS emission standard listed in Tables 1, 2, or 11 through 15 to this subpart, as specified in § 63.7525(a), are exempt from the initial CO performance testing and oxygen concentration operating limit requirements specified in paragraph (a) of this section.

* * * * *

(f) For new or reconstructed affected sources (as defined in § 63.7490), you must complete the initial compliance demonstration with the emission limits no later than July 30, 2013, or within 180 days after startup of the source, whichever is later.

(1) If you are demonstrating compliance with an emission limit in Tables 11 through 13 to this subpart that is less stringent (that is, higher) than the applicable emission limit in Table 14 to

this subpart, you must demonstrate compliance with the applicable emission limit in Table 14 no later than July 29, 2016.

(2) If you are demonstrating compliance with an emission limit in Table 14 to this subpart that is less stringent (that is, higher) than the applicable emission limit in Table 1 to this subpart, you must demonstrate compliance with the applicable emission limit in Table 1 to this subpart no later than [date 3 years after date of publication of final rule in the **Federal Register**].

* * * * *

(j) For existing affected sources (as defined in § 63.7490) that have not operated between the effective date of the rule and the compliance date that is specified for your source in § 63.7495, you must complete the initial compliance demonstration, if subject to the emission limits in Tables 2 or 14, to this subpart, as applicable, as specified in paragraphs (a) through (d) of this section, no later than 180 days after the re-start of the affected source and according to the applicable provisions in § 63.7(a)(2) as cited in Table 10 to this subpart. You must complete an initial tune-up by following the procedures described in § 63.7540(a)(10)(i) through (vi) no later than 30 days after the re-start of the affected source and, if applicable, complete the one-time energy assessment specified in Table 3 to this subpart, no later than the compliance date specified in § 63.7495.

* * * * *

■ 5. Section 63.7515 is amended by revising paragraphs (b), (c), (e), (g), and (i) to read as follows:

§ 63.7515 When must I conduct subsequent performance tests, fuel analyses, or tune-ups?

* * * * *

(b) If your performance tests for a given pollutant for at least 2 consecutive years show that your emissions are at or below 75 percent of the emission limit (or, in limited instances as specified in Tables 1 and 2 or 11 through 15 to this subpart, at or below the emission limit) for the pollutant, and if there are no changes in the operation of the individual boiler or process heater or air pollution control equipment that could increase emissions, you may choose to conduct performance tests for the pollutant every third year. Each such performance test must be conducted no more than 37 months after the previous performance test. If you elect to demonstrate compliance using emission averaging under § 63.7522, you must continue to conduct performance tests annually. The requirement to test at

maximum chloride input level is waived unless the stack test is conducted for HCl. The requirement to test at maximum mercury input level is waived unless the stack test is conducted for mercury. The requirement to test at maximum TSM input level is waived unless the stack test is conducted for TSM.

(c) If a performance test shows emissions exceeded the emission limit or 75 percent of the emission limit (as specified in Tables 1 and 2 or 11 through 15 to this subpart) for a pollutant, you must conduct annual performance tests for that pollutant until all performance tests over a consecutive 2-year period meet the required level (at or below 75 percent of the emission limit, as specified in Tables 1 and 2 or 11 through 15 to this subpart).

* * * * *

(e) If you demonstrate compliance with the mercury, HCl, or TSM based on fuel analysis, you must conduct a monthly fuel analysis according to § 63.7521 for each type of fuel burned that is subject to an emission limit in Tables 1, 2, or 11 through 15 to this subpart. You may comply with this monthly requirement by completing the fuel analysis any time within the calendar month as long as the analysis is separated from the previous analysis by at least 14 calendar days. If you burn a new type of fuel, you must conduct a fuel analysis before burning the new type of fuel in your boiler or process heater. You must still meet all applicable continuous compliance requirements in § 63.7540. If each of 12 consecutive monthly fuel analyses demonstrates 75 percent or less of the compliance level, you may decrease the fuel analysis frequency to quarterly for that fuel. If any quarterly sample exceeds 75 percent of the compliance level or you begin burning a new type of fuel, you must return to monthly monitoring for that fuel, until 12 months of fuel analyses are again less than 75 percent of the compliance level. If sampling is conducted on 1 day per month, samples should be no less than 14 days apart, but if multiple samples are taken per month, the 14-day restriction does not apply.

* * * * *

(g) For affected sources (as defined in § 63.7490) that have not operated since the previous compliance demonstration and more than 1 year has passed since the previous compliance demonstration, you must complete the subsequent compliance demonstration, if subject to the emission limits in Tables 1, 2, or 11 through 15 to this subpart, no later than

180 days after the re-start of the affected source and according to the applicable provisions in § 63.7(a)(2) as cited in Table 10 to this subpart. You must complete a subsequent tune-up by following the procedures described in § 63.7540(a)(10)(i) through (vi) and the schedule described in § 63.7540(a)(13) for units that are not operating at the time of their scheduled tune-up.

(i) If you operate a CO CEMS that meets the Performance Specifications outlined in § 63.7525(a)(3) of this subpart to demonstrate compliance with the applicable alternative CO CEMS emission standard listed in Tables 1, 2, or 11 through 15 to this subpart, you are not required to conduct CO performance tests and are not subject to the oxygen concentration operating limit requirement specified in § 63.7510(a).

■ 6. Section 63.7520 is amended by revising paragraph (d) to read as follows:

§ 63.7520 What stack tests and procedures must I use?

(d) You must conduct a minimum of three separate test runs for each performance test required in this section, as specified in § 63.7(e)(3). Each test run must comply with the minimum applicable sampling times or volumes specified in Tables 1 and 2 or 11 through 15 to this subpart.

■ 7. Section 63.7521 is amended by revising paragraphs (a) and (c)(1)(ii) to read as follows:

§ 63.7521 What fuel analyses, fuel specification, and procedures must I use?

(a) For solid and liquid fuels, you must conduct fuel analyses for chloride and mercury according to the

procedures in paragraphs (b) through (e) of this section and Table 6 to this subpart, as applicable. For solid fuels and liquid fuels, you must also conduct fuel analyses for TSM if you are opting to comply with the TSM alternative standard. For gas 2 (other) fuels, you must conduct fuel analyses for mercury according to the procedures in paragraphs (b) through (e) of this section and Table 6 to this subpart, as applicable. For gaseous fuels, you may not use fuel analyses to comply with the TSM alternative standard or the HCl standard. For purposes of complying with this section, a fuel gas system that consists of multiple gaseous fuels collected and mixed with each other is considered a single fuel type and sampling and analysis is only required on the combined fuel gas system that will feed the boiler or process heater. Sampling and analysis of the individual gaseous streams prior to combining is not required. You are not required to conduct fuel analyses for fuels used for only startup, unit shutdown, and transient flame stability purposes. You are required to conduct fuel analyses only for fuels and units that are subject to emission limits for mercury, HCl, or TSM in Tables 1 and 2 or 11 through 15 to this subpart. Gaseous and liquid fuels are exempt from the sampling requirements in paragraphs (c) and (d) of this section.

(c) * * *

(1) * * *

(ii) Each composite sample will consist of a minimum of three samples collected at approximately equal intervals during the testing period for sampling during performance stack testing.

* * *

■ 8. Section 63.7522 is amended by revising paragraph (b) introductory text and paragraphs (d), (e)(1), (2), (h), and (j)(1) to read as follows:

§ 63.7522 Can I use emissions averaging to comply with this subpart?

* * *

(b) For a group of two or more existing boilers or process heaters in the same subcategory that each vent to a separate stack, you may average PM (or TSM), HCl, or mercury emissions among existing units to demonstrate compliance with the limits in Table 2 or 15 to this subpart as specified in paragraph (b)(1) through (3) of this section, if you satisfy the requirements in paragraphs (c) through (g) of this section.

* * *

(d) The averaged emissions rate from the existing boilers and process heaters participating in the emissions averaging option must not exceed 90 percent of the limits in Table 2 or 15 to this subpart at all times the affected units are subject to numeric emission limits following the compliance date specified in § 63.7495.

(e) * * *

(1) You must use Equation 1a or 1b or 1c of this section to demonstrate that the PM (or TSM), HCl, or mercury emissions from all existing units participating in the emissions averaging option for that pollutant do not exceed the emission limits in Table 2 or 15 to this subpart. Use Equation 1a if you are complying with the emission limits on a heat input basis, use Equation 1b if you are complying with the emission limits on a steam generation (output) basis, and use Equation 1c if you are complying with the emission limits on a electric generation (output) basis.

$$AveWeightedEmissions = 1.1 \times \sum_{i=1}^n (Er \times Hm) \div \sum_{i=1}^n Hm \quad (Eq. 1a)$$

Where:

AveWeightedEmissions = Average weighted emissions for PM (or TSM), HCl, or mercury, in units of pounds per million Btu of heat input.

Er = Emission rate (as determined during the initial compliance demonstration) of PM

(or TSM), HCl, or mercury from unit, i, in units of pounds per million Btu of heat input. Determine the emission rate for PM (or TSM), HCl, or mercury by performance testing according to Table 5 to this subpart, or by fuel analysis for

HCl or mercury or TSM using the applicable equation in § 63.7530(c).
Hm = Maximum rated heat input capacity of unit, i, in units of million Btu per hour.
n = Number of units participating in the emissions averaging option.
1.1 = Required discount factor.

$$AveWeightedEmissions = 1.1 \times \sum_{i=1}^n (Er \times So) \div \sum_{i=1}^n So \quad (Eq. 1b)$$

Where:

AveWeightedEmissions = Average weighted emissions for PM (or TSM), HCl, or

mercury, in units of pounds per million Btu of steam output.
Er = Emission rate (as determined during the initial compliance demonstration) of PM

(or TSM), HCl, or mercury from unit, i, in units of pounds per million Btu of steam output. Determine the emission rate for PM (or TSM), HCl, or mercury by

performance testing according to Table 5 to this subpart, or by fuel analysis for HCl or mercury or TSM using the applicable equation in § 63.7530(c). If you are taking credit for energy conservation measures from a unit

according to § 63.7533, use the adjusted emission level for that unit, Eadj, determined according to § 63.7533 for that unit.

So = Maximum steam output capacity of unit, i, in units of million Btu per hour, as defined in § 63.7575.
n = Number of units participating in the emissions averaging option.
1.1 = Required discount factor.

$$AveWeightedEmissions = 1.1 \times \sum_{i=1}^n (Er \times Eo) + \sum_{i=1}^n Eo \quad (Eq. 1c)$$

Where:

AveWeightedEmissions = Average weighted emissions for PM (or TSM), HCl, or mercury, in units of pounds per megawatt hour.

Er = Emission rate (as determined during the initial compliance demonstration) of PM (or TSM), HCl, or mercury from unit, i, in units of pounds per megawatt hour. Determine the emission rate for PM (or TSM), HCl, or mercury by performance testing according to Table 5 to this subpart, or by fuel analysis for HCl or mercury or TSM using the applicable

equation in § 63.7530(c). If you are taking credit for energy conservation measures from a unit according to § 63.7533, use the adjusted emission level for that unit, Eadj, determined according to § 63.7533 for that unit.

Eo = Maximum electric generating output capacity of unit, i, in units of megawatt hour, as defined in § 63.7575.

n = Number of units participating in the emissions averaging option.

1.1 = Required discount factor.

(2) If you are not capable of determining the maximum rated heat

input capacity of one or more boilers that generate steam, you may use Equation 2 of this section as an alternative to using Equation 1a of this section to demonstrate that the PM (or TSM), HCl, or mercury emissions from all existing units participating in the emissions averaging option do not exceed the emission limits for that pollutant in Table 2 or 15 to this subpart that are in pounds per million Btu of heat input.

$$AveWeightedEmissions = 1.1 \times \sum_{i=1}^n (Er \times Sm \times Cfi) + \sum_{i=1}^n (Sm \times Cfi) \quad (Eq. 2)$$

Where:

AveWeightedEmissions = Average weighted emission level for PM (or TSM), HCl, or mercury, in units of pounds per million Btu of heat input.

Er = Emission rate (as determined during the most recent compliance demonstration) of PM (or TSM), HCl, or mercury from unit, i, in units of pounds per million Btu of heat input. Determine the emission rate for PM (or TSM), HCl, or mercury by performance testing according to Table 5 to this subpart, or by fuel analysis for HCl or mercury or TSM using the applicable equation in § 63.7530(c).

Sm = Maximum steam generation capacity by unit, i, in units of pounds per hour.

Cfi = Conversion factor, calculated from the most recent compliance test, in units of million Btu of heat input per pounds of steam generated for unit, i.

1.1 = Required discount factor.

* * * * *

(h) For a group of two or more existing affected units, each of which vents through a single common stack, you may average PM (or TSM), HCl, or mercury emissions to demonstrate compliance with the limits for that pollutant in Table 2 or 15 to this subpart if you satisfy the requirements in paragraph (i) or (j) of this section.

* * * * *

(j) * * *

(1) Conduct performance tests according to procedures specified in § 63.7520 in the common stack if affected units from other subcategories vent to the common stack. The emission limits that the group must comply with

are determined by the use of Equation 6 of this section.

$$En = \sum_{i=1}^n (ELi \times Hi) + \sum_{i=1}^n Hi \quad (Eq. 6)$$

Where:

En = HAP emission limit, pounds per million British thermal units (lb/MMBtu) or parts per million (ppm).

ELi = Appropriate emission limit from Table 2 or 15 to this subpart for unit i, in units of lb/MMBtu or ppm.

Hi = Heat input from unit i, MMBtu.

* * * * *

■ 9. Section 63.7525 is amended by revising paragraphs (a), (2), (2)(iv), (l), and (m) introductory text to read as follows:

§ 63.7525 What are my monitoring, installation, operation, and maintenance requirements?

(a) If your boiler or process heater is subject to a CO emission limit in Tables 1, 2, or 11 through 15 to this subpart, you must install, operate, and maintain an oxygen analyzer system, as defined in § 63.7575, or install, certify, operate and maintain continuous emission monitoring systems for CO and oxygen (or carbon dioxide (CO₂)) according to the procedures in paragraphs (a)(1) through (6) of this section.

* * * * *

(2) To demonstrate compliance with the applicable alternative CO CEMS emission standard listed in Tables 1, 2, or 11 through 15 to this subpart, you must install, certify, operate, and

maintain a CO CEMS and an oxygen analyzer according to the applicable procedures under Performance Specification 4, 4A, or 4B at 40 CFR part 60, appendix B; part 75 of this chapter (if an CO₂ analyzer is used); the site-specific monitoring plan developed according to § 63.7505(d); and the requirements in § 63.7540(a)(8) and paragraph (a) of this section. Any boiler or process heater that has a CO CEMS that is compliant with Performance Specification 4, 4A, or 4B at 40 CFR part 60, appendix B, a site-specific monitoring plan developed according to § 63.7505(d), and the requirements in § 63.7540(a)(8) and paragraph (a) of this section must use the CO CEMS to comply with the applicable alternative CO CEMS emission standard listed in Tables 1, 2, or 11 through 15 to this subpart.

* * * * *

(iv) Any CO CEMS that does not comply with § 63.7525(a) cannot be used to meet any requirement in this subpart to demonstrate compliance with a CO emission limit listed in Tables 1, 2, or 11 through 15 to this subpart.

* * * * *

(l) For each unit for which you decide to demonstrate compliance with the mercury or HCl emissions limits in Tables 1 or 2 or 11 through 15 of this subpart by use of a CEMS for mercury or HCl, you must install, certify, maintain, and operate a CEMS measuring emissions discharged to the

atmosphere and record the output of the system as specified in paragraphs (I)(1) through (8) of this section. For HCl, this option for an affected unit takes effect on the date a final performance specification for a HCl CEMS is published in the **Federal Register** or the date of approval of a site-specific monitoring plan.

(m) If your unit is subject to a HCl emission limit in Tables 1, 2, or 11 through 15 of this subpart and you have an acid gas wet scrubber or dry sorbent injection control technology and you elect to use an SO₂ CEMS to demonstrate continuous compliance with the HCl emission limit, you must install the monitor at the outlet of the boiler or process heater, downstream of all emission control devices, and you must install, certify, operate, and maintain the CEMS according to either part 60 or part 75 of this chapter.

* * * * *

■ 10. Section 63.7530 is amended by revising paragraphs (b)(4)(ii)(E) and (iii) and the introductory text of paragraph (h) to read as follows:

§ 63.7530 How do I demonstrate initial compliance with the emission limitations, fuel specifications and work practice standards?

* * * * *

- (b) * * *
- (4) * * *
- (ii) * * *

(E) Use EPA Method 5 of appendix A to part 60 of this chapter to determine PM emissions. For each performance test, conduct three separate runs under the conditions that exist when the affected source is operating at the highest load or capacity level reasonably expected to occur. Conduct each test run to collect a minimum sample volume specified in Tables 1, 2, or 11 through 15 to this subpart, as applicable, for determining compliance with a new source limit or an existing source limit. Calculate the average of the results from three runs to determine compliance. You need not determine the PM collected in the impingers (“back half”) of the Method 5 particulate sampling train to demonstrate compliance with the PM standards of this subpart. This shall not preclude the permitting authority from requiring a determination of the “back half” for other purposes.

* * * * *

(iii) For a particulate wet scrubber, you must establish the minimum pressure drop and liquid flow rate as defined in § 63.7575, as your operating limits during the three-run performance test during which you demonstrate compliance with your applicable limit.

If you use a wet scrubber and you conduct separate performance tests for PM and TSM emissions, you must establish one set of minimum scrubber liquid flow rate and pressure drop operating limits. If you conduct multiple performance tests, you must set the minimum liquid flow rate and pressure drop operating limits at the higher of the minimum values established during the performance tests.

* * * * *

(h) If you own or operate a unit subject to emission limits in Tables 1 or 2 or 11 through 15 to this subpart, you must meet the work practice standard according to Table 3 of this subpart. During startup and shutdown, you must only follow the work practice standards according to items 5 and 6 of Table 3 of this subpart.

* * * * *

■ 11. Section 63.7533 is amended by revising paragraphs (a), (e), and (f) to read as follows:

§ 63.7533 Can I use efficiency credits earned from implementation of energy conservation measures to comply with this subpart?

(a) If you elect to comply with the alternative equivalent output-based emission limits, instead of the heat input-based limits listed in Table 2 or 15 to this subpart, and you want to take credit for implementing energy conservation measures identified in an energy assessment, you may demonstrate compliance using efficiency credits according to the procedures in this section. You may use this compliance approach for an existing affected boiler for demonstrating initial compliance according to § 63.7522(e) and for demonstrating monthly compliance according to § 63.7522(f). Owners or operators using this compliance approach must establish an emissions benchmark, calculate and document the efficiency credits, develop an Implementation Plan, comply with the general reporting requirements, and apply the efficiency credit according to the procedures in paragraphs (b) through (f) of this section. You cannot use this compliance approach for a new or reconstructed affected boiler. Additional guidance from the Department of Energy on efficiency credits is available at: <http://www.epa.gov/ttn/atw/boiler/boilerpg.html>.

* * * * *

(e) The emissions rate as calculated using Equation 20 of this section from each existing boiler participating in the efficiency credit option must be in

compliance with the limits in Table 2 or 15 to this subpart at all times the affected unit is subject to numeric emission limits, following the compliance date specified in § 63.7495.

(f) You must use Equation 20 of this section to demonstrate initial compliance by demonstrating that the emissions from the affected boiler participating in the efficiency credit compliance approach do not exceed the emission limits in Table 2 or 15 to this subpart.

$$E_{adj} = E_m \times (1 - ECredits) \quad (Eq. 20)$$

Where:

E_{adj} = Emission level adjusted by applying the efficiency credits earned, lb per million Btu steam output (or lb per MWh) for the affected boiler.

E_m = Emissions measured during the performance test, lb per million Btu steam output (or lb per MWh) for the affected boiler.

ECredits = Efficiency credits from Equation 19 for the affected boiler.

* * * * *

■ 12. Section 63.7540 is amended by:

- a. Revising paragraphs (a), (8), and (19) introductory text; and
- b. Revising paragraphs (a)(8)(ii), (9), and (b).

The revisions read as follows:

§ 63.7540 How do I demonstrate continuous compliance with the emission limitations, fuel specifications and work practice standards?

(a) You must demonstrate continuous compliance with each emission limit in Tables 1 and 2 or 11 through 15 to this subpart, the work practice standards in Table 3 to this subpart, and the operating limits in Table 4 to this subpart that applies to you according to the methods specified in Table 8 to this subpart and paragraphs (a)(1) through (19) of this section.

* * * * *

(8) To demonstrate compliance with the applicable alternative CO CEMS emission limit listed in Tables 1, 2, or 11 through 15 to this subpart, you must meet the requirements in paragraphs (a)(8)(i) through (iv) of this section.

* * * * *

(ii) Maintain a CO emission level below or at your applicable alternative CO CEMS-based standard in Tables 1 or 2 or 11 through 15 to this subpart at all times the affected unit is subject to numeric emission limits.

* * * * *

(9) The owner or operator of a boiler or process heater using a PM CPMS or a PM CEMS to meet requirements of this subpart shall install, certify (PM CEMS only), operate, and maintain the PM CPMS or PM CEMS in accordance with

your site-specific monitoring plan as required in § 63.7505(d).

* * * * *

(19) If you choose to comply with the PM filterable emissions limit by using PM CEMS you must install, certify, operate, and maintain a PM CEMS and record the output of the PM CEMS as specified in paragraphs (a)(19)(i) through (vii) of this section. The compliance limit will be expressed as a 30-day rolling average of the numerical emissions limit value applicable for your unit in Tables 1 or 2 or 11 through 15 of this subpart.

* * * * *

(b) You must report each instance in which you did not meet each emission limit and operating limit in Tables 1 through 4 or 11 through 15 to this subpart that apply to you. These instances are deviations from the emission limits or operating limits, respectively, in this subpart. These deviations must be reported according to the requirements in § 63.7550.

* * * * *

■ 13. Section 63.7545 is amended by revising paragraph (e)(3) to read as follows:

§ 63.7545 What notifications must I submit and when?

* * * * *

(e) * * *

(3) A summary of the maximum CO emission levels recorded during the performance test to show that you have met any applicable emission standard in Tables 1, 2, or 11 through 15 to this subpart, if you are not using a CO CEMS to demonstrate compliance.

* * * * *

■ 14. Section 63.7555 is amended by revising paragraph (d) introductory text and paragraph (5) to read as follows:

§ 63.7555 What records must I keep?

* * * * *

(d) For each boiler or process heater subject to an emission limit in Tables 1, 2, or 11 through 15 to this subpart, you must also keep the applicable records in paragraphs (d)(1) through (11) of this section.

* * * * *

(5) If, consistent with § 63.7515(b), you choose to stack test less frequently than annually, you must keep a record that documents that your emissions in the previous stack test(s) were less than 75 percent of the applicable emission limit (or, in specific instances noted in Tables 1 and 2 or 11 through 15 to this subpart, less than the applicable emission limit), and document that there was no change in source operations including fuel composition and operation of air pollution control equipment that would cause emissions of the relevant pollutant to increase within the past year.

* * * * *

■ 15. Section 63.7575 is amended by:

- a. Adding, in alphabetical order, a definition for “12-month rolling average”;
- b. Revising the definition of “Other gas 1 fuel”;
- c. Revising paragraphs (3) and (4) under the definition of “Steam output.”

The additions and revisions read as follows:

§ 63.7575 What definitions apply to this subpart?

* * * * *

12-month rolling average means the arithmetic mean of the previous 12

months of valid fuel analysis data. The 12 months should be consecutive, but not necessarily continuous if operations were intermittent.

* * * * *

Other gas 1 fuel means a gaseous fuel that is not natural gas or refinery gas and does not exceed a maximum mercury concentration of 40 micrograms/cubic meters of gas.

* * * * *

Steam output * * *

* * * * *

(3) For a boiler that generates only electricity, the alternate output-based emission limits would be the appropriate emission limit from Table 1 or 2 or 14 or 15 of this subpart in units of pounds per million Btu heat input (lb per MWh).

(4) For a boiler that performs multiple functions and produces steam to be used for any combination of paragraphs (1), (2) and (3) of this definition that includes electricity generation of paragraph (3) of this definition, the total energy output, in terms of MMBtu of steam output, is the sum of the energy content of steam sent directly to the process and/or used for heating (S₁), the energy content of turbine steam sent to process plus energy in electricity according to paragraph (2) of this definition (S₂), and the energy content of electricity generated by a electricity only turbine as paragraph (3) of this definition (MW₍₃₎) and would be calculated using Equation 21 of this section. In the case of boilers supplying steam to one or more common headers, S₁, S₂, and MW₍₃₎ for each boiler would be calculated based on the its (steam energy) contribution (fraction of total steam energy) to the common header.

$$SO_M = S_1 + S_2 + (MW_{(3)} \times CF_n) \quad (\text{Eq. 21})$$

Where:

SO_M = Total steam output for multi-function boiler, MMBtu

S₁ = Energy content of steam sent directly to the process and/or used for heating, MMBtu

S₂ = Energy content of turbine steam sent to the process plus energy in electricity according to (2) above, MMBtu

MW₍₃₎ = Electricity generated according to paragraph (3) of this definition, MWh

CF_n = Conversion factor for the appropriate subcategory for converting electricity generated according to paragraph (3) of this definition to equivalent steam energy, MMBtu/MWh

CF_n for emission limits for boilers in the unit designed to burn solid fuel subcategory = 10.8

CF_n PM and CO emission limits for boilers in one of the subcategories of units designed to burn coal = 11.7

CF_n PM and CO emission limits for boilers in one of the subcategories of units designed to burn biomass = 12.1

CF_n for emission limits for boilers in one of the subcategories of units designed to burn liquid fuel = 11.2

CF_n for emission limits for boilers in the unit designed to burn gas 2 (other) subcategory = 6.2

* * * * *

■ 16. Table 1 to subpart DDDDD is amended to read as follows:

TABLE 1 TO SUBPART DDDDD OF PART 63—EMISSION LIMITS FOR NEW OR RECONSTRUCTED BOILERS AND PROCESS HEATERS

As stated in § 63.7500, you must comply with the following applicable emission limits: [Units with heat input capacity of 10 million Btu per hour or greater]

If your boiler or process heater is in this subcategory	For the following pollutants	The emissions must not exceed the following emission limits, except during startup and shutdown	Or the emissions must not exceed the following alternative output-based limits, except during startup and shutdown	Using this specified sampling volume or test run duration
1. Units in all subcategories designed to burn solid fuel.	a. HCl	3.0E-04 lb per MMBtu of heat input	4.1E-04 lb per MMBtu of steam output or 3.9E-03 lb per MWh.	For M26A, collect a minimum of 1 dscm per run; for M26 collect a minimum of 120 liters per run.
	b. Mercury	8.0E-07 ^a lb per MMBtu of heat input.	8.7E-07 ^a lb per MMBtu of steam output or 1.1E-05 ^a lb per MWh.	For M29, collect a minimum of 4 dscm per run; for M30A or M30B, collect a minimum sample as specified in the method; for ASTM D6784 ^b collect a minimum of 4 dscm.
2. Units designed to burn coal/solid fossil fuel.	a. Filterable PM (or TSM).	1.1E-03 lb per MMBtu of heat input; or (2.3E-05 lb per MMBtu of heat input).	1.1E-03 lb per MMBtu of steam output or 1.4E-02 lb per MWh; or (2.7E-05 lb per MMBtu of steam output or 2.9E-04 lb per MWh).	Collect a minimum of 3 dscm per run.
3. Pulverized coal boilers designed to burn coal/solid fossil fuel.	a. Carbon monoxide (CO) (or CEMS).	130 ppm by volume on a dry basis corrected to 3-percent oxygen, 3-run average; or (320 ppm by volume on a dry basis corrected to 3-percent oxygen, ^d 30-day rolling average).	0.11 lb per MMBtu of steam output or 1.4 lb per MWh; three-run average.	1 hr minimum sampling time.
4. Stokers/others designed to burn coal/solid fossil fuel.	a. CO (or CEMS)	130 ppm by volume on a dry basis corrected to 3-percent oxygen, 3-run average; or (340 ppm by volume on a dry basis corrected to 3-percent oxygen, ^d 30-day rolling average).	0.12 lb per MMBtu of steam output or 1.4 lb per MWh; three-run average.	1 hr minimum sampling time.
5. Fluidized bed units designed to burn coal/solid fossil fuel.	a. CO (or CEMS)	130 ppm by volume on a dry basis corrected to 3-percent oxygen, 3-run average; or (230 ppm by volume on a dry basis corrected to 3-percent oxygen, ^d 30-day rolling average).	0.11 lb per MMBtu of steam output or 1.4 lb per MWh; three-run average.	1 hr minimum sampling time.
6. Fluidized bed units with an integrated heat exchanger designed to burn coal/solid fossil fuel.	a. CO (or CEMS)	140 ppm by volume on a dry basis corrected to 3-percent oxygen, 3-run average; or (150 ppm by volume on a dry basis corrected to 3-percent oxygen, ^d 30-day rolling average).	1.2E-01 lb per MMBtu of steam output or 1.5 lb per MWh; three-run average.	1 hr minimum sampling time.
7. Stokers/sloped grate/others designed to burn wet biomass fuel.	a. CO (or CEMS)	590 ppm by volume on a dry basis corrected to 3-percent oxygen, 3-run average; or (390 ppm by volume on a dry basis corrected to 3-percent oxygen, ^d 30-day rolling average).	6.1E-01 lb per MMBtu of steam output or 6.5 lb per MWh; three-run average.	1 hr minimum sampling time.
	b. Filterable PM (or TSM).	1.3E-02 lb per MMBtu of heat input; or (2.6E-05 lb per MMBtu of heat input).	1.4E-02 lb per MMBtu of steam output or 1.9E-01 lb per MWh; or (2.7E-05 lb per MMBtu of steam output or 3.7E-04 lb per MWh).	Collect a minimum of 2 dscm per run.
8. Stokers/sloped grate/others designed to burn kiln-dried biomass fuel.	a. CO	460 ppm by volume on a dry basis corrected to 3-percent oxygen.	4.3E-01 lb per MMBtu of steam output or 5.1 lb per MWh.	1 hr minimum sampling time.
	b. Filterable PM (or TSM).	3.0E-02 lb per MMBtu of heat input; or (5.0E-03 lb per MMBtu of heat input).	3.5E-02 lb per MMBtu of steam output or 4.2E-01 lb per MWh; or (5.2E-03 lb per MMBtu of steam output or 7.0E-02 lb per MWh).	Collect a minimum of 2 dscm per run.
9. Fluidized bed units designed to burn biomass/bio-based solids.	a. CO (or CEMS)	130 ppm by volume on a dry basis corrected to 3-percent oxygen, 3-run average; or (310 ppm by volume on a dry basis corrected to 3-percent oxygen, ^d 30-day rolling average).	1.3E-01 lb per MMBtu of steam output or 1.5 lb per MWh; three-run average.	1 hr minimum sampling time.
	b. Filterable PM (or TSM).	4.1E-03 lb per MMBtu of heat input; or (8.4E-06 ^a lb per MMBtu of heat input).	5.0E-03 lb per MMBtu of steam output or 5.8E-02 lb per MWh; or (1.1E-05 ^a lb per MMBtu of steam output or 1.2E-04 ^a lb per MWh).	Collect a minimum of 3 dscm per run.
10. Suspension burners designed to burn biomass/bio-based solids.	a. CO (or CEMS)	220 ppm by volume on a dry basis corrected to 3-percent oxygen, 3-run average; or (2,000 ppm by volume on a dry basis corrected to 3-percent oxygen, ^d 10-day rolling average).	0.18 lb per MMBtu of steam output or 2.5 lb per MWh; three-run average.	1 hr minimum sampling time.

TABLE 1 TO SUBPART DDDDD OF PART 63—EMISSION LIMITS FOR NEW OR RECONSTRUCTED BOILERS AND PROCESS HEATERS—Continued

As stated in § 63.7500, you must comply with the following applicable emission limits: [Units with heat input capacity of 10 million Btu per hour or greater]

If your boiler or process heater is in this subcategory	For the following pollutants	The emissions must not exceed the following emission limits, except during startup and shutdown	Or the emissions must not exceed the following alternative output-based limits, except during startup and shutdown	Using this specified sampling volume or test run duration
11. Dutch Ovens/Pile burners designed to burn biomass/bio-based solids.	b. Filterable PM (or TSM).	3.0E-02 lb per MMBtu of heat input; or (8.0E-03 lb per MMBtu of heat input).	3.1E-02 lb per MMBtu of steam output or 4.2E-01 lb per MWh; or (8.1E-03 lb per MMBtu of steam output or 1.2E-01 lb per MWh).	Collect a minimum of 2 dscm per run.
	a. CO (or CEMS)	330 ppm by volume on a dry basis corrected to 3-percent oxygen, 3-run average; or (520 ppm by volume on a dry basis corrected to 3-percent oxygen, ^d 10-day rolling average).	3.5E-01 lb per MMBtu of steam output or 3.6 lb per MWh; three-run average.	1 hr minimum sampling time.
12. Fuel cell units designed to burn biomass/bio-based solids.	b. Filterable PM (or TSM).	2.5E-03 lb per MMBtu of heat input; or (3.9E-05 lb per MMBtu of heat input).	3.4E-03 lb per MMBtu of steam output or 3.5E-02 lb per MWh; or (5.2E-05 lb per MMBtu of steam output or 5.5E-04 lb per MWh).	Collect a minimum of 3 dscm per run.
	a. CO	910 ppm by volume on a dry basis corrected to 3-percent oxygen.	1.1 lb per MMBtu of steam output or 1.0E+01 lb per MWh.	1 hr minimum sampling time.
13. Hybrid suspension grate boiler designed to burn biomass/bio-based solids.	b. Filterable PM (or TSM).	1.1E-02 lb per MMBtu of heat input; or (2.9E-05 ^a lb per MMBtu of heat input).	2.0E-02 lb per MMBtu of steam output or 1.6E-01 lb per MWh; or (5.1E-05 lb per MMBtu of steam output or 4.1E-04 lb per MWh).	Collect a minimum of 2 dscm per run.
	a. CO (or CEMS)	180 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average; or (900 ppm by volume on a dry basis corrected to 3-percent oxygen, ^d 30-day rolling average).	0.22 lb per MMBtu of steam output or 2.0 lb per MWh; three-run average.	1 hr minimum sampling time.
14. Units designed to burn liquid fuel.	b. Filterable PM (or TSM).	2.6E-02 lb per MMBtu of heat input; or (4.4E-04 lb per MMBtu of heat input).	3.3E-02 lb per MMBtu of steam output or 3.7E-01 lb per MWh; or (5.5E-04 lb per MMBtu of steam output or 6.2E-03 lb per MWh).	Collect a minimum of 3 dscm per run.
	a. HCl	7.0E-05 lb per MMBtu of heat input	7.7E-05 lb per MMBtu of steam output or 9.7E-04 lb per MWh.	For M26A: Collect a minimum of 2 dscm per run; for M26, collect a minimum of 240 liters per run.
15. Units designed to burn heavy liquid fuel.	b. Mercury	4.8E-07 ^a lb per MMBtu of heat input.	5.3E-07 ^a lb per MMBtu of steam output or 6.7E-06 ^a lb per MWh.	For M29, collect a minimum of 4 dscm per run; for M30A or M30B, collect a minimum sample as specified in the method; for ASTM D6784 ^b collect a minimum of 4 dscm.
	a. CO	130 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average.	0.13 lb per MMBtu of steam output or 1.4 lb per MWh; three-run average.	1 hr minimum sampling time.
16. Units designed to burn light liquid fuel.	b. Filterable PM (or TSM).	1.9E-03 lb per MMBtu of heat input; or (6.1E-06 lb per MMBtu of heat input).	2.1E-03 lb per MMBtu of steam output or 2.7E-02 lb per MWh; or (6.7E-6 lb per MMBtu of steam output or 8.5E-5 lb per MWh).	Collect a minimum of 3 dscm per run.
	a. CO	130 ppm by volume on a dry basis corrected to 3-percent oxygen.	0.13 lb per MMBtu of steam output or 1.4 lb per MWh.	1 hr minimum sampling time.
17. Units designed to burn liquid fuel that are non-continental units.	b. Filterable PM (or TSM).	1.1E-03 ^a lb per MMBtu of heat input; or (2.9E-05 lb per MMBtu of heat input).	1.2E-03 ^a lb per MMBtu of steam output or 1.6E-02 ^a lb per MWh; or (3.2E-05 lb per MMBtu of steam output or 4.0E-04 lb per MWh).	Collect a minimum of 3 dscm per run.
	a. CO	130 ppm by volume on a dry basis corrected to 3-percent oxygen, 3-run average based on stack test.	0.13 lb per MMBtu of steam output or 1.4 lb per MWh; three-run average.	1 hr minimum sampling time.
18. Units designed to burn gas 2 (other) gases.	b. Filterable PM (or TSM).	2.3E-02 lb per MMBtu of heat input; or (8.6E-04 lb per MMBtu of heat input).	2.5E-02 lb per MMBtu of steam output or 3.2E-01 lb per MWh; or (9.4E-04 lb per MMBtu of steam output or 1.2E-02 lb per MWh).	Collect a minimum of 4 dscm per run.
	a. CO	130 ppm by volume on a dry basis corrected to 3-percent oxygen.	0.16 lb per MMBtu of steam output or 1.0 lb per MWh.	1 hr minimum sampling time.
	b. HCl	1.7E-03 lb per MMBtu of heat input	2.9E-03 lb per MMBtu of steam output or 1.8E-02 lb per MWh.	For M26A, Collect a minimum of 2 dscm per run; for M26, collect a minimum of 240 liters per run.
	c. Mercury	7.9E-06 lb per MMBtu of heat input	1.4E-05 lb per MMBtu of steam output or 8.3E-05 lb per MWh.	For M29, collect a minimum of 3 dscm per run; for M30A or M30B, collect a minimum sample as specified in the method; for ASTM D6784 ^b collect a minimum of 3 dscm.

TABLE 1 TO SUBPART DDDDD OF PART 63—EMISSION LIMITS FOR NEW OR RECONSTRUCTED BOILERS AND PROCESS HEATERS—Continued

As stated in § 63.7500, you must comply with the following applicable emission limits: [Units with heat input capacity of 10 million Btu per hour or greater]

If your boiler or process heater is in this subcategory . . .	For the following pollutants . . .	The emissions must not exceed the following emission limits, except during startup and shutdown . . .	Or the emissions must not exceed the following alternative output-based limits, except during startup and shutdown . . .	Using this specified sampling volume or test run duration . . .
	d. Filterable PM (or TSM).	7.3E-03 lb per MMBtu of heat input; or (2.1E-04 lb per MMBtu of heat input).	1.3E-02 lb per MMBtu of steam output or 7.6E-02 lb per MWh; or (3.5E-04 lb per MMBtu of steam output or 2.2E-03 lb per MWh).	Collect a minimum of 3 dscm per run.

^a If you are conducting stack tests to demonstrate compliance and your performance tests for this pollutant for at least 2 consecutive years show that your emissions are at or below this limit, you can skip testing according to § 63.7515 if all of the other provisions of § 63.7515 are met. For all other pollutants that do not contain a footnote “a”, your performance tests for this pollutant for at least 2 consecutive years must show that your emissions are at or below 75 percent of this limit in order to qualify for skip testing.

^b Incorporated by reference, see § 63.14.

^c If your affected source is a new or reconstructed affected source that commenced construction or reconstruction after June 4, 2010, and before April 1, 2013, you may comply with the emission limits in Tables 11, 12 or 13 to this subpart until January 31, 2016. On and after January 31, 2016, but before [date 3 years after date of publication of final rule in the **Federal Register**] you may comply with the emission limits in Table 14 to this subpart. On and after [date 3 years after date of publication of final rule in the **Federal Register**], you must comply with the emission limits in Table 1 to this subpart.

^d An owner or operator may request an alternative test method under § 63.7 of this chapter, in order that compliance with the carbon monoxide emissions limit be determined using CO₂ as a diluent correction in place of oxygen at 3 percent. EPA Method 19 F-factors and EPA Method 19 equations must be used to generate the appropriate CO₂ correction percentage for the fuel type burned in the unit and must also take into account that the 3-percent oxygen correction is to be done on a dry basis. The alternative test method request must account for any CO₂ being added to, or removed from, the emissions gas stream as a result of limestone injection, scrubber media, etc.

■ 17. Table 2 to subpart DDDDD is amended to read as follows:

TABLE 2 TO SUBPART DDDDD OF PART 63—EMISSION LIMITS FOR EXISTING BOILERS AND PROCESS HEATERS

As stated in § 63.7500, you must comply with the following applicable emission limits: [Units with heat input capacity of 10 million Btu per hour or greater]

If your boiler or process heater is in this subcategory . . .	For the following pollutants . . .	The emissions must not exceed the following emission limits, except during startup and shutdown . . .	The emissions must not exceed the following alternative output-based limits, except during startup and shutdown . . .	Using this specified sampling volume or test run duration . . .
1. Units in all subcategories designed to burn solid fuel.	a. HCl	2.0E-02 lb per MMBtu of heat input	2.3E-02 lb per MMBtu of steam output or 0.26 lb per MWh.	For M26A, Collect a minimum of 1 dscm per run; for M26, collect a minimum of 120 liters per run.
	b. Mercury	5.4E-06 lb per MMBtu of heat input	6.2E-06 lb per MMBtu of steam output or 6.9E-05 lb per MWh.	For M29, collect a minimum of 3 dscm per run; for M30A or M30B, collect a minimum sample as specified in the method; for ASTM D6784 ^b collect a minimum of 3 dscm.
2. Units design to burn coal/solid fossil fuel.	a. Filterable PM (or TSM).	3.9E-02 lb per MMBtu of heat input; or (5.3E-05 lb per MMBtu of heat input).	4.1E-02 lb per MMBtu of steam output or 4.8E-01 lb per MWh; or (5.6E-05 lb per MMBtu of steam output or 6.5E-04 lb per MWh).	Collect a minimum of 2 dscm per run.
3. Pulverized coal boilers designed to burn coal/solid fossil fuel.	a. CO (or CEMS)	130 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average; or (320 ppm by volume on a dry basis corrected to 3-percent oxygen, ^c 30-day rolling average).	0.11 lb per MMBtu of steam output or 1.4 lb per MWh; three-run average.	1 hr minimum sampling time.
4. Stokers/others designed to burn coal/solid fossil fuel.	a. CO (or CEMS)	150 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average; or (340 ppm by volume on a dry basis corrected to 3-percent oxygen, ^c 30-day rolling average).	0.14 lb per MMBtu of steam output or 1.6 lb per MWh; three-run average.	1 hr minimum sampling time.
5. Fluidized bed units designed to burn coal/solid fossil fuel.	a. CO (or CEMS)	130 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average; or (230 ppm by volume on a dry basis corrected to 3-percent oxygen, ^c 30-day rolling average).	0.12 lb per MMBtu of steam output or 1.4 lb per MWh; three-run average.	1 hr minimum sampling time.
6. Fluidized bed units with an integrated heat exchanger designed to burn coal/solid fossil fuel.	a. CO (or CEMS)	140 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average; or (150 ppm by volume on a dry basis corrected to 3-percent oxygen, ^c 30-day rolling average).	1.3E-01 lb per MMBtu of steam output or 1.5 lb per MWh; three-run average.	1 hr minimum sampling time.
7. Stokers/sloped grate/others designed to burn wet biomass fuel.	a. CO (or CEMS)	1,100 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average; or (720 ppm by volume on a dry basis corrected to 3-percent oxygen, ^c 30-day rolling average).	1.1 lb per MMBtu of steam output or 13 lb per MWh; three-run average.	1 hr minimum sampling time.

TABLE 2 TO SUBPART DDDDD OF PART 63—EMISSION LIMITS FOR EXISTING BOILERS AND PROCESS HEATERS—
Continued

As stated in § 63.7500, you must comply with the following applicable emission limits: [Units with heat input capacity of 10 million Btu per hour or greater]

If your boiler or process heater is in this subcategory . . .	For the following pollutants . . .	The emissions must not exceed the following emission limits, except during startup and shutdown . . .	The emissions must not exceed the following alternative output-based limits, except during startup and shutdown . . .	Using this specified sampling volume or test run duration . . .
8. Stokers/sloped grate/ others designed to burn kiln-dried biomass fuel.	b. Filterable PM (or TSM).	3.4E-02 lb per MMBtu of heat input; or (2.0E-04 lb per MMBtu of heat input).	4.0E-02 lb per MMBtu of steam output or 4.8E-01 lb per MWh; or (2.4E-04 lb per MMBtu of steam output or 2.8E-03 lb per MWh).	Collect a minimum of 2 dscm per run.
	a. CO	460 ppm by volume on a dry basis corrected to 3-percent oxygen.	4.2E-01 lb per MMBtu of steam output or 5.1 lb per MWh.	1 hr minimum sampling time.
9. Fluidized bed units designed to burn biomass/bio-based solid.	b. Filterable PM (or TSM).	3.2E-01 lb per MMBtu of heat input; or (5.0E-03 lb per MMBtu of heat input).	3.7E-01 lb per MMBtu of steam output or 4.5 lb per MWh; or (5.9E-03 lb per MMBtu of steam output or 7.0E-02 lb per MWh).	Collect a minimum of 1 dscm per run.
	a. CO (or CEMS)	210 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average; or (310 ppm by volume on a dry basis corrected to 3-percent oxygen, ^c 30-day rolling average).	2.1E-01 lb per MMBtu of steam output or 2.3 lb per MWh; three-run average.	1 hr minimum sampling time.
10. Suspension burners designed to burn biomass/bio-based solid.	b. Filterable PM (or TSM).	2.1E-02 lb per MMBtu of heat input; or (6.4E-05 lb per MMBtu of heat input).	2.6E-02 lb per MMBtu of steam output or 0.30 lb per MWh; or (8.0E-05 lb per MMBtu of steam output or 9.0E-04 lb per MWh).	Collect a minimum of 1 dscm per run.
	a. CO (or CEMS)	2,400 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average; or (2,000 ppm by volume on a dry basis corrected to 3-percent oxygen, ^c 10-day rolling average).	1.9 lb per MMBtu of steam output or 27 lb per MWh; three-run average.	1 hr minimum sampling time.
11. Dutch Ovens/Pile burners designed to burn biomass/bio-based solid.	b. Filterable PM (or TSM).	4.1E-02 lb per MMBtu of heat input; or (8.0E-03 lb per MMBtu of heat input).	4.2E-02 lb per MMBtu of steam output or 5.8E-01 lb per MWh; or (8.1E-03 lb per MMBtu of steam output or 0.12 lb per MWh).	Collect a minimum of 2 dscm per run.
	a. CO (or CEMS)	770 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average; or (520 ppm by volume on a dry basis corrected to 3-percent oxygen, ^c 10-day rolling average).	8.4E-01 lb per MMBtu of steam output or 8.4 lb per MWh; three-run average.	1 hr minimum sampling time.
12. Fuel cell units designed to burn biomass/bio-based solid.	b. Filterable PM (or TSM).	1.8E-01 lb per MMBtu of heat input; or (2.0E-03 lb per MMBtu of heat input).	2.5E-01 lb per MMBtu of steam output or 2.6 lb per MWh; or (2.8E-03 lb per MMBtu of steam output or 2.8E-02 lb per MWh).	Collect a minimum of 1 dscm per run.
	a. CO	1,100 ppm by volume on a dry basis corrected to 3-percent oxygen.	2.4 lb per MMBtu of steam output or 12 lb per MWh.	1 hr minimum sampling time.
13. Hybrid suspension grate units designed to burn biomass/bio-based solid.	b. Filterable PM (or TSM).	2.0E-02 lb per MMBtu of heat input; or (5.8E-03 lb per MMBtu of heat input).	5.5E-02 lb per MMBtu of steam output or 2.8E-01 lb per MWh; or (1.6E-02 lb per MMBtu of steam output or 8.1E-02 lb per MWh).	Collect a minimum of 2 dscm per run.
	a. CO (or CEMS)	3,500 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average; or (900 ppm by volume on a dry basis corrected to 3-percent oxygen, ^c 30-day rolling average).	3.5 lb per MMBtu of steam output or 39 lb per MWh; three-run average.	1 hr minimum sampling time.
14. Units designed to burn liquid fuel.	b. Filterable PM (or TSM).	4.4E-01 lb per MMBtu of heat input; or (4.5E-04 lb per MMBtu of heat input).	5.5E-01 lb per MMBtu of steam output or 6.2 lb per MWh; or (5.7E-04 lb per MMBtu of steam output or 6.3E-03 lb per MWh).	Collect a minimum of 1 dscm per run.
	a. HCl	1.1E-03 lb per MMBtu of heat input	1.4E-03 lb per MMBtu of steam output or 1.6E-02 lb per MWh.	For M26A, collect a minimum of 2 dscm per run; for M26, collect a minimum of 240 liters per run.
15. Units designed to burn heavy liquid fuel.	b. Mercury	7.3E-07 ^a lb per MMBtu of heat input.	8.8E-07 ^a lb per MMBtu of steam output or 1.1E-05 lb per MWh.	For M29, collect a minimum of 3 dscm per run; for M30A or M30B collect a minimum sample as specified in the method, for ASTM D6784 ^b collect a minimum of 2 dscm.
	a. CO	130 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average.	0.13 lb per MMBtu of steam output or 1.4 lb per MWh; three-run average.	1 hr minimum sampling time.

TABLE 2 TO SUBPART DDDDD OF PART 63—EMISSION LIMITS FOR EXISTING BOILERS AND PROCESS HEATERS—
Continued

As stated in § 63.7500, you must comply with the following applicable emission limits: [Units with heat input capacity of 10 million Btu per hour or greater]

If your boiler or process heater is in this subcategory	For the following pollutants	The emissions must not exceed the following emission limits, except during startup and shutdown	The emissions must not exceed the following alternative output-based limits, except during startup and shutdown	Using this specified sampling volume or test run duration
16. Units designed to burn light liquid fuel.	b. Filterable PM (or TSM).	5.9E-02 lb per MMBtu of heat input; or (2.0E-04 lb per MMBtu of heat input).	7.2E-02 lb per MMBtu of steam output or 8.2E-01 lb per MWh; or (2.5E-04 lb per MMBtu of steam output or 2.8E-03 lb per MWh).	Collect a minimum of 1 dscm per run.
	a. CO	130 ppm by volume on a dry basis corrected to 3-percent oxygen.	0.13 lb per MMBtu of steam output or 1.4 lb per MWh.	1 hr minimum sampling time.
17. Units designed to burn liquid fuel that are non-continental units.	b. Filterable PM (or TSM).	7.9E-03 ^a lb per MMBtu of heat input; or (6.2E-05 lb per MMBtu of heat input).	9.6E-03 ^a lb per MMBtu of steam output or 1.1E-01 ^a lb per MWh; or (7.5E-05 lb per MMBtu of steam output or 8.6E-04 lb per MWh).	Collect a minimum of 3 dscm per run.
	a. CO	130 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average based on stack test.	0.13 lb per MMBtu of steam output or 1.4 lb per MWh; three-run average.	1 hr minimum sampling time.
18. Units designed to burn gas 2 (other) gases.	b. Filterable PM (or TSM).	2.2E-01 lb per MMBtu of heat input; or (8.6E-04 lb per MMBtu of heat input).	2.7E-01 lb per MMBtu of steam output or 3.1 lb per MWh; or (1.1E-03 lb per MMBtu of steam output or 1.2E-02 lb per MWh).	Collect a minimum of 2 dscm per run.
	a. CO	130 ppm by volume on a dry basis corrected to 3-percent oxygen.	0.16 lb per MMBtu of steam output or 1.0 lb per MWh.	1 hr minimum sampling time.
	b. HCl	1.7E-03 lb per MMBtu of heat input	2.9E-03 lb per MMBtu of steam output or 1.8E-02 lb per MWh.	For M26A, collect a minimum of 2 dscm per run; for M26, collect a minimum of 240 liters per run.
	c. Mercury	7.9E-06 lb per MMBtu of heat input	1.4E-05 lb per MMBtu of steam output or 8.3E-05 lb per MWh.	For M29, collect a minimum of 3 dscm per run; for M30A or M30B, collect a minimum sample as specified in the method; for ASTM D6784 ^b collect a minimum of 2 dscm.
	d. Filterable PM (or TSM).	7.3E-03 lb per MMBtu of heat input or (2.1E-04 lb per MMBtu of heat input).	1.3E-02 lb per MMBtu of steam output or 7.6E-02 lb per MWh; or (3.5E-04 lb per MMBtu of steam output or 2.2E-03 lb per MWh).	Collect a minimum of 3 dscm per run.

^a If you are conducting stack tests to demonstrate compliance and your performance tests for this pollutant for at least 2 consecutive years show that your emissions are at or below this limit, you can skip testing according to § 63.7515 if all of the other provisions of § 63.7515 are met. For all other pollutants that do not contain a footnote a, your performance tests for this pollutant for at least 2 consecutive years must show that your emissions are at or below 75 percent of this limit in order to qualify for skip testing.

^b Incorporated by reference, see § 63.14.
^c An owner or operator may request an alternative test method under § 63.7 of this chapter, in order that compliance with the carbon monoxide emissions limit be determined using CO₂ as a diluent correction in place of oxygen at 3 percent. EPA Method 19 F-factors and EPA Method 19 equations must be used to generate the appropriate CO₂ correction percentage for the fuel type burned in the unit and must also take into account that the 3-percent oxygen correction is to be done on a dry basis. The alternative test method request must account for any CO₂ being added to, or removed from, the emissions gas stream as a result of limestone injection, scrubber media, etc.

^d Before [date 3 years after date of publication of final rule in the **Federal Register**] you may comply with the emission limits in Table 15 to this subpart. On and after [date 3 years after date of publication of final rule in the **Federal Register**], you must comply with the emission limits in Table 2 to this subpart.

■ 18. Table 3 of subpart DDDDD is amended by revising the entry for “5.” and “6.” to read as follows:

TABLE 3 TO SUBPART DDDDD OF PART 63—WORK PRACTICE STANDARDS
As stated in § 63.7500, you must comply with the following applicable work practice standards:

If your unit is	You must meet the following
5. An existing or new boiler or process heater subject to emission limits in Table 1 or 2 or 11 through 13 to this subpart during startup.	<p>a. You must operate all CMS during startup.</p> <p>b. For startup of a boiler or process heater, you must use one or a combination of the following clean fuels: Natural gas, synthetic natural gas, propane, other Gas 1 fuels, distillate oil, syngas, ultra-low sulfur diesel, fuel oil-soaked rags, kerosene, hydrogen, paper, cardboard, refinery gas, liquefied petroleum gas, clean dry biomass, and any fuels meeting the appropriate HCl, mercury and TSM emission standards by fuel analysis.</p> <p>c. You have the option of complying using either of the following work practice standards.</p>

TABLE 3 TO SUBPART DDDDD OF PART 63—WORK PRACTICE STANDARDS—Continued
As stated in § 63.7500, you must comply with the following applicable work practice standards:

Table with 2 columns: 'If your unit is . . .' and 'You must meet the following . . .'. Contains regulatory text for boiler and process heater standards, including startup and shutdown procedures.

* * * * *

19. Table 4 to subpart DDDDD is amended by revising the column headings to read as follows:

TABLE 4 TO SUBPART DDDDD OF PART 63—OPERATING LIMITS FOR BOILERS AND PROCESS HEATERS
As stated in § 63.7500, you must comply with the applicable operating limits:

Table with 2 columns: 'When complying with a Table 1, 2, 11, 12, 13, 14, or 15 numerical emission limit using . . .' and 'You must meet these operating limits . . .'. Includes a row of asterisks.

* * * * *

20. Table 7 to subpart DDDDD is amended by revising footnote "b" to read as follows:

TABLE 7 TO SUBPART DDDDD OF PART 63—ESTABLISHING OPERATING LIMITS a b

As stated in § 63.7520, you must comply with the following requirements for establishing operating limits:

TABLE 7 TO SUBPART DDDDD OF PART 63—ESTABLISHING OPERATING LIMITS a b—Continued

As stated in § 63.7520, you must comply with the following requirements for establishing operating limits:

* * * * *

b If you conduct multiple performance tests, you must set the minimum liquid flow rate and pressure drop operating limits at the higher of the minimum values established during the performance tests.

21. Table 8 to subpart DDDDD is amended by revising the entry for "8." to read as follows:

TABLE 8 TO SUBPART DDDDD OF PART 63—DEMONSTRATING CONTINUOUS COMPLIANCE

As stated in § 63.7540, you must show continuous compliance with the emission limitations for each boiler or process heater according to the following:

If you must meet the following operating limits or work practice standards You must demonstrate continuous compliance by

- 8. Emission limits using fuel analysis.
 - a. Conduct monthly fuel analysis for HCl or mercury or TSM according to Table 6 to this subpart; and
 - b. Reduce the data to 12-month rolling averages; and
 - c. Maintain the 12-month rolling average at or below the applicable emission limit for HCl or mercury or TSM in Tables 1 and 2 or 11 through 15 to this subpart.
 - d. Calculate the HCl, mercury, and/or TSM emission rate from the boiler or process heater in units of lb/MMBtu using Equations 7, 8, and/or 9 in § 63.7530.

■ 22. Add Table 14 to subpart DDDDD of part 63 to read as follows:

TABLE 14 TO SUBPART DDDDD OF PART 63—ALTERNATIVE EMISSION LIMITS FOR NEW OR RECONSTRUCTED BOILERS AND PROCESS HEATERS

As stated in § 63.7500, you may continue to comply with the following applicable emission limits until [date 3 years after date of publication of final rule in the **Federal Register**]: [Units with heat input capacity of 10 million Btu per hour or greater]

If your boiler or process heater is in this subcategory	For the following pollutants	The emissions must not exceed the following emission limits, except during startup and shutdown	Or the emissions must not exceed the following alternative output-based limits, except during startup and shutdown	Using this specified sampling volume or test run duration
1. Units in all subcategories designed to burn solid fuel.	a. HCl	2.2E-02 lb per MMBtu of heat input	2.5E-02 lb per MMBtu of steam output or 0.28 lb per MWh.	For M26A, collect a minimum of 1 dscm per run; for M26 collect a minimum of 120 liters per run.
	b. Mercury	8.0E-07 ^a lb per MMBtu of heat input.	8.7E-07 ^a lb per MMBtu of steam output or 1.1E-05 ^a lb per MWh.	For M29, collect a minimum of 4 dscm per run; for M30A or M30B, collect a minimum sample as specified in the method; for ASTM D6784 ^b collect a minimum of 4 dscm.
2. Units designed to burn coal/solid fossil fuel.	a. Filterable PM (or TSM).	1.1E-03 lb per MMBtu of heat input; or (2.3E-05 lb per MMBtu of heat input).	1.1E-03 lb per MMBtu of steam output or 1.4E-02 lb per MWh; or (2.7E-05 lb per MMBtu of steam output or 2.9E-04 lb per MWh).	Collect a minimum of 3 dscm per run.
3. Pulverized coal boilers designed to burn coal/solid fossil fuel.	a. Carbon monoxide (CO) (or CEMS).	130 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average; or (320 ppm by volume on a dry basis corrected to 3-percent oxygen, ^d 30-day rolling average).	0.11 lb per MMBtu of steam output or 1.4 lb per MWh; three-run average.	1 hr minimum sampling time.
4. Stokers/others designed to burn coal/solid fossil fuel.	a. CO (or CEMS)	130 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average; or (340 ppm by volume on a dry basis corrected to 3-percent oxygen, ^d 30-day rolling average).	0.12 lb per MMBtu of steam output or 1.4 lb per MWh; three-run average.	1 hr minimum sampling time.
5. Fluidized bed units designed to burn coal/solid fossil fuel.	a. CO (or CEMS)	130 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average; or (230 ppm by volume on a dry basis corrected to 3-percent oxygen, ^d 30-day rolling average).	0.11 lb per MMBtu of steam output or 1.4 lb per MWh; three-run average.	1 hr minimum sampling time.
6. Fluidized bed units with an integrated heat exchanger designed to burn coal/solid fossil fuel.	a. CO (or CEMS)	140 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average; or (150 ppm by volume on a dry basis corrected to 3-percent oxygen, ^d 30-day rolling average).	1.2E-01 lb per MMBtu of steam output or 1.5 lb per MWh; three-run average.	1 hr minimum sampling time.
7. Stokers/sloped grate/others designed to burn wet biomass fuel.	a. CO (or CEMS)	620 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average; or (390 ppm by volume on a dry basis corrected to 3-percent oxygen, ^d 30-day rolling average).	5.8E-01 lb per MMBtu of steam output or 6.8 lb per MWh; three-run average.	1 hr minimum sampling time.
	b. Filterable PM (or TSM).	3.0E-02 lb per MMBtu of heat input; or (2.6E-05 lb per MMBtu of heat input).	3.5E-02 lb per MMBtu of steam output or 4.2E-01 lb per MWh; or (2.7E-05 lb per MMBtu of steam output or 3.7E-04 lb per MWh).	Collect a minimum of 2 dscm per run.

TABLE 14 TO SUBPART DDDDD OF PART 63—ALTERNATIVE EMISSION LIMITS FOR NEW OR RECONSTRUCTED BOILERS AND PROCESS HEATERS—Continued

As stated in § 63.7500, you may continue to comply with the following applicable emission limits until [date 3 years after date of publication of final rule in the **Federal Register**]: [Units with heat input capacity of 10 million Btu per hour or greater]

If your boiler or process heater is in this subcategory . . .	For the following pollutants . . .	The emissions must not exceed the following emission limits, except during startup and shutdown . . .	Or the emissions must not exceed the following alternative output-based limits, except during startup and shutdown . . .	Using this specified sampling volume or test run duration . . .
8. Stokers/sloped grate/others designed to burn kiln-dried biomass fuel.	a. CO	460 ppm by volume on a dry basis corrected to 3-percent oxygen.	4.2E-01 lb per MMBtu of steam output or 5.1 lb per MWh.	1 hr minimum sampling time.
	b. Filterable PM (or TSM).	3.0E-02 lb per MMBtu of heat input; or (4.0E-03 lb per MMBtu of heat input).	3.5E-02 lb per MMBtu of steam output or 4.2E-01 lb per MWh; or (4.2E-03 lb per MMBtu of steam output or 5.6E-02 lb per MWh).	Collect a minimum of 2 dscm per run.
9. Fluidized bed units designed to burn biomass/bio-based solids.	a. CO (or CEMS)	230 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average; or (310 ppm by volume on a dry basis corrected to 3-percent oxygen, ^d 30-day rolling average).	2.2E-01 lb per MMBtu of steam output or 2.6 lb per MWh; three-run average.	1 hr minimum sampling time.
	b. Filterable PM (or TSM).	9.8E-03 lb per MMBtu of heat input; or (8.3E-05 ^a lb per MMBtu of heat input).	1.2E-02 lb per MMBtu of steam output or 0.14 lb per MWh; or (1.1E-04 ^a lb per MMBtu of steam output or 1.2E-03 ^a lb per MWh).	Collect a minimum of 3 dscm per run.
10. Suspension burners designed to burn biomass/bio-based solids.	a. CO (or CEMS)	2,400 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average; or (2,000 ppm by volume on a dry basis corrected to 3-percent oxygen, ^d 10-day rolling average).	1.9 lb per MMBtu of steam output or 27 lb per MWh; three-run average.	1 hr minimum sampling time.
	b. Filterable PM (or TSM).	3.0E-02 lb per MMBtu of heat input; or (6.5E-03 lb per MMBtu of heat input).	3.1E-02 lb per MMBtu of steam output or 4.2E-01 lb per MWh; or (6.6E-03 lb per MMBtu of steam output or 9.1E-02 lb per MWh).	Collect a minimum of 2 dscm per run.
11. Dutch Ovens/Pile burners designed to burn biomass/bio-based solids.	a. CO (or CEMS)	330 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average; or (520 ppm by volume on a dry basis corrected to 3-percent oxygen, ^d 10-day rolling average).	3.5E-01 lb per MMBtu of steam output or 3.6 lb per MWh; three-run average.	1 hr minimum sampling time.
	b. Filterable PM (or TSM).	3.2E-03 lb per MMBtu of heat input; or (3.9E-05 lb per MMBtu of heat input).	4.3E-03 lb per MMBtu of steam output or 4.5E-02 lb per MWh; or (5.2E-05 lb per MMBtu of steam output or 5.5E-04 lb per MWh).	Collect a minimum of 3 dscm per run.
12. Fuel cell units designed to burn biomass/bio-based solids.	a. CO	910 ppm by volume on a dry basis corrected to 3-percent oxygen.	1.1 lb per MMBtu of steam output or 1.0E+01 lb per MWh.	1 hr minimum sampling time.
	b. Filterable PM (or TSM).	2.0E-02 lb per MMBtu of heat input; or (2.9E-05 ^a lb per MMBtu of heat input).	3.0E-02 lb per MMBtu of steam output or 2.8E-01 lb per MWh; or (5.1E-05 lb per MMBtu of steam output or 4.1E-04 lb per MWh).	Collect a minimum of 2 dscm per run.
13. Hybrid suspension grate boiler designed to burn biomass/bio-based solids.	a. CO (or CEMS)	1,100 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average; or (900 ppm by volume on a dry basis corrected to 3-percent oxygen, ^d 30-day rolling average).	1.4 lb per MMBtu of steam output or 12 lb per MWh; three-run average.	1 hr minimum sampling time.
	b. Filterable PM (or TSM).	2.6E-02 lb per MMBtu of heat input; or (4.4E-04 lb per MMBtu of heat input).	3.3E-02 lb per MMBtu of steam output or 3.7E-01 lb per MWh; or (5.5E-04 lb per MMBtu of steam output or 6.2E-03 lb per MWh).	Collect a minimum of 3 dscm per run.
14. Units designed to burn liquid fuel.	a. HCl	4.4E-04 lb per MMBtu of heat input	4.8E-04 lb per MMBtu of steam output or 6.1E-03 lb per MWh.	For M26A: Collect a minimum of 2 dscm per run; for M26, collect a minimum of 240 liters per run.
	b. Mercury	4.8E-07 ^a lb per MMBtu of heat input.	5.3E-07 ^a lb per MMBtu of steam output or 6.7E-06 ^a lb per MWh.	For M29, collect a minimum of 4 dscm per run; for M30A or M30B, collect a minimum sample as specified in the method; for ASTM D6784 ^b collect a minimum of 4 dscm.
15. Units designed to burn heavy liquid fuel.	a. CO	130 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average.	0.13 lb per MMBtu of steam output or 1.4 lb per MWh; three-run average.	1 hr minimum sampling time.
	b. Filterable PM (or TSM).	1.3E-02 lb per MMBtu of heat input; or (7.5E-05 lb per MMBtu of heat input).	1.5E-02 lb per MMBtu of steam output or 1.8E-01 lb per MWh; or (8.2E-05 lb per MMBtu of steam output or 1.1E-03 lb per MWh).	Collect a minimum of 3 dscm per run.
16. Units designed to burn light liquid fuel.	a. CO	130 ppm by volume on a dry basis corrected to 3-percent oxygen.	0.13 lb per MMBtu of steam output or 1.4 lb per MWh.	1 hr minimum sampling time.

TABLE 14 TO SUBPART DDDDD OF PART 63—ALTERNATIVE EMISSION LIMITS FOR NEW OR RECONSTRUCTED BOILERS AND PROCESS HEATERS—Continued

As stated in § 63.7500, you may continue to comply with the following applicable emission limits until [date 3 years after date of publication of final rule in the **Federal Register**]: [Units with heat input capacity of 10 million Btu per hour or greater]

If your boiler or process heater is in this subcategory . . .	For the following pollutants . . .	The emissions must not exceed the following emission limits, except during startup and shutdown . . .	Or the emissions must not exceed the following alternative output-based limits, except during startup and shutdown . . .	Using this specified sampling volume or test run duration . . .
17. Units designed to burn liquid fuel that are non-continental units.	b. Filterable PM (or TSM).	1.1E-03 ^a lb per MMBtu of heat input; or (2.9E-05 lb per MMBtu of heat input).	1.2E-03 ^a lb per MMBtu of steam output or 1.6E-02 ^a lb per MWh; or (3.2E-05 lb per MMBtu of steam output or 4.0E-04 lb per MWh).	Collect a minimum of 3 dscm per run.
	a. CO	130 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average based on stack test.	0.13 lb per MMBtu of steam output or 1.4 lb per MWh; three-run average.	1 hr minimum sampling time.
18. Units designed to burn gas 2 (other) gases.	b. Filterable PM (or TSM).	2.3E-02 lb per MMBtu of heat input; or (8.6E-04 lb per MMBtu of heat input).	2.5E-02 lb per MMBtu of steam output or 3.2E-01 lb per MWh; or (9.4E-04 lb per MMBtu of steam output or 1.2E-02 lb per MWh).	Collect a minimum of 4 dscm per run.
	a. CO	130 ppm by volume on a dry basis corrected to 3-percent oxygen.	0.16 lb per MMBtu of steam output or 1.0 lb per MWh.	1 hr minimum sampling time.
	b. HCl	1.7E-03 lb per MMBtu of heat input	2.9E-03 lb per MMBtu of steam output or 1.8E-02 lb per MWh.	For M26A, Collect a minimum of 2 dscm per run; for M26, collect a minimum of 240 liters per run.
	c. Mercury	7.9E-06 lb per MMBtu of heat input	1.4E-05 lb per MMBtu of steam output or 8.3E-05 lb per MWh.	For M29, collect a minimum of 3 dscm per run; for M30A or M30B, collect a minimum sample as specified in the method; for ASTM D6784 ^b collect a minimum of 3 dscm.
	d. Filterable PM (or TSM).	6.7E-03 lb per MMBtu of heat input; or (2.1E-04 lb per MMBtu of heat input).	1.2E-02 lb per MMBtu of steam output or 7.0E-02 lb per MWh; or (3.5E-04 lb per MMBtu of steam output or 2.2E-03 lb per MWh).	Collect a minimum of 3 dscm per run.

■ 23. Add Table 15 to subpart DDDDD of part 63 to read as follows:

TABLE 15 TO SUBPART DDDDD OF PART 63—ALTERNATIVE EMISSION LIMITS FOR EXISTING BOILERS AND PROCESS HEATERS

As stated in § 63.7500, you may continue to comply with following emission limits until [date 3 years after date of publication of final rule in the **Federal Register**]: [Units with heat input capacity of 10 million Btu per hour or greater]

If your boiler or process heater is in this subcategory . . .	For the following pollutants . . .	The emissions must not exceed the following emission limits, except during startup and shutdown . . .	The emissions must not exceed the following alternative output-based limits, except during startup and shutdown . . .	Using this specified sampling volume or test run duration . . .
1. Units in all subcategories designed to burn solid fuel.	a. HCl	2.2E-02 lb per MMBtu of heat input	2.5E-02 lb per MMBtu of steam output or 0.27 lb per MWh.	For M26A, Collect a minimum of 1 dscm per run; for M26, collect a minimum of 120 liters per run.
	b. Mercury	5.7E-06 lb per MMBtu of heat input	6.4E-06 lb per MMBtu of steam output or 7.3E-05 lb per MWh.	For M29, collect a minimum of 3 dscm per run; for M30A or M30B, collect a minimum sample as specified in the method; for ASTM D6784 ^b collect a minimum of 3 dscm.
2. Units design to burn coal/solid fossil fuel.	a. Filterable PM (or TSM).	4.0E-02 lb per MMBtu of heat input; or (5.3E-05 lb per MMBtu of heat input).	4.2E-02 lb per MMBtu of steam output or 4.9E-01 lb per MWh; or (5.6E-05 lb per MMBtu of steam output or 6.5E-04 lb per MWh).	Collect a minimum of 2 dscm per run.
3. Pulverized coal boilers designed to burn coal/solid fossil fuel.	a. CO (or CEMS)	130 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average; or (320 ppm by volume on a dry basis corrected to 3-percent oxygen, ^c 30-day rolling average).	0.11 lb per MMBtu of steam output or 1.4 lb per MWh; three-run average.	1 hr minimum sampling time.
4. Stokers/others designed to burn coal/solid fossil fuel.	a. CO (or CEMS)	160 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average; or (340 ppm by volume on a dry basis corrected to 3-percent oxygen, ^c 30-day rolling average).	0.14 lb per MMBtu of steam output or 1.7 lb per MWh; three-run average.	1 hr minimum sampling time.

TABLE 15 TO SUBPART DDDDD OF PART 63—ALTERNATIVE EMISSION LIMITS FOR EXISTING BOILERS AND PROCESS HEATERS—Continued

As stated in § 63.7500, you may continue to comply with following emission limits until [date 3 years after date of publication of final rule in the Federal Register]: [Units with heat input capacity of 10 million Btu per hour or greater]

If your boiler or process heater is in this subcategory . . .	For the following pollutants . . .	The emissions must not exceed the following emission limits, except during startup and shutdown . . .	The emissions must not exceed the following alternative output-based limits, except during startup and shutdown . . .	Using this specified sampling volume or test run duration . . .
5. Fluidized bed units designed to burn coal/solid fossil fuel.	a. CO (or CEMS)	130 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average; or (230 ppm by volume on a dry basis corrected to 3-percent oxygen, ^c 30-day rolling average).	0.12 lb per MMBtu of steam output or 1.4 lb per MWh; three-run average.	1 hr minimum sampling time.
6. Fluidized bed units with an integrated heat exchanger designed to burn coal/solid fossil fuel.	a. CO (or CEMS)	140 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average; or (150 ppm by volume on a dry basis corrected to 3-percent oxygen, ^c 30-day rolling average).	1.3E-01 lb per MMBtu of steam output or 1.5 lb per MWh; three-run average.	1 hr minimum sampling time.
7. Stokers/sloped grate/others designed to burn wet biomass fuel.	a. CO (or CEMS)	1,500 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average; or (720 ppm by volume on a dry basis corrected to 3-percent oxygen, ^c 30-day rolling average).	1.4 lb per MMBtu of steam output or 17 lb per MWh; three-run average.	1 hr minimum sampling time.
	b. Filterable PM (or TSM).	3.7E-02 lb per MMBtu of heat input; or (2.4E-04 lb per MMBtu of heat input).	4.3E-02 lb per MMBtu of steam output or 5.2E-01 lb per MWh; or (2.8E-04 lb per MMBtu of steam output or 3.4E-04 lb per MWh).	Collect a minimum of 2 dscm per run.
8. Stokers/sloped grate/others designed to burn kiln-dried biomass fuel.	a. CO	460 ppm by volume on a dry basis corrected to 3-percent oxygen.	4.2E-01 lb per MMBtu of steam output or 5.1 lb per MWh.	1 hr minimum sampling time.
	b. Filterable PM (or TSM).	3.2E-01 lb per MMBtu of heat input; or (4.0E-03 lb per MMBtu of heat input).	3.7E-01 lb per MMBtu of steam output or 4.5 lb per MWh; or (4.6E-03 lb per MMBtu of steam output or 5.6E-02 lb per MWh).	Collect a minimum of 1 dscm per run.
9. Fluidized bed units designed to burn biomass/bio-based solid.	a. CO (or CEMS)	470 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average; or (310 ppm by volume on a dry basis corrected to 3-percent oxygen, ^c 30-day rolling average).	4.6E-01 lb per MMBtu of steam output or 5.2 lb per MWh; three-run average.	1 hr minimum sampling time.
	b. Filterable PM (or TSM).	1.1E-01 lb per MMBtu of heat input; or (1.2E-03 lb per MMBtu of heat input).	1.4E-01 lb per MMBtu of steam output or 1.6 lb per MWh; or (1.5E-03 lb per MMBtu of steam output or 1.7E-02 lb per MWh).	Collect a minimum of 1 dscm per run.
10. Suspension burners designed to burn biomass/bio-based solid.	a. CO (or CEMS)	2,400 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average; or (2,000 ppm by volume on a dry basis corrected to 3-percent oxygen, ^c 10-day rolling average).	1.9 lb per MMBtu of steam output or 27 lb per MWh; three-run average.	1 hr minimum sampling time.
	b. Filterable PM (or TSM).	5.1E-02 lb per MMBtu of heat input; or (6.5E-03 lb per MMBtu of heat input).	5.2E-02 lb per MMBtu of steam output or 7.1E-01 lb per MWh; or (6.6E-03 lb per MMBtu of steam output or 9.1E-02 lb per MWh).	Collect a minimum of 2 dscm per run.
11. Dutch Ovens/Pile burners designed to burn biomass/bio-based solid.	a. CO (or CEMS)	770 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average; or (520 ppm by volume on a dry basis corrected to 3-percent oxygen, ^c 10-day rolling average).	8.4E-01 lb per MMBtu of steam output or 8.4 lb per MWh; three-run average.	1 hr minimum sampling time.
	b. Filterable PM (or TSM).	2.8E-01 lb per MMBtu of heat input; or (2.0E-03 lb per MMBtu of heat input).	3.9E-01 lb per MMBtu of steam output or 3.9 lb per MWh; or (2.8E-03 lb per MMBtu of steam output or 2.8E-02 lb per MWh).	Collect a minimum of 1 dscm per run.
12. Fuel cell units designed to burn biomass/bio-based solid.	a. CO	1,100 ppm by volume on a dry basis corrected to 3-percent oxygen.	2.4 lb per MMBtu of steam output or 12 lb per MWh.	1 hr minimum sampling time.
	b. Filterable PM (or TSM).	2.0E-02 lb per MMBtu of heat input; or (5.8E-03 lb per MMBtu of heat input).	5.5E-02 lb per MMBtu of steam output or 2.8E-01 lb per MWh; or (1.6E-02 lb per MMBtu of steam output or 8.1E-02 lb per MWh).	Collect a minimum of 2 dscm per run.
13. Hybrid suspension grate units designed to burn biomass/bio-based solid.	a. CO (or CEMS)	3,500 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average; or (900 ppm by volume on a dry basis corrected to 3-percent oxygen, ^c 30-day rolling average).	3.5 lb per MMBtu of steam output or 39 lb per MWh; three-run average.	1 hr minimum sampling time.

TABLE 15 TO SUBPART DDDDD OF PART 63—ALTERNATIVE EMISSION LIMITS FOR EXISTING BOILERS AND PROCESS HEATERS—Continued

As stated in § 63.7500, you may continue to comply with following emission limits until [date 3 years after date of publication of final rule in the Federal Register]: [Units with heat input capacity of 10 million Btu per hour or greater]

If your boiler or process heater is in this subcategory . . .	For the following pollutants . . .	The emissions must not exceed the following emission limits, except during startup and shutdown . . .	The emissions must not exceed the following alternative output-based limits, except during startup and shutdown . . .	Using this specified sampling volume or test run duration . . .
14. Units designed to burn liquid fuel.	b. Filterable PM (or TSM).	4.4E-01 lb per MMBtu of heat input; or (4.5E-04 lb per MMBtu of heat input).	5.5E-01 lb per MMBtu of steam output or 6.2 lb per MWh; or (5.7E-04 lb per MMBtu of steam output or 6.3E-03 lb per MWh).	Collect a minimum of 1 dscm per run.
	a. HCl	1.1E-03 lb per MMBtu of heat input	1.4E-03 lb per MMBtu of steam output or 1.6E-02 lb per MWh.	For M26A, collect a minimum of 2 dscm per run; for M26, collect a minimum of 240 liters per run.
	b. Mercury	2.0E-06 ^a lb per MMBtu of heat input.	2.5E-06 ^a lb per MMBtu of steam output or 2.8E-05 lb per MWh.	For M29, collect a minimum of 3 dscm per run; for M30A or M30B collect a minimum sample as specified in the method, for ASTM D6784 ^b collect a minimum of 2 dscm.
15. Units designed to burn heavy liquid fuel.	a. CO	130 ppm by volume on a dry basis corrected to 3-percent oxygen, three-run average.	0.13 lb per MMBtu of steam output or 1.4 lb per MWh; three-run average.	1 hr minimum sampling time.
	b. Filterable PM (or TSM).	6.2E-02 lb per MMBtu of heat input; or (2.0E-04 lb per MMBtu of heat input).	7.5E-02 lb per MMBtu of steam output or 8.6E-01 lb per MWh; or (2.5E-04 lb per MMBtu of steam output or 2.8E-03 lb per MWh).	Collect a minimum of 1 dscm per run.
16. Units designed to burn light liquid fuel.	a. CO	130 ppm by volume on a dry basis corrected to 3-percent oxygen.	0.13 lb per MMBtu of steam output or 1.4 lb per MWh.	1 hr minimum sampling time.
	b. Filterable PM (or TSM).	7.9E-03 ^a lb per MMBtu of heat input; or (6.2E-05 lb per MMBtu of heat input).	9.6E-03 ^a lb per MMBtu of steam output or 1.1E-01 ^a lb per MWh; or (7.5E-05 lb per MMBtu of steam output or 8.6E-04 lb per MWh).	Collect a minimum of 3 dscm per run.
17. Units designed to burn liquid fuel that are non-continental units.	a. CO	130 ppm by volume on a dry basis corrected to 3-percent oxygen, three3-run average based on stack test.	0.13 lb per MMBtu of steam output or 1.4 lb per MWh; three-run average.	1 hr minimum sampling time.
	b. Filterable PM (or TSM).	2.7E-01 lb per MMBtu of heat input; or (8.6E-04 lb per MMBtu of heat input).	3.3E-01 lb per MMBtu of steam output or 3.8 lb per MWh; or (1.1E-03 lb per MMBtu of steam output or 1.2E-02 lb per MWh).	Collect a minimum of 2 dscm per run.
18. Units designed to burn gas 2 (other) gases.	a. CO	130 ppm by volume on a dry basis corrected to 3-percent oxygen.	0.16 lb per MMBtu of steam output or 1.0 lb per MWh.	1 hr minimum sampling time.
	b. HCl	1.7E-03 lb per MMBtu of heat input	2.9E-03 lb per MMBtu of steam output or 1.8E-02 lb per MWh.	For M26A, collect a minimum of 2 dscm per run; for M26, collect a minimum of 240 liters per run.
	c. Mercury	7.9E-06 lb per MMBtu of heat input	1.4E-05 lb per MMBtu of steam output or 8.3E-05 lb per MWh.	For M29, collect a minimum of 3 dscm per run; for M30A or M30B, collect a minimum sample as specified in the method; for ASTM D6784 ^b collect a minimum of 2 dscm.
	d. Filterable PM (or TSM).	6.7E-03 lb per MMBtu of heat input or (2.1E-04 lb per MMBtu of heat input).	1.2E-02 lb per MMBtu of steam output or 7.0E-02 lb per MWh; or (3.5E-04 lb per MMBtu of steam output or 2.2E-03 lb per MWh).	Collect a minimum of three dscm per run.

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