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U.S. GOVERNMENT
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FEDERAL REGISTER

Vol. 85 Tuesday,

No. 184 September 22, 2020

Pages 59377–59642

OFFICE OF THE FEDERAL REGISTER

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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.

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 841

RIN 3206–AO02

Federal Employees' Retirement System; Normal Cost Percentage for Certain Members of the Capitol Police

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is adopting its proposed rule to revise the categories of employees for computation of normal cost percentages for certain members of the Capitol Police who are covered by the Federal Employees' Retirement System (FERS) Act of 1986.

DATES: This rule becomes effective on October 1, 2020.

FOR FURTHER INFORMATION CONTACT: Karla Yeakle, (202) 606–0299.

SUPPLEMENTARY INFORMATION: On April 6, 2020, OPM published notice 85 FR 19174 in the **Federal Register** to revise the normal cost percentages under the Federal Employees' Retirement System (FERS) Act of 1986, Public Law 99–335, 100 Stat. 514, as amended, based on economic assumptions and demographic factors adopted by the Board of Actuaries of the Civil Service Retirement System. As a result of new legislation enacted on December 20, 2019, under sec. 211 of title II, division E of Public Law 116–94, the Further Consolidated Appropriations Act, 2020, OPM was required to provide separate normal cost percentages for certain members of the Capitol Police as distinct from other Congressional Employees. Prior to the enactment of the Further Consolidated Appropriations Act, 2020, members of the Capitol Police were combined with Congressional Employees for the purpose of determining the normal cost percentages for those employee populations. This rule is necessary to ensure that the rules for computation of normal cost percentages are consistent with the categories of employees as provided under 5 U.S.C. 8423(a)(1)(B)(i), as amended by sec. 211 of title II, division E of Public Law 116–94, the Further Consolidated Appropriations Act, 2020.

The Middle Class Tax Relief and Jobs Creation Act of 2012, sec. 5001 of Public Law 112–96, 126 Stat. 157, and subsequently, sect. 401 of Public Law 113–67, 113 Stat. 1165, the Bipartisan Budget Act of 2013, increased the retirement contributions for certain FERS employees (Revised Annuity Employees (FERS–RAE) and Further Revised Annuity Employees (FERS–FRAE)) and established separate FERS deduction rates for Congressional employees and members of the Capitol Police. These Acts reduced the retirement annuity accrual rates of new legislative (Congressional) branch employees (other than Capitol Police) equal to that of most regular federal employees, while the retirement accrual rates for new Capitol Police remained at an enhanced level. Despite the difference in annuity benefits, these Acts did not establish separate employee categories for the computation of normal cost percentages for Capitol Police versus other legislative branch employees. With the passage of the Further Consolidated Appropriations Act, 2020, members of the Capitol Police covered under 5 U.S.C. 8412(d) and 5 U.S.C. 8425(c), who receive enhanced retirement accrual rates similar to that of law enforcement officers under 5 U.S.C. 8415(e), have been removed from the Congressional employee normal cost category and now have their own normal cost category.

Section 841.403 of title 5, Code of Federal Regulations, regulates the categories of employees for computation of normal cost percentages that the government is required to pay for employees under 5 U.S.C. 8423. OPM's final rule amends its regulation under 5 CFR 841.403 to eliminate the category of ''Congressional employees, including members of the Capitol Police,'' and to establish separate normal cost percentages for certain members of the Capitol Police and for Congressional employees in compliance with sec. 211 of title II, division E of Public Law 116–94, the Further Consolidated Appropriations Act, 2020. In accordance with the Further Consolidated Appropriations Act, 2020, 5 CFR 841.403 must list members of the Capitol Police covered under 5 U.S.C. 8412(d) and 5 U.S.C. 8425(c) as a separate category. All other Capitol Police, who are not members covered under 5 U.S.C. 8412(d) and 5 U.S.C. 8425(c), will fall under the new category of ''other Congressional employees.'' OPM received no written comments on the proposed rule published July 2, 2020 (85 FR 39851).

Regulatory Impact Analysis

OPM has examined the impact of this rule as required by Executive Order 12866 and Executive Order 13563, which directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for major rules with economically significant effects of $100 million or more in any one year. This rule was not designated as a ''significant regulatory action,'' under Executive Order 12866.

Reducing Regulation and Controlling Regulatory Costs

This rule is not an E.O. 13771 regulatory action because this rule is related to agency organization, management, or personnel.

Regulatory Flexibility Act

The Office of Personnel Management certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Federalism

We have examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local, or tribal governments.

Civil Justice Reform

This regulation meets the applicable standard set forth in Executive Order 12988.

Unfunded Mandates Reform Act of 1995

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

Congressional Review Act

This action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of nonagency parties and, accordingly, is not a ''rule'' as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

Paperwork Reduction Act

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number.

This rule involves an OMB approved collection of information subject to the PRA Application for Death Benefits (FERS)/Documentation and Elections in Support of Application for Death Benefits when Deceased was an Employee at the Time of Death (FERS), 3206–0172. The public reporting burden for this collection is estimated to average 60 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The total burden hour estimate for this form is 16,751 hours. The systems of record notice for this collection is: OPM SORN CENTRAL-1-Civil Service Retirement and Insurance Records.

List of Subjects in 5 CFR Part 841

Administrative practice and procedure, Air traffic controllers, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Retirement.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

For the reasons stated in the preamble, the Office of Personnel Management amends 5 CFR part 841 as follows:

PART 841—FEDERAL EMPLOYEES RETIREMENT SYSTEM—GENERAL ADMINISTRATION

■ 1. The authority citation for part 841 continues to read as follows:

Authority: 5 U.S.C. 8461; Sec. 841.108 also issued under 5 U.S.C. 552a; Secs. 841.110 and 841.111 also issued under 5 U.S.C. 8470(a); subpart D also issued under 5 U.S.C. 8423; Sec. 841.504 also issued under 5 U.S.C. 8422; Sec. 841.507 also issued under section 505 of Pub. L. 99–335; subpart J also issued under 5 U.S.C. 8469; Sec. 841.506 also issued under 5 U.S.C. 7701(b)(2); Sec. 841.508 also issued under section 505 of Pub. L. 99–335; Sec. 841.604 also issued under Title II, Pub. L. 106–265, 114 Stat. 780.

■ 2. Amend § 841.403 by revising paragraph (b), redesignating paragraphs (c) through (h) as paragraphs (d) through (i), and adding new paragraph (c) to read as follows:

§ 841.403 Categories of employees for computation of normal cost percentages.

* * * * *

(b) Capitol Police covered under 5 U.S.C. 8412(d) and 5 U.S.C. 8425(c);

(c) Other Congressional employees;

* * * * *

[FR Doc. 2020–20783 Filed 9–21–20; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 843

RIN 3206–AO03

Federal Employees' Retirement System; Present Value Conversion Factors for Spouses of Deceased Separated Employees

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is adopting its proposed rule to revise the table of reduction factors for early commencing dates of survivor annuities for spouses of separated employees who die before the date on which they would be eligible for unreduced deferred annuities, and to revise the annuity factor for spouses of deceased employees who die in service when those spouses elect to receive the basic employee death benefit in 36 installments under the Federal Employees' Retirement System (FERS) Act of 1986. These rules are necessary to ensure that the tables conform to the economic and demographic assumptions adopted by the Board of Actuaries and published in the **Federal Register** on April 6, 2020, as required by the United States Code.

DATES: This rule becomes effective on October 1, 2020.

FOR FURTHER INFORMATION CONTACT: Karla Yeakle, (202) 606–0299.

SUPPLEMENTARY INFORMATION: On April 6, 2020, OPM published at 85 FR 19174, a notice in the **Federal Register** to revise the normal cost percentages under the Federal Employees' Retirement System (FERS) Act of 1986, Public Law 99–335, 100 Stat. 514, as amended, based on economic assumptions and demographic factors adopted by the Board of Actuaries of the Civil Service Retirement System. By statute under 5 U.S.C. 8461(i), the revisions to the actuarial assumptions require corresponding changes in factors used to produce actuarially equivalent benefits when required by the FERS Act. As a result, on July 2, 2020, at 85 FR 39852, OPM published a proposed rule in the **Federal Register** to revise the table of reduction factors in Appendix A to subpart C of part 843, Code of Federal Regulations, for early commencing dates of survivor annuities for spouses of separated employees who die before the date on which they would be eligible for unreduced deferred annuities, and to revise the annuity factor for spouses of deceased employees who die in service when those spouses elect to receive the basic employee death benefit in 36 installments under 5 CFR 843.309. OPM received no written comments on the proposed rule.

Regulatory Impact Analysis

OPM has examined the impact of this rule as required by Executive Order 12866 and Executive Order 13563, which directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for major rules with economically significant effects of $100 million or more in any one year. This rule was not designated as a ''significant regulatory action,'' under Executive Order 12866.

Reducing Regulation and Controlling Regulatory Costs

This rule is not an E.O. 13771 regulatory action because this rule is related to agency organization, management, or personnel.

Regulatory Flexibility Act

The Office of Personnel Management certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Federalism

We have examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local, or tribal governments.

Civil Justice Reform

This regulation meets the applicable standard set forth in Executive Order 12988.

Unfunded Mandates Reform Act of 1995

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

Congressional Review Act

This action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of nonagency parties and, accordingly, is not a ''rule'' as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

Paperwork Reduction Act

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This rule involves an OMB approved collection of information subject to the PRA Application for Death Benefits (FERS)/Documentation and Elections in Support of Application for Death Benefits when Deceased was an Employee at the Time of Death (FERS), 3206–0172. The public reporting burden for this collection is estimated to average 60 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The total burden hour estimate for this form is 16,751 hours. The systems of record notice for this collection is: OPM SORN CENTRAL-1-Civil Service Retirement and Insurance Records.

List of Subjects in 5 CFR Part 843

Air traffic controllers, Disability benefits, Firefighters, Government employees, Law enforcement officers, Pensions, Retirement.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

For the reasons stated in the preamble, the Office of Personnel Management amends 5 CFR part 843 as follows:

PART 843—FEDERAL EMPLOYEES RETIREMENT SYSTEM—DEATH BENEFITS AND EMPLOYEE REFUNDS

■ 1. The authority citation for part 843 is revised to read as follows:

Authority: 5 U.S.C. 8461; 843.205, 843.208, and 843.209 also issued under 5 U.S.C. 8424; 843.309 also issued under 5 U.S.C. 8442; 843.406 also issued under 5 U.S.C. 8441.

■ 2. In § 843.309, revise paragraph (b)(2) to read as follows:

§ 843.309 Basic employee death benefit.

* * * * *

(b) * * *

(2) For deaths occurring on or after October 1, 2020, 36 equal monthly installments of 2.95307 percent of the amount of the basic employee death benefit.

* * * * *

■ 3. Revise Appendix A to subpart C of part 843 to read as follows:

Appendix A to Subpart C of Part 843—Present Value Conversion Factors for Earlier Commencing Date of Annuities of Current and Former Spouses of Deceased Separated Employees

With at least 10 but less than 20 years of creditable service—

Age of separated employee at birthday before death	Multiplier
26	.1014
27	.1077
28	.1144
29	.1215
30	.1290
31	.1370
32	.1454
33	.1544
34	.1641
35	.1742
36	.1852
37	.1963
38	.2090
39	.2216
40	.2348
41	.2498
42	.2657
43	.2822
44	.3007
45	.3197
46	.3409
47	.3625
48	.3860
49	.4114
50	.4386
51	.4681
52	.4997
53	.5336
54	.5703
55	.6095
56	.6527
57	.6994
58	.7499
59	.8047
60	.8642
61	.9291

With at least 20, but less than 30 years of creditable service—

Age of separated employee at birthday before death	Multiplier
36	.2142
37	.2272
38	.2418
39	.2566
40	.2720
41	.2894
42	.3078
43	.3270
44	.3484
45	.3705
46	.3949
47	.4201
48	.4473
49	.4767
50	.5082
51	.5423
52	.5788
53	.6180
54	.6605
55	.7060
56	.7558
57	.8096
58	.8680
59	.9312

With at least 30 years of creditable service—

Age of separated employee at birthday before death	Multiplier by separated employee's year of birth	
	After 1966	From 1950 through 1966
46	.4881	.5228
47	.5194	.5563
48	.5531	.5924
49	.5894	.6314
50	.6283	.6730
51	.6704	.7180
52	.7154	.7662
53	.7638	.8181
54	.8162	.8741
55	.8725	.9345
56	.9338	1.0000

[FR Doc. 2020–20784 Filed 9–21–20; 8:45 am]

BILLING CODE 6325–38–P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 9

[Docket ID: FSA–2020–0006]

RIN 0503–AA65

Coronavirus Food Assistance Program

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: The Secretary of Agriculture is issuing this rule to provide additional assistance under the Coronavirus Food Assistance Program (CFAP) to agricultural producers who continue to be impacted by the effects of the COVID–19 outbreak. This rule specifies the eligibility requirements, payment calculations, and application procedures for a second round of payments (CFAP 2). In addition, it also extends the special payment limitation provisions to trusts and estates for CFAP 1 and amends the provisions regarding applicable year and direct attribution of payments to members of legal entities that qualify for the increased payment limitation.

DATES: Effective September 22, 2020.

FOR FURTHER INFORMATION CONTACT: William L. Beam; telephone: (202) 720–3175; email: *Bill.Beam@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

In response to the COVID–19 outbreak, USDA implemented CFAP through a final rule published in the **Federal Register** on May 21, 2020 (85 FR 30825–30835), with corrections published in the **Federal Register** on June 12, 2020 (85 FR 35799–35800), July 10, 2020 (85 FR 41328–41330), August 14, 2020 (85 FR 49593–49594), and documents published in the **Federal Register** on May 22, 2020 (85 FR 31062–31065), June 12, 2020 (85 FR 35812), July 10, 2020 (85 FR 41321–41323), and August 14, 2020 (85 FR 49589–49593). The application period for the first round of CFAP payments (referred to in this rule and hereinafter as CFAP 1) was May 26, 2020, through September 11, 2020.

In this final rule, USDA is implementing a second round of payments under CFAP (CFAP 2) for producers of agricultural commodities who face continuing market disruptions, low farm-level prices, and significant marketing costs. These additional significant marketing costs are associated with declines in demand, surplus production, and disruptions to shipping patterns and the orderly marketing of commodities.

CFAP 2 will provide eligible producers with financial assistance that gives them the ability to absorb increased marketing costs associated with the COVID–19 outbreak. In accordance with 15 U.S.C. 714b, the Secretary is using funds of the Commodity Credit Corporation (CCC) to assist producers with the purchase of materials and facilities required in connection with the production and marketing of agricultural commodities, with an estimated $13.21 billion being made available. These funds will be used as authorized by sections 5(b), (d), and (e) of the CCC Charter Act (15 U.S.C. 714c(b), (d), and (e)). These authorities will be used to partially compensate producers for on-going market disruptions and assist with the transition to a more orderly marketing system by enabling them to:

- Purchase materials and facilities required in connection with the production and marketing of agricultural commodities;
- Remove or dispose of surplus agricultural commodities; and
- Develop new and additional markets, marketing facilities, and uses for the commodities.

Funds available under 15 U.S.C. 714c(b), (d), and (e) cannot be used to provide assistance for tobacco; however, tobacco will be eligible for CFAP 2 with payments funded by remaining funds authorized by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act; Pub. L. 116–136).

Payments

CFAP 2 payments will be made for three categories of commodities:

1. Price trigger commodities (major commodities that meet a minimum 5-percent price decline over a specified time period);
2. Flat-rate crops; and
3. Sales commodities.

Eligible price trigger commodities include barley, corn, sorghum, soybeans, sunflowers, upland cotton, wheat (all classes), broilers, eggs, beef cattle, dairy, hogs and pigs, and lambs and sheep. Price trigger commodities are commodities that had a 5 percent or greater price decline due to COVID–19 in a comparison of the average price for the week of January 13–17, 2020, and the average price for the week of July 27–31, 2020. For price trigger crops, payments will be based on eligible acres of the crop, which are the producer's share of 2020 determined acres if established by FSA, or reported acres on FSA–578 if determined acres have not been established by FSA, excluding prevented planting and experimental acres. Payments for price trigger crops will be the greater of: (1) The eligible acres multiplied by a payment rate of $15 per acre; or (2) the eligible acres multiplied by a nationwide crop marketing percentage, multiplied by a crop-specific payment rate, and then by

the producer's weighted 2020 Actual Production History (APH) approved yield, or if the APH is not available, 85 percent of the 2019 Agriculture Risk Coverage-County Option (ARC–CO) benchmark yield for that crop. For broilers and eggs, payments will be based on 75 percent of the producer's 2019 production. For dairy, payments will be based on April 1 to August 31, 2020, actual milk production and September 1, 2020, to December 31, 2020, estimated milk production (based on the producer's daily average production from April 1 to August 31, 2020, multiplied by the number of days the dairy operation commercially markets milk from September 1, 2020, through December 31, 2020). For price-triggered livestock, payments will be based on a fixed number of head, which is defined as the lower of the maximum owned inventory of eligible livestock, excluding breeding stock, on a date selected by the eligible producer from April 16, 2020, through August 31, 2020, or a specific number of head (4,546 head of cattle or 10,870 head of hogs). In the payment calculation, the maximum number of head of cattle and hogs, respectively, will be multiplied by the number of payment limitations for the producer.

Flat-rate crops are crops that either do not meet the 5-percent price decline trigger noted above or do not have data available to calculate a price change, but will have CFAP 2 payments calculated based on eligible acres of the crop planted in 2020, similar to price trigger crops. Eligible flat-rate crops include alfalfa, Extra Long Staple (ELS) cotton, oats, peanuts, and rice, as well as some crops with relatively small acreage—such as amaranth grain, buckwheat, canola, crambe (colwort), einkorn, emmer, flax, guar, hemp, indigo, industrial rice, kenaf, Khorasan, millet, mustard, oats, peanuts, quinoa, rice, sweet rice, wild rye, safflower, sesame, speltz, sugar beets, sugarcane, teff, triticale, and rapeseed. For flat-rate crops, payments will be computed by multiplying: (1) The producer's share of reported or determined 2020 planted acres of the crop, excluding prevented planted and experimental acres, by (2) $15 per acre.

The sales commodities category includes:

- Aquaculture grown in a controlled environment;
- Nursery crops and floriculture;
- Other livestock (excluding breeding stock) not included under the price trigger category that were grown for food, fiber, fur, or feathers;
- Other crops not included in the price trigger and flat-rate categories, including tobacco;
- Goat milk;
- Mink (including pelts);
- Mohair; and
- Wool.

Payment calculations for the sales commodities will use a sales-based approach based on five payment gradations associated with the producer's 2019 sales of the commodity.

Payments cannot be calculated using the methods described above for producers of broilers, eggs, and sales commodities who began farming in 2020 and had no 2019 production or sales. Payments for such producers will be based on the producer's actual 2020 production or sales as of the date the producer submits an application for payment.

Eligibility

Only commercially produced commodities are eligible.

Producer must be in the business of farming at the time of application.

Hay, except alfalfa, and crops intended for grazing are ineligible for CFAP 2 and will not receive a CFAP 2 payment. Crops with intended uses of green manure and left standing are also ineligible.

Contract growers are ineligible for CFAP 2 and will not receive a CFAP 2 payment.

Average Adjusted Gross Income Limitation and Payment Limitation

A person or legal entity, other than a joint venture or general partnership, is ineligible for payments if the person's or legal entity's average adjusted gross income (AGI), using the average of the adjusted gross incomes for the 2016, 2017 and 2018 tax years, is more than $900,000, unless at least 75 percent of that person's or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. If at least 75 percent of the person's or legal entity's AGI is derived from farming, ranching, or forestry-related activities and the participant provides the required certification and documentation, the person or legal entity is eligible to receive CFAP payments up to the applicable payment limitation.

With respect to joint ventures and general partnerships, this AGI provision will be applied to each member of the joint venture and general partnership.

CFAP 2 payments are subject to a per person and legal entity payment limitation of $250,000. This payment limitation is separate from the CFAP 1 payment limitation, and it applies to the total amount of CFAP 2 payments made with respect to all eligible commodities under all three categories.

This rule also amends the special payment limitations in § 9.7(e) for both CFAP 1 and CFAP 2. Previously, the special payment limitation provisions applied to corporations, limited liability companies, and limited partnerships. Those corporate entities may receive up to $750,000 in CFAP 1 payments based on the number of shareholders or members (not to exceed three shareholders or members) who are contributing at least 400 hours of active personal labor or active personal management or combination thereof with respect to the operation of the corporate entity.

This change amends the CFAP general provisions to extend those special payment limitation provisions to trusts and estates, allowing them to be eligible for the optional payment limitation increase based on the labor or management contributions of the beneficiaries or heirs of such trusts and estates. Extending these provisions to trusts and estates is necessary to recognize that, similar to members, partners, and stockholders of corporate entities, beneficiaries and heirs of trusts and estates may contribute at least 400 hours of active personal labor or active personal management or a combination thereof. Furthermore, trusts and estates are also affected by the price declines caused by COVID–19.

This rule also changes the method by which payments under the special payment limitation provisions are attributed to individuals and legal entities for both CFAP 1 and CFAP 2. The increased CFAP payment limitation for corporations, limited liability companies, limited partnerships, trusts, and estates based on contributions of at least 400 hours of active personal labor or active personal management or combination thereof is unlike the payment limitation under any other program administered by FSA. FSA's method of attributing CFAP payments based on ownership share of the legal entity in accordance with 7 CFR 1400.105, which applies to other FSA-administered programs subject to payment limitation, creates inequity when the pay limit for the legal entity is increased under the special provisions but not increased for each member of the entity.

Under 7 CFR 1400.105 for attributing payments for most commodity programs, the maximum amount that a legal entity could receive is limited by the maximum amount each eligible member may receive (directly or indirectly) based on ownership interest

in the legal entity, which is $250,000. For example, under current attribution rules, a corporation that qualifies for the increased limitation of $500,000 may only receive $450,000 when stockholders have unequal ownership shares in the legal entity. In this example, Stockholder A holds 60 percent ownership share and Stockholder B holds 40 percent ownership share. The payment to the legal entity is determined by multiplying each stockholder's ownership interest by the payment limitation of the corporation. (For Stockholder A, 60 percent × $500,000 = $300,000 (not to exceed $250,000); for Stockholder B, 40 percent × $500,000 = $200,000). The maximum payment to the legal entity in this case is $450,000 ($250,000 + $200,000). With the change to attribution in this rule applicable to CFAP 1 and CFAP 2, the payment to the legal entity qualifying for the increased payment limitation will not be reduced for ownership share, except for ineligibility or prior payments to a member, stockholder, partner, heir or beneficiary. The correction in how FSA attributes and limits CFAP payments under the special provisions to the members of the legal entity provides the ability for the legal entity to receive the maximum amount, not to exceed $500,000 or $750,000 as applicable, under the increased payment limitation, regardless of the ownership interests of the members, partners, and stockholders, beneficiaries, or heirs contributing at least 400 hours of active personal labor or active personal management. However, a member, stockholder, partner, beneficiary, or heir cannot receive, directly or indirectly, more than $250,000 under each round of payments (CFAP 1 and CFAP 2), regardless of whether payments attributed to them are subject to the regular payment limitation or the special increased limitations.

This rule removes ''2019'' as the applicable commodity year in § 9.7(e)(2)(ii) and (iii) because CFAP eligibility may be based on 2019 or 2020 production of the commodity, as specified in the applicable payment calculations.

CFAP General Requirements

The general eligibility requirements that applied to CFAP 1 also apply to CFAP 2, including requiring compliance with 7 CFR part 12, ''Highly Erodible Land and Wetland Conservation'' and 7 CFR part 1400 subpart E, ''Foreign Persons.'' Appeal regulations in 7 CFR parts 11 and 780 also apply to CFAP 2.

As under CFAP 1, there is no requirement to have crop insurance coverage or coverage under the Noninsured Crop Disaster Assistance Program (NAP) for an eligible CFAP commodity to be eligible for CFAP 2.

Application Process

FSA will be responsible for implementing CFAP 2. FSA will accept CFAP 2 applications beginning September 21, 2020, and ending December 11, 2020. To apply for CFAP 2 payments, producers must submit a completed CFAP 2 application either in person, by mail, email, or facsimile to an FSA county office. A producer who applies must submit additional documentation for eligibility, such as certifications of compliance with adjusted gross income provisions and conservation compliance activities; those additional documents and forms must be submitted no later than 60 days from the date a producer signs the application. Payments will not be made until all necessary eligibility documentation is received, and will be reduced or not issued to the individuals or members of the entity when the documentation is not submitted timely. Producers who are applying for payment for price trigger or flat-rate crops must file a report of all acreage for the crop on FSA–578, Report of Acreage.

If supporting documentation is requested to verify the information specified on the application, the producer must provide records that substantiate the reported information. Examples of supporting documentation include evidence provided by the producer that is used to substantiate the acres, sales, inventory, or production reported, including copies of receipts, ledgers of income, income statements of deposit slips, veterinarian records, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, or contemporaneous diaries that are determined acceptable by USDA.

Provisions Requiring Refund to USDA

In the event that any application for a CFAP 2 payment resulted from erroneous information reported by the producer, the payment will be recalculated, and the producer must refund any excess payment to USDA. If the error was the producer's error, the refund must include interest [1] to be calculated from the date of the disbursement to the producer.

If USDA determines that the producer's application misrepresented either the total amount or producer's share of the acres, production, head of livestock, or sales, or if the CFAP 2 payment would exceed the payment as calculated based on the correct share of the acres, production, head of livestock, or sales, the application will be disapproved and the participant must refund to USDA all CFAP 2 payments made to the producer with interest from the date of disbursement.

Any required refunds must be resolved in accordance with debt settlement regulations in 7 CFR part 3.

Other Changes

In addition to the changes necessary to implement CFAP 2, USDA is moving definitions and payment calculation provisions that are specific to CFAP 1 to a new subpart B. This change is for organizational purposes only; this rule does not change those definitions and provisions.

This rule also adds a definition of ''controlled environment'' in § 9.2. This definition is consistent with how the term has been interpreted for the administration of CFAP 1 and for other FSA disaster programs (see FSA handbook for CFAP 1 and the NAP handbook, found under Disaster Assistance on the following web page: *https://www.fsa.usda.gov/programs-and-services/laws-and-regulations/handbooks/index*); it is added only to provide clarity.

Notice and Comment and Effective Date

The Administrative Procedure Act (5 U.S.C. 553(a)(2)) provides that the notice and comment and 30-day delay in the effective date provisions do not apply when the rule involves specified actions, including matters relating to benefits. This rule governs CFAP for payments to certain commodity producers and therefore falls within the benefits exemption.

The Office of Management and Budget (OMB) designated this rule as major under the Congressional Review Act (CRA), as defined by 5 U.S.C. 804(2). Section 808 of the CRA allows an agency to make a major regulation effective immediately if the agency finds there is good cause to do so. The beneficiaries of this rule have been significantly impacted by the COVID–19 outbreak, which has resulted in significant declines in demand and market disruptions. USDA finds that notice and public procedure are contrary to the public interest. Therefore, even though this rule is a major rule for purposes of the Congressional Review Act, USDA is not

[1] The program interest rate is based on the CCC borrowing rate in effect for the month the payment was disbursed.

required to delay the effective date for 60 days from the date of publication to allow for Congressional review. Accordingly, this rule is effective upon publication in the **Federal Register**.

Executive Orders 12866, 13563, 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 emphasizes 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. Further, 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 economically significant under Executive Order 12866, ''Regulatory Planning and Review,'' and therefore, OMB has reviewed this rule. The costs and benefits of this rule are summarized below. The full cost benefit analysis is available on *regulations.gov.*

Cost Benefit Analysis Summary

CFAP 2 will provide producers with financial assistance that gives them the ability to absorb increased marketing costs associated with the COVID–19 outbreak. Producers will receive payments under the CCC Charter Act (section 5(b), (d), and (e)) with an estimated $13.21 billion being made available (after payment limitations).

Producers will be compensated for on-going market disruptions and to transition to a more orderly marketing system. Payments will assist producers with the purchase of materials and facilities required in connection with the production and marketing of agricultural commodities, aid in the removal or disposition of surplus agricultural commodities, and aid in the development of new and additional markets, marketing facilities, and uses for such commodities.

For the price trigger commodities, the approach to calculating CFAP 2 payments is very similar to that used for CFAP 1 (which covered Quarter 1 of 2020), although the focus now is on Quarter 2 through Quarter 4 of calendar 2020. Payments are based on the price decline calculated between mid-January and late-July and use an 80 percent coverage factor. Where available, mid-January and late July futures prices (for either the November or December contract) were used to estimate the market's price expectations toward the end of calendar 2020. Future contracts are not traded for all crops with a price trigger nor are they available for eggs, broilers, and lamb. For these commodities, actual prices received in mid-January and late July are used as a proxy. Depending on the yield for a given producer's crop in this category, the payment may calculate to less than $15 per acre. In such cases, the payment is raised to $15 per acre, which is the payment for the flat-rate category discussed below.

Producers of the flat-rate commodities receive a $15 per-acre payment based on their eligible 2020 acreage.

For the sales-based commodities, payment calculations will use a sales-based approach, where producers are paid based on five payment gradations associated with their 2019 sales. In addition, tobacco is a sales-based commodity under CFAP 2 and a CARES Act payment will be calculated using remaining CARES Act funds, not to exceed $100 million.

Estimated net payments to producers of $13.21 billion represent benefits to producers, which is the government cost of CFAP 2. Outlays are estimated at expected maximum levels.

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 the Administrative Procedure Act or any other law to publish a proposed rule for this rulemaking initiative.

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), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and because USDA will be making the payments to producers the USDA regulations for compliance with NEPA (7 CFR part 1b).

Although OMB has designated this rule as ''economically significant'' under Executive Order 12866, ''. . . economic or social effects are not intended by themselves to require preparation of an environmental impact statement'' when not interrelated to natural or physical environmental effects (see 40 CFR 1508.14). CFAP 2 was designed to avoid skewing planting decisions. Producers continue to make their planting and production decisions with the market signals in mind, rather than any expectation of what a new USDA program might look like. The discretionary aspects of CFAP 2 (for example, determining AGI and payment limitations) were designed to be consistent with established USDA and CCC programs and are not expected to have any impact on the human environment, as CFAP 2 payments will only be made after the commodity has been produced. Accordingly, the following Categorical Exclusion in 7 CFR part 1b applies: 1b.3(2), which applies to activities that deal solely with the funding of programs, such as program budget proposals, disbursements, and the transfer or reprogramming of funds. As such, the implementation of and participation in CFAP 2 do not constitute major Federal actions that would significantly affect the quality of the human environment, individually or cumulatively. Therefore, an environmental assessment or environmental impact statement for this regulatory action, will not be prepared; this rule serves as documentation of the programmatic environmental compliance decision for this federal action.

Executive Order 12372

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' requires consultation with State and local officials that would be directly affect 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. Before any judicial action 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 for compliance with 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 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.

USDA has assessed the impact of this rule on Indian Tribes and determined that this rule does not, to our knowledge, have Tribal implications that required Tribal consultation under Executive Order 13175. If a Tribe requests consultation, the USDA Office of Tribal Relations (OTR) will ensure meaningful consultation is provided where changes, additions, and modifications are not expressly mandated by Congress.

Outside of Tribal consultation, USDA is working with Tribes to provide information about CFAP 2 and other issues.

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 on State local, and Tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit 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.

Federal Assistance Programs

The title and number of the Federal Domestic Assistance Program found in the Catalog of Federal Domestic Assistance to which this rule applies is Coronavirus Food Assistance Program 2 and 10.132.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, FSA submitted the CFAP 2 information collection request to OMB for emergency approval. OMB approved the 6-month emergency information collection.

E-Government Act Compliance

USDA 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 Part 9

Agricultural commodities, Agriculture, Disaster assistance, Indemnity payments.

For the reasons discussed above, this final rule amends 7 CFR part 9 as follows:

PART 9—CORONAVIRUS FOOD ASSISTANCE PROGRAM

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

Authority: 15 U.S.C. 714b and 714c; and Division B, Title I, Pub. L. 116–136.

§§ 9.1 through 9.8 [Redesignated as Subpart A]

■ 2. Redesignate §§ 9.1 through 9.8 as subpart A and add a heading for subpart A to read as follows:

Subpart A—General Provisions

■ 3. In § 9.1 amend paragraph (a) introductory text by adding two sentences after the second sentence to read as follows:

§ 9.1 Applicability and administration

(a) * * * CFAP is being implemented through two rounds of payments, with the first round (CFAP 1) determined as specified in subpart B of this part, and the second round (CFAP 2) determined as specified in subpart C of this part. To be eligible for CFAP payments, participants must comply with all provisions under this subpart and the relevant particular subpart for CFAP 1 or CFAP 2. * * *

* * * * *

■ 4. Amend § 9.2 by:

■ a. In the introductory text, removing the word ''CFAP'' and adding the words ''this part'' in its place;

■ b. Removing the definitions of ''All other cattle'', ''Aquaculture'', and ''Cattle raised or maintained for breeding purposes'';

■ c. Adding the definition of ''Controlled environment''; and

■ d. Removing the definitions of ''Crop'', ''Feeder cattle 600 pounds or more'', ''Feeder cattle less than 600 pounds'', ''First quarter'', ''Lambs and yearlings'', ''Non-specialty crop'', ''Producer'', ''Second quarter'', ''Slaughter cattle—fed cattle'', ''Slaughter cattle—mature cattle'', ''Specialty crops'', and ''Unpriced''.

The addition reads as follows.

§ 9.2 Definitions.

* * * * *

Controlled environment means an environment in which everything that can practicably be controlled by the producer with structures, facilities, and growing media (including but not limited to water, soil, or nutrients), is in fact controlled by the producer, as determined by industry standards.

* * * * *

§ 9.3 [Amended]

■ 5. In § 9.3 amend paragraph (c) by removing the word ''Have'' and adding the words ''For payments under § 9.102 of this part, have'' in its place.

■ 6. Amend § 9.4 by revising paragraph (a) and adding paragraph (d) to read as follows:

§ 9.4 Time and method of application.

(a) A completed application under this subpart must be submitted in person, by mail, email, or facsimile to any FSA county office by the close of business on:

(1) September 11, 2020, for payments issued under § 9.102 of this part; and

(2) December 11, 2020, for payments issued under § 9.202 of this part.

* * * * *

(d) A producer applying for assistance for a crop subject to § 9.202(a) or (b) must file a report of all acreage of the crop on FSA–578, Report of Acreage.

§ 9.5 [Redesignated as § 9.102]

■ 7. Redesignate § 9.5 as § 9.102.

§ 9.5 [Reserved]

■ 8. Add and reserve a new § 9.5.

■ 9. Amend § 9.7 by:

■ a. In paragraph (e)(1) adding the words ''under each of subparts B and C'' after ''$250,000'' both times it appears;

■ b. Revising paragraphs (e)(2) and (3); and

■ c. In paragraph (h), removing ''September 11, 2020,'' and adding the words ''the applicable date in § 9.4(a)'' in its place.

The revisions read as follows.

§ 9.7 Miscellaneous provisions.

* * * * *

(e) * * *

(2)(i) The total amount of CFAP payments a corporation, limited liability company, limited partnership, trust, or estate may receive is $250,000 under each of subparts B and C unless the members, partners, stockholders, beneficiaries, or heirs of the legal entity meet the provisions of paragraphs (e)(2)(ii) or (iii) of this section.

(ii) The total amount of CFAP payments a corporation, limited liability company, limited partnership, trust, or estate may receive is $500,000 under each of subparts B and C if two different individual persons who are members, partners, stockholders, beneficiaries, or heirs of the legal entity each provided at least 400 hours of active personal labor or active personal management or combination thereof with respect to the production of commodities for which an application or applications are made in accordance with this part.

(iii) The total amount of CFAP payments a corporation, limited liability company, limited partnership, trust, or estate may receive is $750,000 under each of subparts B and C if three different individual persons who are members, partners, stockholders, beneficiaries, or heirs of the legal entity each provided at least 400 hours of active personal labor or active personal management or combination thereof with respect to the production of commodities for which an application or applications are made in accordance with this part.

(3)(i) Except for payments subject to the increased payment limitation in (e)(2)(ii) and (e)(2)(iii) of this section, a CFAP payment made to any legal entity will be attributed to individuals or legal entities with an ownership interest in the legal entity in accordance with § 1400.105 of this title. Payments attributed to a legal entity with an ownership interest in the legal entity will be further attributed as provided in § 1400.105 of this title. If the legal entity does not qualify for an increased payment limitation under (e)(2)(ii) or (iii) of this section and the total amount of CFAP payments made directly or indirectly to an individual or legal entity has met the applicable amount specified in paragraph (e)(1) of this section, the payment to the legal entity will be reduced commensurate with the amount of the ownership interest of the individual or legal entity in the legal entity. CFAP payments subject to attribution under this paragraph will be attributed to individuals and legal entities until the attribution is made only to an individual except the attribution will stop at the fourth level of ownership.

(ii) A payment subject to the increased payment limitation in (e)(2)(ii) or (iii) of this section will be limited to the lesser of the amount specified in either (e)(2)(ii) or (iii) of this section, or the sum of the amount specified in (e)(1) of this section that each eligible member, stockholder, partner, heir, or beneficiary of the legal entity may receive, regardless of ownership share. Payments attributed to a legal entity with an ownership interest in the legal entity will be further attributed to individuals and legal entities until the attribution is made only to an individual, except the attribution will stop at the fourth level of ownership.

* * * * *

■ 10. Add subpart B, consisting of § 9.101 and newly redesignated § 9.102, to read as follows:.

Subpart B—CFAP 1

Sec.

§ 9.101 Definitions.

The following definitions apply to this subpart. The definitions in parts 718 and 1400 of this title also apply, except where they conflict with the definitions in this section.

All other cattle means commercially raised or maintained bovine animals not meeting the definition of another category of cattle in this part, excluding beefalo, bison, and animals used for dairy production or intended for dairy production.

Aquaculture means only those species as announced in a NOFA.

Cattle raised or maintained for breeding purposes means animals commercially raised or maintained for use as either a sire or dam for the production of livestock offspring or lactation.

Crop means non-specialty crops and specialty crops.

Feeder cattle 600 pounds or more means cattle weighing more than 600 pounds but less than the weight of slaughter cattle-fed cattle as defined in this section.

Feeder cattle less than 600 pounds means cattle weighing less than 600 pounds.

First quarter means January, February, and March of 2020.

Lambs and yearlings means all sheep less than 2 years old.

Non-specialty crop means any of the following crops: Barley, canola, corn, durum wheat, hard red spring wheat, millet, oats, sorghum, soybeans, sunflowers, and upland cotton. The term excludes crops intended for grazing.

Producer means a person or legal entity who shares in the risk of producing a crop or livestock and who is entitled to a share in the crop or livestock available for marketing or would have shared had the crop or livestock been produced and marketed. A contract grower who does not own the livestock, will be considered a producer if the contract allows the grower to have risk in the livestock.

Second quarter means April, May, and June of 2020.

Slaughter Cattle—fed cattle means cattle with a weight of 1,200 pounds or more that are intended for slaughter.

Slaughter cattle—mature cattle means culled cattle raised or maintained for breeding purposes, but which were removed from inventory and are intended for slaughter.

Specialty crops means any of the following crops: Almonds; apples; artichokes; asparagus; avocados; beans; blueberries; broccoli; cabbage; cantaloupe; carrots; cauliflower; celery; corn, sweet; cucumbers, eggplant; garlic; grapefruit; kiwifruit; lemons; lettuce, iceberg; lettuce, romaine; mushrooms; onions, dry; onions, green; oranges; papayas; peaches; pears; pecans;

peppers, bell type; peppers, other; potatoes; raspberries; rhubarb; spinach; squash; strawberries; sweet potatoes; tangerines; taro; tomatoes; walnuts; watermelons; and any crops for which funds are made available. The term excludes crops intended for grazing.

Unpriced means not subject to an agreed-upon price in the future through a forward contract, agreement, or similar binding document as of January 15, 2020.

■ 11. Add Subpart C, consisting of §§ 9.201 through 9.202, to read as follows:

Subpart C—CFAP 2

Sec.
9.201 Definitions.
9.202 Calculation of payments.

§ 9.201 Definitions.

The following definitions apply to this subpart. The definitions in parts 718 and 1400 of this title also apply, except where they conflict with the definitions in this section.

Aquaculture means any species of aquatic organisms grown as food for human consumption, fish raised as feed for fish that are consumed by humans, ornamental fish propagated and reared in an aquatic medium. Eligible aquacultural species must be raised by a commercial operator and in water in a controlled environment.

Breeding stock means:

(1) For cattle, bulls and cows;

(2) For hogs and pigs, boars and sows; and

(3) For lambs and sheep, rams and ewes.

Broilers includes any chicken that has been commercially produced for meat purposes that has left the farm for slaughter, and not used for laying or breeding purposes.

Eggs means dried, frozen, liquid, and shell eggs.

Experimental means a crop for which all of the following apply:

(1) The crop is planted for experimental purposes conducted under the direct supervision of a State experiment station or commercial company;

(2) Production of the crop is destroyed before harvest or used for testing or other experimental purposes; and

(3) A representative of the State experiment station or the commercial company certifies that any production harvested from the experiment will not be marketed in any form.

Flat-rate crop means alfalfa, amaranth grain, buckwheat, canola, cotton, Extra Long Staple (ELS) cotton, crambe (colewort), einkorn, emmer, flax, guar, hemp, indigo, industrial rice, kenaf, khorasan, millet, mustard, oats, peanuts, quinoa, rapeseed, rice, rice, sweet, rice, wild, rye, safflower, sesame, speltz, sugar beets, sugarcane, teff, and triticale. The term excludes hay, except alfalfa, and crops with intended uses of grazing, green manure, or left standing.

Floriculture means cut flowers and cut greenery from annual and perennial flowering plants grown in a container or controlled environment for commercial sale. Floriculture is included in sales commodities.

Fruits means any of the following fruits: Abiu, acerola (Barbados cherry), achachairu, antidesma, apples, apricots, aronia (chokeberry), atemoya (custard apple), bananas, blueberries, breadfruit, cacao, caimito, calabaza melon, canary melon, canary seed, caneberries, canistel, cantaloupes, carambola (star fruit), casaba melon, cherimoya (sugar apple), cherries, Chinese bitter melon, citron, citron melon, coconuts, cranberries, crenshaw melon, dates, donaqua (winter melon), durian, elderberries, figs, genip, gooseberries, grapefruit, grapes, ground cherrry, guamabana (soursop), guava, guavaberry, honeyberries, honeydew, huckleberries, Israel melons, jack fruit, jujube, juneberries, kiwiberry, kiwifruit, Korean golden melon, kumquats, langsat, lemons, limequats, limes, longan, loquats, lychee, mangos, mangosteen, mayhaw berries, mesple, mulberries, nectarines, oranges, papaya, passion fruits, pawpaw, peaches, pears, pecans, pineapple, pitaya (dragon fruit), plantain, plumcots, plums, pomegranates, prunes, pummelo, raisins, rambutan, sapodilla, sapote, schizandra berries, sprite melon, star gooseberry, strawberries, tangelos, tangerines, tangors, wampee, watermelon, wax jamboo fruit, and wolfberry (goji).

Hemp means the plant species *Cannabis sativa L.* and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis, that is grown under a license or other required authorization issued by the applicable governing authority that permits the production of the hemp.

Horticulture means any of the following horticulture: Anise, basil, cassava, chervil (Fresh parsley), chia, chicory (radicchio), cilantro, cinnamon, curry leaves, galanga, ginger, ginseng, guayule, herbs, hops, lotus root, marjoram, meadowfoam, mint, moringa, niger seed, oregano, parsley, pennycress, peppermint, pohole, psyllium, rosemary, sage, savory, shrubs (forbs), sorrel, spearmint, tangos, tea, thyme, turmeric, vanilla, wasabi, water cress, and yu cha.

Ineligible commodities for CFAP 2 means any of the following commodities: Birdsfoot and trefoil, clover, cover crop, fallow, forage soybeans, forage sorghum, gardens (commercial and home), grass, kochia (prostrata), lespedeza, milkweed, mixed forage, pelts (excluding mink), perennial peanuts, pollinators, sunn hemp, vetch, and seed of ineligible crops.

Nursery crops means decorative or nondecorative plants grown in a container or controlled environment for commercial sale. Nursery crops are included in sales commodities.

Other livestock means any of the following livestock: Animals commercially raised for food, fur, fiber, or feathers, including alpacas, bison, buffalo, beefalo, deer, ducks, elk, emus, geese, goats, guinea pigs, llamas, mink, ostrich, pheasants, quail, rabbits, reindeer, and turkey. It excludes all equine, breeding stock, companion or comfort animals, pets, and animals raised for hunting or game purposes.

Prevented planting means the inability to plant the intended crop acreage with proper equipment by the final planting date for the crop type because of a natural disaster.

Price trigger commodities means price trigger crops and price trigger livestock and products as defined in this section.

Price trigger crops means any of the following crops: Barley, corn, sorghum, soybeans, sunflowers, upland cotton, wheat (all classes), excluding crops with an intended use of grazing, green manure, or left standing.

Price trigger livestock and products means any of the following livestock and products: Beef cattle, broilers, dairy (cow milk), eggs, lambs, sheep, hogs, and pigs; excluding breeding stock.

Producer means a person or legal entity who shares in the risk of producing a commodity. The term does not include contract growers. Producers who are not in the business of farming at the time of application are not considered eligible producers.

Sales-based commodities means, as defined in this section, aquaculture, sales-based crops, nursery crops and floriculture, other livestock, and the following commodities: Goat milk, mink (including pelts); mohair, and wool.

Sales-based crops means ambrosia, arundo, camelina, cactus, cardoon, fruits, honey, horticulture, maple sap, tobacco, tree nuts, and vegetables. Fruits, horticulture, tree nuts, and vegetables are defined in this section.

The term excludes crops with an intended use of grazing, green manure, or left standing.

Tree nuts means any of the following tree nuts: Almonds, avocados, carob, cashew, chestnuts, coffee, hazel nuts, jojoba, macadamia nuts, noni, olives, persimmons, pine nuts, pistachios, quinces, and walnuts.

Vegetables means any of the following vegetables: Alfalfa sprouts, aloe vera, artichokes, arugula (greens), asparagus, bamboo shoots, batatas, bean sprouts, beans (including dry edible), beets, bok choy, broccoflower, broccoli, broccolini, broccolo-cavalo, Brussel sprouts, cabbage, calaloo, carrots, cauliflower, celeriac, celery, chickpea (see beans, garbanzo), chives, collard greens, coriander, corn, sweet, cucumbers, daikon, dandelion greens, dasheen (taro root, malanga), dill, eggplant, endive, escarole, frisee, gailon (gai lein, Chinese broccoli), garlic, gourds, greens, horseradish, Jerusalem artichokes (sunchoke), kale, kohlrabi, leeks, lentils, lettuce, melongene, mesculin mix, microgreens, mushrooms, okra, onions, parsnip, peas (including dry edible), pejibaye (heart of palm), peppers, potatoes, potatoes sweet, pumpkins, radicchio, radishes, rhubarb, rutabaga, salsify (oyster plant), scallions, seed—vegetable, shallots, spinach, squash, swiss chard, tannier, taro, tomatillos, tomatoes, truffles, turnip top (greens), turnips, yam, and yautia (malanga);

§ 9.202 Calculation of payments.

(a) Payments for price trigger crops will be equal to the greater of:

(1) Eligible acres of the crop multiplied by a rate of $15 per acre; or

(2) Eligible acres of the crop multiplied by the applicable yield, multiplied by the crop marketing percentage in Table 1 of paragraph (j) of this section, multiplied by the crop payment rate in Table 1 of paragraph (j) of this section.

(3) Under paragraph (a) of this section, eligible acres include the producer's share of the determined acres, or reported acres if determined acres are not present, of the crop planted for the 2020 crop year, excluding prevented planted and experimental acres. For producers who insured acres of the crop under a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501–1524), the yield will be the average of the producer's 2020 actual production history (APH) approved yield from all of the producer's insured acres nationwide. For producers for whom FSA is unable to obtain a 2020 APH approved yield, the yield will be the 2019 Agriculture Risk Coverage-County Option (ARC–CO) benchmark yield multiplied by 85 percent. ARC–CO yields for producers growing a crop in multiple counties will be weighted based on the producer's crop acreage physically located in each county.

(b) Payments for flat-rate crops will be equal to eligible acres of the crop multiplied by a rate of $15 per acre. Eligible acres include the producer's share of the determined acres, or reported acres if determined acres are not present, excluding prevented planted and experimental acres.

(c) Payments for beef cattle will be equal to the lower of the producer's maximum owned inventory of eligible beef cattle, excluding breeding stock, on a date selected by the producer from April 16, 2020, through August 31, 2020, or 4,546 head multiplied by the number of payment limitations for the producer multiplied by a payment rate of $55 per head.

(d) Payments for hogs and pigs will be equal to the lower of the producer's maximum owned inventory of eligible hogs and pigs, excluding breeding stock, on a date selected by the producer from April 16, 2020, through August 31, 2020, or 10,870 head multiplied by the number of payment limitations for the producer, multiplied by a payment rate of $23 per head.

(e) Payments for lambs and sheep will be equal to the producer's highest owned inventory of eligible lambs and sheep, excluding breeding stock, on a date selected by the producer from April 16, 2020, through August 31, 2020, multiplied by a payment rate of $27 per head.

(f)(1) Payments for broilers will be equal to 75 percent of the producer's 2019 broiler production multiplied by a payment rate of $1.01 per bird (head).

(2) Payments for broiler producers who began farming in 2020 and had no production in 2019 will be calculated as provided in paragraph (f)(1) of this section, except that the payments will be based on the producer's actual 2020 broiler production as of the date the producer submits an application for payment under this part.

(g)(1) Payments for dairy (cow milk) will be equal to the sum of the following two calculations:

(i) The producer's total actual milk production from April 1, 2020, to August 31, 2020, multiplied by the payment $1.20 per hundredweight; and

(ii) The producer's estimated milk production from September 1, 2020, to December 31, 2020, based on the daily average production from April 1, 2020, through August 31, 2020, multiplied by 122, multiplied by a payment rate of $1.20 per hundredweight.

(2) Dairy operations that stop commercially marketing milk after the date they apply for CFAP 2 but before December 31, 2020, must notify FSA of the date they stop commercially marketing milk. Those dairies are eligible only for a prorated payment under paragraph (g)(1)(ii) of this section for the number of days the dairy operation commercially markets milk from September 1, 2020, through December 31, 2020.

(h)(1) Payments for eggs will be equal to 75 percent of the producer's 2019 egg production multiplied by the payment rate in Table 1 of paragraph (j) of this section.

(2) Payments for egg producers who began farming in 2020 and had no production in 2019 will be calculated as provided in paragraph (h)(1) of this section, except that the payments will be based on the producer's actual 2020 egg production as of the date the producer submits an application for payment under this part.

(i)(1) Payments for sales commodities will be equal to the sum of the results for the following calculation for each 2019 sales range in Table 2 of paragraph (j) of this section: the amount of the producer's eligible sales within the specified range in calendar year 2019, multiplied by the payment rate for that range in Table 2 of paragraph (j) of this section. Eligible sales only includes sales of raw commodities grown by the producer; the portion of sales derived from adding value to the commodity, such as processing and packaging, and from sales of products purchased for resale is not included in the payment calculation unless determined eligible by the Secretary.

(2) Payments for producers of sales commodities who began farming in 2020 and had no sales in 2019 will be calculated as provided in paragraph (i)(1) of this section, except that the payments will be based on the producer's actual 2020 sales as of the date the producer submits an application for payment under this section.

(j) The payment rates in Tables 1 and 2 of this paragraph (j) will be used to calculate CFAP payments:

TABLE 1 TO PARAGRAPH (J)—PAYMENT RATES FOR PRICE TRIGGER CROPS AND EGGS

Commodity	Units	Crop marketing percentage (percent)	Payment rate ($/unit)
Barley	bu	63	$0.54
Corn	bu	40	0.58
Cotton, Upland	lb	46	0.08
Sorghum	bu	55	0.56
Soybean	bu	54	0.58
Sunflowers	lb	44	0.02
Wheat (all classes)	bu	73	0.54
Shell Eggs	dozen	n/a	0.05
Liquid Eggs	lb	n/a	0.04
Dried Eggs	lb	n/a	0.14
Frozen Eggs	lb	n/a	0.05

TABLE 2 TO PARAGRAPH (J)—PAYMENT RATES FOR SALES COMMODITIES

2019 Sales range	Percent payment factor
Up to $49,999	10.6
$50,000-$99,999	9.9
$100,000-$499,999	9.7
$500,000-$999,999	9.0
All sales over $1 million	8.8

(k) CFAP 2 payments will not be calculated or issued for ineligible commodities.

Stephen L. Censky,

Vice Chairman, Commodity Credit Corporation, and Deputy Secretary, U.S. Department of Agriculture.

[FR Doc. 2020–20844 Filed 9–18–20; 4:15 pm]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Parts 1779 and 1780

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Chapter XVIII

Rural Housing Service

7 CFR Parts 3570 and 3575

Rural Business-Cooperative Service

Rural Utilities Service

7 CFR Parts 4279 and 4280

[Docket No. RBS–20–BUSINESS–31]

RIN 0570–AB04

Strategic Economic and Community Development

AGENCY: Rural Business-Cooperative Service, Rural Housing Service, Rural Utilities Service, Farm Service Agency, Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: The Rural Business-Cooperative Service, Rural Housing Service, and Rural Utilities Service, of the Rural Development (RD) mission area within the U.S. Department of Agriculture (USDA), hereinafter collectively referred to as the Agency, is issuing this final rule to implement statutory provisions found in Section 6401 of the Agricultural Improvement Act of 2018 (''2018 Farm Bill'') that amends Section 379H of the Consolidated Farm and Rural Development Act. The intent of this rule is to amend the existing regulations governing Strategic Economic and Community Development (SECD) to implement Section 6401 of the 2018 Farm Bill. Additionally, conforming changes are being made to other regulations as a result of the aforementioned statutory changes. Finally, we are removing Farm Service Agency from a chapter in the CFR as they no longer use any of the parts under that chapter.

DATES: This final rule is effective September 22, 2020.

FOR FURTHER INFORMATION CONTACT: Greg Batson, Strategic Engagement, Rural Development Innovation Center, U.S. Department of Agriculture; *gregory.batson@usda.gov;* (573) 239–2945.

SUPPLEMENTARY INFORMATION:

Background and Discussion

The Agency administers a multitude of Federal programs for the benefit of rural America, ranging from housing and community facilities to infrastructure and business development. Its mission is to increase economic opportunity and improve the quality of life in rural communities by providing the leadership, infrastructure, capital, and technical support that enables rural communities to prosper. To achieve its mission, the Agency provides financial support (including direct loans, grants, and loan guarantees) and technical assistance.

Section 379H Strategic and Economic Community Development of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008v) supports rural communities by promoting regional economic and community development. Reservation of targeted funds are available for covered Rural Development programs to encourage regional economic and community development. Section 6401 of the 2018 Farm Bill amended Section 379H, Strategic Economic and Community Development of the

Consolidated Farm and Rural Development Act to state that projects must be part of both a multi-jurisdicational and multi-sectoral Strategic Community Invesment Plan in order to receive consideration for the set-aside. Prior to the adoption of Section 6401 of the 2018 Farm Bill, projects only had to be part of a multi-jurisdictional plan in order to receive consideration for funding. Section 6401 of the Farm Bill provides RD an important mechanism to further our mission by leveraging projects that spur regional economic and community development while also focusing on multiple sectors. In addition, this will reward communities that demonstrate best practices for furthering sustainable regional and community prosperity by bringing together key local and regional stakeholders and using long-term planning that integrates targeted investments across communities and regions.

Discussion of the Rule

A summary of changes to 7 CFR part 1980, subpart K, which implement Section 6401 of the 2018 Farm Bill follows:

§ 1980.1001—Purpose

In accordance with Section 6401 of the 2018 Farm Bill, this section has been updated to include that qualified plans must be both multi-jurisdictional and multi-sectoral, and the name of plans has been updated from ''Strategic Economic Development and Community Development Plans'' to ''Strategic Community Investment Plans.''

§ 1980.1002—Programs

Previously, SECD was limited to certain Rural Development programs by statute. In accordance with Section 6401 of the 2018 Farm Bill, this regulation will include expansion of SECD to all programs covered by Title XIV of the Consolidated Farm and Rural Development Act (CONACT) or programs administered by the Secretary acting through the Rural Development mission area. This section is amended to update the list of eligible programs covered by Section 6401 of the 2018 Farm Bill and for which funds may be set-aside.

§ 1980.1004—Funding

Section 6401 of the 2018 Farm Bill increased the reservation amount for funding from up to 10 percent to up to 15 percent. This section has been revised to reflect the increase in the reservation amount and to clarify the amendments. This section has also been updated to revise the date by which unused set-aside funds will be returned to the regular program account for use by other projects.

In accordance with Section 379H of the CONACT (7 U.S.C. 2008v), all SECD reserved funds shall be reserved for the 1-year period beginning on the date on which funds were first made available, as determined by the Secretary. The Agency has determined that for non-annual and annually appropriated programs, SECD reserved funding will be available for obligation until deadlines established by covered programs. Covered programs' deadlines will be outlined in a SECD annual **Federal Register** publication. Reserved funds not obligated by September 30 will be reconciled according to applicable law. The Agency has settled on this process because program and procedural differences can present a hardship when one SECD obligation deadline is established. Covered programs have varying deadline and pooling dates. Further, covered programs have differing engineering and environmental review processes. Allowing programs to use their deadlines and/or pooling dates as the SECD funds obligation deadline offers flexibility in project review and award and provides adequate time for SECD reserved funds to be allocated to appropriate covered program accounts. In addition, programs are not mandated to hold SECD reserved funds until September 30, but can convert SECD reserved funds to regular program for funding non-SECD projects.

§ 1980.1005—Definitions

The definitions section has been revised to include additional definitions and revise others to conform to the statutory provisions of the Section 6401 of the 2018 Farm Bill, as follows:

The term *Adopted* was revised to clarify the appropriate entities that may approve a Strategic Community Investment Plans in accordance with Section 6401 of the 2018 Farm Bill.

The term *Carried Out in a Rural Area* was updated to remove the term ''solely'' from the title of the definition and to clarify the meaning of the definition in accordance with Section 6401 of the 2018 Farm Bill.

The terms *Jurisdiction, Multi-Jurisdictional, Philanthropic,* and *Project* were revised to provide clarity in accordance with Section 6401 of the 2018 Farm Bill.

The term *Plan* is revised to update the name to a Strategic Community Investment Plan and to clarify the requirements that must be addressed in a plan as per language in Section 6401 of the 2018 Farm Bill.

New definitions for *Multi-sectoral, Sector,* and *Strategic partners* were added to implement changes from Section 6401 of the 2018 Farm Bill.

7 CFR 1980.1010—Project Eligibility

Section 1980.1010 is amended to include terminology from Section 6401 of the 2018 Farm Bill.

7 CFR 1980.1015—Applications

The Agency has revised requirements of the application process to conform to statutory changes outlined in Section 6401 of the 2018 Farm Bill and to clarify application and plan requirements. Data collected on the application form has been removed from the list of information to be provided, and a reference to the required application form has been included. A plan should address multiple jurisdictions, and the plan should document that there is participation by multiple stakeholders. A plan should demonstrate leveraging of the applicable region's assets and should document monetary and non-monetary contributions from strategic partners.

7 CFR 1980.1020—Scoring

The scoring section has been revised to align to Section 6401 of the 2018 Farm Bill.

7 CFR 1980.1025—Award Process

The award process section has been revised to align to the requirements of Section 6401 of the 2018 Farm Bill.

7 CFR 1980.1026—Evaluation of Project Information

7 CFR 1980.1026 is removed and reserved. Projects will be evaluated through the criteria established in the individual covered program's notice for which the award was received, and additional reporting specific to the objectives in each plan is not required.

Additionally, conforming changes are made to 7 CFR parts 1779, 1780, 1942, 3570, 3575, 4279, and 4280 have been included to address the change in terms of ''multi-sectoral'' and ''Strategic Community Investment Plans.''

Finally, the Farm Service Agency is being removed from title 7, chapter XVIII of the CFR as they no longer use any of the parts under this chapter. At one time, chapter XVIII was used by Rural Business-Cooperative Service, Rural Utilities Services, Rural Housing Service, and Farm Service Agency to codify policies and procedures. Due to reorganization within the Department of Agriculture, Farm Service Agency now codifies its policies and procedures in chapter VI of title 7 of the CFR. Chapter XVIII will now only be used to codify

policies and procedures of the three agencies of the Rural Development Mission Area, Rural Business-Cooperative Service, Rural Utilities Services, and Rural Housing Service.

Catalog of Federal Domestic Assistance

RD programs affected by this rulemaking are shown in the Catalog of Federal Domestic Assistance (CFDA) with numbers as indicated:

10.760—Water and Waste Disposal Systems for Rural Communities
10.766—Community Facilities Loans and Grants
10.768—Business and Industry Guaranteed Loan Program
10.351—Rural Business Development Grants
10.863—Community Connect Grant Program
10.855—Distance Learning and Telemedicine Loans and Grants
10.868—Rural Energy for America Program
10.446—Rural Community Development Initiative Grant
10.222—Tribal College Initiative Grants
10.854—Rural Economic Development Loans and Grants
10.767—Intermediary Relending Program
10.420—Mutual Self-Help Housing Technical Assistance Grants
10.411—Rural Housing Site Loans
10.433—Housing Preservation Grants
10.405—Farm Labor Housing Direct Loans and Grants
10.438—Multi-Family Housing Loan Guarantees
10.751—Rural Energy Savings Program (RESP)
10.352—Value-Added Producer Grants
10.862—Household Water Well System Grant Program
10.762—Solid Waste Management Grant

All active CFDA programs can be found at *https://beta.sam.gov/,* which officially replaced *CFDA.gov.*

Executive Order 12866, Classification

This rule has been determined to be non-significant and therefore was not reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

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 12372, Intergovernmental Review of Federal Programs

The Programs listed in the Catalog of Federal Domestic Assistance under the following numbers are subject to the provisions of Executive Order 12372 which requires Intergovernmental Consultation with state and local officials:

10.760—Water and Waste Disposal Systems for Rural Communities
10.766—Community Facilities Loans and Grants
10.768—Business and Industry Guaranteed Loan Program
10.351—Rural Business Development Grants
10.411—Rural Housing Site Loans
10.433—Housing Preservation Grants
10.438—Multi-Family Housing Loan Guarantees

Executive Order 12988, Civil Justice Reform

This rule has been reviewed under Executive Order 12988. The Agency has determined that this rule meets the applicable standards provided in section 3 of the Executive order. In addition, all state and local laws and regulations that are in conflict with this rule will be preempted. No retroactive effort will be given to this rule.

National Environmental Policy Act

This document has been reviewed in accordance with 7 CFR part 1970, subpart A, ''Environmental Policies.'' RD has determined that this action does not constitute a major Federal action significantly affecting the quality of the environment. In accordance with the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321, *et seq.,* an Environmental Impact Statement is not required.

Unfunded Mandates Reform Act

This rule contains no Federal mandates (under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995) for state, local, and Tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

Regulatory Flexibility Act

Under section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), RD certifies that this rule will not have a significant economic impact on a substantial number of small entities. The rule affects applicants across covered RD programs. Many program applicants are small businesses. While this rule will affect small entities, RD has determined that the economic impact of the rule on these small entities will not be significant.

The rule does not make any changes to the programs from which funds will be reserved. The rule will require applicants to submit an additional form if seeking funding that is reserved for projects that support Strategic Community Investment Plans. Based on the data in the Paperwork Reduction Act (PRA) burden package, RD estimates that the cost to complete this form will, on average, be no more than $300. Therefore, this rule will not have a significant impact on small entities.

Executive Order 13132, Federalism

The policies contained in this rule do not have any substantial direct effect on states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with states is not required.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

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.

Rural Development has assessed the impact of this rule on Indian Tribes and determined that the rule does not, to our knowledge, have tribal implications that require tribal consultation under E.O. 13175.

Rural Development plans to use an inclusive definition of ''plans'' so that a wide range of plans that Indian Tribes currently have adopted and implemented may be used, as long as certain minimum standards are met. For instance, the plan must be multi-jurisdictional, multi-sectoral and include:

- A variety of activities designed to facilitate the vision of a rural community for the future, including considerations for improving and expanding broadband services as needed;

- Participation by multiple stakeholders, including local and regional partners;
- Leverage of applicable regional resources;
- Investment from strategic partners, such as private organizations, cooperatives, other government entities, Indian Tribes and philanthropic organizations;
- Clear objectives with the ability to establish measurable performance metrics;
- Action steps for implementation; and
- Any other elements necessary to ensure that the plan results in a comprehensive and strategic approach to rural economic development, as determined by the Secretary.

These minimum criteria do not pose any unique or additional implications or challenges for Tribes. The rule incentivizes additional planning, partnering and strategies between Tribes and other units of government/jurisdictions, such as other Indian Tribes, states, counties, cities, townships, towns, boroughs, etc. If a Tribe requests additional consultation, Rural Development will work with the Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions and modifications identified herein are not expressly mandated by Congress.

Paperwork Reduction Act

The information collection requirements contained in this regulation have been approved by OMB and have been assigned OMB control number: 0570–0068. This final rule contains no new reporting and recordkeeping requirements that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

E-Government Act Compliance

RD 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 citizens to access Government information and services electronically.

Civil Rights Impact Analysis

Rural Development has reviewed this 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 based on age, race, color, national origin, sex or disability. After review and analysis of the rule and available data, it has been determined that implementation of the rule will not adversely or disproportionately impact very low, low-, and moderate-income populations, minority populations, women or Indian Tribes by virtue of their race, color, national origin, sex, age, disability, or marital or familial status. No major civil rights impact is likely to result from this rule.

Non-Discrimination Statement

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

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *http://www.ascr.usda.gov/complaint_filing_cust.html* and at any USDA office or write a letter addressed to USDA and provide in the letter all the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by:

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

(2) *Fax:* (202) 690–7442; or

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

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List of Subjects

7 CFR Part 1779

Loan programs, Waste treatment and disposal, Water supply.

7 CFR Part 1780

Community development, Community facilities, Grant programs—housing and community development, Reporting and recordkeeping requirements, Rural areas, Waste treatment and disposal, Water supply, Watersheds.

7 CFR Part 1806

Agriculture, Flood insurance, Insurance, Loan programs—agriculture, Loan programs—housing and community development, Low and moderate income housing, Rural areas.

7 CFR Part 1810

Agriculture, Loan programs—agriculture, Loan programs—housing and community development, Low and moderate income housing, Rural areas.

7 CFR Part 1822

Loan programs—housing and community development, Low and moderate income housing, Nonprofit organizations, Rural areas.

7 CFR Part 1900

Administrative practice and procedure, Authority delegations (Government agencies), Conflict of interests, Government employees, Grant programs—agriculture, Grant programs—housing and community development, Loan programs—agriculture, Loan programs—housing and community development, Reporting and recordkeeping requirements, Rural areas.

7 CFR Part 1901

Agriculture, Civil rights, Fair housing, Grant programs—agriculture, Grant programs—housing and community development, Grant programs—Indians, Historic preservation, Indians, Intergovernmental relations, Loan programs—agriculture, Loan programs—housing and community development, Loan programs—Indians, Low and moderate income housing, Marital status discrimination, Minimum wages, Religious discrimination, Reporting and recordkeeping requirements, Rural areas, Sex discrimination.

7 CFR Part 1902

Accounting, Banks, banking, Grant programs—agriculture, Grant programs—housing and community development, Loan programs—agriculture, Loan programs—housing and community development, Reporting and recordkeeping requirements, Rural areas.

7 CFR Part 1910

Agriculture, Credit, Grant programs—agriculture, Grant programs—housing and community development, Loan programs—agriculture, Loan programs—housing and community development, Low and moderate income housing, Reporting and recordkeeping requirements, Rural areas.

7 CFR Part 1924

Administrative practice and procedure, Agriculture, Claims, Credit, Grant programs—agriculture, Grant programs—housing and community development, Housing standards, Loan programs—agriculture, Loan programs—housing and community development, Low and moderate income housing, Manufactured homes, Reporting and recordkeeping requirements, Rural areas.

7 CFR Part 1925

Agriculture, Loan programs—agriculture, Loan programs—housing and community development, Low and moderate income housing, Rural areas, Taxes.

7 CFR Part 1927

Agriculture, Loan programs—agriculture, Loan programs—housing and community development, Low and moderate income housing, Rural areas.

7 CFR Part 1930

Fair housing, Grant programs—housing and community development, Loan programs—housing and community development, Low and moderate income housing, Reporting and recordkeeping requirements, Rural areas.

7 CFR Part 1940

Agriculture, Environmental protection, Flood plains, Grant programs—agriculture, Grant programs—housing and community development, Loan programs—agriculture, Loan programs—housing and community development, Low and moderate income housing, Reporting and recordkeeping requirements, Rural areas, Truth in lending.

7 CFR Part 1942

Business and industry, Community facilities, Fire prevention, Grant programs—business, Grant programs—housing and community development, Grant programs—Indians, Indians, Loan programs—agriculture, Loan programs—housing and community development, Loan programs—Indians, Loan programs—natural resources, Reporting and recordkeeping requirements, Rural areas, Soil conservation, Waste treatment and disposal, Water supply, Watersheds.

7 CFR Part 1944

Administrative practice and procedure, Aged, Cooperatives, Fair housing, Grant programs—housing and community development, Home improvement, Individuals with disabilities, Loan programs—housing and community development, Low and moderate income housing, Manufactured homes, Migrant labor, Rent subsidies, Reporting and recordkeeping requirements, Rural areas.

7 CFR Part 1948

Coal, Community facilities, Grant programs—housing and community development, Radioactive materials, Reporting and recordkeeping requirements, Rural areas.

7 CFR Part 1950

Accounting, Loan programs—agriculture, Loan programs—housing and community development, Military personnel, Rural areas.

7 CFR Part 1951

Accounting, Agriculture, Claims, Community facilities, Credit, Disaster ssistance, Government employees, Grant programs—housing and community development, Housing, Income taxes, Loan programs—agriculture, Loan programs—housing and community development, Low and moderate income housing, Reporting and recordkeeping requirements, Rural areas, Wages.

7 CFR Part 1955

Agriculture, Drug traffic control, Government property, Loan programs—agriculture, Loan programs—housing and community development, Low and moderate income housing, Rural areas.

7 CFR Part 1956

Accounting, Business and industry, Claims, Loan programs—agriculture, Loan programs—business, Loan programs—housing and community development, Reporting and recordkeeping requirements, Rural areas.

7 CFR Part 1957

Loan programs—housing and community development, Low and moderate income housing, Rural areas.

7 CFR Part 1962

Agriculture, Bankruptcy, Drug traffic control, Government property, Loan programs—agriculture, Loan programs—housing and community development, Rural areas.

7 CFR Part 1965

Accounting, Drug traffic control, Grant programs—housing and community development, Loan programs—agriculture, Loan programs—housing and community development, Low and moderate income housing, Reporting and recordkeeping requirements, Rural areas.

7 CFR Part 1970

Administrative practice and procedure, Buildings and facilities, Environmental impact statements, Environmental protection, Grant programs, Housing, Loan programs, Natural resources, Utilities.

7 CFR Part 1980

Agriculture, Business and industry, Community facilities, Credit, Disaster assistance, Livestock, Loan programs—agriculture, Loan programs—business, Loan programs—housing and community development, Low- and moderate-income housing, Reporting and recordkeeping requirements, Rural areas.

7 CFR Part 2003

Freedom of information, Organization and functions (Government agencies), Rural areas, Volunteers.

7 CFR Part 2018

Administrative practice and procedure, Freedom of information.

7 CFR Part 2045

Government employees, Volunteers.

7 CFR Part 3570

Administrative practice and procedure, Fair housing, Grant programs—housing and community development, Housing, Low- and moderate-income housing, Reporting and recordkeeping requirements, Rural areas.

7 CFR Part 3575

Loan programs—agriculture.

7 CFR Part 4279

Loan programs—business, Reporting and recordkeeping requirements, Rural areas.

7 CFR Part 4280

Business and industry, Energy, Grant programs—business, Loan programs—business, Rural areas.

For the reasons set forth in the preamble, chapters XVII, XVIII, XXXV, and XLII of title 7 Code of Federal Regulations are amended as follows:

PART 1779—WATER AND WASTE DISPOSAL PROGRAMS GUARANTEED LOANS

■ 1. The authority citation for part 1779 continues to read as follows:

Authority: 5 U.S.C. 301, 7 U.S.C. 1989, 16 U.S.C. 1005.

■ 2. Section 1779.51 is revised to read as follows:

§ 1779.51 Strategic economic and community development.

Applicants with projects that support the implementation of Strategic Community Investment Plans are encouraged to review and consider 7 CFR part 1980, subpart K, which contains provisions for providing priority to projects that support the implementation of Strategic Community Investments Plans on a multi-jurisdictional and multi-sectoral basis.

PART 1780—WATER AND WASTE LOANS AND GRANTS

■ 3. The authority citation for part 1780 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 16 U.S.C. 1005.

Subpart B—Loan and Grant Application Processing

■ 4. Section 1780.34 is revised to read as follows:

§ 1780.34 Strategic economic and community development.

Applicants with projects that support the implementation of Strategic Community Investment Plans are encouraged to review and consider 7 CFR part 1980, subpart K, which contains provisions for providing priority to projects that support the implementation of Strategic Community Investment Plans on a multi-jurisdictional and multi-sectoral basis.

■ 5. Under the authority of 5 U.S.C 301, 7 U.S.C. 1926(a), 7 U.S.C. 1932(a), 7 U.S.C. 1989, and 7 U.S.C. 8107, the heading of chapter XVIII is revised to read as follows:

CHAPTER XVIII—RURAL HOUSING SERVICE, RURAL BUSINESS–COOPERATIVE SERVICE, AND RURAL UTILITIES SERVICE, DEPARTMENT OF AGRICULTURE

PART 1942—ASSOCIATIONS

■ 6. The authority citation for part 1942 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989.

Subpart A—Community Facility Loans

■ 7. Section 1942.10 revised to read as follows:

§ 1942.10 Strategic economic and community development.

Applicants with projects that support the implementation of Strategic Community Investment Plans are encouraged to review and consider 7 CFR part 1980, subpart K, which contains provisions for providing priority to projects that support the implementation of Strategic Community Investment Plans on a multi-jurisdictional and multi-sectoral basis.

Subpart C—Fire and Rescue and Other Small Community Facilities Projects

■ 8. Section 1942.110 revised to read as follows:

§ 1942.110 Strategic economic and community development.

Applicants with projects that support the implementation of Strategic Community Investment Plans are encouraged to review and consider 7 CFR part 1980, subpart K, which contains provisions for providing priority to projects that support the implementation of Strategic Community Investment Plans on a multi-jurisdictional and multi-sectoral basis.

PART 1980—GENERAL

■ 9. The general authority citation for part 1980 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989.

* * * * *

Subpart K—Strategic Economic and Community Development

■ 10. Section 1980.1001 is revised to read as follows:

§ 1980.1001 Purpose.

Projects that support the implementation of Strategic Community Investment Plans may receive priority funding from authorized programs found in § 1980.1002. The purpose of this subpart is to describe the process by which applications will be reviewed and selected to receive priority funding.

■ 11. Section 1980.1002 is revised to read as follows:

§ 1980.1002 Programs.

The Agency may elect to reserve funds from one or more programs for projects that support Strategic Community Investment Plans. The programs chosen for a given fiscal year will be announced annually in a notice published in the **Federal Register**. The authorized programs are:

(a) Community Facility Loans (7 CFR part 1942, subpart A).

(b) Community Facilities Grant Program (7 CFR part 3570, subpart B).

(c) Community Programs Guaranteed Loans (7 CFR part 3575, subpart A).

(d) Water and Waste Disposal Programs Guaranteed Loans (7 CFR part 1779).

(e) Water and Waste Loans and Grants (7 CFR part 1780, subparts A, B, C, and D).

(f) Business and Industry Guaranteed Loans (7 CFR part 4279, subparts A and B; 7 CFR part 4287, subpart B).

(g) Rural Business Development Grants (7 CFR part 4280, subpart E).

(h) Community Connect Grant (7 CFR part 1739).

(i) Rural Community Development Initiative Grant (2 CFR part 200).

(j) Tribal College Initiative Grants (7 CFR part 3570, subpart B).

(k) Intermediary Relending Program (7 CFR part 4274).

(l) Mutual Self-Help Housing Technical Assistance Grants (7 CFR part 1944, subpart I).

(m) Rural Housing Site Loans (7 CFR part 1822, subpart G).

(n) Housing Preservation Grants (7 CFR part 1994, subpart N; 7 CFR part 1970, subparts A and O).

(o) Farm Labor Housing Direct Loans and Grants (7 CFR part 3560, subparts L and M).

(p) Multi-Family Housing Loan Guarantees (7 CFR part 3565).

(q) Distance Learning and Telemedicine Loans and Grants (7 CFR part 1734).

(r) Rural Energy for America Program (7 CFR part 4280, subpart B).

(s) Rural Economic Development Loans and Grants (7 CFR part 4280).

(t) Rural Energy Savings Program (7 U.S.C. 8107a).

(u) Value-Added Producer Grants (7 U.S.C. 1632a).

(v) Household Water Well System Grant Program (7 CFR part 1776).

(w) Solid Waste Management Grant (7 CFR part 1775, subpart D).

■ 12. Amend § 1980.1004 by revising paragraphs (b) and (c) to read as follows:

§ 1980.1004 Funding.

* * * * *

(b) *Percentage of funds.* The Agency will reserve up to 15 percent of the funds made available in a fiscal year to each program identified in § 1980.1002. The percentage of funds to be set aside will be published in a notice in the **Federal Register** on an annual basis. The Agency may reserve the same or different percentages for each program in a single fiscal year.

(c) *Unobligated funds.* In accordance with 7 U.S.C. 2008v, all Strategic

Economic and Community Development (SECD) reserved funds will be reserved for the 1-year period beginning on the date on which the funds were first made available. The Agency has determined that for both non-annual and annually appropriated programs, SECD reserved funding will be available for obligation until dates established by covered programs as specified in a SECD annual **Federal Register** publication. Reserved funds in annual programs not obligated by September 30 will be reconciled according to applicable law.

■ 13. In § 1980.1005:
■ a. Revise the definition of ''Adopted;''
■ b. Remove the definition of ''Carried Out Solely in a rural area;''
■ c. Add the definition of ''Carried out in a rural area'' in alphabetical order;
■ d. Revise the definition of ''Jurisdiction'';
■ e. Remove the definition for ''Multi-Jurisdictional'' and add the definition for ''Multi-jurisdictional'' in its place;
■ f. Add the definition of ''Multi-sectoral'' in alphabetical order;
■ g. Revise the definitions of ''Philanthropic organization,'' ''Plan,'' and ''Project;'' and
■ h. Add the definitions of ''Sector,'' ''Stakeholder,'' and ''Strategic partners'' in alphabetical order.

The revisions and additions read as follows:

§ 1980.1005 Definitions.

* * * * *

Adopted means appropriate entity has, or entities have, officially approved the plan for implementation. The appropriate entity or entities will vary among plans and may be, for example, a governing body or planning board.

* * * * *

Carried out in a rural area means either:

(1) The entire project is physically located in a rural area; or

(2) The beneficiaries of the service(s) provided through the project must either reside in a rural area (in the case of individuals) or be located in a rural area (in the case of entities).

* * * * *

Jurisdiction means a unit of government or other entity with similar powers, such as a city, county, district, special purpose district, township, town, borough, parish, village, state, Indian tribe, etc.

Multi-jurisdictional means more than one jurisdiction.

Multi-sectoral means intentional collaboration between two or more sectors (*i.e.,* utility, health, housing, community services, etc.) to accomplish goals and achieve outcomes in communities and regions.

Philanthropic organization means an entity whose mission is to provide monetary, technical assistance, or other items of value for religious, charitable, community development, scientific, literary, or educational purposes.

Plan means a Strategic Community Investment Plan illustrating:

(1) A variety of activities designed to facilitate the vision of a rural community for the future including considerations for improving and expanding broadband services as needed;

(2) Participation by multiple stakeholders, including local and regional partners;

(3) Leverage of applicable regional resources;

(4) Investment from strategic partners, such as private organizations, cooperatives, other government entities, Indian tribes, and philanthropic organizations;

(5) Clear objectives with the ability to establish measurable performance metrics;

(6) Action steps for implementation; and

(7) Any other elements necessary to ensure that the plan results in a comprehensive and strategic approach to rural economic development, as determined by the Secretary.

Project means the eligible proposed use(s) for which funds are requested as described in the application material submitted to the Agency for funding under the programs listed in § 1980.1002.

Sector means stakeholders from areas such as business, health, education, and/or workforce; or from organization types such as public, private, non-profit, and/or philanthropy.

Stakeholder means an individual, group or organization with an interest in, or affected by, the plan.

Strategic partner means entities such as private organizations, cooperatives, other government entities, Indian Tribes, and philanthropic organizations.

■ 15. Amend § 1980.1010 by revising paragraphs (b) and (c) to read as follows:

§ 1980.1010 Project eligibility.

* * * * *

(b) The Project must be carried out in a rural area; and

(c) The Project must support the implementation of a Strategic Community Investment Plans on a multi-jurisdictional and multi-sectoral basis.

■ 16. Section 1980.1015 is revised to read as follows:

§ 1980.1015 Applications.

In addition to the application material specific to the applicable program identified in § 1980.1002, each applicant seeking funding under this subpart must provide the information specified in paragraphs (a) through (f) of this section.

(a) A Strategic Economic and Community Development application form (Form RD 1980–88);

(b) A description of the jurisdiction or jurisdictions in which the Plan is to be implemented;

(c) Documentation that the Plan was developed through the collaboration of multiple stakeholders in the jurisdiction of the Plan, including the participation of combinations of stakeholders;

(d) Documentation that the Plan demonstrates leveraging of the applicable region's assets to support the Plan;

(e) Documentation indicating whether or not the Plan includes monetary or non-monetary contributions from strategic partners; and

(f) Documentation that the Plan contains:

(1) Clear, measurable performance objectives with action steps for implementation; and

(2) The ability to track progress toward meeting the Plan's objectives.

■ 17. Amend § 1980.1020 by revising paragraphs (a) and (b) to read as follows:

§ 1980.1020 Scoring.

* * * * *

(a) *Program scoring.* The Agency will score each application using the criteria for the applicable covered program, identified in § 1980.1002. The maximum number of points an application can receive under this paragraph (a) is based on the scoring criteria for the applicable program identified in § 1980.1002, including any discretionary points that may be awarded.

(b) *SECD scoring.* The Agency will score each application using the criteria identified in paragraphs (b)(1) and (2) of this section. The maximum number of points an application can receive under this paragraph (b) is 20 points.

(1) *Objectives of the plan.* The Agency will score how the project supports achieving the objectives of a plan which are identified in paragraphs (b)(1)(i) through (iii). Applicants must supply sufficient documentation that demonstrates to the Agency the criteria identified in paragraphs (b)(1)(i) through (iii) of this section are met. The maximum score under this paragraph (b)(1) is 10 points.

(i) If the project directly supports implementation of three or more of the plan's objectives, the application will receive 10 points.

(ii) If the project directly supports implementation of two of the plan's objectives, the application will receive 5 points.

(iii) If the project directly supports implementation of less than two of the plan's objectives, the application will receive no points.

(2) *Characteristics of a plan.* The Agency will score the plan associated with a Project based upon the characteristics of the plan, which are identified in paragraphs (b)(2)(i) through (v) of this section. Applicants must supply sufficient documentation that demonstrates to the Agency the criteria identified in paragraphs (b)(2)(i) through (v) of this section are met. The maximum score under this paragraph (b)(2) is 10 points.

(i) *Variety of activities.* If the plan contains a variety of activities which clearly show facilitation toward achieving the vision for the rural communities and/or region as expressed in the plan, two points will be awarded.

(ii) *Regional resources leverage.* If the plan demonstrates an understanding of the applicable regional asset resources and indicates leveraging of those resources to support the plan, including cultural resources, natural resources, human resources, infrastructure, and financial resources, two points will be awarded.

(iii) *Strategic partner investments.* If the Plan includes investments from strategic partners other than the U.S. Department of Agriculture, two points will be awarded.

(iv) *Participation by multiple stakeholders.* If the plan provides evidence of the involvement of multiple stakeholders from multiple jurisdictions and representing multiple sectors in the preparation, implementation, monitoring and/or evaluation of the plan, Rural Development (RD) will award two points.

(v) *Objectives, performance measures, and action steps.* If the plan contains clear, measurable objectives, the ability to track progress toward meeting the objectives and identifiable action steps for implementation, two points will be awarded.

* * * * *

■ 18. Section 1980.1025 is revised to read as follows:

§ 1980.1025 Award process.

(a) Unless RD indicates otherwise in a notice, the award process for the applicable program identified in § 1980.1002 will be used to determine which Projects receive funding under this subpart.

(b) Projects not receiving funding under this subpart are eligible to compete for funding under the applicable program identified in § 1980.1002. The scores for such Projects when competing for program funding will not include the score assigned to the application under § 1980.1020(b).

§ 1980.1026 [Removed and Reserved]

■ 19. Remove and reserve § 1980.1026.

PART 3570—COMMUNITY PROGRAMS

■ 20. The authority citation for part 3570 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989.

Subpart B—Community Facilities Grant Program

■ 21. Section 3570.71 revised to read as follows:

§ 3570.71 Strategic economic and community development.

Applicants with projects that support the implementation of Strategic Community Investment Plans are encouraged to review and consider 7 CFR part 1980, subpart K, which contains provisions for providing priority to projects that support the implementation of Strategic Community Investment Plans on a multi-jurisdictional and multi-sectoral basis.

PART 3575—GENERAL

■ 22. The authority citation for part 3575 continues to read as follows:

Authority: 5 U.S.C. 301, 7 U.S.C. 1989.

Subpart A—Community Program Guaranteed Loans

■ 23. Section 3575.51 revised to read as follows:

§ 3575.51 Strategic economic and community development.

Applicants with projects that support the implementation of Strategic Community Investment Plans are encouraged to review and consider 7 CFR part 1980, subpart K, which contains provisions for providing priority to projects that support the implementation of strategic community investment plans on a multi-jurisdictional and multi-sectoral basis.

PART 4279—GUARANTEED LOANMAKING

■ 24. The authority citation for part 4279 continues to read as follows:

Authority: 5 U.S.C. 301; and 7 U.S.C. 1989: and Public Law 116–136, Division B, Title I.

Subpart B—Business and Industry Loans

■ 25. Section 4279.162 revised to read as follows:

§ 4279.162 Strategic economic and community development.

Applicants with projects that support the implementation of Strategic Community Investment Plans are encouraged to review and consider 7 CFR part 1980, subpart K, which contains provisions for providing priority to projects that support the implementation of Strategic Community Investment Plans on a multi-jurisdictional and multi-sectoral basis.

PART 4280—LOANS AND GRANTS

■ 26. The authority citation for part 4280 continues to read as follows:

Authority: 5 U.S.C. 301: 7 U.S.C. 940c and 7 U.S.C. 1932(c).

Subpart E—Rural Business Development Grants

■ 27. Section 4280.428 revised to read as follows:

§ 4280.428 Strategic economic and community development.

Applicants with projects that support the implementation of Strategic Community Investment Plans are encouraged to review and consider 7 CFR part 1980, subpart K, which contains provisions for providing priority to projects that support the implementation of Strategic Community Investment Plans on a multi-jurisdictional and multi-sectoral basis.

Bette B. Brand,

Deputy Undersecretary, Rural Development.

Richard Fordyce,

Administrator, Farm Service Agency.

[FR Doc. 2020–19825 Filed 9–21–20; 8:45 am]

BILLING CODE 3410–XV–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2020–0166]

RIN 3150–AK50

List of Approved Spent Fuel Storage Casks: NAC International, Inc. MAGNASTOR® Storage System, Certificate of Compliance No. 1031, Amendment No. 9

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its spent fuel storage regulations by revising the NAC International, Inc. MAGNASTOR® Storage System listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 9 to Certificate of Compliance No. 1031. Amendment No. 9 revises the certificate of compliance to add a new concrete storage overpack; four new heat load zone patterns and their associated decay heats that are specific to Babcock and Wilcox 15x15 fuel assemblies; a new Babcock & Wilcox 15x15 hybrid fuel assembly type (BW15H5); and a new maximum enrichment for the BW15H2 hybrid fuel assembly, including a new minimum soluble boron concentration during loading and unloading operations and neutron absorber areal density. In addition, Amendment No. 9 makes non-technical changes to reorganize Appendix B of the technical specifications. These changes are discussed in more detail in the ''Discussion of Changes'' section of this direct final rule.

DATES: This direct final rule is effective December 7, 2020, unless significant adverse comments are received by October 22, 2020. If this direct final rule is withdrawn as a result of such comments, timely notice of the withdrawal will be published in the **Federal Register**. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Comments received on this direct final rule will also be considered to be comments on a companion proposed rule published in the Proposed Rules section of this issue of the **Federal Register**.

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–2020–0166. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions contact the individuals 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: Bernard White, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–6577; email: *Bernard.White@nrc.gov* or Angella Love Blair, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–3453; email: *Angella.LoveBlair@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Table of Contents:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2020–0166 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–2020–0166.
- *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/adams.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.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *Attention:* The Public Document Room (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–2020–0166 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, 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. Rulemaking Procedure

This rule is limited to the changes contained in Amendment No. 9 to Certificate of Compliance No. 1031 and does not include other aspects of the NAC International, Inc. MAGNASTOR® Storage System design. The NRC is using the ''direct final rule procedure'' to issue this amendment because it represents a limited and routine change to an existing certificate of compliance that is expected to be non-controversial. The NRC has determined that, with the requested changes, adequate protection of public health and safety will continue to be ensured. The amendment to the rule will become effective on December 7, 2020. However, if the NRC receives any significant adverse comment on this direct final rule by October 22, 2020, then the NRC will publish a document that withdraws this action and will subsequently address the comments received in a final rule as a response to the companion proposed rule published in the Proposed Rules section of this issue of the **Federal Register**. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be

inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition; or

(3) The comment causes the NRC to make a change (other than editorial) to the rule, certificate of compliance, or technical specifications.

III. Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended, requires that ''[t]he Secretary [of the Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the Nuclear Waste Policy Act states, in part, that ''[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule which added a new subpart K in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) entitled ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new subpart L in 10 CFR part 72 entitled ''Approval of Spent Fuel Storage Casks,'' which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on November 21, 2008 (73 FR 70587), that approved the NAC International, Inc. MAGNASTOR® Storage System design and added it to the list of NRC-approved cask designs in § 72.214 as Certificate of Compliance No. 1031.

IV. Discussion of Changes

On October 9, 2019, as supplemented on April 9, 2020, and June 29, 2020, NAC International, Inc. submitted a request to amend Certificate of Compliance No. 1031 for the MAGNASTOR® Storage System. Amendment No. 9 revises the certificate of compliance as follows:

1. Adds a new concrete storage overpack, Concrete Cask Number 6 (CC6).

2. Adds four new heat load zone patterns (X, Y, Z, and Z-Prime) and their associated decay heats that are specific to Babcock and Wilcox (B&W) 15x15 fuel assemblies. These new heat load zone patterns are only authorized for use with the CC6 and MAGNASTOR® transfer cask number 2 (MTC2), which is a shortened, stainless steel version of the original MTC in the technical specifications.

3. Adds a new hybrid B&W 15x15 fuel assembly type (BW15H5).

4. Adds a new maximum enrichment for the BW15H2 hybrid fuel assembly of 5.0 weight percent of uranium-235, a new required minimum soluble boron concentration of 2650 parts per million of boron-10 during loading and unloading operations, and neutron absorber panels that have a required minimum areal density 0.036 grams of boron-10 per cubic centimeter.

In addition, Amendment No. 9 makes non-technical changes to reorganize Appendix B of the technical specifications to limit duplication of material and increase ease of use.

As documented in the preliminary safety evaluation report, the NRC performed a safety evaluation of the proposed certificate of compliance amendment request. The NRC determined that this amendment does not reflect a significant change in design or fabrication of the cask. Specifically, the NRC determined that the design of the cask would continue to prevent loss of containment, shielding, and criticality control in the event of each evaluated accident condition. This amendment does not reflect a significant change in design or fabrication of the cask. In addition, any resulting occupational exposure or offsite dose rates from the implementation of Amendment No. 9 would remain well within the limits specified by 10 CFR part 20, ''Standards for Protection Against Radiation.'' Thus, the NRC found there will be no significant change in the types or amounts of any effluent released, no significant increase in the individual or cumulative radiation exposure, and no significant increase in the potential for or consequences from radiological accidents.

The NRC determined that the amended NAC International, Inc. MAGNASTOR® Storage System cask design, when used under the conditions specified in the certificate of compliance, the technical specifications, and the NRC's regulations, will meet the requirements of 10 CFR part 72; therefore, adequate protection of public health and safety will continue to be reasonably assured. When this direct final rule becomes effective, persons who hold a general license under § 72.210 may, consistent with the license conditions under § 72.212, load spent nuclear fuel into NAC International, Inc. MAGNASTOR® Storage System casks that meet the criteria of Amendment No. 9 to Certificate of Compliance No. 1031.

V. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC revises the NAC International, Inc. MAGNASTOR® Storage System design listed in § 72.214, ''List of approved spent fuel storage casks.'' This action does not constitute the establishment of a standard that contains generally applicable requirements.

VI. Agreement State Compatibility

Under the ''Agreement State Program Policy Statement'' approved by the Commission on October 2, 2017, and published in the **Federal Register** on October 18, 2017 (82 FR 48535), this rule is classified as Compatibility Category NRC—Areas of Exclusive NRC Regulatory Authority. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended, or the provisions of 10 CFR chapter I. Therefore, compatibility is not required for program elements in this category. Although an Agreement State may not adopt program elements reserved to the NRC, and the Category ''NRC'' does not

confer regulatory authority on the State, the State may wish to inform its licensees of certain requirements by means consistent with the particular State's administrative procedure laws.

VII. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31885).

VIII. Environmental Assessment and Finding of No Significant Impact

Under the National Environmental Policy Act of 1969, as amended, and the NRC's regulations in 10 CFR part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,'' the NRC has determined that this direct final rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The NRC has made a finding of no significant impact on the basis of this environmental assessment.

A. The Action

The action is to amend § 72.214 to revise the NAC International, Inc. MAGNASTOR® Storage System listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 9 to Certificate of Compliance No. 1031.

B. The Need for the Action

This direct final rule amends the certificate of compliance for the NAC International, Inc. MAGNASTOR® Storage System design within the list of approved spent fuel storage casks to allow power reactor licensees to store spent fuel at reactor sites in casks with the approved modifications under a general license. Specifically, Amendment No. 9 revises the certificate of compliance to add (1) a new concrete storage overpack; (2) four new heat load zone patterns and their associated decay heats that are specific to B&W 15x15 fuel assemblies; (3) a new B&W 15x15 hybrid fuel assembly type (BW15H5); and (4) a new maximum enrichment for the BW15H2 hybrid fuel assembly, including a new minimum soluble boron concentration during loading and unloading operations and neutron absorber areal density. In addition, Amendment No. 9 makes non-technical changes to reorganize Appendix B of the technical specifications.

C. Environmental Impacts of the Action

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent fuel under a general license in cask designs approved by the NRC. The potential environmental impact of using NRC-approved storage casks was analyzed in the environmental assessment for the 1990 final rule. The environmental assessment for Amendment No. 9 tiers off of the environmental assessment for the July 18, 1990, final rule. Tiering on past environmental assessments is a standard process under the National Environmental Policy Act of 1969, as amended.

The NAC International, Inc. MAGNASTOR® Storage System is designed to mitigate the effects of design basis accidents that could occur during storage. Design basis accidents account for human-induced events and the most severe natural phenomena reported for the site and surrounding area. Postulated accidents analyzed for an independent spent fuel storage installation, the type of facility at which a holder of a power reactor operating license would store spent fuel in casks in accordance with 10 CFR part 72, can include tornado winds and tornado-generated missiles, a design basis earthquake, a design basis flood, an accidental cask drop, lightning effects, fire, explosions, and other incidents.

The design of the cask would prevent loss of confinement, shielding, and criticality control in the event of each evaluated accident condition. If there is no loss of confinement, shielding, or criticality control, the environmental impacts resulting from an accident would be insignificant. This amendment does not reflect a significant change in design or fabrication of the cask. Because there are no significant design or process changes, any resulting occupational exposure or offsite dose rates from the implementation of Amendment No. 9 would remain well within the 10 CFR part 20 limits. Therefore, the proposed certificate of compliance changes will not result in any radiological or non-radiological environmental impacts that significantly differ from the environmental impacts evaluated in the environmental assessment supporting the July 18, 1990, final rule. There will be no significant change in the types or significant revisions in the amounts of any effluent released, no significant increase in the individual or cumulative radiation exposures, and no significant increase in the potential for or consequences from, radiological accidents. The NRC documented its safety findings in the preliminary safety evaluation report.

D. Alternative to the Action

The alternative to this action is to deny approval of Amendment No. 9 and not issue the direct final rule. Consequently, any 10 CFR part 72 general licensee that seeks to load spent nuclear fuel into the NAC International, Inc. MAGNASTOR® Storage System in accordance with the changes described in proposed Amendment No. 9 would have to request an exemption from the requirements of §§ 72.212 and 72.214. Under this alternative, interested licensees would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee. The environmental impacts would be the same as the proposed action.

E. Alternative Use of Resources

Approval of Amendment No. 9 to Certificate of Compliance No. 1031 would result in no irreversible commitment of resources.

F. Agencies and Persons Contacted

No agencies or persons outside the NRC were contacted in connection with the preparation of this environmental assessment.

G. Finding of No Significant Impact

The environmental impacts of the action have been reviewed under the requirements in the National Environmental Policy Act of 1969, as amended, and the NRC's regulations in subpart A of 10 CFR part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.'' Based on the foregoing environmental assessment, the NRC concludes that this direct final rule entitled ''List of Approved Spent Fuel Storage Casks: NAC International, Inc. MAGNASTOR® Storage System, Certificate of Compliance No. 1031, Amendment No. 9'' will not have a significant effect on the human environment. Therefore, the NRC has determined that an environmental impact statement is not necessary for this direct final rule.

IX. Paperwork Reduction Act Statement

This direct final rule does not contain any new or amended collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing collections of

information were approved by the Office of Management and Budget, approval number 3150–0132.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid Office of Management and Budget control number.

X. Regulatory Flexibility Certification

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this direct final rule will not, if issued, have a significant economic impact on a substantial number of small entities. This direct final rule affects only nuclear power plant licensees and NAC International, Inc. These entities do not fall within the scope of the definition of small entities set forth in the Regulatory Flexibility Act or the size standards established by the NRC (§ 2.810).

XI. Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent nuclear fuel under a general license in cask designs approved by the NRC. Any nuclear power reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if (1) it notifies the NRC in advance, (2) the spent fuel is stored under the conditions specified in the cask's certificate of compliance, and (3) the conditions of the general license are met. A list of NRC-approved cask designs is contained in § 72.214. On November 21, 2008 (73 FR 70587), the NRC issued an amendment to 10 CFR part 72 that approved the NAC International, Inc. MAGNASTOR® Storage System design by adding it to the list of NRC-approved cask designs in § 72.214.

On October 9, 2019, as supplemented on April 9, 2020, and June 29, 2020, NAC International, Inc. submitted a request to amend the MAGNASTOR® Storage System as described in Section IV, ''Discussion of Changes,'' of this document.

The alternative to this action is to withhold approval of Amendment No. 9 and to require any 10 CFR part 72 general licensee seeking to load spent nuclear fuel into the NAC International, Inc. MAGNASTOR® Storage System under the changes described in Amendment No. 9 to request an exemption from the requirements of §§ 72.212 and 72.214. Under this alternative, each interested 10 CFR part 72 licensee would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee.

Approval of this direct final rule is consistent with previous NRC actions. Further, as documented in the preliminary safety evaluation report and environmental assessment, this direct final rule will have no adverse effect on public health and safety or the environment. This direct final rule has no significant identifiable impact or benefit on other government agencies. Based on this regulatory analysis, the NRC concludes that the requirements of this direct final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and therefore, this action is recommended.

XII. Backfitting and Issue Finality

The NRC has determined that the backfit rule (§ 72.62) does not apply to this direct final rule. Therefore, a backfit analysis is not required. This direct final rule revises Certificate of Compliance No. 1031 for the NAC International, Inc. MAGNASTOR® Storage System, as currently listed in § 72.214. The revision consists of the changes in Amendment No. 9 previously described, as set forth in the revised certificate of compliance and technical specifications.

Amendment No. 9 to Certificate of Compliance No. 1031 for the NAC International, Inc. MAGNASTOR® Storage System was initiated by NAC International, Inc. and was not submitted in response to new NRC requirements, or an NRC request for amendment. Amendment No. 9 applies only to new casks fabricated and used under Amendment No. 9. These changes do not affect existing users of the NAC International, Inc. MAGNASTOR® Storage System, and previous amendments continue to be effective for existing users. While current users of this storage system may comply with the new requirements in Amendment No. 9, this would be a voluntary decision on the part of current users.

For these reasons, Amendment No. 9 to Certificate of Compliance No. 1031 does not constitute backfitting under § 72.62 or § 50.109(a)(1), or otherwise represent an inconsistency with the issue finality provisions applicable to combined licenses in 10 CFR part 52. Accordingly, the NRC has not prepared a backfit analysis for this rulemaking.

XIII. Congressional Review Act

This direct final rule is not a rule as defined in the Congressional Review Act.

XIV. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS Accession No./web link/ **Federal Register** citation
Redacted SAR for MAGNASTOR® Amendment 9, dated October 29, 2019	ML19302F268 (package).
Submission of Responses to the U.S. Nuclear Regulatory Commission Request for Additional Information for Amendment No. 9 to Certificate of Compliance No. 1031 for the NAC International MAGNASTOR® Cask System, dated April 9, 2020.	ML20108F319 (package).
Submission of a Supplement to NAC's Request for Amendment No. 9 to Certificate of Compliance No. 1031 for the NAC International MAGNASTOR® Cask System, dated June 29, 2020.	ML20192A118.
Memo—User Need for Rulemaking for the NAC International MAGNASTOR® Cask System Certificate of Compliance No. 1031, Amendment No. 9, dated July 28, 2020.	ML20174A551.
Draft Proposed Certificate of Compliance No. 1031, Amendment 9	ML20174A552.
Proposed Certificate of Compliance No. 1031, Amendment 9—Appendix A, Technical Specifications	ML20174A553.
Proposed Certificate of Compliance No. 1031, Amendment 9—Appendix B, Technical Specifications	ML20174A554.
Certificate of Compliance No. 1031, Amendment 9—Preliminary Safety Evaluation Report	ML20174A555.

The NRC may post materials related to this document, including public comments, on the Federal Rulemaking website at *https://www.regulations.gov* under Docket ID NRC–2020–0166. The Federal Rulemaking website allows you

to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder NRC–2020–0166; (2) click the ''Sign up for Email Alerts'' link; and (3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly).

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Hazardous waste, Indians, Intergovernmental relations, Nuclear energy, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended; and 5 U.S.C. 552 and 553; the NRC is amending 10 CFR part 72 to read as follows:

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH–LEVEL RADIOACTIVE WASTE, AND REACTOR–RELATED GREATER THAN CLASS C WASTE

■ 1. The authority citation for part 72 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2210e, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act of 1969 (42 U.S.C. 4332); Nuclear Waste Policy Act of 1982, secs. 117(a), 132, 133, 134, 135, 137, 141, 145(g), 148, 218(a) (42 U.S.C. 10137(a), 10152, 10153, 10154, 10155, 10157, 10161, 10165(g), 10168, 10198(a)); 44 U.S.C. 3504 note.

■ 2. In § 72.214, Certificate of Compliance No. 1031 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1031.

Initial Certificate Effective Date: February 4, 2009, superseded by Initial Certificate, Revision 1, on February 1, 2016.

Initial Certificate, Revision 1, Effective Date: February 1, 2016.

Amendment Number 1 Effective Date: August 30, 2010, superseded by Amendment Number 1, Revision 1, on February 1, 2016.

Amendment Number 1, Revision 1, Effective Date: February 1, 2016.

Amendment Number 2 Effective Date: January 30, 2012, superseded by Amendment Number 2, Revision 1, on February 1, 2016.

Amendment Number 2, Revision 1, Effective Date: February 1, 2016.

Amendment Number 3 Effective Date: July 25, 2013, superseded by Amendment Number 3, Revision 1, on February 1, 2016.

Amendment Number 3, Revision 1, Effective Date: February 1, 2016.

Amendment Number 4 Effective Date: April 14, 2015.

Amendment Number 5 Effective Date: June 29, 2015.

Amendment Number 6 Effective Date: December 21, 2016.

Amendment Number 7 Effective Date: August 21, 2017, as corrected (ADAMS Accession No. ML19045A346).

Amendment Number 8, Effective Date: March 24, 2020.

Amendment Number 9, Effective Date: December 7, 2020.

SAR Submitted by: NAC International, Inc.

SAR Title: Final Safety Analysis Report for the MAGNASTOR® System.

Docket Number: 72–1031.

Certificate Expiration Date: February 4, 2029.

Model Number: MAGNASTOR®.

* * * * *

Dated this September 4, 2020.

For the Nuclear Regulatory Commission.

Margaret M. Doane,

Executive Director for Operations.

[FR Doc. 2020–20666 Filed 9–21–20; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. FAA–2020–0798; Notice No. 23–20–01–NOA]

Accepted Means of Compliance; Airworthiness Standards: Normal Category Airplanes

AGENCY: Federal Aviation Administration, DOT

ACTION: Notification of availability.

SUMMARY: This document announces the availability of means of compliance to the applicable airworthiness standards for normal category airplanes. The Administrator finds these means of compliance to be an acceptable means, but not the only means, of showing compliance to the applicable airworthiness standards for normal category airplanes and that they provide an appropriate level of safety.

DATES: Effective September 22, 2020.

FOR FURTHER INFORMATION CONTACT: Andy Supinie, Federal Aviation Administration, Policy and Innovation Division, Small Airplane Standards Branch, AIR–690, 901 Locust Street, Room 301, Kansas City, Missouri 64106; telephone (316) 946–4150; facsimile: (316) 946–4107; email: *andrew.supinie@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background: Under the provisions of the National Technology Transfer and Advancement Act of 1995 [1] and Office of Management and Budget (OMB) Circular A–119, ''Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities,'' effective January 27, 2016, the FAA participates in the development of consensus standards and uses consensus standards as a means of carrying out its policy objectives where appropriate.

Consistent with the Small Airplane Revitalization Act of 2013,[2] the FAA has been working with industry and other stakeholders lop consensus standards for use as a means of compliance in certificating small airplanes under Title 14, Code of Federal Regulations (14 CFR) part 23. In promulgating part 23, amendment 23–64 [3] (81 FR 96572, December 30, 2016), the FAA explained that if it determined such consensus standards were acceptable means of compliance to part 23, it would publish a notice of availability of those consensus standards in the **Federal Register**.

Pursuant to FAA Advisory Circular 23.2010–1,[4] ''FAA Accepted Means of Compliance Process for 14 CFR part 23,'' section 3.1.1, this notice serves as a formal acceptance by the Administrator of means of compliance based on consensus standards developed by ASTM. The means of compliance accepted by this notice are one means, but not the only means of complying with part 23 regulatory requirements.

The FAA reviewed 35 published ASTM consensus standards, developed by ASTM Committee F44, as the basis for means of compliance to 65 sections

[1] *Ref* Public Law 104–113 as amended by Public Law 107–107.

[2] *Ref* Public Law 113–53.

[3] *See https://www.federalregister.gov/documents/2016/12/30/2016-30246/revision-of-airworthiness-standards-for-normal-utility-acrobatic-and-commuter-category-airplanes.*

[4] *See https://rgl.faa.gov/.*

of part 23, amendment 23–64. In some cases, the Administrator finds sections of ASTM Standard F3264–19, ''Standard Specification for Normal Category Aeroplanes Certification,'' without changes, are accepted as means of complying with the airworthiness requirements of amendment 23–64, within the scope and applicability of the consensus standards. In other cases, the means of compliance, while based on ASTM consensus standards, include additional FAA provisions necessary to comply with the airworthiness requirements of amendment 23–64.

This document accepts only the revisions of standards referenced in ASTM Standard F3264–19, ''Standard Specification for Normal Category Aeroplanes Certification.'' Applicants who desire to use means of compliance reflected by other revisions to ASTM standards not previously accepted may seek guidance and possible acceptance from FAA for the use of those means of compliance on a case-by-case basis. Applicants may also propose alternative means of compliance for FAA review and possible acceptance.

Amendment 23–64 established airworthiness requirements based on the level of safety of amendment 23–63 regulations, except for areas addressing loss of control and icing where the safety level was increased. Achieving this level of safety through compliance with amendment 23–64—for a given certification project—may require use of additional means of compliance beyond those accepted by this notice, depending on the details of the specific design. For example, applicants with novel designs, such as unmanned airplanes or vertical takeoff and landing airplanes that are outside the scope and applicability of these consensus standards must propose alternative means of compliance, applicable to their designs, to be accepted under § 23.2010.

Further information on supplemental means of compliance is provided in a part 23 means of compliance summary table and in the Small Airplanes Issues List, which are available on the Small Airplanes—Regulations, Policies & Guidance website.[5]

Means of Compliance Accepted in this Policy: The following is a list of part 23, amendment 23–64, sections followed by their corresponding means of compliance accepted by this notice. However, for means of compliance identified in the following list, Aircraft Type Code compliance matrix tables, which define applicability of the individual requirements of given standards, are not accepted in any ASTM F44 standard. Due to errors identified in the Aircraft Type Code compliance matrix tables, applicability of individual requirements of standards must be established with the Small Airplane Standards Branch.

23.1457: ASTM F3264–19, section 9.12
23.1459: ASTM F3264–19, section 9.13
23.1529: ASTM F3264–19, section 10.6

Subpart B—Flight

23.2100: ASTM F3264–19, section 5.1
23.2105: ASTM F3264–19, section 5.2
23.2110: ASTM F3264–19, section 5.3
23.2115: ASTM F3264–19, section 5.4
23.2120: ASTM F3264–19, section 5.5
23.2125: ASTM F3264–19, section 5.6
23.2130: ASTM F3264–19, section 5.7
23.2135: ASTM F3264–19, section 5.8, combined with the changes in the following table:

Replace:	With:
ASTM F3173/F3173M–18, Section 4.3.2.	FAA Section 4.3.2 ''Unless otherwise required, it shall be possible to carry out the following maneuvers without requiring the application of temporary one-hand control forces exceeding those specified in Table 1, appropriate for the type of control. The trimming controls shall not be adjusted during the maneuvers.''
ASTM F3173/F3173M–18, Section 4.3.2.3.	FAA Section 4.3.2.3 ''With landing gear and flaps extended, power necessary to maintain level flight at 1.1 V_{S0}, and the airplane as nearly as possible in trim, it shall be possible to maintain approximately level flight while retracting the flaps as rapidly as possible with simultaneous application of maximum continuous power. If the level acceleration will result in exceeding V_{FE} of the initial flap configuration prior to the flaps reaching their selected setting, power may be reduced after achieving 1.3 V_{FE} of the initial flap configuration. The maneuver continues until the flaps reach the selected setting and the airplane achieves V_{FE} of the initial flap configuration. If gated flap positions are provided, the flap retraction may be demonstrated in stages with power and trim reset for level flight at 1.1 V_{S1}, in the initial configuration for each stage: (1) From the fully extended position to the most extended gated position; (2) Between intermediate gated positions, if applicable; and (3) From the least extended gated position to the fully retracted position.''
ASTM F3173/F3173M–18, Section 4.7.	FAA Section 4.7 ''It shall be possible, while in the landing configuration, to complete a landing without causing substantial damage or serious injury, and without exceeding the temporary one-hand control force limits specified in Table 1, appropriate for the type of control, following an approach to land under the following conditions;''
ASTM F3173/F3173M–18 Section 5.3.1.3.	FAA Section 5.3.1.3 ''In a descent with idle power at a speed of 1.3 V_{S0} with landing gear extended and wing flaps in the landing position.''
ASTM F3173/F3173M–18 Section 9.3.4.	FAA Section 9.3.4 ''If the procedure set forth in 9.3.3.2 is used to demonstrate compliance and marginal conditions existing during flight test with regard to reversal of primary longitudinal control force, flight tests shall be accomplished from the normal acceleration at which a marginal stick force per g condition is found to exist to the applicable limit specified in 9.3.2.1.''

23.2140: ASTM F3264–19, section 5.9
23.2145: ASTM F3264–19, section 5.10
23.2150: ASTM F3264–19, section 5.11, after replacing ASTM F3180/F3180M–19 with ASTM F3180/F3180M–16
23.2155: ASTM F3264–19, section 5.12
23.2160: ASTM F3264–19, section 5.13
23.2165: ASTM F3264–19, section 5.14

Subpart C—Structures

23.2200: ASTM F3264–19, section 6.1
23.2205: ASTM F3264–19, section 6.2, combined with the changes to

[5] *See https://www.faa.gov/aircraft/air_cert/design_approvals/small_airplanes/small_airplanes_regs/.*

ASTM F3254–19, Figures 2, 3, and 4 shown in the following table:

Replace:	With:
"Remote"	"10^{-5}"
"Extremely Improbable"	"10^{-8}" for Level 1, 2 and 3 airplanes and with "10^{-9}" for Level 4 airplanes"

23.2210: ASTM F3264–19, section 6.3

23.2215: ASTM F3264–19, section 6.4, combined with the changes in the following table:

Replace:	With:
ASTM F3116/F3116M–18, Section 4.1.4.	FAA Section 4.1.4 "Appendix X1 through Appendix X4 provides, within the limitations specified within the appendix, a simplified means of compliance with several of the requirements set forth in sections 4.2 to 4.26 and 7.1 to 7.9 that can be applied as one (but not the only) means to comply. If the simplified methods in appendix X1 through X3 are used, they must be used together in their entirety."
ASTM F3116/F3116M–18, Section X1.1.1.	FAA Section X1.1.1 "The methods provided in this appendix provide one possible means (but not the only possible means) of compliance and can only be applied to level 1 and level 2 low speed airplanes."

23.2220: ASTM F3264–19, section 6.5

23.2225: ASTM F3264–19, section 6.6, combined with the changes in the following table:

Replace:	With:
ASTM F3116/F3116M–18, Section X2.1.1.	FAA X2.1.1 "The methods provided in this appendix provide one possible means (but not the only possible means) of compliance and can only be applied to level 1 and level 2 low speed airplanes."
ASTM F3116/F3116M–18, Section X3.1.1.	FAA X3.1.1 "The methods provided in this appendix provide one possible means (but not the only possible means) of compliance and can only be applied to level 1 and level 2 low speed airplanes."
ASTM F3116/F3116M–18, Section X4.1.1.	FAA X4.1.1 "The methods provided in this appendix provide one possible means (but not the only possible means) of compliance and can only be applied to level 1 low speed airplanes."

23.2230: ASTM F3264–19, section 6.7

23.2235: ASTM F3264–19, section 6.8

23.2240: ASTM F3264–19, section 6.9, after replacing ASTM F3115/F3115M–19 with ASTM F3115/F3115M–15 and making the changes in the following table:

Replace:	With:
ASTM F3115/F3115M–15, Section 4.4.1.	FAA 4.4.1 "For metallic (aluminum), unpressurized, non-aerobatic, low-speed, level 1 airplanes, applicants can demonstrate a 10,000 hour safe-life by limiting the '1g' gross stress, at maximum takeoff weight, to no more than 5.5 ksi. The applicant must show effective stress concentration factors of 4 or less in highly loaded joints and use materials or material systems for which the physical and mechanical properties are well established."
ASTM F3115/F3115M–15, Section 6.1.	FAA 6.1 "For bonded airframe structure, the residual strength of bonded joints shall be addressed as follows: For any bonded joint, the failure of which would result in catastrophic loss of the airplane, the limit load capacity must be substantiated by one of the following methods."

23.2245: ASTM F3264–19, section 6.10

23.2250: ASTM F3264–19, section 6.11

23.2255: ASTM F3264–19, section 6.12

23.2260: ASTM F3264–19, section 6.13

23.2265: ASTM F3264–19, section 6.14

23.2270: ASTM F3264–19, section 6.15, combined with the changes in the following table:

Replace:	With:
ASTM F3083/F3083M–19 Section 4.1.6.	FAA Section 4.1.6 "Engine mount and supporting structure must withstand 18.0 g forward for engines installed behind and above the seating compartment."

Subpart D—Design and Construction

23.2300: ASTM F3264–19, section 7.1
23.2305: ASTM F3264–19, section 7.2
23.2310: ASTM F3264–19, section 7.3
23.2315: ASTM F3264–19, section 7.4
23.2320: ASTM F3264–19, section 7.5
23.2325: ASTM F3264–19, section 7.6, except delete ASTM F3264–19, section 7.6.1.3
23.2330: ASTM F3264–19, section 7.7
23.2335: ASTM F3264–19, section 7.8

Subpart E—Powerplant

23.2400: ASTM F3264–19, section 8.1, except delete ASTM F3264–19, section 8.1.6
23.2405: ASTM F3264–19, section 8.2, except delete ASTM F3264–19, section 8.2.4
23.2410: ASTM F3264–19, section 8.3, except delete ASTM F3264–19, section 8.3.8
23.2415: ASTM F3264–19, section 8.4, combined with the following changes:
1. Delete ASTM F3264–19, section 8.4.4
2. Add: An FAA accepted means of compliance for the turbine engine installation ice protection requirement of § 23.2415, on airplanes not approved for flight into known icing, such as the provisions of F3120/F3120M–19 section 7.2 and 7.3 (regardless of the operation requirements in F3120/F3120M–19 Table 1).

23.2420: ASTM F3264–19, section 8.5, except delete ASTM F3264–19, section 8.5.3
23.2425: ASTM F3264–19, section 8.6, except delete ASTM F3264–19, section 8.6.6
23.2430: ASTM F3264–19, section 8.7, except delete ASTM F3264–19, section 8.7.6
23.2435: ASTM F3264–19, section 8.8, except delete ASTM F3264–19, section 8.8.2
23.2440: ASTM F3264–19, section 8.9, except delete ASTM F3264–19, section 8.9.5

Subpart F—Equipment

23.2500: ASTM F3264–19, section 9.1, combined with the following changes:
1. Delete ASTM F3264–19, section 9.1.1.2(a)
2. Delete ASTM F3264–19, section 9.1.1.5
3. As shown in the following table:

Replace:	With:
ASTM F3230–17 Section 3.2.1.	FAA Section 3.2.1 ''aircraft type code, n—an Aircraft Type Code (ATC) is defined by considering both the technical considerations regarding the design of the aircraft and the aeroplane certification level established based upon risk-based criteria; the method of defining an ATC applicable to this practice is defined in Specification F3061/F3061M.''
ASTM F3230–17 Section 4 Example.	FAA Section 4 Example ''Example—An aircraft with an ATC of 1SRLLDLN is being considered. Since all applicable columns are empty for 4.1, that subsection is applicable to the aircraft. Since the ''1'' aeroplane certification level column, the ''L'' stall speed column, and the ''D'' meteorological column for 4.2.1 all contain white circles, then that subsection is not applicable; however, for an aircraft with an ATC of 1SRMLDLN, 4.2.1 would be applicable since the ''M'' stall speed column does not contain a white circle.''
ASTM F3230–17 Table 1 ..... Column header ''Airworthiness Level''.	FAA Table 1 Column header ''Aeroplane Certification Level''.
ASTM F3230–17 Table 3 ..... Column header ''Airworthiness Level''.	FAA Table 3 Column header ''Aeroplane Certification Level''.

23.2505: ASTM F3264–19, section 9.2, combined with the following changes:
1. Delete ASTM F3264–19, section 9.2.1.1(a)
2. Delete ASTM F3264–19, section 9.2.1.4

23.2510: ASTM F3264–19, section 9.3, combined with the following changes:
1. Delete ASTM F3264–19, section 9.3.1.2
2. As shown in the following table:

Replace:	With:
ASTM F3230–17 Section 3.2.1.	FAA Section 3.2.1 ''aircraft type code, n—an Aircraft Type Code (ATC) is defined by considering both the technical considerations regarding the design of the aircraft and the aeroplane certification level established based upon risk-based criteria; the method of defining an ATC applicable to this practice is defined in Specification F3061/F3061M.''
ASTM F3230–17 Section 4 Example.	FAA Section 4 Example ''Example—An aircraft with an ATC of 1SRLLDLN is being considered. Since all applicable columns are empty for 4.1, that subsection is applicable to the aircraft. Since the ''1'' aeroplane certification level column, the ''L'' stall speed column, and the ''D'' meteorological column for 4.2.1 all contain white circles, then that subsection is not applicable; however, for an aircraft with an ATC of 1SRMLDLN, 4.2.1 would be applicable since the ''M'' stall speed column does not contain a white circle.''
ASTM F3230–17 Table 1 ..... Column header ''Airworthiness Level''.	FAA Table 1 Column header ''Aeroplane Certification Level''
ASTM F3230–17 Table 3 ..... Column header ''Airworthiness Level''.	FAA Table 3 Column header ''Aeroplane Certification Level''

23.2515: ASTM F3264–19, section 9.4

23.2520: ASTM F3264–19, section 9.5, combined with the changes in the following table:

Replace:	With:
ASTM F3236–17 Table 2 entry.	FAA Table 2 entry
400 to 700 Mhz frequency range field strength average value: ''100 volts/meter''.	400 to 700 Mhz frequency range field strength average value: ''50 volts/meter''
ASTM F3236–17 Section 4.2.3.3.	FAA Section 4.2.3.3 ''From 40 to 400 MHz, use conducted susceptibility tests, starting at a minimum of 30 mA at 40 MHz, decreasing 20 dB per frequency decade to a minimum of 3 mA at 400 MHz.''

23.2525: ASTM F3264–19, section 9.6, except delete ASTM F3264–19, section 9.6.2.3

23.2530: ASTM F3264–19, section 9.7

23.2535: ASTM F3264–19, section 9.8, except delete ASTM F3264–19, section 9.8.1

23.2540: ASTM F3264–19, section 9.9

23.2545: ASTM F3264–19, section 9.10

23.2550: ASTM F3264–19, section 9.11

Subpart G—Flightcrew Interface and Other Information

23.2600: ASTM F3264–19, section 10.1, combined with the following changes:

1. Add an FAA-accepted means of compliance for the windshield luminous transmittance aspects of § 23.2600, such as the provisions of § 23.775(e), amendment 23–49.
2. Add an FAA-accepted means of compliance for the pilot compartment view with formation of fog or frost aspects of § 23.2600, such as the provisions of § 23.773(b), amendment 23–45.

23.2605: ASTM F3264–19, section 10.2

23.2610: ASTM F3264–19, section 10.3

23.2615: ASTM F3264–19, section 10.4, combined with the changes in the following table:

Replace:	With:
ASTM F3064/F3064M–19, Section 6.	An FAA-accepted means of compliance for the powerplant instruments aspects of § 23.2615, such as the provisions of § 23.1305, amendment 23–52.

23.2620: ASTM F3264–19, sections 5.15 AND 10.5

Editorial, reapproval, revision or withdrawal: The FAA expects a suitable consensus standard to be reviewed periodically. ASTM policy is that a consensus standard should be reviewed in its entirety by the responsible subcommittee and must be balloted for reapproval, revision, or withdrawal, within five years of its last approval date. ASTM reapproves a standard—denoted by the year of reapproval in parentheses (*e.g.,* F2427–05a(2013))—to indicate completion of a review cycle with no technical changes made to the standard. ASTM issues editorial changes—denoted by a superscript epsilon in the standard designation (*e.g.,* F3235–17ε^1)—to correct information that does not change the meaning or intent of a standard. Any means of compliance accepted by this notice that is based on a standard later reapproved or editorially changed is also considered accepted without the need for a NOA. ASTM revises a standard to make changes to its technical content. Revisions to consensus standards serving as the basis for means of compliance accepted by this notice will not be automatically accepted and will require further FAA acceptance in order for the revisions to be an accepted means of compliance.

Availability

ASTM Standard F3264–19, ''Standard Specification for Normal Category Aeroplanes Certification,'' is available for online reading at *https://www.astm.org/READINGLIBRARY/.* ASTM International copyrights these consensus standards and charges the public a fee for service. Individual downloads or reprints of a standard (single or multiple copies, or special compilations and other related technical information) may be obtained through *www.astm.org* or contacting ASTM at (610) 832–9585 (phone), (610) 832–9555 (fax), or through *service@astm.org* (email). To inquire about consensus standard content and/or membership or about ASTM Offices abroad, contact Joe Koury, Staff Manager for Committee F44 on General Aviation Aircraft: (610) 832–9804, *jkoury@astm.org.*

The FAA maintains a list of accepted means of compliance on the FAA website at *https://www.faa.gov/aircraft/air_cert/design_approvals/small_airplanes/small_airplanes_regs/.*

Issued in Kansas City, Missouri on August 12, 2020.

Pat Mullen,

Manager, Small Airplanes Standards Branch, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2020–17911 Filed 9–21–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0411; Product Identifier 2018–SW–061–AD; Amendment 39–21254; AD 2020–19–11]

RIN 2120–AA64

Airworthiness Directives; Leonardo S.p.a. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Leonardo S.p.a. (Leonardo) Model A119 and AW119 MKII helicopters. This AD requires repetitive borescope inspections of the tail rotor gearbox (TGB) and depending on the inspection results, removing the TGB from service.

This AD was prompted by reports of corrosion on the internal surface of the 90-degree TGB output shaft. The actions of this AD are intended to address an unsafe condition on these products.

DATES: This AD is effective October 27, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in this AD as of October 27, 2020.

ADDRESSES: For service information identified in this final rule, contact Leonardo S.p.a. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G. Agusta 520, 21017 C. Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://www.leonardocompany.com/en/home.* You may view the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0411.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0411; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD, any service information that is incorporated by reference, any comments received, and other information. The street address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to Leonardo Model A119 and AW119 MKII helicopters with 90-degree TGB part number (P/N) 109–0440–06–101 or P/N 109–0440–06–105 having serial number 167, 169 through 172 inclusive, 215 through 225 inclusive, 227, 230, 232, 233, AW268, K3, K16, M47, or L29, installed. The NPRM published in the **Federal Register** on April 24, 2020 (85 FR 22970). The NPRM proposed to require within 25 hours time-in-service (TIS) or 3 months, whichever comes first, and thereafter at intervals not to exceed 100 hours TIS or 6 months, whichever occurs first, borescope inspecting the internal surface of the 90-degree TGB output shaft for corrosion. Depending on the inspection results, the NPRM proposed to require removing the TGB from service before further flight. The proposed requirements were intended to prevent corrosion on the internal surface of the 90-degree TGB output shaft, failure of the 90-degree TGB output shaft, and reduced control of the helicopter.

The NPRM was prompted by EASA AD No. 2018–0156, dated July 24, 2018 (EASA AD 2018–0156), issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for Leonardo S.p.a. Helicopters (formerly Finmeccanica S.p.A., AgustaWestland S.p.A., Agusta S.p.A.; and AgustaWestland Philadelphia Corporation, formerly Agusta Aerospace Corporation) Model A119 and AW119MKII helicopters with 90-degree TGB P/N 109–0440–06–101 or P/N 109–0440–06–105 having serial number 167, 169 through 172 inclusive, 215 through 225 inclusive, 227, 230, 232, 233, AW268, K3, K16, M47, or L29, installed. EASA advises of two reported occurrences of corrosion on the internal surface of the 90-degree TGB shaft installed on Model A119 helicopters. Further analysis identified a specific batch of parts that may be susceptible to similar conditions. Due to design similarity, Model AW119MKII helicopters are also affected.

EASA states that this condition, if not detected and corrected, could lead to failure of the tail rotor, possibly resulting in reduced control of the helicopter. Accordingly, the EASA AD requires performing repetitive endoscope inspections on the internal surface of the 90-degree TGB output shaft for corrosion and depending on the findings, replacing the TGB. EASA further states EASA AD 2018–0156 is considered an interim action and further AD action may follow.

Comments

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

FAA's Determination

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA of the unsafe condition described in its AD. The FAA is issuing this AD after evaluating all information provided by EASA and determining the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed except for minor editorial changes. The FAA has determined that these minor changes are consistent with the intent that was proposed in the NPRM for addressing the unsafe condition and do not add any additional burden upon the public than was already proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Leonardo Helicopters Alert Service Bulletin No. 119–090, dated July 23, 2018, for Model A119 and AW119MKII helicopters, which contains procedures for conducting an endoscope inspection of the internal surface of the 90-degree TGB output shaft for corrosion. This service information also specifies replacing the TGB if corrosion is found.

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

Costs of Compliance

The FAA estimates this AD affects 96 helicopters of U.S. Registry. The FAA estimates that operators may incur the following costs in order to comply with this AD. Labor costs are estimated at $85 per work-hour.

Borescope inspecting the 90-degree TGB output shaft takes about 3 work-hours for an estimated cost of $255 per helicopter and $24,480 for the U.S. fleet per inspection cycle.

Replacing a (overhauled) TGB takes about 18 work-hours and parts cost about $49,000 (overhauled) for an estimated cost of $50,530 per helicopter.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2020–19–11 Leonardo S.p.a.: Amendment 39–21254; Docket No. FAA–2020–0411; Product Identifier 2018–SW–061–AD.

(a) Applicability

This AD applies to Leonardo S.p.a. Model A119 and AW119 MKII helicopters, certificated in any category, with 90-degree tail rotor gearbox (TGB) part number (P/N) 109–0440–06–101 or 109–0440–06–105 having serial number 167, 169 through 172 inclusive, 215 through 225 inclusive, 227, 230, 232, 233, AW268, K3, K16, M47, or L29, installed.

(b) Unsafe Condition

This AD defines the unsafe condition as corrosion on the internal surface of the 90-degree TGB output shaft. This condition could result in failure of the 90-degree TGB output shaft and reduced control of the helicopter.

(c) Effective Date

This AD becomes effective October 27, 2020.

(d) Compliance

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

(e) Required Actions

(1) Within 25 hours time-in-service (TIS) or 3 months, whichever occurs first, and thereafter at intervals not to exceed 100 hours TIS or 6 months, whichever occurs first, borescope inspect the entire internal surface of the 90-degree TGB output shaft for corrosion. Refer to Figure 3 of Leonardo Helicopters Alert Service Bulletin No. 119–090, dated July 23, 2018, for a depiction of the entry point for the borescope. If there is corrosion, before further flight, remove from service the TGB.

(2) After the effective date of this AD, do not install on any helicopter any 90-degree TGB P/N 109–0440–06–101 or 109–0440–06–105 that has serial number 167, 169 through 172 inclusive, 215 through 225 inclusive, 227, 230, 232, 233, AW268, K3, K16, M47, or L29, unless the actions required by paragraph (e)(1) of this AD have been done.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: Rao Edupuganti, Aviation Safety Engineer, Regulations and Policy Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *9-ASW-FTW-AMOC-Requests@faa.gov.*

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

(g) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD No. 2018–0156, dated July 24, 2018. You may view the EASA AD on the internet at *https://www.regulations.gov* in Docket No. FAA–2020–0411.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 62 Tail Rotor Gearbox.

(i) Material Incorporated by Reference

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

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

(i) Leonardo Helicopters Alert Service Bulletin No. 119–090, dated July 23, 2018.

(ii) [Reserved]

(3) For service information identified in this AD, contact Leonardo S.p.a. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G. Agusta 520, 21017 C. Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://www.leonardocompany.com/en/home.*

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

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

Issued on September 9, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–20750 Filed 9–21–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0328; Product Identifier 2020–NM–030–AD; Amendment 39–21244; AD 2020–19–03]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus SAS Model A318 series airplanes; Model A319–111, –112, –113,

–114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. This AD was prompted by reports of crack findings in and around the fastener holes of the central and lateral window frame upper junction; those cracks were found on fastener holes outside of the inspection area specified in a certain airworthiness limitation item (ALI) task. This AD requires repetitive inspections of the upper junction fastener holes at the lateral window frame for cracking; and for certain airplanes, repetitive inspections of the spotface around the fastener holes for cracking; and corrective actions if necessary; as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 27, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 27, 2020.

ADDRESSES: For the material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu*. You may find this IBR material on the EASA website at *https://ad.easa.europa.eu*. You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0328.

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–2020–0328; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0019, dated February 5, 2020 (''EASA AD 2020–0019'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A318–111, –112, –121, and –122 airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –215, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. Model A320–215 airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; therefore, this AD does not include those airplanes in the applicability.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus SAS Model A318–111, –112, –121, and –122 airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –215, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. The NPRM published in the **Federal Register** on April 10, 2020 (85 FR 20213). The NPRM was prompted by reports of crack findings in and around the fastener holes of the central and lateral window frame upper junction; those cracks were found on fastener holes outside of the inspection area specified in a certain ALI task. The NPRM proposed to require repetitive inspections of the upper junction fastener holes at the lateral window frame for cracking; and for certain airplanes, repetitive inspections of the spotface around the fastener holes for cracking; and corrective actions if necessary; as specified in an EASA AD. The FAA is issuing this AD to address such cracking, which could result in reduced structural integrity of the airplane. See the MCAI for additional background information.

Comments

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

Request To Clarify Impact on Operator's Maintenance Program

Delta Air Lines, Inc. (DAL) asked that the FAA include a statement that the proposed AD affects and is related to AD 2019–23–01, Amendment 39–19794 (84 FR 66579, December 5, 2019) (''AD 2019–23–01''), and could impact an operator's maintenance program. DAL stated that the procedures specified in Airbus Service Bulletins A320–53–1448 and A320–53–1449, both dated August 5, 2019 (referred to in EASA AD 2020–0019), cancel and replace Airworthiness Limitation Item (ALI) Task 531125, dated October 11, 2019, which is required in Airworthiness Limitations Section (ALS) part 2, revision 7. DAL added that FAA Global Alternative Method of Compliance (AMOC) AIR–676–20–138, dated April 4, 2020, approved ALS part 2, revision 8, which removes ALI Task 531125. DAL noted that, for operators that have incorporated revision 8 prior to issuance of the proposed AD, there would be a potential gap in tracking, and that adding the requested statement would bring awareness to the relationship between the specified service information, MCAI, affected ADs and ALI task.

The FAA acknowledges the commenter's concern, and provides the following clarification: AD 2019–23–01 does not mandate incorporation of ALS part 2, revision 08, in the operator's maintenance or inspection program. In addition, ALI Task 531125 was removed from ALS part 2, revision 8, for specific model airplanes with specific configurations. The FAA has no way to ascertain the impact on an individual operator's maintenance program and customize the AD requirements in accordance with DAL's maintenance or inspection program. However, under the provisions of paragraph (i) of this AD, the FAA will consider requests for approval of an AMOC if an operator's maintenance program is adversely affected by the requirements of this AD, if sufficient data are submitted to substantiate that fact and that show the method used adequately addresses the unsafe condition identified in this AD. The FAA has not changed this AD regarding this issue.

Conclusion

The FAA reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting this final rule as proposed, except for minor

editorial changes. The FAA has determined that these minor changes:

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

Related IBR Material Under 1 CFR Part 51

EASA AD 2020–0019 describes procedures for repetitive inspections of the upper junction fastener holes at the lateral window frame for cracking, repetitive inspections of the spotface around the fastener holes for cracking, and corrective actions. Corrective actions include repair. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 938 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
4 work-hours × $85 per hour = $340	$0	$340	$318,920

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2020–19–03 Airbus SAS: Amendment 39–21244; Docket No. FAA–2020–0328; Product Identifier 2020–NM–030–AD.

(a) Effective Date

This AD is effective October 27, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Airbus SAS airplanes specified in paragraphs (c)(1) through (4) of this AD, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2020–0019, dated February 5, 2020 (''EASA AD 2020–0019'').

(1) Model A318–111, –112, –121, and –122 airplanes.

(2) Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes.

(3) Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes.

(4) Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Reason

This AD was prompted by reports of crack findings in and around the fastener holes of the central and lateral window frame upper junction; those cracks were found on fastener holes outside of the inspection area specified in a certain airworthiness limitation item (ALI) task. The FAA is issuing this AD to address such cracking, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2020–0019.

(h) Exceptions to EASA AD 2020–0019

(1) Where EASA AD 2020–0019 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2020–0019 does not apply to this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight

standards district office/certificate holding district office.

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

(3) *Required for Compliance (RC*): For any service information referenced in EASA AD 2020–0019 that contains RC procedures and tests: Except as required by paragraph (i)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

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

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2020–0019, dated February 5, 2020.

(ii) [Reserved]

(3) For information about EASA AD 2020–0019, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu*. You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu*.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0328.

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

Issued on September 1, 2020.

Gaetano A. Sciortino,

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

[FR Doc. 2020–20826 Filed 9–21–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0460; Product Identifier 2018–SW–078–AD; Amendment 39–21252; AD 2020–19–09]

RIN 2120–AA64

Airworthiness Directives; Leonardo S.p.A. Helicopters

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Leonardo S.p.A. Model AW169 helicopters and certain Leonardo S.p.A Model AW189 helicopters. This AD was prompted by a report of a broken extrusion rubber window seal. This AD requires installation of a reinforcement around the rubber filler wedge where the extrusion rubber window seal meets the door's emergency exit handle. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 27, 2020.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 27, 2020.

ADDRESSES: For service information identified in this final rule, contact Leonardo S.p.A. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G. Agusta 520, 21017 C. Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://www.leonardocompany.com/en/home*. You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110.

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–2020–0460; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Kristi Bradley, Aviation Safety Engineer, International Validation Branch, General Aviation & Rotorcraft Unit, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *kristin.bradley@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Leonardo S.p.A. Model AW169 helicopters and certain Leonardo S.p.A. Model AW189 helicopters. The NPRM published in the **Federal Register** on June 3, 2020 (85 FR 34139). The NPRM was prompted by a report of a broken extrusion rubber window seal, part number (P/N) A417AF001WB. The NPRM proposed to require installation of a reinforcement around the rubber filler wedge where the extrusion rubber window seal meets the door's emergency exit handle. The FAA is issuing this AD to address broken extrusion rubber window seals, which could result in an excessive load required to release the emergency exit window, possibly resulting in delayed evacuation of helicopter occupants during an emergency.

The European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA), which is the Technical Agent for the Member States of the European Union, issued EASA AD 2018–0197, dated September 5, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Leonardo S.p.A. Model AW169 helicopters and certain Leonardo S.p.A. Model AW189 helicopters. EASA advises of a broken extrusion rubber window seal, P/N A417AF001WB. According to EASA, an investigation determined that the damage to the rubber filler wedge of the rubber window seal could have been caused by the excessive tension of the string applied during the installation of an affected emergency exit handle. EASA advises that this condition, if not corrected, could result in an excessive load to release the emergency exit window, possibly resulting in delayed evacuation of helicopter occupants during an emergency. EASA states that, due to design similarities, the same unsafe condition could exist or develop

on certain Model AW189 helicopters. To correct this condition, EASA AD 2018–0197 requires installation of a reinforcement around the rubber filler wedge where the extrusion rubber window seal meets the door's emergency exit handle. You may examine the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0460.

Comments

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

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

Leonardo Helicopters has issued Alert Service Bulletin 169–094, Revision A, dated August 13, 2018; and Alert Service Bulletin 189–170, dated July 25, 2018. This service information describes procedures for installation of a reinforcement around the rubber filler wedge where the extrusion rubber window seal meets the door's emergency exit handle. These documents are distinct since they apply to different aircraft models. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 10 helicopters of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 6 work-hours × $85 per hour = Up to $510	$0	Up to $510	Up to $5,100.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2020–19–09 Leonardo S.p.A.: Amendment 39–21252; Docket No. FAA–2020–0460; Product Identifier 2018–SW–078–AD.

(a) Effective Date

This AD is effective October 27, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Leonardo S.p.A. helicopters identified in paragraphs (c)(1) and (2) of this AD, certificated in any category, equipped with an affected part defined as internal emergency exit handle, part number (P/N) 8G9500L00151, and external emergency exit handle, P/N 8G9500L00251.

(1) Model AW169 helicopters, all serial numbers.

(2) Model AW189 helicopters, all serial numbers, except those helicopters with emergency exit windows equipped with strap P/N A487A003A, or helicopters with bubble windows P/N 8G5620F00112.

(d) Subject

Joint Aircraft Service Component (JASC) Code 5600, Window/windshield system.

(e) Reason

This AD was prompted by a report of a broken extrusion rubber window seal; an investigation found the likely cause was excessive tension of the string applied during the installation of an affected emergency exit handle. The FAA is issuing this AD to address this condition, which, if not addressed, could result in an excessive load required to release the emergency exit window, possibly resulting in delayed evacuation of helicopter occupants during an emergency.

(f) Compliance

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

(g) Modification

(1) For Leonardo S.p.A. Model AW169 helicopters equipped with a passenger sliding door configuration, cabin main assembly P/N 6F5330A00131 or P/N 6F5330A00132: Within 750 hours time-in-service (TIS) or 24 months, whichever occurs first after the effective date of this AD, install the retro-modification P/N 6F5600P00111 on the rubber filler wedge of all affected emergency exit handles, in accordance with Part I, Steps 1 through 8 of the Accomplishment Instructions of Leonardo Helicopters Alert Service Bulletin 169–094, Revision A, dated August 13, 2018, except you are required to replace the affected emergency exit handles and are not required to discard the filler wedges.

(2) For Leonardo S.p.A. Model AW169 helicopters equipped with a passenger hinged door configuration, cabin main assembly VIP P/N 6F5330A00831: Within 750 hours TIS or 24 months, whichever occurs first after the effective date of this AD, install the retro-modification P/N 6F5600P00111 on the rubber filler wedge of all affected emergency exit handles, in accordance with Part II, Steps 1 through 6 of the Accomplishment Instructions of Leonardo Helicopters Alert Service Bulletin 169–094, Revision A, dated August 13, 2018, except you are required to replace the affected emergency exit handles and are not required to discard the filler wedges.

(3) For Leonardo S.p.A. Model AW189 helicopters: Within 750 hours TIS or 24 months, whichever occurs first after the effective date of this AD, install the retro-modification P/N 8G5600P00211 on the rubber filler wedge of all affected emergency exit handles, in accordance with Steps 1 through 11 of the Accomplishment Instructions of Leonardo Helicopters Alert Service Bulletin 189–170, dated July 25, 2018, except you are required to replace the affected emergency exit handles and are not required to discard the filler wedges.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, may approve AMOCs for this AD. Send your proposal to: Kristi Bradley, Aviation Safety Engineer, International Validation Branch, General Aviation & Rotorcraft Unit, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *9-ASW-FTW-AMOC-Requests@faa.gov*.

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

(i) Related Information

(1) The subject of this AD is addressed in European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD 2018–0197, dated September 5, 2018. This EASA AD may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0460.

(2) For more information about this AD, contact Kristi Bradley, Aviation Safety Engineer, International Validation Branch, General Aviation & Rotorcraft Unit, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *kristin.bradley@faa.gov*.

(j) Material Incorporated by Reference

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

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

(i) Leonardo Helicopters Alert Service Bulletin 169–094, Revision A, dated August 13, 2018.

(ii) Leonardo Helicopters Alert Service Bulletin 189–170, dated July 25, 2018.

(3) For service information identified in this AD, contact Leonardo S.p.A. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G. Agusta 520, 21017 C. Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://www.leonardocompany.com/en/home*.

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

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

Issued on September 9, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–20764 Filed 9–21–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0258; Product Identifier 2018–SW–002–AD; Amendment 39–21250; AD 2020–19–07]

RIN 2120–AA64

Airworthiness Directives; Leonardo S.p.a. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Leonardo S.p.a. Model AW169 helicopters. This AD requires modifying the weight on wheels (WoW) support installation on the main landing gear (MLG). This AD was prompted by a report that an inappropriately tightened WoW support could result in a rotation of the support and improper WoW switch performance. The actions of this AD are intended to address an unsafe condition on these products.

DATES: This AD is effective October 27, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in this AD as of October 27, 2020.

ADDRESSES: For service information identified in this final rule, contact Leonardo S.p.a. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G. Agusta 520, 21017 C. Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://www.leonardocompany.com/en/home.* You may view the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0258.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* in Docket No. FAA–2020–0258; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD, any comments received, and other information. The street address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Matt Fuller, AD Program Manager, Continued Operational Safety Branch, Airworthiness Products Section, General Aviation and Rotorcraft Unit, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *matthew.fuller@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to Leonardo S.p.A. Model AW169 helicopters with left-hand (LH) main landing gear (MLG) assembly, part number (P/N) 6F3210V00132 or P/N 6F3210V00133, with serial number (S/N) MN01 through MN84 inclusive, or right-hand (RH) MLG assembly, P/N 6F3210V00232 or P/N 6F3210V00233, with S/N MN01 to MN81, installed. The NPRM published in the **Federal Register** on March 16, 2020 (85 FR 14807). The NPRM proposed to require within 60 hours time-in-service (TIS), modifying the WoW support installation by:

- Performing a short circuit connection between pin 26 of connector J343 and pin N of connector J319.
- Cutting lockwire and disconnecting the WoW microswitch from the WoW support, removing from service nuts and bolts, and removing the WoW support from the MLG.
- Removing any paint, cleaning areas, and applying Alodine 1132 on cleaned surfaces.
- Applying a 10 mm wide strip of structural glue EA934 on the WoW support, reinstalling the WoW support on the MLG, adding a specified torque to the nut, and cleaning off excess glue.
- Curing the glue on the structures, performing a microswitch adjustment inspection for correct operation of the microswitch, and marking the MLG nameplate by adding the letter ''B'' at the end of the S/N. The NPRM also proposed prohibiting installing an affected LH or RH MLG assembly on any helicopter unless it has been modified in accordance with the proposed AD requirements.

The NPRM was prompted by EASA AD No. 2017–0255, dated December 22, 2017, issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for Leonardo S.p.a. Helicopters (formerly Finmeccanica Helicopter Division, AgustaWestland) Model AW169 helicopters, with LH MLG assembly P/N 6F3210V00132 or P/N 6F3210V00133 and S/N MN01 to MN84 inclusive, and/or a RH MLG assembly P/N 6F3210V00232 or P/N 6F3210V00233 with S/N MN01 to MN81 inclusive installed, except those with an MLG modified per Magnaghi Aeronautica S.p.a. Service Bulletin SB–07–2017–AW169.

EASA advises that an in-service event revealed that an inappropriately tightened WoW support could result in a rotation of this support and improper WoW switch performance. EASA advises this condition, if not corrected, could result in degraded attitude stabilization, possibly resulting in reduced control of the helicopter. Accordingly, the EASA AD requires modification of the WoW support installation by introducing structural glue between the WoW support and the main fitting of the MLG.

Additionally, the FAA updated the name Leonardo S.p.A. Helicopters to Leonardo S.p.a. Helicopters in this final rule and updated the contact information to obtain service documentation.

Comments

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

FAA's Determination

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA of the unsafe condition described in its AD. The FAA is issuing this AD after evaluating all information provided by EASA and determining the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

Differences Between This AD and the EASA AD

The EASA AD requires compliance within 60 hours TIS or 3 months, whichever occurs first, while this AD requires compliance within 60 hours TIS.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Leonardo Helicopters Alert Service Bulletin No. 169–047, Revision A, dated February 19, 2018, for Model AW169 helicopters. This service information specifies a WoW support bonding procedure on in-service helicopters by introducing structural glue between the WoW support P/N G1019/20–91 and the main fitting P/N G1019/20–MF 105 to prevent a potential rotation of the support.

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

Costs of Compliance

The FAA estimates that this AD affects 3 helicopters of U.S. Registry. The FAA estimates that operators may incur the following costs in order to comply with this AD. Labor costs are estimated at $85 per work-hour.

Performing the short circuit connection, removing the WoW support from the MLG, removing any paint and cleaning areas, applying Alodine and a 10mm strip of structural glue, curing the glue, torqueing the nut, performing a microswitch adjustment, and marking the MLG nameplate takes about 8 work-hours and parts cost about $10 for an estimated cost of $690 per helicopter and $2,070 for the U.S. fleet.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

2. Will not affect intrastate aviation in Alaska, and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as *COM007*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):

2020–19–07 Leonardo S.p.a.: Amendment 39–21250; Docket No. FAA–2020–0258; Product Identifier 2018–SW–002–AD.

(a) Applicability

This AD applies to Leonardo S.p.a. Model AW169 helicopters, certificated in any category, with left-hand (LH) main landing gear (MLG) assembly, part number (P/N) 6F3210V00132 or P/N 6F3210V00133, with serial number (S/N) MN01 through MN84 inclusive, or right-hand (RH) MLG assembly, P/N 6F3210V00232 or P/N 6F3210V00233, with S/N MN01 to MN81 inclusive, installed. This AD does not apply to helicopters with an MLG that has been modified in accordance with Magnaghi Aeronautica S.p.A. Service Bulletin No. SB–07–2017–AW169, Issue 5, dated November 22, 2017. This AD does not apply to MLG that have a ''B'' on the end of the serial number.

(b) Unsafe Condition

This AD defines the unsafe condition as an improperly tightened weight on wheels (WoW) support resulting in a rotation of the support and improper WoW switch performance, which if not corrected could lead to degraded attitude stabilization, and subsequent loss of control of the helicopter.

(c) Effective Date

This AD becomes effective October 27, 2020.

(d) Compliance

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

(e) Required Actions

(1) Within 60 hours time-in-service, modify the WoW support installation as follows:

(i) Perform a short circuit connection between pin 26 of connector J343 and pin N of connector J319.

(ii) Cut the lockwire that locks the WoW microswitch and disconnect the WoW microswitch from the WoW support as depicted in Figure 1 of Leonardo Helicopters Alert Service Bulletin No. 169–047, Revision A, dated February 19, 2018 (ASB 169–047).

(iii) Unscrew the nut and remove the washer and bolt. Remove from service the nut and bolt, but replace the washer.

(iv) Remove the WoW support from the MLG and remove any paint and clean areas where indicated by Figure 2 in ASB 169–047.

(v) Apply Alodine 1132 on cleaned areas of WoW support and landing gear strut leaving a 10 mm wide strip on the WoW support for structural glue EA934 application.

(vi) Apply a 10 mm wide strip of structural glue EA934 on the WoW support and install the WoW support on the MLG using a nut, bolt, and washer.

(vii) Torque the nut to 2.5 thru 3.5 Nm. Clean any excess glue and cure the glue on the structures for one hour at 60 °C/140 °F or eight days at room temperature (22 °C–26 °C/71.6 °F–78.8 °F).

(viii) Apply liquid jointing compound AMS–S–8802 Type 2 Class B, or equivalent, to the bolt and nut, as depicted in Figure 3 of ASB 169–047 and perform a microswitch adjustment for correct operation of the microswitch.

(ix) Mark the MLG nameplate by adding the letter ''B'' at the end of the S/N.

(x) Remove the short circuit connection between pin 26 of connector J343 and pin N of connector J319 as performed in paragraph (e)(1)(i) of this AD.

(2) After the effective date of this AD, do not install on any helicopter a LH or RH MLG assembly with a P/N and S/N listed in paragraph (a) of this AD unless it has been modified in accordance with the requirements of paragraph (e)(1) of this AD.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: Matt Fuller, AD Program Manager, Continued Operational Safety Branch, Airworthiness Products Section, General Aviation and Rotorcraft Unit, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *9-ASW-FTW-AMOC-Requests@faa.gov.*

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

(g) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) No. 2017–0255, dated December 22, 2017. You may view the EASA AD on the internet at *https://www.regulations.gov* in Docket No. FAA–2020–0258.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 3200, Landing Gear System.

(i) Material Incorporated by Reference

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

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

(i) Leonardo Helicopters Alert Service Bulletin No. 169–047, Revision A, dated February 19, 2018.

(ii) [Reserved]

(3) For Leonardo S.p.a. Helicopters service information identified in this AD, contact Leonardo S.p.a. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G. Agusta 520, 21017 C. Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://www.leonardocompany.com/en/home.*

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

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

Issued on September 9, 2020.

Gaetano A. Sciortino,

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

[FR Doc. 2020–20748 Filed 9–21–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0342; Product Identifier 2019–SW–078–AD; Amendment 39–21242; AD 2020–19–01]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH Helicopters

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus Helicopters Deutschland GmbH Model MBB–BK 117 D–2 helicopters. This AD was prompted by a report of an erroneous low rotor revolutions per minute (RPM) indication after establishing a one engine inoperative

(OEI) condition. This AD requires a software (SW) modification for the aircraft management computer (AMC). The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 27, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 27, 2020.

ADDRESSES: For service information identified in this final rule, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone 972–641–0000 or 800–232–0323; fax 972–641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.* You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0342.

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–2020–0342; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: George Schwab, Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *george.schwab@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus Helicopters Deutschland GmbH Model MBB–BK 117 D–2 helicopters. The NPRM published in the **Federal Register** on April 28, 2020 (85 FR 23489). The NPRM was prompted by a report of an erroneous low rotor RPM indication after establishing an OEI condition. The NPRM proposed to require a SW modification for the AMC. The FAA is issuing this AD to address erroneous low RPM indications, which could cause the pilot to make inappropriate control inputs, resulting in damage to the helicopter or injury to occupants.

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0208, dated August 22, 2019 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Helicopters Deutschland GmbH Model MBB–BK 117 D–2 helicopters. You may examine the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0342.

Comments

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

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

Airbus Helicopters has issued Alert Service Bulletin MBB–BK117 D–2–42A–005, Revision 3, dated June 6, 2019. This service information describes procedures for a SW modification for the AMC.

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 or Service Information

The MCAI provides a 60-day compliance time for accomplishing the SW modification. This AD requires completion of the SW modification within 50 hours time-in-service.

Costs of Compliance

The FAA estimates that this AD affects 30 helicopters of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
1 work-hour × $85 per hour = $85	$3,000	$3,085	$92,550

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2020–19–01 Airbus Helicopters Deutschland GmbH: Amendment 39–21242; Docket No. FAA–2020–0342; Product Identifier 2019–SW–078–AD.

(a) Effective Date

This AD is effective October 27, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus Helicopters Deutschland GmbH Model MBB–BK 117 D–2 helicopters, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 42, Integrated Modular Avionics.

(e) Reason

This AD was prompted by a report of an erroneous low rotor revolutions per minute (RPM) indication after establishing a one engine inoperative condition. The FAA is issuing this AD to address erroneous low RPM indications, which could cause the pilot to make inappropriate control inputs, resulting in damage to the helicopter or injury to occupants.

(f) Compliance

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

(g) Definitions

(1) Affected part: An aircraft management computer (AMC) having a software (SW) version installed that is identified as ''pre-modification SW'' in Figure 1 to paragraphs (g)(1), (h), and (i) of this AD, or earlier SW version.

Figure 1 to Paragraphs (g)(1), (h), and (i) – *Helicopter Configuration and Updated SW*

Helicopter Configuration	Pre-modification SW	Post-modification/ Upgraded SW
D-2 and D-2m (basic)	As of the effective date of this AD, no D-2 and D-2m (basic) helicopters are known to be in service.	
D-2 and D-2m (Helionix Step 2)	V5.0.1 P/N D462C01S0501	V5.0.4 P/N D462C01S0504
	V5.0.2 P/N D462C01S0502	V5.0.4 P/N D462C01S0504
	V5.0.2 P/N D462C03S0502	V5.0.4 P/N D462C03S0504
D-2 and D-2m (Helionix Step 2.0.1)	V5.0.3 P/N D462C01S0503	V5.0.4 P/N D462C01S0504
	V5.0.3 P/N D462C03S0503	V5.0.4 P/N D462C03S0504
D-2 and D-2m (Helionix Step 3)	V6.0 P/N D462C01S0600	V6.0.2 P/N D462C01S0602
	V6.0 P/N D462C03S0600	V6.0.2 P/N D462C03S0602

(2) Group 1: Helicopters that have an affected part installed.

(3) Group 2: Helicopters that do not have an affected part installed.

(h) Software Modification

(1) For Group 1: Within 50 hours time-in-service after the effective date of this AD, update the SW of each affected part to the corresponding upgraded SW, as listed in Figure 1 to paragraphs (g)(1), (h), and (i) of this AD, in accordance with the Accomplishment Instructions, Section 3.B.2, of Airbus Helicopters Alert Service Bulletin MBB–BK117 D–2–42A–005, Revision 3, dated June 6, 2019.

(2) Replacement on a helicopter of an affected part with an AMC having the corresponding upgraded SW installed, as listed in Figure 1 to paragraphs (g)(1), (h), and (i) of this AD, or later SW upgrade is an acceptable alternative method of compliance for the requirements of paragraph (h)(1) of this AD for that helicopter.

(i) Parts Installation Prohibition

Do not install on any helicopter an affected part, and do not upload any SW identified as ''pre-modification SW'' in Figure 1 to paragraphs (g)(1), (h), and (i) of this AD, or earlier SW version, on any AMC, as required by paragraph (i)(1) or (2) of this AD, as applicable.

(1) *For Group 1:* After modification of that helicopter as specified in paragraph (h) of this AD.

(2) *For Group 2:* As of the effective date of this AD.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: George Schwab, Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5151; email *9-ASW-FTW-AMOC-Requests@faa.gov*.

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

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information European Union Aviation Safety Agency (EASA) 2019–0208, dated August 22, 2019. This EASA AD may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0342.

(2) For service information identified in this AD, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone 972–641–0000 or 800–232–0323; fax 972–641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html*. You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

(l) Material Incorporated by Reference

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

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

(i) Airbus Helicopters Alert Service Bulletin MBB–BK117 D–2–42A–005, Revision 3, dated June 6, 2019.

(ii) [Reserved]

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

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

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

Issued on September 1, 2020.

Gaetano A. Sciortino,

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

[FR Doc. 2020–20763 Filed 9–21–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0793; Project Identifier MCAI–2020–00976–R; Amendment 39–21243; AD 2020–19–02]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2000–22–19 for Eurocopter France (now Airbus Helicopters) Model SA330F, G, and J helicopters. AD 2000–22–19 required repetitively inspecting certain tail rotor (T/R) blades for skin debonding and a crack. Since the FAA issued AD 2000–22–19, the inspection procedures have been revised. Additionally, the FAA is adding an affected part-numbered T/R blade and the FAA-validation for Model SA330F and G helicopters has been cancelled. This new AD revises the applicability, requires repetitively inspecting affected T/R blades with the new inspection procedures, and depending on the inspection results, repairing or replacing the T/R blade. This new AD also prohibits installing an affected T/R blade unless it has passed the inspections. The actions of this AD are intended to address an unsafe condition on these products.

DATES: This AD becomes effective October 7, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in this AD as of October 7, 2020.

The FAA must receive comments on this AD by November 6, 2020.

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

- *Federal eRulemaking Docket:* Go to *https://www.regulations.gov*. Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0793; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the European Aviation Safety Agency (EASA) (now European Union Aviation Safety Agency) AD, any service information that is incorporated by reference, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

For service information identified in this final rule, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone 972–641–0000 or 800–232–0323; fax 972–641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html*. You may view the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0793.

FOR FURTHER INFORMATION CONTACT: Matt Fuller, AD Program Manager, Continued Operational Safety Branch, Airworthiness Products Section, General Aviation and Rotorcraft Unit, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *matthew.fuller@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and the FAA did not provide you with notice and an opportunity to provide your comments prior to it becoming effective. However, the FAA invites you to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the AD, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit them only one time.

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

comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this rulemaking during the comment period. The FAA will consider all the comments received and may conduct additional rulemaking based on those comments.

Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this final rule 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 final rule, 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 final rule. Submissions containing CBI should be sent to Matt Fuller, AD Program Manager, Continued Operational Safety Branch, Airworthiness Products Section, General Aviation and Rotorcraft Unit, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *matthew.fuller@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Discussion

The FAA issued AD 2000–22–19, Amendment 39–11967 (65 FR 68071, November 14, 2000) (''AD 2000–22–19''), for Eurocopter France (now Airbus Helicopters) Model SA330F, G, and J helicopters with a T/R blade part number (P/N) 330A12–0000–(all dash numbers), 330A12–0000–(all dash numbers), or 330A12–0006–(all dash numbers), installed.

AD 2000–22–19 required, within a compliance time interval based on whether a de-icing system was installed, repetitively inspecting each T/R blade for skin debonding and eddy current inspecting for a crack. The FAA issued AD 2000–22–19 to prevent fatigue cracking of a T/R blade, failure of a T/R blade, and subsequent loss of control of the helicopter.

Actions Since AD 2000–22–19 Was Issued

Since the FAA issued AD 2000–22–19, EASA, which is the Technical Agent for the Member States of the European Union, issued EASA AD No. 2016–0059–E, dated March 22, 2016 (EASA AD 2016–0059–E), to correct an unsafe condition for Airbus Helicopters (formerly Eurocopter, Eurocopter France, Aerospatiale) Model SA 330 J helicopters. EASA AD 2016–0059–E retains the requirements of Direction Générale de l'Aviation Civile (DGAC) France AD 87–032–052(B)R3, dated January 23, 1991, which it supersedes, and also mandates improved service instructions.

Airbus Helicopters issued the improved service instructions in Emergency Alert Service Bulletin No. 05.101, Revision 0, dated March 21, 2016, to extend the eddy current inspection area and specify new tooling to inspect the extended area.

Also, since the FAA issued AD 2000–22–19, it was identified that AD 2000–22–19 inadvertently listed T/R blade P/N 330A12–0000-(all dash numbers) twice in its applicability and omitted T/R blade P/N 330A12–0005-(all dash numbers). This final rule removes T/R blade P/N 330A12–0000-(all dash numbers) altogether from the applicability because these part-numbered T/R blades have been retired from the fleet and expands the applicability by adding helicopters with T/R blade P/N 330A12–0005-(all dash numbers) installed.

Additionally, at the request of Airbus Helicopters, Model SA330F and G helicopters have been removed from the FAA Type Certificate Data Sheet (TCDS). According to Airbus Helicopters, none of these aircraft models are in existence. EASA, the state of design, has also removed these models from its TCDS. As a result, the FAA is removing these models from the applicability.

FAA's Determination

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA about the unsafe condition described in its AD. The FAA is issuing this AD after evaluating all of the information provided by EASA and determining the unsafe condition exists and is likely to exist or develop on other helicopters of the same type design.

Related Service Information Under 1 CFR Part 51

Airbus Helicopters has issued Emergency Alert Service Bulletin No. 05.101, Revision 0, dated March 21, 2016, for Model SA330J helicopters with certain T/R blades with and without a de-icing system installed. This service information specifies procedures for a visual and in-depth inspection of the T/R blades for skin debonding and an eddy current inspection of the T/R blades for a crack using various crack detectors.

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

AD Requirements

This AD requires within 30 hours time-in-service (TIS) after the effective date of this AD or within 30 hours TIS after last inspecting the T/R blades as required by paragraph (a) of AD 2000–22–19, whichever occurs first, and thereafter at intervals not to exceed 15 hours TIS for blades with de-icing systems installed or 30 hours TIS for blades without de-icing systems installed:

- Accomplishing a visual and in-depth inspection of each T/R blade for debonding. If there is debonding within allowable limits, this AD requires repairing or replacing the T/R blade before further flight. If there is debonding that exceeds allowable limits, this AD requires replacing the T/R blade before further flight.
- Eddy current inspecting each blade for a crack. If there is a crack, this AD requires replacing the T/R blade before further flight.

This AD also prohibits installing an affected T/R blade on any helicopter unless it passes the inspections required by this AD.

Differences Between This AD and the EASA AD

The EASA AD requires returning a T/R blade with debonding that exceeds allowable limits or a crack to Airbus Helicopters, whereas this AD requires replacing the T/R blade instead.

Regulatory Flexibility Act

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

Costs of Compliance

The FAA estimates that this AD affects 15 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates that operators may incur the following costs in order to comply with this AD.

Inspecting the T/R blades for debonding takes about 0.75 work-hour for an estimated cost of $64 per helicopter and $960 for the U.S. fleet, per inspection cycle. Eddy current inspecting the T/R blades for a crack takes about 1.75 work-hours for an estimated cost of $149 per helicopter and $2,235 for the U.S. fleet, per inspection cycle.

If required, replacing a T/R blade takes about 4 work-hours and parts cost about $19,000, for an estimated cost of $19,340.

FAA's Justification and Determination of the Effective Date

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

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because fatigue cracking in a T/R blade could lead to failure of a T/R blade and subsequent loss of control of the helicopter. This type of fatigue cracking in a T/R blade could cause a pilot to perform an emergency landing. Because these helicopters primarily conduct operations over water or forested mountains, the FAA determined the corrective action must be completed within 30 hours TIS, a time period of up to approximately two months based on the average flight-hour utilization rates of these helicopters. Therefore, notice and opportunity for prior public comment are impracticable and contrary to public interest pursuant to 5 U.S.C. 553(b)(3)(B). In addition, for the reasons stated above, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, 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:

■ a. Removing Airworthiness Directive (AD) 2000–22–19, Amendment 39–11967 (65 FR 68071, November 14, 2000); and

■ b. Adding the following new AD:

2020–19–02 Airbus Helicopters: Amendment 39–21243; Docket No. FAA–2020–0793; Project Identifier MCAI–2020–00976–R.

(a) Applicability

This AD applies to Airbus Helicopters (previously Eurocopter France) Model SA330J helicopters, certificated in any category, with a tail rotor (T/R) blade part number 330A12–0005-(all dash numbers) or 330A12–0006-(all dash numbers) installed.

(b) Unsafe Condition

This AD defines the unsafe condition as fatigue cracking of a T/R blade. This condition could result in failure of a T/R blade and subsequent loss of control of the helicopter.

(c) Affected ADs

This AD replaces AD 2000–22–19, Amendment 39–11967 (65 FR 68071, November 14, 2000) (''AD 2000–22–19'').

(d) Effective Date

This AD becomes effective October 7, 2020.

(e) Compliance

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

(f) Required Actions

(1) Within 30 hours time-in-service (TIS) after the effective date of this AD or within 30 hours TIS after last inspecting the T/R blades as required by paragraph (a) of AD 2000–22–19, whichever occurs first, and thereafter at intervals not to exceed 15 hours TIS for T/R blades with deicing systems installed or 30 hours TIS for T/R blades without deicing systems installed:

(i) Inspect each T/R blade for debonding by following the visual and in-depth inspection procedures in the Accomplishment Instructions, paragraph 3.B.2., of Airbus Helicopters Emergency Alert Service Bulletin No. 05.101, Revision 0, dated March 21, 2016 (EASB 05.101). If there is debonding within allowable limits, before further flight, repair or replace the T/R blade. If there is debonding that exceeds allowable limits, before further flight, replace the T/R blade.

(ii) Eddy current inspect each T/R blade for a crack by following the Accomplishment Instructions, paragraph 3.B.3.a. of EASB 05.101, then either paragraph 3.B.3.b.1. or 3.B.3.b.2. of EASB 05.101 depending on your crack detector, and paragraph 3.B.3.c. of EASB 05.101 except the ''if there are no cracks'' and ''if there are one or several cracks'' steps. Instead of the ''if there are no cracks'' and ''if there are one or several cracks'' steps, if there is a crack, before further flight, replace the T/R blade.

(2) As of the effective date of this AD, do not install a T/R blade identified in paragraph (a) of this AD on any helicopter unless the actions of paragraph (f)(1) of this AD have been accomplished.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Rotorcraft Standards Branch, FAA, may approve AMOCs for this

AD. Send your proposal to: Matt Fuller, AD Program Manager, Continued Operational Safety Branch, Airworthiness Products Section, General Aviation and Rotorcraft Unit, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *9-ASW-FTW-AMOC-Requests@faa.gov*.

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

(h) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency (EASA) (now European Union Aviation Safety Agency) No. 2016–0059–E, dated March 22, 2016. You may view the EASA AD on the internet at *https://www.regulations.gov* by searching for and locating it in Docket No. FAA–2020–0793.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 6410, Tail Rotor Blades.

(j) Material Incorporated by Reference

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

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

(i) Airbus Helicopters Emergency Alert Service Bulletin No. 05.101, Revision 0, dated March 21, 2016.

(ii) [Reserved]

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

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

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

Issued on August 31, 2020.

Gaetano A. Sciortino,

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

[FR Doc. 2020–20751 Filed 9–21–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 200818–0219]

RIN 0694–AI18

Addition of Entities to the Entity List; Corrections to Certain Existing Entries on the Entity List

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: In this final rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) by adding forty-seven entities, under fifty-one entries to the Entity List. These forty-seven entities have been determined by the U.S. Government to be acting contrary to the national security or foreign policy interests of the United States. These entities are located under the destinations of Canada, China, Hong Kong, Iran, Malaysia, Oman, Pakistan, Thailand, Turkey, United Arab Emirates, and the United Kingdom. This rule also corrects four existing entries on the Entity List under the destination of China.

DATES: This rule is effective September 22, 2020.

FOR FURTHER INFORMATION CONTACT: Chair, End-User Review Committee, Office of the Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–5991, Fax: (202) 482–3911, Email: *ERC@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Entity List (15 CFR, subchapter C, part 744, Supplement No. 4) identifies entities reasonably believed to be involved in, or to pose a significant risk of being or becoming involved in, activities contrary to the national security or foreign policy interests of the United States. The Export Administration Regulations (EAR) (15 CFR parts 730–774) impose additional license requirements on, and limit the availability of most license exceptions for, exports, reexports, and transfers (in-country) to listed entities. The license review policy for each listed entity is identified in the ''License review policy'' column on the Entity List, and the impact on the availability of license exceptions is described in the relevant **Federal Register** document adding entities to the Entity List. BIS places entities on the Entity List pursuant to part 744 (Control Policy: End-User and End-Use Based) and part 746 (Embargoes and Other Special Controls) of the EAR.

The End-User Review Committee (ERC), composed of representatives of the Departments of Commerce (Chair), State, Defense, Energy and, where appropriate, the Treasury, makes all decisions regarding additions to, removals from, or other modifications to the Entity List. The ERC makes all decisions to add an entry to the Entity List by majority vote and all decisions to remove or modify an entry by unanimous vote.

ERC Entity List Decision

Additions to the Entity List

This rule implements the decision of the ERC to add forty-seven entities, under fifty-one entries (four entities are identified in two destinations) to the Entity List. The forty-seven entities are being added based on § 744.11 (License requirements that apply to entities acting contrary to the national security or foreign policy interests of the United States) of the EAR. The entities are located in Canada, the People's Republic of China (China), Hong Kong, Iran, Malaysia, Oman, Pakistan, Thailand, Turkey, United Arab Emirates (UAE) and the United Kingdom.

The ERC reviewed and applied § 744.11(b) (Criteria for revising the Entity List) in making the determination to add these forty-seven entities to the Entity List. Under that paragraph, persons for whom there is reasonable cause to believe, based on specific and articulable facts, that they have been involved, are involved, or pose a significant risk of being or becoming involved in, activities that are contrary to the national security or foreign policy interests of the United States, along with those acting on behalf of such persons, may be added to the Entity List. Paragraphs (b)(1) through (5) of § 744.11 provide an illustrative list of activities that could be contrary to the national security or foreign policy interests of the United States.

The ERC determined to add ''Affiliated Supply and Consultancy Services,'' ''Busan International,'' ''IMCO Technology and Services,'' and ''Iqbal Enterprises'' under the destination of Pakistan. Specifically, the ERC determined to add ''Busan International'' and ''IMCO Technology and Services'' to the Entity List on the basis of their contributions to unsafeguarded nuclear activities''. ''Affiliated Supply and Consultancy Services'' has been involved in the procurement of U.S.-origin goods in association with Pegasus General

Trading FZC, an entity added to the Entity List on March 16, 2020 (85 FR 14794). ''Iqbal Enterprises'' is added to the Entity List for its contributions to unsafeguarded nuclear activities.

The ERC determined to add ''Business Empire International'' and ''KTK Engineering (PVT) LTD'' to the Entity List under the destination of Pakistan as well as to add ''S&D Industry Ltd.,'' ''Rigsol Well Drilling Equipment Trading,'' and ''E and I Systems FZE'' to the Entity List under the destination of the UAE all for actions contrary to the national security or foreign policy interests of the United States. Specifically, the ERC determined to add these entities to the Entity List for their contributions to unsafeguarded nuclear activities.

The ERC determined to add ''Ahmad Nozad Gholik,'' ''Behnam Pouremadi,'' ''Hamid Sepehrian,'' ''Mojtaba Farhadi Ganjeh,'' and ''Sayyed Javad Ahmadi'' to the Entity List under the destination of Iran for actions contrary to the national security or foreign policy interest of the United States. Specifically, these individuals are added on the basis of their support for nuclear-related activities that are contrary to the national security or foreign policy of the United States.

The ERC determined to add to the Entity List ''Blue Lines FZE'' under the destinations of Turkey and the UAE; ''MKB Pacific Air SDN BHD'' under the destination of Malaysia; ''Ajmal Aviation'' under the destination of the UAE; and ''Blue Lines Company'' as well as two associated individuals—''Mahdi Keivan Bahari'' and ''Mahsa Keivan Bahari''—under the destination of Iran. These entities were instrumental in the procurement and/or re-transfer of U.S.-origin items to Iran, in violation of the Iranian Transactions and Sanctions Regulations and the EAR, and are implicated as being directly involved in activities that are contrary to the national security or foreign policy interests of the United States as set forth in § 744.11(b) of the EAR.

The ERC determined to add ''Landa Ariya Electronic Co.'' to the Entity List under the destinations of China and Iran as well as its employees ''Ali Basati,'' ''Mohsen Asraftaba,'' and ''Behnaz Moazen'' under the destination of Iran. In addition, the ERC determined to add ''Oriental Logistics Group LTD'' and its employee ''Roin Luo'' as well as ''Shenzhen Iprogift Technology Co., Ltd,'' ''Shenzhen Shunjinxin Import & Export Co. Ltd.,'' and ''Suki Zhan'' to the Entity List under the destination of China. ''Oriental Logistics Group LTD'' is also being added under the destination of Hong Kong, along with ''Hong Kong Fung Tak Enterprise.'' There is reasonable cause to believe, based on specific and articulable facts, that these ten entities were involved in the diversion of U.S.-origin unmanned aerial vehicle parts, as well as other items, to Iran via China without the required licenses.

The ERC determined to add to the Entity List ''Airborne Logistics LLC'' under the destination of Oman; ''Aviation Network Associates'' and ''PremiAir Aerospace'' under the destination of the United Kingdom; ''FARSCO Aviation MRO Centre'' under the destination of Iran; ''Marilog Avion Services Company'' under the destination of Thailand; and ''Transworld Aviation'' under the destination of the UAE, and certain employees of these entities. Specifically, ERC determined to add to the Entity List ''Marilog Avion Services Company Limited'' and its principal employees ''Mohamad Rifan,'' and ''Ibrahim Nasir''; ''PremiAir Aerospace'' and its principal employees ''Graham Avery,'' and ''Daniel Basden''; ''Aviation Network Associates'' and its principal employee ''Chas Newport''; ''Transworld Aviation'' and its principal employees ''Shehab Bin Braik Al Breiki,'' ''Abdulla K. Al Suleimani,'' ''Lufti Busaidi Sulaiman,'' and ''Mohamed Nashir''; ''Airborne Logistics LLC'' and ''FARSCO Aviation MRO Centre'' and its principal employees ''S.M. Mirbagheri'' and ''Rouhollah Abdollahi.'' These entities have been involved in a scheme to illicitly procure Bell 412 helicopters on behalf of Iranian end-user, ''FARSCO Aviation MRO Centre.''

For thirty-nine of the forty-seven entities added to the Entity List in this final rule, BIS imposes a license requirement for all items subject to the EAR and a license review policy of presumption of denial. For ''Busan International,'' ''Business Empire International,'' ''E and I Systems FZE,'' ''IMCO Technology and Services,'' ''Iqbal Enterprises,'' ''KTK Engineering (PVT) LTD,'' ''Rigsol Well Drilling Equipment Trading,'' and ''S&D Industry Ltd.,'' BIS imposes the license review policy set forth in § 744.2(d) of the EAR, a nuclear end-user and end-use based provision. No license exceptions are available for exports, reexports, or transfers (in-country) to the entities being added to the Entity List in this rule. The acronym ''a.k.a.'' (also known as) is used in entries on the Entity List to identify aliases, thereby assisting exporters, reexporters, and transferors in identifying entities on the Entity List.

For the reasons described above, this final rule adds the following forty-seven entities under fifty-one entries to the Entity List.

Canada

- Ibrahim Nasir.

China

- Landa Ariya Electronic Co;
- Oriental Logistics Group LTD;
- Roin Luo;
- Shenzhen Iprogift Technology Co., Ltd;
- Shenzhen Shunjinxin Import & Export Co. Ltd.; *and*
- Suki Zhan.

Hong Kong

- Hong Kong Fung Tak Enterprise; *and*
- Oriental Logistics Group LTD.

Iran

- Ahmad Nozad Gholik;
- Ali Basati;
- Behnam Pouremadi;
- Behnaz Moazen;
- Blue Lines Company;
- FARSCO Aviation MRO Centre;
- Hamid Sepehrian;
- Landa Ariya Electronic Co.;
- Mahdi Keivan Bahari;
- Mahsa Keivan Bahari;
- Mohsen Asraftaba;
- Mojtaba Farhadi Ganjeh;
- Rouhollah Abdollahi;
- S. M. Mirbagheri; *and*
- Sayyed Javad Ahmadi.

Malaysia

- MKB Pacific Air SDN BHD.

Oman

- Airborne Logistics LLC.

Pakistan

- Affiliated Supply and Consultancy Services;
- Busan International;
- Business Empire International;
- IMCO Technology and Services;
- Iqbal Enterprises; *and*
- KTK Engineering (PVT) LTD.

Thailand

- Marilog Avion Services Company, Limited; *and*
- Mohamad Rifan.

Turkey

- Blue Lines FZE.

United Arab Emirates

- Abdulla K. Al Suleimani;
- Ajmal Aviation;
- Blue Lines FZE;
- E and I Systems FZE;
- Ibrahim Nasir;
- Lufti Busaidi Sulaiman;

- Mohamed Nashir;
- Rigsol Well Drilling Equipment Trading;
- S&D Industry Ltd.;
- Shehab Bin Braik Al Breiki; *and*
- Transworld Aviation.

United Kingdom

- Aviation Network Associates;
- Chas Newport;
- Daniel Basden;
- Graham Avery; *and*
- PremiAir Aerospace.

Corrections to the Entity List

In this final rule, BIS is correcting the **Federal Register** citation for four existing entries on the Entity List under the destination of China. These entities were added to the Entity List under the destination of China on October 9, 2019 (84 FR 54004) and June 5, 2020 (85 FR 34505), and modified on July 22, 2020 (85 FR 44159). In the July 22, 2020, final rule, the entries for ''Nanjing Fiberhome,'' ''NetPosa,'' ''SenseNets,'' and ''Shihezi Municipality'' did not include the **Federal Register** citation. This rule is adding the **Federal Register** citation for these four entities.

Savings Clause

Shipments of items removed from eligibility for a License Exception or export or reexport without a license (NLR) as a result of this regulatory action that were en route aboard a carrier to a port of export or reexport, on September 22, 2020, pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export or reexport NLR.

Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA), 50 U.S.C. 4801–4852. ECRA provides the legal basis for BIS's principal authorities and serves as the authority under which BIS issues this rule.

Rulemaking Requirements

Executive Orders 13563 and 12866 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 rule has been determined to be not significant for purposes of Executive Order 12866. This rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

Notwithstanding any other provision of law, no person is required to respond to or be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by OMB under control number 0694–0088, Simplified Network Application Processing System, which includes, among other things, license applications, and carries a burden estimate of 42.5 minutes for a manual or electronic submission. Total burden hours associated with the PRA and OMB control number 0694–0088 are not expected to increase as a result of this rule.

This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Pursuant to § 1762 of ECRA, this action is exempt from the Administrative Procedure Act (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date.

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

PART 744—[AMENDED]

■ 1. The authority citation for 15 CFR part 744 is revised to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of September 19, 2019, 84 FR 49633; Notice of November 12, 2019, 84 FR 61817.

■ 2. Supplement No. 4 to part 744 is amended:

■ a. Under CANADA, by adding in alphabetical order an entry for ''Ibrahim Nasir'';

■ b. Under CHINA, PEOPLE'S REPUBLIC OF:

■ i. By adding in alphabetical order entries for ''Landa Ariya Electronic Co.'', ''Oriental Logistics Group LTD'', ''Roin Luo'', ''Shenzhen Iprogift Technology Co, Ltd.'', ''Shenzhen Shunjinxin Import & Export Co. Ltd.'', and ''Suki Zhan''; and

■ ii. By revising the entries ''Nanjing Fiberhome Starrysky Communication Development Co.'', ''NetPosa'', ''SenseNets'', and ''Shihezi Municipality Public Security Bureau'';

■ c. Under HONG KONG, by adding in alphabetical order entries for ''Hong Kong Fung Tak Enterprise'' and ''Oriental Logistics Group LTD'';

■ d. Under IRAN, by adding in alphabetical order entries for ''Ahmad Nozad Gholik'', ''Ali Basati'', ''Behnam Pouremadi'', ''Behnaz Moazen'', ''Blue Lines Company'', ''FARSCO Aviation MRO Centre'', ''Hamid Sepehrian'', ''Landa Ariya Electronic Co.'', ''Mahdi Keivan Bahari'', ''Mahsa Keivan Bahari'', ''Mohsen Asraftaba'', ''Mojtaba Farhadi Ganjeh'', ''Rouhollah Abdollahi'', ''S.M. Mirbagheri'', and ''Sayyed Javad Ahmadi'';

■ e. Under MALAYSIA, by adding in alphabetical order an entry for ''MKB Pacific Air SDN BHD'';

■ f. Under OMAN, by adding in alphabetical order an entry for ''Airborne Logistics LLC'';

■ g. Under PAKISTAN, by adding in alphabetical order entries for ''Affiliated Supply and Consultancy Services'', ''Busan International'', ''Business Empire International'', ''IMCO Technology and Services'', ''Iqbal Enterprises'', and ''KTK Engineering (PVT) LTD'';

■ h. Under THAILAND, by adding in alphabetical order entries for ''Marilog Avion Services Company, Limited'' and ''Mohamad Rifan'';

■ i. Under TURKEY, by adding in alphabetical order an entry for ''Blue Lines FZE'';

■ j. Under UNITED ARAB EMIRATES, by adding in alphabetical order entries for ''Abdulla K. Al Suleimani'', ''Ajmal

Aviation'', ''Blue Lines FZE'', ''E and I Systems FZE'', ''Ibrahim Nasir'', ''Lufti Busaidi Sulaiman'', ''Mohamed Nashir'', ''Rigsol Well Drilling Equipment Trading'', ''S&D Industry Ltd.'', ''Shehab Bin Braik Al Breiki'', and ''Transworld Aviation''; and

■ k. Under UNITED KINGDOM, by adding in alphabetical order entries for ''Aviation Network Associates'', ''Chas Newport'', ''Daniel Basden'', ''Graham Avery'', and ''PremiAir Aerospace''.

The additions and revisions read as follows:

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST

Country	Entity	License requirement	License review policy	**Federal Register** citation
*	* * *	*	* *	*
CANADA	* *	*	* *	*
	Ibrahim Nasir, 1902–1155 High Street, Coquitlam, BC, Canada V3B 7W4. (See alternate address in UAE).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	* *	*	* *	*
*	* * *	*	* *	*
CHINA, PEOPLE'S REPUBLIC OF.	* *	*	* *	*
	Landa Ariya Electronic Co., a.k.a., the following three aliases: —Landa Ariya Electronic Co. Ltd.; —Landa Electronic; *and* —Landa Electronics. Building B, No. 20J, Huaqiang Plaza, Shenzhen, China; *and* Huaqiang North Road, Futian District, Shenzhen, Guangdong, China. (See alternate addresses in Iran).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	* *	*	* *	*
	Nanjing FiberHome Starrysky Communication Development -o., a.k.a., the following two aliases: —Nanjing Fenghuo Xingkong Communication Development Co.; *and* —Fiberhome StarrySky Co., Ltd. 88 Yunlongshan Road, Jianye District, Nanjing China.	For all items subject to the EAR. (See § 744.11 of the EAR).	Case-by-case review for ECCNs 1A004.c, 1A004.d, 1A995, 1A999.a, 1D003, 2A983, 2D983, and 2E983, and for EAR99 items described in the Note to ECCN 1A995; case-by-case review for items necessary to detect, identify and treat infectious disease; and presumption of denial for all other items subject to the EAR.	85 FR 34505, 6/5/20. 85 FR 44159, 7/22/20.
	* *	*	* *	*
	NetPosa, a.k.a., the following three aliases: —Dongfang Netpower Technology Co.; —Dongfang Wangli Technology; and —NetPosa Technologies Ltd. Room 408, 4th Floor, Shining Xueyuan Road, Haidian District, Beijing, China; *and* Room 3603, Wanda Plaza, No. 555 Xuanwuhu Road, Economic and Technological Development Zone, Urumqi, China; *and* 26F, BLK C, Wangjing SOHO Tower 2, #1 Futong Ave, Chaoyang District, Beijing, China.	For all items subject to the EAR. (See § 744.11 of the EAR).	Case-by-case review for ECCNs 1A004.c, 1A004.d, 1A995, 1A999.a, 1D003, 2A983, 2D983, and 2E983, and for EAR99 items described in the Note to ECCN 1A995; case-by-case review for items necessary to detect, identify and treat infectious disease; and presumption of denial for all other items subject to the EAR.	85 FR 34505, 6/5/20. 85 FR 44159, 7/22/20.
	* *	*	* *	*
	Oriental Logistics Group LTD, a.k.a., the following one alias: —Oriental Air Transport Service Ltd. Room 2114, 21/F., Shenhua Commercial, Bldg, No. 2018 Jiabin Rd, Luo Hu District, Shenzhen, China 518001 (See alternate addresses in Hong Kong).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	* *	*	* *	*
	Roin Luo, Room 2114, 21/F., Shenhua Commercial, Bldg, No. 2018 Jiabin Rd, Luo Hu District, Shenzhen, China 518001.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	* *	*	* *	*

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	Federal Register citation
	SenseNets, a.k.a., the following six aliases: —Deep Net Vision; —Deep Network Vision; —Sensenets Corporation; —Shenzhen Net Vision; —Shenzhen Shenwang Vision Technology Co., Ltd.; *and* —Shenzhen Vision. 8th Floor, East Tower, Skyworth Semiconductor Design Building, No. 18 Gaoxin South 4th Road, Yuehai Street, Nanshan District, Shenzhen, China; *and* 16F, China Merchants Development Center, No. 1063, Nanhai Avenue, Nanshan District, Shenzhen, China.	For all items subject to the EAR. (See § 744.11 of the EAR).	Case-by-case review for ECCNs 1A004.c, 1A004.d, 1A995, 1A999.a, 1D003, 2A983, 2D983, and 2E983, and for EAR99 items described in the Note to ECCN 1A995; case-by-case review for items necessary to detect, identify and treat infectious disease; and presumption of denial for all other items subject to the EAR.	85 FR 34505, 6/5/20. 85 FR 44159, 7/22/20.
	* *	*	* *	*
	Shenzhen Iprogift Technology Co., Ltd, a.k.a., the following three aliases: —Iprogift Shenzhen Technology Co., Ltd.; —Shenzhen Iprogift Technology; *and* —Iprogift Shenzhen Technology. New North Door 25H Shenhua Commercial Building, Jiabin Road 2018, Luohu District, Shenzhen, China, 518000; *and* Floor 2, 4 Bldg., Jinyuan Science and Technology Industry Park, Fengmen Road Bantian Town, Longgang District, Shenzhen, China.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	* *	*	* *	*
	Shenzhen Shunjinxin Import & Export Co. Ltd., a.k.a., the following one alias: —Shenzhen Shunjinxin IMP&Export Co. Ltd. 25H North Door Shenhua Comm. Build., Jiabin Road 2018, Luohu District, Shenzhen, China; *and* Room 2114, 21/FL Shenhua Commercial Bldg, Luohu District Shenzhen, China, 518001; *and* Room 815, 8F Zhongzhen Bld., No. 68, Luofang, South Louhu, Shenzhen, China.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	* *	*	* *	*
	Shihezi Municipality Public Security Bureau, 209 N Fourth Rd., Shihezi City, XUAR 832000, China.	For all items subject to the EAR. (See § 744.11 of the EAR).	Case-by-case review for ECCNs 1A004.c, 1A004.d, 1A995, 1A999.a, 1D003, 2A983, 2D983, and 2E983, and for EAR99 items described in the Note to ECCN 1A995; case-by-case review for items necessary to detect, identify and treat infectious disease; and presumption of denial for all other items subject to the EAR.	84 FR 54004, 10/9/19. 85 FR 44159, 7/22/20.
	* *	*	* *	*
	Suki Zhan, Room 2114, 21/FL Shenhua Commercial Bldg, Luohu District Shenzhen, China, 518001; *and* Floor 2, 4 Bld., Jinyuan Science and Technology Industry Park, Fengman Road Bantian Town, Longgang District, Shenzhen, China.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
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HONG KONG	* *	*	* *	*
	Hong Kong Fung Tak Enterprise, FLAT/RM A 30, 9/F Silvercorp International Tower, 707–713, Nathan Road, Mongkok, Kowloon, Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
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SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	**Federal Register** citation
	Oriental Logistics Group LTD, a.k.a., the following one alias: —Oriental Air Transport Service Ltd. Unit B, 10th Floor, United Overseas Plaza, No. 11, Lai Yip Street, Kwun Tong, Kowloon, Hong Kong; *and* 10/F, Union Bldg, 112 How Ming, Kwun Tong, Kowloon, Hong Kong (see alternate address in China).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
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*	* * *	*	* *	*
IRAN	* *	*	* *	*
	Ahmad Nozad Gholik, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	Ali Basati, No. 2, 5th floor, Abbasian Bld., Jomhoori Ave., Tehran, Iran; *and* No. 48, Abbasian Bld, Republic Street, Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	* *	*	* *	*
	Behnam Pouremadi, Tehran Hakimi Gelayol Alley Number 19 100 Tehran 1438371659 24 Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	Behnaz Moazen, No. 2, 5th floor, Abbasian Bld., Jomhoori Ave., Tehran, Iran; *and* No. 2, 5th floor, Abbasian Bld., Republic Street, Tehran, Iran; *and* No. 48, Abbasian Bld, Republic Street, Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	Blue Lines Company, Unit 3, 13th Floor, Negar Tower, Vansk Square, Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	* *	*	* *	*
	FARSCO Aviation MRO Centre, Sanaye Havapeymaei Blvd., Karaj Makhsous Road 13976–13511, Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	* *	*	* *	*
	Hamid Sepehrian, Jaber Ibn Hayan Research Institute, AEOI, P.O. Box 11365/8486, Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	* *	*	* *	*
	Landa Ariya Electronic Co., a.k.a., the following three aliases: —Landa Ariya Electronic Co. Ltd.; —Landa Electronic; *and* —Landa Electronics. No. 2, 5th floor, Abbasian Bld., Jomhoori Ave., Tehran, Iran; *and* No. 2, 5th floor, Abbasian Bld., Republic Street, Tehran, Iran; *and* No. 48, Abbasian Bld, Republic Street, Tehran, Iran (see alternate addresses in China).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
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	Mahdi Keivan Bahari, a.k.a., the following three aliases: —Mehdi Keivan; —M. Aziz; *and;* —Aziz Bahari. Unit 3, 13th Floor, Negar Tower, Vansk Square, Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
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	Mahsa Keivan Bahari, a.k.a., the following three aliases: —Katrina Smich; —Katrina Smitch; *and* —K.A. Smich. Unit 3, 13th Floor, Negar Tower, Vansk Square, Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
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	Mohsen Asraftaba, No. 2, 5th floor, Abbasian Bld., Jomhoori Ave., Tehran, Iran; *and* No. 2, 5th floor, Abbasian Bld., Republic Street, Tehran, Iran; *and* No. 48, Abbasian Bld, Republic Street, Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	Mojtaba Farhadi Ganjeh, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
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SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	Federal Register citation
	Rouhollah Abdollahi, Sanaye Havapeymaei Blvd. Karaj Makhsous Road 13976–13511, Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	S.M. Mirbagheri, Sanaye Havapeymaei Blvd. Karaj Makhsous Road 13976–13511, Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	* *	*	* *	*
	Sayyed Javad Ahmadi, Nuclear Science and Technology Research Institute, End of North Karegar Avenue, P.O. Box 1439951113, Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
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MALAYSIA	* *	*	* *	*
	MKB Pacific Air SDN BHD, No. 214, 2nd Floor, Wisma MPL, Jalan Raja Chulan, 50200, Kuala Lumpur, Malaysia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
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OMAN	Airborne Logistics LLC, C.R. No 1/79103/6, 112 Ruwi, Sultanate of Oman.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
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PAKISTAN	* *	*	* *	*
	Affiliated Supply and Consultancy Services, Office 208, R.A. Bazar, Rawalpindi, Pakistan; *and* Office No. 210–A, R.A. Bazar, Rawalpindi, Pakistan.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	* *	*	* *	*
	Busan International, No. 2 2nd Floor Plaza 6, Upper Banl Al-Falah, DHA2, Commercial Sector E, Jinnah Boulevard, Islamabad, Pakistan.	For all items subject to the EAR. (See § 744.11 of the EAR).	See § 744.2(d) of the EAR	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	Business Empire International, a.k.a., the following one alias: —Drillage Trading FZE LLC. H–9, Block-9, Sector-F, Business Bay, DHA–1, Islamabad, Pakistan; *and* No. 13, Second Floor, Rahmat Centre, Islamabad, 44000.	For all items subject to the EAR. (See § 744.11 of the EAR).	See § 744.2(d) of the EAR	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	* *	*	* *	*
	IMCO Technology and Services, a.k.a., including the following alias: —IMCO. No. 9, 2nd Floor, Royal Inn Plaza, Kohistan Road, F–8 Mar kaz, Islamabad, Pakistan.	For all items subject to the EAR. (See § 744.11 of the EAR).	See § 744.2(d) of the EAR	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	* *	*	* *	*
	Iqbal Enterprises, 14 Nishter Road, Lahore, Pakistan.	For all items subject to the EAR. (See § 744.11 of the EAR).	See § 744.2(d) of the EAR	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	* *	*	* *	*
	KTK Engineering (PVT) LTD, 29–M, Civic Centre, Model Town Ext., Lahore, Pakistan.	For all items subject to the EAR. (See § 744.11 of the EAR).	See § 744.2(d) of the EAR	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
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THAILAND	* *	*	* *	*
	Marilog Avion Services Company, Limited, 987 Silom Road, Bang Rak, Bangkok, Thailand, 10500.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	Mohamad Rifan, 987 Silom Road, Bang Rak, Bangkok, Thailand, 10500.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
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TURKEY	* *	*	* *	*
	Blue Lines FZE, Unit 2706, Floor 27, Maslak Baybigiz Plaza, 34396, Istanbul, Turkey (see alternate address under United Arab Emirates).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
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UNITED ARAB EMIRATES.	* *	*	* *	*

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	**Federal Register** citation
	Abdulla K. Al Suleimani, a.k.a., the following two aliases: —Shehab Ahmed; *and* —Hamad Abdulla. Jebel Ali Free Zone, P.O. Box 61002, Dubai, United Arab Emirates.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	* *	*	* *	*
	Ajmal Aviation, P.O. Box 40445, Building C1, Ajman Free Zone, Ajman, United Arab Emirates.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	* *	*	* *	*
	Blue Lines FZE, RAK Free Zone, P.O. Box 10559, Ras Al Khaimah, United Arab Emirates (see alternate address under Turkey).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	* *	*	* *	*
	E and I Systems FZE, Business Centre, Al Shmookh Building, UAQ Free Trade Zone, Umm Al Quwain, United Arab Emirates.	For all items subject to the EAR. (See § 744.11 of the EAR).	See § 744.2(d) of the EAR	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	* *	*	* *	*
	Ibrahim Nasir, P.O. Box 32332, Dubai, United Arab Emirates (See additional address in Canada).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	* *	*	* *	*
	Lufti Busaidi Sulaiman, a.k.a., the following one alias: — Lufti Al Busaidi. Jebel Ali Free Zone, P.O. Box 61002, Dubai, United Arab Emirates.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	* *	*	* *	*
	Mohamed Nashir, Jebel Ali Free Zone, P.O. Box 61002, Dubai, United Arab Emirates.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	* *	*	* *	*
	Rigsol Well Drilling Equipment Trading, a.k.a., the following one alias: —Rigsol. Saleh Al Kazim, Deira, Garhoud, Dubai, United Arab Emirates; *and* Office No. 3, Al Kazim Building, Garhoud, Dubai, United Arab Emirates.	For all items subject to the EAR. (See § 744.11 of the EAR).	See § 744.2(d) of the EAR	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	* *	*	* *	*
	S&D Industry Ltd., Souk Al Kabeer Building, Office No. F01, Bur Dubai Area, P.O. Box 932, Dubai, United Arab Emirates; *and* Office No. 1, Galadari Engineering Works Building, Deira, Dubai, United Arab Emirates; *and* 1304 Al Baker Tower 4, Al Tawun, Sharjah, United Arab Emirates.	For all items subject to the EAR. (See § 744.11 of the EAR).	See § 744.2(d) of the EAR	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	* *	*	* *	*
	Shehab Bin Braik Al Breiki, Jebel Ali Free Zone, P.O. Box 61002, Dubai, United Arab Emirates.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
	* *	*	* *	*
	Transworld Aviation, a.k.a., the following one alias: —Transworld Aviation FZE. Jebel Ali Free Zone, P.O. Box 61002, Dubai, United Arab Emirates.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	85 FR [INSERT FR PAGE NUMBER] 9/22/20.
UNITED KINGDOM	* *	*	* *	*
	Aviation Network Associates, a.k.a., the following one alias: —Aviana. 24 Chiswell Street, 3rd Floor, London, United Kingdom EC1Y 4YX.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	84 FR [INSERT FR PAGE NUMBER] 9/22/20.
	* *	*	* *	*
	Chas Newport, 24 Chiswell Street, 3rd Floor, London, United Kingdom EC1Y 4YX.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	84 FR [INSERT FR PAGE NUMBER] 9/22/20.
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	Daniel Basden, Aviation 3 Trebeck Street, Mayfair, London, United Kingdom W1J7 LS.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	84 FR [INSERT FR PAGE NUMBER] 9/22/20.
	* *	*	* *	*
	Graham Avery, Aviation 3 Trebeck Street, Mayfair, London, United Kingdom W1J7 LS.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	84 FR [INSERT FR PAGE NUMBER] 9/22/20.
	* *	*	* *	*

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	Federal Register citation
	PremiAir Aerospace, a.k.a., the following one alias: —Aviation International. Aviation 3 Trebeck Street, Mayfair, London, United Kingdom W1J7 LS; *and* Station Cottage, The Street, Nacton, Ipswich, Suffolk, United Kingdom, IP10 0HR.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	84 FR [INSERT FR PAGE NUMBER] 9/22/20.
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Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 2020–18515 Filed 9–21–20; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 514

[Docket No. FDA–2017–N–6381]

RIN 0910–AH51

Postmarketing Safety Reports for Approved New Animal Drugs; Electronic Submission Requirements; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is correcting a final rule that published in the **Federal Register** of July 29, 2020. That final rule requires electronic submission of certain postmarketing safety reports for approved new animal drugs and provides a procedure for requesting a temporary waiver of the electronic submission requirement. Table 2 of the final rule published with errors and this document corrects those errors. We are placing a corrected copy of the final rule in the docket.

DATES: Effective September 22, 2020.

FOR FURTHER INFORMATION CONTACT: Linda Walter-Grimm, Center for Veterinary Medicine (HFV–240), Food and Drug Administration, 7519 Standish Pl., MPN4, Rm. 2666, Rockville, MD 20855, 240–402–5762, *Linda.Walter-Grimm@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 29, 2020, (85 FR 45505), FDA published the final rule ''Postmarketing Safety Reports for Approved New Animal Drugs; Electronic Submission Requirements'' with errors in table 2.

In FR Doc. 2020–15441, appearing on page 45509 in the **Federal Register** of July 29, 2020, the following corrections are made:

TABLE 2—EXECUTIVE ORDER 13771 SUMMARY TABLE

[In 2016 Dollars over an infinite time horizon]

	Primary (7%)	Lower bound (7%)	Upper bound (7%)	Primary (3%)	Lower bound (3%)	Upper bound (3%)
Present Value of Costs	$69,720			$75,346		
Present Value of Cost Savings	73,557			171,634		
Present Value of Net Costs	(3,837)			(96,287)		
Annualized Costs	4,880			2,260		
Annualized Cost Savings	5,149			5,149		
Annualized Net Costs	(269)			(2,889)		

Dated: August 14, 2020.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2020–18263 Filed 9–21–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9908]

RIN 1545–B052

Ownership Attribution Under Section 958 Including for Purposes of Determining Status as Controlled Foreign Corporation or United States Shareholder

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the modification of section 958(b) of the Internal Revenue Code (''Code'') by the Tax Cuts and Jobs Act, which was enacted on December 22, 2017. This document finalizes the proposed regulations published on October 2, 2019. The final regulations affect United States persons that have ownership interests in, or that make or receive payments to or from, certain foreign corporations.

DATES: *Effective date:* These regulations are effective on September 22, 2020.

Applicability dates: For dates of applicability, see §§ 1.267(a)–3(d), 1.332–8(b), 1.367(a)–8(r)(1)(i), 1.672(f)–2(e), 1.706–1(b)(6)(v)(A), 1.863–8(h), 1.863–9(l), 1.904–5(o), 1.958–2(h), and 1.6049–5(g).

FOR FURTHER INFORMATION CONTACT: Christina G. Daniels, (202) 317–6934 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

As in effect before its repeal, section 958(b)(4) provided that section 318(a)(3)(A), (B), and (C) (providing for downward attribution) was not to be applied so as to consider a United States person as owning stock owned by a person who is not a United States person (a ''foreign person''). Section 14213 of the Tax Cuts and Jobs Act, Public Law 115–97 (the ''Act'') repealed section 958(b)(4), effective for the last taxable year of foreign corporations beginning before January 1, 2018, and each subsequent year of the foreign corporations, and for the taxable years of United States shareholders (as defined in section 951(b)) (''U.S. shareholders'') in which or with which such taxable years of the foreign corporations end. As a result of this repeal, stock of a foreign corporation owned by a foreign person can be attributed to a United States person under section 318(a)(3) for various purposes, including for purposes of determining whether a United States person is a U.S. shareholder of the foreign corporation and, therefore, whether the foreign corporation is a controlled foreign corporation (within the meaning of section 957) (''CFC'').

On October 2, 2019, the Department of the Treasury (''Treasury Department'') and the IRS published proposed regulations (REG–104223–18) relating to the repeal of section 958(b)(4) by the Act, in the **Federal Register** (84 FR 52398) (the ''proposed regulations''). Additional guidance related to the repeal of section 958(b)(4), including relief from certain information reporting requirements and safe harbors for determining whether a foreign corporation is a CFC and for determining certain items of a CFC (such as taxable income and earnings and profits) based on alternative information, was issued along with the proposed regulations. *See* Revenue Procedure 2019–40, 2019–43 I.R.B. 982. No public hearing on the proposed regulations was requested or held. All of the written comments that were received by the Treasury Department and the IRS in response to the proposed regulations are available at www.regulations.gov or upon request. This Treasury decision adopts the proposed regulations as final regulations with the modifications discussed in the Summary of Comments and Explanation of Revisions section of this preamble. Comments outside of the scope of this rulemaking are generally not addressed but may be considered in connection with future guidance.

A notice of proposed rulemaking published in the Proposed Rules section of this issue of the **Federal Register** (REG–110059–20) provides regulations under section 954(c)(6) to ensure that the operation of section 954(c)(6) is consistent with its application before the Act's repeal of section 958(b)(4). The notice of proposed rulemaking also modifies the regulations under section 367(a) regarding the direct or indirect transfer of stock or securities of a domestic corporation by a United States person (as defined in section 7701(a)(30)) to a foreign corporation to ensure the attribution rules are applied consistently following the Act's repeal of section 958(b)(4).

Summary of Comments and Explanation of Revisions

I. Changes in Connection With Repeal of Section 958(b)(4)

A. Overview

The final regulations, like the proposed regulations, generally make modifications to ensure that the operation of certain rules outside of subpart F of subchapter N of chapter 1 of the Code (''subpart F'') are consistent with their application before the Act's repeal of section 958(b)(4). Comments generally supported the approach of the proposed regulations but requested additional modifications, as discussed in more detail in this Summary of Comments and Explanation of Revisions.

B. Section 267: Deduction for Certain Payments to Foreign Related Persons

Section 267(a)(2) sets forth a matching rule that generally provides that if a payment is made to a related person and is not includible in the payee's gross income until paid, the amount is not allowable as a deduction to the taxpayer until the amount is includible in the gross income of the payee (''general matching rule''). Pursuant to regulations issued under section 267(a)(3)(A),[1] subject to certain exceptions, a taxpayer must use the cash method of accounting for deductions of amounts owed to a related foreign person (''foreign payee rule''). The foreign payee rule does not apply to the following amounts: (i) A foreign source amount, other than interest, that is not effectively connected with the conduct of a U.S. trade or business; (ii) an amount, other than interest, that is exempt from U.S. taxation pursuant to a treaty obligation of the United States; and (iii) an amount that is effectively connected with the conduct of a U.S trade or business (although payments in this clause (iii) are subject to the general matching rule of section 267(a)(2)). *See* § 1.267(a)–3(b) and (c)(1) and (2).

Section 267(a)(3)(B)(i) provides that, notwithstanding the foreign payee rule in section 267(a)(3)(A), in the case of any item payable to a CFC, a deduction is allowable to the payor for any taxable year before the year in which the payment is made only to the extent that an amount attributable to the item is includible during such prior taxable year in the gross income of a United States person who owns (within the meaning of section 958(a)) stock in such CFC (''CFC payee rule''). Under the proposed regulations, however, an amount (other than interest) that is income of a related foreign person and exempt from U.S. taxation pursuant to a treaty obligation of the United States

[1] In 2004, section 267(a)(3) was amended to redesignate existing section 267(a)(3) as section 267(a)(3)(A), and a new section 267(a)(3)(B) was added. Public Law 108–357. The regulations in § 1.267(a)–3 were issued in 1993, under section 267(a)(3) as it existed at the time, currently section 267(a)(3)(A).

was not subject to the CFC payee rule if the related foreign person is a CFC that did not have any U.S. shareholders that owned (within the meaning of section 958(a)) stock in such CFC (a ''section 958(a) U.S. shareholder''). *See* proposed § 1.267(a)–3(c)(4).

A comment received shortly before the proposed regulations were published suggested that the regulations should broadly provide that, with respect to all payments subject to section 267(a)(3), the CFC payee rule in section 267(a)(3)(B)(i) applies only to the extent a recipient CFC has one or more section 958(a) U.S. shareholders and that it should be applied without regard to the repeal of section 958(b)(4). Consistent with the purpose of the general matching rule in section 267(a)(2) and in order for the foreign payee rule in section 267(a)(3)(A) to apply consistently with its application before the repeal of section 958(b)(4), the Treasury Department and the IRS agree that, with respect to all payments (including interest) subject to section 267(a)(3), the CFC payee rule in section 267(a)(3)(B)(i) should not apply if a recipient CFC does not have any section 958(a) U.S. shareholders who are required to include amounts in income with respect to the CFC. However, the Treasury Department and the IRS do not agree that the CFC payee rule should be applied without regard to the repeal of section 958(b)(4), because that could permit the avoidance of the CFC payee rule (and the purposes of the matching rule in general) in foreign-parented structures where a section 958(a) U.S. shareholder is required to include amounts in income with respect to a recipient foreign corporation that is a CFC due solely to the repeal of section 958(b)(4). Accordingly, the exception from the CFC payee rule in proposed § 1.267(a)–3(c)(4) is expanded in the final regulations to apply to all amounts payable to a related foreign person that is a CFC that does not have any section 958(a) U.S. shareholders. *See* § 1.267(a)–3(c)(4). As a result, the foreign payee rule in section 267(a)(3)(A) and the regulations under that section will apply to those payments exempt from the application of the CFC payee rule. However, the CFC payee rule continues to apply to a CFC that has a section 958(a) shareholder even if the foreign corporation is a CFC due solely to the repeal of section 958(b)(4).

C. Section 881(c): Portfolio Interest

Section 881(c) exempts from tax under section 881(a) U.S.-source portfolio interest received by a foreign corporation (''portfolio interest exception''). For this purpose, portfolio interest generally includes interest paid on a debt obligation that is in registered form but excludes, among other things, interest received by a CFC from a related person (within the meaning of section 864(d)(4)). *See* section 881(c)(2) and (3). The repeal of section 958(b)(4) results in foreign corporations that were previously not CFCs (and thus potentially eligible for the portfolio interest exception for interest received from related persons) being ineligible for the exception on such interest.

A comment requested that the general approach of the proposed regulations to exclude, where appropriate, CFCs that are CFCs solely as a result of the repeal of section 958(b)(4) be extended to the portfolio interest exception so that CFCs that were not previously CFCs could continue to be eligible for the portfolio interest exception. The rules set forth in the proposed regulations were all issued pursuant to specific grants of regulatory authority, and the Treasury Department and the IRS have determined that there is no statutory or regulatory authority to modify the limitation on the portfolio interest exception for payments received by CFCs from a related person. Accordingly, the recommendation is not adopted.

The comment also requested that the Treasury Department and the IRS issue guidelines for withholding agents that might not be in a position to know whether a payee was affected by the repeal of section 958(b)(4) and thus might not know whether the payee qualifies for the portfolio interest exception or whether the withholding agent may be required to withhold under section 1442. The comment posited scenarios in which a U.S. payor would not necessarily have the information to determine whether a foreign corporation payee is a CFC and thus would err on the side of withholding as if it were a CFC.

A withholding agent is generally subject to an actual knowledge or reason to know standard. *See* § 1.1441–7(b)(1). A withholding agent is considered to have reason to know with respect to a claim relevant to withholding under chapter 3 (including section 1442) if ''its knowledge of relevant facts or of statements contained in the withholding certificates or other documentation is such that a reasonably prudent person in the position of the withholding agent would question the chapter 3 claims made.'' *See* § 1.1441–7(b)(2). The Treasury Department and the IRS have concluded that this standard is appropriate for withholding agents, and additional rules applicable only to portfolio interest are not necessary. Moreover, it would be outside of the scope of this rulemaking to provide rules generally applicable to the standard of diligence applicable to withholding agents. Accordingly, the suggestion is not adopted.

D. Section 1248: Gain From Certain Sales or Exchanges of Stock in Certain Foreign Corporations

Section 1248(a) provides that certain gain recognized on the sale or exchange of stock of a foreign corporation by a United States person is included in the gross income of that person as a dividend if (i) the foreign corporation was a CFC at any time during the five-year period ending on the date of the sale or exchange, and (ii) the United States person owned or is considered to have owned, within the meaning of section 958, 10 percent or more of the total combined voting power of the foreign corporation at any time during that five-year period. A comment suggested that, consistent with the approach taken in the proposed regulations with respect to other sections, section 958(b) should be applied without regard to the repeal of section 958(b)(4) for purposes of section 1248 to prevent unintended consequences.

The final regulations do not adopt this comment because the Treasury Department and the IRS have determined that section 958(b), as modified by the Act, should apply for purposes of section 1248. This treatment is consistent with the application of section 958(b) for purposes of the subpart F provisions, and this consistent treatment is appropriate because one of the types of transactions that the repeal of section 958(b)(4) was intended to address—that is, transactions used to avoid the subpart F provisions, including decontrolling a foreign subsidiary to convert a CFC to a non-CFC—could also be used to avoid the section 1248 provisions.

E. Section 1297: PFIC Asset Test

The proposed regulations modified the definition of a CFC for purposes of section 1297(e) to disregard downward attribution from foreign persons. *See* proposed § 1.1297–1(d)(1)(iii)(A). On July 11, 2019, the Treasury Department and the IRS published other proposed regulations (REG–105474–18) under § 1.1297–1 in the **Federal Register** (84 FR 33120) (the ''PFIC proposed regulations''). The Treasury Department and the IRS have decided to finalize proposed § 1.1297–1(d)(1)(iii)(A) as part of the Treasury Decision finalizing the PFIC proposed regulations.

F. Section 6049: Chapter 61 Reporting Provisions

Generally, under chapter 61 of subtitle F of the Code, a payor must report to the IRS (using the appropriate Form 1099) certain payments or transactions with respect to United States persons that are not exempt recipients. The regulations under chapter 61 generally provide that the scope of payments or transactions subject to reporting under chapter 61 depends, in part, on whether or not the payor is a U.S. payor (as defined in § 1.6049–5(c)(5)(i)), which generally includes United States persons and their foreign branches, as well as CFCs. To mitigate the increased Form 1099 reporting by foreign corporations that may have no direct or indirect owners that are United States persons, in accordance with the regulatory authority provided in section 6049(a), proposed § 1.6049–5(c)(5)(i)(C) provided that a U.S. payor includes only a CFC that is a CFC without regard to downward attribution from a foreign person.

A comment requested that the exception from Form 1099 reporting be expanded to all CFCs, even if they would be CFCs without regard to the repeal of section 958(b)(4), due to the burden of the required reporting and the interaction with the requirements of local law to which CFCs are subject. Because the comment does not relate to the consequences of the repeal of section 958(b)(4), it is outside of the scope of these regulations. As a result, the rules in proposed § 1.6049–5 are finalized as proposed.

II. Applicability Dates

These regulations generally apply on or after October 1, 2019. For taxable years before taxable years covered by the regulations, a taxpayer may generally apply the rules set forth in the final regulations to the last taxable year of a foreign corporation beginning before January 1, 2018, and each subsequent taxable year of the foreign corporation, and to taxable years of U.S. shareholders in which or with which such taxable years of the foreign corporation end, provided that the taxpayer and United States persons that are related (within the meaning of section 267 or 707) to the taxpayer consistently apply the relevant rule with respect to all foreign corporations. *See* section 7805(b)(7). Moreover, although § 1.958–2 applies to taxable years of foreign corporations ending on or after October 1, 2019, and taxable years of U.S. shareholders in which or with which such taxable years of foreign corporations end, the same result applies before such date due to the effective date of the repeal of section 958(b)(4).

III. Effect on Other Documents

Section 5.01 of Notice 2018–13 (2018–6 I.R.B. 341) is obsolete as of September 22, 2020.

Statement of Availability of IRS Documents

IRS Revenue Procedures, Revenue Rulings, notices, and other guidance cited in this document are published in the Internal Revenue Bulletin and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at *http://www.irs.gov.*

Special Analyses

These regulations are not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations.

It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities within the meaning of section 601(6) of the Regulatory Flexibility Act (5 U.S.C. chapter 6). The regulations do not impose any new costs on taxpayers. Moreover, the regulations generally affect CFCs and U.S. shareholders of CFCs. CFCs, as foreign corporations, are not considered small entities. Nor are U.S. taxpayers considered small entities to the extent the taxpayers are natural persons or entities other than small entities. Thus, the regulations generally only affect small entities if a U.S. taxpayer that is a U.S. shareholder of a CFC is a small entity.

Consequently, the Treasury Department and the IRS have determined that the regulations will not have a significant economic impact on a substantial number of small entities. Notwithstanding this certification, the Treasury Department and the IRS invite comments on the impacts of these regulations on small entities.

Pursuant to section 7805(f), the notice of proposed rulemaking preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business. No comments were received.

Drafting Information

The principal authors of the regulations are Karen J. Cate and Christina G. Daniels of the Office of Associate Chief Counsel (International). However, other personnel from the Treasury Department and the IRS participated in the development of the regulations.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by revising the entry for § 1.267(a)–3 and adding an entry for § 1.332–8 in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

* * * * *

Section 1.267(a)–3 also issued under 26 U.S.C. 267(a)(3)(A) and (a)(3)(B)(ii).

* * * * *

Section 1.332–8 also issued under 26 U.S.C. 332(d)(4).

* * * * *

■ **Par. 2.** Section 1.267(a)–3 is amended:

■ 1. In paragraph (c)(2), the first sentence, by removing the language ''or (a)(3)''.

■ 2. By revising paragraph (c)(4).

■ 3. In paragraph (d), by revising the second sentence and adding five sentences at the end of the paragraph.

The revisions and additions read as follows:

§ 1.267(a)–3 Deduction of amounts owed to related foreign persons.

* * * * *

(c) * * *

(4) *Certain amounts owed to certain controlled foreign corporations.* An amount that is income of a related foreign person is exempt from the application of section 267(a)(3)(B)(i) if the related foreign person is a controlled foreign corporation that does not have any United States shareholders (as defined in section 951(b)) that own (within the meaning of section 958(a)) stock of the controlled foreign corporation. However, in this case, the amount is subject to the application of section 267(a)(3)(A) in the same manner as if the related foreign person were a foreign corporation that is not a controlled foreign corporation.

(d) * * * Except as otherwise provided in this paragraph (d), the regulations in this section issued under

section 267 apply to all other deductible amounts that are incurred after July 31, 1989, but do not apply to amounts that are incurred pursuant to a contract that was binding on September 29, 1983, and at all times thereafter (unless the contract was renegotiated, extended, renewed, or revised after that date). Paragraph (c)(2) of this section applies to payments accrued on or after October 22, 2004. For payments accrued before October 22, 2004, see § 1.267(a)–3(c)(2), as contained in 26 CFR part 1, revised as of April 1, 2004. Paragraph (c)(4) of this section applies to payments accrued on or after October 1, 2019. For payments accrued before October 1, 2019, a taxpayer may apply paragraph (c)(4) of this section for payments accrued during the last taxable year of a foreign corporation beginning before January 1, 2018, and each subsequent taxable year of the foreign corporation, provided that the taxpayer and United States persons that are related (within the meaning of section 267 or 707) to the taxpayer consistently apply such paragraph with respect to all foreign corporations. For payments accrued before October 22, 2004, see § 1.267(a)–3(c)(4), as contained in 26 CFR part 1, revised as of April 1, 2004.

■ **Par. 3.** Section 1.332–8 is added to read as follows:

§ 1.332–8 Recognition of gain on liquidation of certain holding companies.

(a) *Definition of controlled foreign corporation.* For purposes of section 332(d)(3), a controlled foreign corporation has the meaning provided in section 957, determined without applying section 318(a)(3)(A), (B), and (C) so as to consider a United States person as owning stock which is owned by a person who is not a United States person.

(b) *Applicability date.* This section applies to distributions in complete liquidation occurring on or after October 1, 2019, and to distributions in complete liquidation occurring before October 1, 2019, that result from an entity classification election made under § 301.7701–3 of this chapter that is filed on or after October 1, 2019. For distributions in complete liquidation occurring before October 1, 2019, other than distributions in complete liquidation occurring before October 1, 2019, that result from an entity classification election made under § 301.7701–3 of this chapter that is filed on or after October 1, 2019, a taxpayer may apply this section to distributions in complete liquidation occurring during the last taxable year of a distributee foreign corporation beginning before January 1, 2018, and each subsequent taxable year of the foreign corporation, provided that the taxpayer and United States persons that are related (within the meaning of section 267 or 707) to the taxpayer consistently apply this section with respect to all foreign corporations.

■ **Par. 4.** Section 1.367(a)-8 is amended:

■ 1. In paragraph (k)(14)(ii), by revising the second sentence.

■ 2. In paragraph (p)(3), by designating Examples 1 through 4 as paragraphs (p)(3)(i) through (iv), respectively.

■ 3. In newly redesignated paragraphs (p)(3)(i) through (iv), by redesignating the paragraphs in the first column as the paragraphs in the second column:

Old paragraphs	New paragraphs
(p)(3)(i)(i) and (ii)	(p)(3)(i)(A) and (B).
(p)(3)(ii)(i) and (ii)	(p)(3)(ii)(A) and (B).
(p)(3)(iii)(i) and (ii)	(p)(3)(iii)(A) and (B).
(p)(3)(iv)(i) and (ii)	(p)(3)(iv)(A) and (B).

■ 4. In each newly redesignated paragraph listed in the first column, by removing the language in the second column and adding in its place the language in the third column:

Paragraph	Remove	Add
(p)(3)(i)(B)	this *Example 1*	in paragraph (p)(3)(i)(A) of this section (the facts of this *Example 1*).
(p)(3)(ii)(B)	this *Example 2*	in paragraph (p)(3)(ii)(A) of this section (the facts of this *Example 2*).

■ 5. In paragraph (q)(2), by removing the language ''at least 5% (applying the attribution rules of section 318, as modified by section 958(b))'' wherever it appears and adding the language ''at least 5% (determined as provided in paragraph (k)(14)(ii) of this section)'' in its place.

■ 6. In paragraph (q)(2), by designating *Examples 1* through *25* as paragraphs (q)(2)(i) through (xxv), respectively.

■ 7. In newly redesignated paragraphs (q)(2)(i) through (xxv), by redesignating the paragraphs in the first column as the paragraphs in the second column:

Old paragraphs	New paragraphs
(q)(2)(i)(i) and (ii)	(q)(2)(i)(A) and (B).
(q)(2)(ii)(i) and (ii)	(q)(2)(ii)(A) and (B).
(q)(2)(ii)(B)(A) and (B)	(q)(2)(ii)(B)(*1*) and (*2*).
(q)(2)(iii)(i) and (ii)	(q)(2)(iii)(A) and (B).
(q)(2)(iv)(i) and (ii)	(q)(2)(iv)(A) and (B).
(q)(2)(iv)(B)(A) and (B)	(q)(2)(iv)(B)(*1*) and (*2*).
(q)(2)(iv)(B)(*2*)(*1*) through (*3*)	(q)(2)(iv)(B)(*2*)(*i*) through (*iii*).
(q)(2)(v)(i) and (ii)	(q)(2)(v)(A) and (B).
(q)(2)(vi)(i) through (iii)	(q)(2)(vi)(A) through (C).
(q)(2)(vi)(B)(A) and (B)	(q)(2)(vi)(B)(*1*) and (*2*).
(q)(2)(vi)(B)(*2*)(*1*) through (*3*)	(q)(2)(vi)(B)(*2*)(*i*) through (*iii*).

Old paragraphs	New paragraphs
(q)(2)(vii)(i) and (ii)	(q)(2)(vii)(A) and (B).
(q)(2)(viii)(i) and (ii)	(q)(2)(viii)(A) and (B).
(q)(2)(ix)(i) and (ii)	(q)(2)(ix)(A) and (B).
(q)(2)(x)(i) and (ii)	(q)(2)(x)(A) and (B).
(q)(2)(x)(B)(A) through (C)	(q)(2)(x)(B)(*1*) through (*3*).
(q)(2)(xi)(i) through (iii)	(q)(2)(xi)(A) through (C).
(q)(2)(xii)(i) and (ii)	(q)(2)(xii)(A) and (B).
(q)(2)(xii)(B)(A) through (C)	(q)(2)(xii)(B)(*1*) through (*3*).
(q)(2)(xiii)(i) and (ii)	(q)(2)(xiii)(A) and (B).
(q)(2)(xiv)(i) and (ii)	(q)(2)(xiv)(A) and (B).
(q)(2)(xiv)(B)(A) and (B)	(q)(2)(xiv)(B)(*1*) and (*2*).
(q)(2)(xv)(i) and (ii)	(q)(2)(xv)(A) and (B).
(q)(2)(xvi)(i) and (ii)	(q)(2)(xvi)(A) and (B).
(q)(2)(xvii)(i) and (ii)	(q)(2)(xvii)(A) and (B).
(q)(2)(xvii)(B)(A) through (C)	(q)(2)(xvii)(B)(*1*) through (*3*).
(q)(2)(xvii)(B)(*3*)(*1*) through (*3*)	(q)(2)(xvii)(B)(*3*)(*i*) through (*iii*).
(q)(2)(xviii)(i) and (ii)	(q)(2)(xviii)(A) and (B).
(q)(2)(xix)(i) and (ii)	(q)(2)(xix)(A) and (B).
(q)(2)(xx)(i) through (vi)	(q)(2)(xx)(A) through (F).
(q)(2)(xx)(B)(A) and (B)	(q)(2)(xx)(B)(*1*) and (*2*).
(q)(2)(xx)(B)(*1*)(*1*) and (*2*)	(q)(2)(xx)(B)(*1*)(*i*) and (*ii*).
(q)(2)(xxi)(i) and (ii)	(q)(2)(xxi)(A) and (B).
(q)(2)(xxi)(B)(A) through (C)	(q)(2)(xxi)(B)(*1*) through (*3*).
(q)(2)(xxii)(i) through (iii)	(q)(2)(xxii)(A) through (C).
(q)(2)(xxii)(B)(A) through (C)	(q)(2)(xxii)(B)(*1*) through (*3*).
(q)(2)(xxii)(C)(A) through (C)	(q)(2)(xxii)(C)(*1*) through (*3*).
(q)(2)(xxiii)(i) through (iv)	(q)(2)(xxiii)(A) through (D).
(q)(2)(xxiii)(B)(A) through (D)	(q)(2)(xxiii)(B)(*1*) through (*4*).
(q)(2)(xxiii)(C)(A) and (B)	(q)(2)(xxiii)(C)(*1*) and (*2*).
(q)(2)(xxiv)(i) and (ii)	(q)(2)(xxiv)(A) and (B).
(q)(2)(xxv)(i) and (ii)	(q)(2)(xxv)(A) and (B)

■ 8. In each newly redesignated paragraph listed in the first column, by removing the language in the second column and adding in its place the language in the third column:

Paragraph	Remove	Add
(q)(2)(ii)(B)(*2*)	paragraph (ii)(A) of this *Example 2*	paragraph (q)(2)(ii)(B)(*1*) of this section (paragraph (*1*) in the results in this *Example 2*).
(q)(2)(iv)(B)(*2*)(*i*)	paragraph (ii)(A) of this *Example 4*	paragraph (q)(2)(iv)(B)(*1*) of this section (paragraph (*1*) in the results in this *Example 4*).
(q)(2)(vi)(B)(*1*)	paragraph (ii)(B) of this *Example 6*	paragraph (q)(2)(vi)(B)(*2*) of this section (paragraph (*2*) in the results in this *Example 6*).
(q)(2)(vi)(C)	paragraph (i) of this *Example 6*	paragraph (q)(2)(vi)(A) of this section (the facts in this *Example 6*).
(q)(2)(xi)(C)	paragraph (i) of this *Example 11*	paragraph (q)(2)(xi)(A) of this section (the facts in this *Example 11*).
(q)(2)(xx)(C)	paragraph (i) of this *Example 20*	paragraph (q)(2)(xx)(A) of this section (the facts in this *Example 20*).
(q)(2)(xx)(C)	paragraph (ii) of this *Example 20*	paragraph (q)(2)(xx)(B) of this section (the results in this *Example 20*).
(q)(2)(xx)(D)	paragraph (i) of this *Example 20*	paragraph (q)(2)(xx)(A) of this section (the facts in this *Example 20*).
(q)(2)(xx)(D)	paragraph (ii) of this *Example 20*	paragraph (q)(2)(xx)(B) of this section (the facts in this *Example 20*).
(q)(2)(xx)(E)	paragraph (i) of this *Example 20*	paragraph (q)(2)(xx)(A) of this section (the facts in this *Example 20*).
(q)(2)(xx)(F)	paragraph (i) of this *Example 20*	paragraph (q)(2)(xx)(A) of this section (the facts in this *Example 20*).
(q)(2)(xxii)(C) introductory text.	in paragraph (i) of this *Example 22*	paragraph (q)(2)(xxii)(A) of this section (the facts in this *Example 22*).
(q)(2)(xxiii)(C) introductory text.	paragraph (i) of this *Example 23*	paragraph (q)(2)(xxiii)(A) of this section (the facts in this *Example 23*).
(q)(2)(xxiii)(C) introductory text.	paragraph (ii) of this *Example 23*	paragraph (q)(2)(xxiii)(B) of this section (the results in this *Example 23*).
(q)(2)(xxiii)(D)	paragraph (i) of this *Example 23*	paragraph (q)(2)(xxiii)(A) of this section (the facts in this *Example 23*).
(q)(2)(xxiv)(A)	in paragraph (i) of *Example 6*	paragraph (q)(2)(vi)(A) of this section (the facts in *Example 6*)

■ 9. In each paragraph listed in the first column, by removing the language in the second column and adding in its place the language in the third column:

Paragraph	Remove	Add
(c)(1)(ii)	(q)(2) of this section, Example 6	(q)(2)(vi) of this section.
(c)(4)(iv)	paragraph (q)(2) of this section, Examples 1, 2, 3, and 5.	paragraphs (q)(2)(i), (ii), (iii), and (v) of this section.
(j)(1)	(q)(2) of this section, Example 2	(q)(2)(ii) of this section.
(k)(1) introductory text	(q)(2) of this section, Example 4	(q)(2)(iv) of this section.
(k)(1)(ii)	(q)(2) of this section, Example 3	(q)(2)(iii) of this section.
(k)(1)(iii)	(q)(2) of this section, Example 11	(q)(2)(xi) of this section.
(k)(6)(i)	(q)(2) of this section, Example 5	(q)(2)(v) of this section.
(k)(6)(i)	(q)(2) of this section, Example 6	(q)(2)(vi) of this section.
(k)(6)(ii)	(q)(2) of this section, Example 7	(q)(2)(vii) of this section.
(k)(6)(iii)	(q)(2) of this section, Example 8	(q)(2)(viii) of this section.
(k)(8)	(q)(2) of this section, Example 9	(q)(2)(ix) of this section.
(k)(12)(i)	(q)(2) of this section, Example 20	(q)(2)(xx) of this section.
(k)(14) introductory text	paragraph (q)(2), Examples 4, 6, 10, 12, 17, 21, and 23 of this section.	paragraphs (q)(2)(iv), (vi), (x), (xii), (xvii), (xxi), and (xxiii) of this section.
(m)(1)	(q)(2) of this section, Example 13	(q)(2)(xiii) of this section.
(n)(1)	(q)(2) of this section, Example 14	(q)(2)(xiv) of this section.
(o)(1)(ii)	(q)(2) of this section, Example 15	(q)(2)(xv) of this section.
(o)(1)(iii) introductory text	(q)(2) of this section, Example 16	(q)(2)(xvi) of this section.
(o)(5)(i)(A)	(q)(2) of this section, Example 18	(q)(2)(xviii) of this section.
(o)(5)(i)(B)	(q)(2) of this section, Example 19	(q)(2)(xix) of this section.
(o)(5)(i)(C)	(q)(2) of this section, Example 22	(q)(2)(xxii) of this section.
(o)(5)(i)(D)	(q)(2) of this section, Example 22	(q)(2)(xxii) of this section.
(o)(6)	(q)(2) of this section, Example 20	(q)(2)(xx) of this section.
(r)(2)(i)	paragraph (q)(2) of this section, Examples 24 and 25	paragraphs (q)(2)(xxiv) and (xxv) of this section

■ 10. By revising the paragraph (r) subject heading.

■ 11. In paragraph (r)(1)(i), by adding three sentences at the end of the paragraph.

The revisions and addition read as follows:

§ 1.367(a)–8 Gain recognition agreement requirements.

* * * * *

(k) * * *

(14) * * *

(ii) * * * If, as a result of the disposition or other event, a foreign corporation acquires the transferred stock or securities or, as applicable, substantially all the assets of the transferred corporation, the condition of this paragraph (k)(14)(ii) is satisfied only if the U.S. transferor owns at least five percent (applying the attribution rules of section 318, as modified by section 958(b) but without applying section 318(a)(3)(A), (B), and (C) so as to consider the U.S. transferor as owning stock which is owned by a person who is not a United States person) of the total voting power and the total value of the outstanding stock of such foreign corporation.

* * * * *

(r) *Applicability dates*—(1) * * *

(i) * * * Paragraph (k)(14)(ii) of this section applies to transfers occurring on or after October 1, 2019, and to transfers occurring before October 1, 2019, that result from an entity classification election made under § 301.7701–3 of this chapter that is filed on or after October 1, 2019. For transfers occurring before October 1, 2019, other than transfers occurring before October 1, 2019, that result from an entity classification election made under § 301.7701–3 of this chapter that is filed on or after October 1, 2019, a taxpayer may apply paragraph (k)(14)(ii) of this section to transfers occurring during the last taxable year of a transferee foreign corporation beginning before January 1, 2018, and each subsequent taxable year of the foreign corporation, provided that the taxpayer and United States persons that are related (within the meaning of section 267 or 707) to the taxpayer consistently apply such paragraph with respect to all foreign corporations. For transfers occurring before October 1, 2019, other than transfers occurring before October 1, 2019, that result from an entity classification election made under § 301.7701–3 of this chapter that is filed on or after October 1, 2019, where the taxpayer does not apply paragraph (k)(14)(ii) of this section as described in the preceding sentence, see paragraph (k)(14)(ii) of this section as in effect and contained in 26 CFR part 1, as revised April 1, 2020.

* * * * *

■ **Par. 5.** Section 1.672(f)–2 is amended by revising paragraphs (a) and (e) to read as follows:

§ 1.672(f)–2 Certain foreign corporations.

(a) *Application of general rule in this section.* Subject to the provisions of paragraph (b) of this section, if the owner of any portion of a trust upon application of the grantor trust rules without regard to section 672(f) is a controlled foreign corporation or a passive foreign investment company (as defined in section 1297), the corporation is treated as a domestic corporation for purposes of applying the rules of § 1.672(f)-1. For purposes of this section, a controlled foreign corporation has the meaning provided in section 957, determined without applying section 318(a)(3)(A), (B), and (C) so as to consider a United States person as owning stock which is owned by a person who is not a United States person.

* * * * *

(e) *Applicability dates.* Except as provided in this paragraph (e), the rules of this section apply to taxable years of shareholders of controlled foreign corporations and passive foreign investment companies beginning after August 10, 1999, and taxable years of controlled foreign corporations and passive foreign investment companies ending with or within such taxable years of the shareholders. The provisions in paragraph (a) of this section relating to the controlled foreign corporations taken into account for purposes of this section apply to taxable years of foreign corporations ending on or after October 1, 2019, and taxable years of United States shareholders in which or with which such taxable years

of foreign corporations end. For taxable years of foreign corporations ending before October 1, 2019, and taxable years of United States shareholders in which or with which such taxable years of foreign corporations end, a taxpayer may apply such provisions to the last taxable year of a foreign corporation beginning before January 1, 2018, and each subsequent taxable year of the foreign corporation, and to taxable years of United States shareholders in which or with which such taxable years of the foreign corporation end, provided that the taxpayer and United States persons that are related (within the meaning of section 267 or 707) to the taxpayer consistently apply such provisions with respect to all foreign corporations. For taxable years of foreign corporations ending before October 1, 2019, and taxable years of United States shareholders in which or with which such taxable years of foreign corporations end, where the taxpayer does not apply the provisions of paragraph (a) of this section relating to controlled foreign corporations, see paragraph (a) of this section as in effect and contained in 26 CFR part 1, as revised April 1, 2020.

■ **Par. 6.** Section 1.706–1 is amended:
■ 1. By revising paragraph (b)(6)(ii).
■ 2. By revising the paragraph (b)(6)(v) subject heading.
■ 3. In paragraph (b)(6)(v)(A), by revising the first sentence and adding three sentences after the first sentence.

The revisions and addition read as follows:

§ 1.706–1 Taxable years of partner and partnership.

* * * * *

(b) * * *

(6) * * *

(ii) *Definition of foreign partner.* For purposes of this paragraph (b)(6), a foreign partner is any partner that is not a United States person (as defined in section 7701(a)(30)), except that a partner that is a controlled foreign corporation (within the meaning of section 957(a)) in which a United States shareholder (as defined in section 951(b)) owns (within the meaning of section 958(a)) stock is not treated as a foreign partner.

* * * * *

(v) *Applicability dates*—(A) * * * The provisions of this paragraph (b)(6) (other than paragraph (b)(6)(iii) of this section and paragraph (b)(6)(ii) of this section to the extent described in the next sentence) apply to partnership taxable years, other than those of an existing partnership, that begin on or after July 23, 2002. The provisions in paragraph (b)(6)(ii) of this section relating to controlled foreign corporations apply to taxable years of foreign corporations ending on or after October 1, 2019, and taxable years of United States shareholders in which or with which such taxable years of foreign corporations end. For taxable years of foreign corporations ending before October 1, 2019, and taxable years of United States shareholders in which or with which such taxable years of foreign corporations end, a taxpayer may apply such provisions to the last taxable year of a foreign corporation beginning before January 1, 2018, and each subsequent taxable year of the foreign corporation, and to taxable years of United States shareholders in which or with which such taxable years of the foreign corporation end, provided that the taxpayer and United States persons that are related (within the meaning of section 267 or 707) to the taxpayer consistently apply such provisions with respect to all foreign corporations. For taxable years of foreign corporations ending before October 1, 2019, and taxable years of United States shareholders in which or with which such taxable years of foreign corporations end, where the taxpayer does not apply the provisions of paragraph (b)(6)(ii) of this section relating to controlled foreign corporations, see paragraph (b)(6)(ii) of this section as in effect and contained in 26 CFR part 1, as revised April 1, 2020.

* * *

* * * * *

■ **Par. 7.** Section 1.863–8 is amended:
■ 1. In paragraph (b)(2)(ii), by revising the first sentence and adding a sentence at the end of the paragraph.
■ 2. By revising paragraph (h).

The revisions and addition read as follows:

§ 1.863–8 Source of income derived from space and ocean activity under section 863(d).

* * * * *

(b) * * *

(2) * * *

(ii) * * * Space and ocean income derived by a controlled foreign corporation (CFC) is income from sources within the United States. * * * For purposes of this section, a CFC has the meaning provided in section 957, determined without applying section 318(a)(3)(A), (B), and (C) so as to consider a United States person as owning stock which is owned by a person who is not a United States person.

* * * * *

(h) *Applicability dates.* Except as provided in this paragraph (h), this section applies to taxable years beginning on or after December 27, 2006. The provisions in paragraph (b)(2)(ii) of this section relating to the meaning of a CFC apply to taxable years of foreign corporations ending on or after October 1, 2019. For taxable years of foreign corporations ending before October 1, 2019, a taxpayer may apply such provisions to the last taxable year of a foreign corporation beginning before January 1, 2018, and each subsequent taxable year of the foreign corporation, provided that the taxpayer and United States persons that are related (within the meaning of section 267 or 707) to the taxpayer consistently apply such provisions with respect to all foreign corporations. For taxable years of foreign corporations ending before October 1, 2019, where the taxpayer does not apply the provisions of paragraph (b)(2)(ii) of this section relating to the meaning of a CFC, see paragraph (b)(2)(ii) of this section as in effect and contained in 26 CFR part 1, as revised April 1, 2020.

■ **Par. 8.** Section 1.863–9 is amended by revising paragraphs (b)(2)(ii) and (l) to read as follows:

§ 1.863–9 Source of income derived from communications activity under section 863(a), (d), and (e).

* * * * *

(b) * * *

(2) * * *

(ii) *International communications income derived by a controlled foreign corporation.* International communications income derived by a controlled foreign corporation (CFC) is one-half from sources within the United States and one-half from sources without the United States. For purposes of this section, a CFC has the meaning provided in section 957, determined without applying section 318(a)(3)(A), (B), and (C) so as to consider a United States person as owning stock which is owned by a person who is not a United States person.

* * * * *

(l) *Applicability dates.* Except as otherwise provided in this paragraph (l), this section applies to taxable years beginning on or after December 27, 2006. The provisions in paragraph (b)(2)(ii) of this section relating to the meaning of a CFC apply to taxable years of foreign corporations ending on or after October 1, 2019. For taxable years of foreign corporations ending before October 1, 2019, a taxpayer may apply such provisions to the last taxable year of a foreign corporation beginning before January 1, 2018, and each subsequent taxable year of the foreign corporation, provided that the taxpayer

and United States persons that are related (within the meaning of section 267 or 707) to the taxpayer consistently apply such provisions with respect to all foreign corporations. For taxable years of foreign corporations ending before October 1, 2019, where the taxpayer does not apply the provisions of paragraph (b)(2)(ii) of this section relating to the meaning of a CFC, see paragraph (b)(2)(ii) of this section as in effect and contained in 26 CFR part 1, as revised April 1, 2020.

■ **Par. 9.** Section 1.904–5 is amended by revising paragraph (a)(4)(i), the first sentence of paragraph (a)(4)(vi), and paragraph (o) to read as follows:

§ 1.904–5 Look-through rules as applied to controlled foreign corporations and other entities.

(a) * * *

(4) * * *

(i) The term *controlled foreign corporation* has the meaning given such term by section 957 (taking into account the special rule for certain captive insurance companies contained in section 953(c)), determined without applying section 318(a)(3)(A), (B), and (C) so as to consider a United States person as owning stock which is owned by a person who is not a United States person.

* * * * *

(vi) The term *United States shareholder* has the meaning given such term by section 951(b) (taking into account the special rule for certain captive insurance companies contained in section 953(c)), determined without applying section 318(a)(3)(A), (B), and (C) so as to consider a United States person as owning stock which is owned by a person who is not a United States person, except that for purposes of this section, a United States shareholder includes any member of the controlled group of the United States shareholder. * * *

* * * * *

(o) *Applicability dates.* Except as otherwise provided in this paragraph (o), this section is applicable for taxable years that both begin after December 31, 2017, and end on or after December 4, 2018. Paragraphs (a)(4)(i) and (vi) of this section are applicable for taxable years of foreign corporations ending on or after October 1, 2019, and taxable years of United States persons ending on or after October 1, 2019. For taxable years of foreign corporations ending before October 1, 2019, and taxable years of United States persons ending before October 1, 2019, a taxpayer may apply such provisions to the last taxable year of a foreign corporation beginning before January 1, 2018, and each subsequent taxable year of the foreign corporation, and to taxable years of United States shareholders in which or with which such taxable years of the foreign corporation end, provided that the taxpayer and United States persons that are related (within the meaning of section 267 or 707) to the taxpayer consistently apply such provisions with respect to all foreign corporations. For taxable years of foreign corporations ending before October 1, 2019, and taxable years of United States persons ending before October 1, 2019, where the taxpayer does not apply the provisions of paragraphs (a)(4)(i) and (vi) of this section, see paragraphs (a)(4)(i) and (vi) of this section as in effect and contained in 26 CFR part 1, as revised April 1, 2020.

■ **Par. 10.** Section 1.958–2 is amended:

■ 1. By removing and reserving paragraph (d)(2).

■ 2. In paragraph (g), by designating *Examples 1* through *6* as paragraphs (g)(1) through (6), respectively.

■ 3. In newly designated paragraphs (g)(1) and (2), by removing the language ''paragraph (c)(1)(iii) and (2) of this section'' and adding the language ''paragraphs (c)(1)(iii) and (c)(2) of this section'' in its place.

■ 4. By revising newly designated paragraph (g)(4).

■ 5. In paragraph (h), by adding three sentences to the end of the paragraph.

■ 6. By removing the parenthetical authority citation at the end of the section.

The revisions and additions read as follows:

§ 1.958–2 Constructive ownership of stock.

* * * * *

(g) * * *

(4) *Example 4.* Foreign corporation U owns 100 percent of the one class of stock in domestic corporation V and also 100 percent of the one class of stock in foreign corporation W. Because more than 50 percent in value of the stock of V Corporation is owned by its sole shareholder, U Corporation, V Corporation is considered under paragraph (d)(1)(iii) of this section as owning the stock owned by U Corporation in W Corporation, and accordingly is a United States shareholder of W Corporation.

* * * * *

(h) * * * Paragraphs (d)(2) and (g)(4) of this section apply to taxable years of foreign corporations ending on or after October 1, 2019, and taxable years of United States shareholders in which or with which such taxable years of foreign corporations end. For taxable years of foreign corporations ending before October 1, 2019, and taxable years of United States shareholders in which or with which such taxable years of the foreign corporation end, a taxpayer may apply such provisions to the last taxable year of a foreign corporation beginning before January 1, 2018, and each subsequent taxable year of the foreign corporation, and to taxable years of United States shareholders in which or with which such taxable years of the foreign corporation end, provided that the taxpayer and United States persons that are related (within the meaning of section 267 or 707) to the taxpayer consistently apply such provisions with respect to all foreign corporations. For taxable years of foreign corporations ending before October 1, 2019, and taxable years of United States shareholders in which or with which such taxable years of foreign corporations end, where the taxpayer does not apply the provisions of paragraphs (d)(2) and (g)(4) of this section, see paragraph (d)(2) and (g)(4) of this section as in effect and contained in 26 CFR part 1, as revised April 1, 2020.

■ **Par. 11.** Section 1.6049–5 is amended by revising paragraphs (c)(5)(i)(C) and (g) to read as follows:

§ 1.6049–5 Interest and original issue discount subject to reporting after December 31, 1982.

* * * * *

(c) * * *

(5) * * *

(i) * * *

(C) A controlled foreign corporation within the meaning of section 957, determined without applying section 318(a)(3)(A), (B), and (C) so as to consider a United States person as owning stock which is owned by a person who is not a United States person.

* * * * *

(g) *Applicability dates.* Except as otherwise provided in this paragraph (g), this section applies to payments made on or after January 6, 2017. For payments made after June 30, 2014, and before January 6, 2017, see this section as in effect and contained in 26 CFR part 1, as revised April 1, 2016. For payments made after December 31, 2000, and before July 1, 2014, see this section as in effect and contained in 26 CFR part 1, as revised April 1, 2013. Paragraph (c)(5)(i)(C) of this section applies to payments made on or after October 1, 2019. For payments made before October 1, 2019, a taxpayer may apply paragraph (c)(5)(i)(C) of this section for payments during the last taxable year of a foreign corporation

beginning before January 1, 2018, and each subsequent taxable year of the foreign corporation, provided that the taxpayer and United States persons that are related (within the meaning of section 267 or 707) to the taxpayer consistently apply such paragraph with respect to all foreign corporations. For payments made before October 1, 2019, where the taxpayer does not apply the provisions of paragraph (c)(5)(i)(C) of this section, see paragraph (c)(5)(i)(C) of this section as in effect and contained in 26 CFR part 1, as revised April 1, 2020.

Sunita Lough,

Deputy Commissioner for Services and Enforcement.

Approved: July 24, 2020

David J. Kautter,

Assistant Secretary for the Treasury (Tax Policy).

[FR Doc. 2020–17549 Filed 9–21–20; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2020–0072; FRL–10013–73–Region 4]

Air Plan Approval; Georgia: Emission Reduction Credits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a State Implementation Plan (SIP) revision submitted by the State of Georgia in a letter dated October 18, 2019. The SIP revision updates Georgia's rule entitled *Emission Reduction Credits* which establishes a program for sources in specified counties to apply for credits for voluntary emissions reductions. EPA has evaluated Georgia's submittal and determined that it meets the applicable requirements of the Clean Air Act (CAA or Act) and EPA regulations.

DATES: This rule is effective October 22, 2020.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2020–0072. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials can either be retrieved electronically via *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Pearlene Williams, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Ms. Williams can be reached via telephone at (404) 562–9144 or via electronic mail at *williams.pearlene@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Georgia Environmental Protection Division (GA EPD) submitted a revision to its SIP in a letter dated October 18, 2019,[1] modifying Rule 391–3–1–.03(13), *Emission Reduction Credits,*[2] in the State's air permitting rules. This submittal revises the counties in which sources may create emission reduction credits (ERCs). This change aligns Georgia's ERC program with the current status of counties designated nonattainment or contributing to a nonattainment area.

Georgia's October 18, 2019, SIP submittal revises the counties listed in Rule 391–3–1–.03(13)(a) to ensure that only sources in counties currently designated nonattainment—and counties [3] contributing to the ambient air quality in the nonattainment area—may participate in the ERC program. The details of the submittal and EPA's rationale for approving the changes are discussed in a notice of proposed rulemaking (NPRM) dated May 22, 2020. *See* 85 FR 31112. Comments were due on the May 22, 2020, NPRM by June 22, 2020. No comments were received on the proposed action.

These changes clarify eligibility for sources in certain counties to bank and create ERCs. These changes also make paragraph 391–3–1–.03(13)(a) consistent with current provisions under the State's Nonattainment New Source Review permitting program.[4] EPA also notes that the ERC program is a flexibility tool used by States and affected sources to comply with otherwise applicable requirements and is not expected to impact emissions in the State. Therefore, EPA concludes that these changes are consistent with the CAA and applicable EPA regulations.[5]

II. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Georgia Rule 391–3–1–.03(13), entitled ''Emission Reduction Credits,'' effective September 26, 2019,[6] to clarify which sources in which areas of the State are eligible to create and bank emission reduction credits. 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 by the Director of the Federal Register in the next update to the SIP compilation.[7]

[1] EPA notes the Agency received the submittal on October 24, 2019.

[2] EPA notes that the Agency received several submittals revising the Georgia SIP transmitted with the same October 18, 2019, cover letter. EPA is considering action for these other SIP revisions in separate rulemakings.

[3] The NPRM dated May 22, 2020 (85 FR 31112) incorrectly included Rockdale county in the list of five counties being moved from 391–3–1–.03(13)(a)2 to (a)3. The correct list of counties being moved in this action includes Barrow, Carroll, Hall, Spalding, and Walton. Rockdale county remains in the list of counties under (a)2.

[4] *See* 85 FR 2646 (January 16, 2020).

[5] EPA has also concluded that these changes are consistent with applicable guidance on emissions trading, including EPA's ''Emissions Trading Policy Statement; General Principles for Creation, Banking and Use of Emission Reduction Credits.'' *See* 51 FR 43814 (December 4, 1986).

[6] Specifically, in this action, EPA is incorporating by reference subsections (a), (d), and (h) of Rule 391–3–1–.03(13) with a state-effective date of September 26, 2019. EPA previously approved and incorporated by reference subsection (f) with a state-effective date of July 18, 2001, and subsections (b), (c), (e), (g), and (i) with a state-effective date of February 6, 2000; those prior approvals are not impacted by this action. EPA has included a clarifying explanation to this effect in the entry for Rule 391–3–1–.03(13) at 40 CFR 52.570(c).

[7] *See* 62 FR 27968 (May 22, 1997).

III. Final Action

EPA is approving the Georgia SIP revision with changes to Regulation 391–3–1–.03(13), *Emission Reduction Credits,* submitted October 18, 2019, to clarify which sources in which areas are eligible to create, bank, transfer, or use ERCs for Nitrogen Oxides and Volatile Organic Compounds, corresponding to the counties that are either currently in nonattainment or contributing to the current nonattainment area. EPA has concluded that the SIP revision is consistent with the CAA and EPA's federal regulations.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the 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 November 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: August 26, 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.*

Subpart L—Georgia

■ 2. In § 52.570, the table in paragraph (c) is amended by revising the entry for ''391–3–1–.03(13)'' 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
*	*	*	*	*
391–3–1–.03(13)	Emission Reduction Credits.	9/26/2019	9/22/2020, Insert citation of publication].	Except subparagraph 391–3–1–.03(13)(f), which was approved into the SIP with a state-effective date of 7/18/2001, and subparagraphs (b), (c), (e), (g), and (i), which were approved into the SIP with a state-effective date of 2/16/2000.
*	*	*	*	*

* * * * *

[FR Doc. 2020–19287 Filed 9–21–20; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 121

RIN 0906–AB23

Removing Financial Disincentives to Living Organ Donation

AGENCY: Health Resources and Services Administration (HRSA), Health and Human Services Department (HHS).

ACTION: Final rule.

SUMMARY: This final rule amends the regulations implementing the National Organ Transplant Act of 1984, as amended (NOTA), to remove financial barriers to organ donation by expanding the scope of reimbursable expenses incurred by living organ donors to include lost wages, and child-care and elder-care expenses incurred by a caregiver. HHS is committed to reducing the number of individuals on the organ transplant waiting list by increasing the number of organs available for transplant. This final rule is associated with Section 8 of the Executive Order (E.O.) 13879 titled ''Advancing American Kidney Health,'' issued on July 10, 2019, which directed HHS to propose a regulation allowing living organ donors to be reimbursed for related lost wages, child-care expenses, and elder-care expenses through the Reimbursement of Travel and Subsistence Expenses Incurred toward Living Organ Donation program authorized under section 377 of the Public Health Service (PHS) Act, as amended.

DATES: This final rule is effective on October 22, 2020.

FOR FURTHER INFORMATION CONTACT: Frank Holloman, Director, Division of Transplantation, Healthcare Systems Bureau, HRSA, 5600 Fishers Lane, Room 08W63, Rockville, MD 20857; by email at *donation@hrsa.gov;* or by telephone (301) 443–7577.

SUPPLEMENTARY INFORMATION:

I. Public Participation

On December 20, 2019, HHS published a notice of proposed rulemaking (NPRM) in the **Federal Register** (84 FR 70139) to amend the regulations implementing the NOTA to remove financial barriers to organ donation by expanding the scope of reimbursable expenses incurred by living organ donors. The NPRM provided for a 60-day comment period, and HHS received 267 comment letters raising a variety of issues. HHS has carefully considered all comments in developing this rule, as outlined in Section V below, and presents a summary of all significant comments and Departmental responses.

II. Background

As discussed in the NPRM, every 10 minutes, another person is added to the national organ transplant waiting list, and approximately 20 people die every day while waiting for a transplant.[1] The current approach to acquiring organs for transplantation relies on the altruism of deceased donors and their families and the voluntarism and altruism of living organ donors.

Living organ donation offers a viable transplant option, primarily for kidney and liver transplant candidates, and helps to reduce the overall number of individuals on the national organ transplant waiting list, thus improving the transplantation system overall. The President's E.O. 13879, ''Advancing American Kidney Health,'' emphasized that supporting living organ donors can help address the current demand for kidney transplants. That E.O. directed the HHS Secretary to propose a regulation that would expand the definition of allowable costs that can be reimbursed under HRSA's current Reimbursement of Travel and Subsistence Expenses Incurred toward Living Organ Donation program. This final rule addresses this E.O. requirement, which also included language specifically addressing reimbursement of lost wages along with child-care and elder-care expenses.

Living organ donation also delivers several additional benefits for the recipient, as described in the NPRM, including receipt of a better quality organ in a shorter time period and better clinical outcomes than those who continue on dialysis or receive a deceased donor kidney transplant.[2] However, all such benefits must be weighed against the donor risks, which include surgical and anesthesia-related complications and infections as well as the uncertainty of the long-term health effects on donors following living organ donation, which are currently being studied.

[1] Information from *https://www.organdonor.gov/statistics-stories/statistics.html#glance* and accessed on August 26, 2019.

[2] Data from *https://srtr.transplant.hrsa.gov/annual_reports/2017/Kidney.aspx.*

A. HRSA's Reimbursement of Travel and Subsistence Expenses Incurred Toward Living Organ Donation Program

Congress provided specific authority under section 377 of the Public Health Service (PHS) Act, as amended, 42 U.S.C. 274f,[3] to the Secretary of Health and Human Services (the Secretary) for reimbursement of travel and subsistence expenses, which encompasses costs for travel to medical and clinical appointments, lodging, and meals, incurred by eligible individuals making living donations of their organs, and other individuals accompanying the living organ donors.

Within the same section of the PHS Act, Congress also authorized the Secretary to reimburse ''incidental non-medical expenses'' incurred by living organ donors under 42 U.S.C. 274f(a)(2), if the Secretary determines by regulation that reimbursements for such expenses are appropriate.

The National Living Donor Assistance Center (NLDAC)[4] operates the living organ donor reimbursement program funded by HRSA's Reimbursement of Travel and Subsistence Expenses Incurred toward Living Organ Donation grants program. Under the authority provided under section 377 of the PHS Act, as amended, the program is operated via cooperative agreement. The program's purpose is to help remove financial disincentives for living organ donations. In adherence to the authority outlined in the PHS Act, the program's Eligibility Guidelines currently provide that ''qualifying expenses'' include those incurred by the donor and his/her accompanying person(s) as part of: (1) Donor evaluation, (2) hospitalization for the living donor surgical procedure, and/or (3) medical or surgical follow-up, clinic visits, or hospitalization within two calendar years following the living donation procedure.[5] It is important to note that not all applicants or recipients of reimbursements will go on to donate an organ. Many factors may prevent an intended and willing donor from proceeding with the donation. Such circumstances include present health status of the intended donor or recipient that would prevent the transplant or donation from proceeding, perceived long-term risks to the intended donor, or unforeseen events outside the intended donor's control.

[3] Available at *https://www.govinfo.gov/content/pkg/PLAW-108publ216/pdf/PLAW-108publ216.pdf.*

[4] The Center's website is available at *https://www.livingdonorassistance.org/home/default.aspx.*

[5] The Eligibility Guidelines for HRSA's reimbursement program are available at *https://www.govinfo.gov/content/pkg/FR-2009-06-19/pdf/E9-14425.pdf.*

The criteria for reimbursement are based on the incomes of both the recipient and potential living organ donor and include only the aforementioned qualifying expenses. Under federal law, HRSA's reimbursement program cannot reimburse any living organ donor for travel and other qualifying expenses if the donor can be reimbursed for these expenses from any of the following sources: (1) Any state compensation program, an insurance policy, or any federal or state health benefits program; (2) an entity that provides health services on a prepaid basis; or (3) the recipient of the organ. HRSA notes that some living organ donors may receive assistance from other sources, such as private insurers' programs; however, HRSA's reimbursement program specifically aims to assist lower-income donors who lack other forms of financial support.

Through this final rule, the Secretary determines that reimbursement for lost wages, and child-care and elder-care expenses incurred by a caregiver, is appropriate for living organ donors who incur such expenses toward their organ donation.

B. Executive Order 13879: Advancing American Kidney Health

In E.O. 13879, ''Advancing American Kidney Health,'' issued on July 10, 2019, the President directed HHS to propose a regulation to allow living organ donors to be reimbursed for related lost wages, child-care expenses, and elder-care expenses through the Reimbursement of Travel and Subsistence Expenses Incurred toward Living Organ Donation program authorized by 42 U.S.C. 274f. This final rule aligns with the goals of the President's mandate.

The E.O. further directed HHS to raise the limit on the income of living organ donors eligible for reimbursement under the program. The limit on donor income is set through the reimbursement program's Eligibility Guidelines. HRSA has proposed a revision to the Eligibility Guidelines increasing the upper threshold for living organ donor and organ recipient household income from 300 percent to 350 percent of the HHS Poverty Guidelines in effect at the time of eligibility determination. HRSA sought and received public comment on this planned revision to the Eligibility Guidelines through a separately published **Federal Register** notice. Therefore, this final rule does not address that aspect of the Executive Order.

C. Advisory Committee on Organ Transplantation Recommendations

In May 2019, the HHS Advisory Committee on Organ Transplantation (ACOT) voted to provide recommendations to the Secretary which, if adopted, would increase access to organs from living organ donors by providing living organ donors with additional support and resources and by removing disincentives that may have prevented them from donating. This final rule is responsive to those recommendations.

D. Section 301 of NOTA

Section 301 of NOTA generally makes it ''unlawful for any person to knowingly acquire, receive, or otherwise transfer any human organ for valuable consideration for use in human transplantation if the transfer affects interstate commerce.'' [6] Therefore, reimbursement payments received via HRSA's reimbursement program must not violate section 301 of NOTA, which outlaws the purchase and sale of organs. Certain expenses are specifically excluded from the scope of valuable consideration, including ''expenses of travel, housing, and lost wages incurred by the donor of a human organ in connection with the donation of the organ.'' 42 U.S.C. 274e(c)(2). Section 301 of NOTA does not expressly state whether reimbursement for child-care or elder-care expenses incurred by a donor in connection with the donation constitute prohibited ''valuable consideration.'' HHS has determined, and the U.S. Department of Justice, Office of Legal Counsel, concurred, that the reimbursement of child-care and elder-care expenses as described here is not valuable consideration under section 301 of NOTA. Therefore, this prohibition does not pose a barrier to the Secretary's determination, made through this final rule, that the reimbursement of such expenses is appropriate under the authority provided by 42 U.S.C. 274f(a)(2).

III. Summary of This Rule

This rule codifies the proposed amendments to the OPTN Final Rule described in the December 2019 NPRM and removes barriers and disincentives to living organ donation by adding lost wages, and child-care and elder-care expenses incurred by caregivers, as reimbursable expenses for living organ donors. This rule constitutes the Secretary's determination by regulation that reimbursement may be appropriately provided for lost wages, and child-care and elder-care expenses incurred by caregivers who make living donations of their organs, as authorized by section 377(a)(2) of the PHS Act. A new regulatory section is added at § 121.14 to list the categories of ''incidental non-medical expenses'' that the Secretary has determined are appropriate for reimbursement.

The other criteria of HRSA's reimbursement program, as provided in the program's Eligibility Guidelines, remain applicable and will still need to be met for reimbursement to be provided to living organ donors and other individuals evaluated for living organ donation for lost wages and child-care and elder-care expenses incurred by caregivers while making donations of their organs. Concurrently with the publication of this final rule, HRSA will revise the Eligibility Guidelines to address eligibility criteria for these reimbursable expenses.

A. Lost Wages

Some potential living organ donors may be willing and available to donate an organ to a family member, friend, or an unknown recipient, but might be unable to afford the loss in income while out of work during the transplant process, which includes the pre-transplant evaluation, surgery, subsequent recovery time, and follow-up appointments. Through this final rule, HRSA determines that lost wages are an appropriate reimbursable expense for living organ donors, and adds lost wages as a category of reimbursable incidental non-medical expenses at § 121.14(a)(1).

B. Child-Care Expenses and Elder-Care Expenses

Included among the many costs associated with living organ donation are, for many individuals, the costs of child-care and elder-care. Such costs can be incurred throughout the organ donation process, from the transplant pre-evaluation through the hospital stay, during the recovery period, and while the living donor attends necessary follow-up medical appointments. Through this final rule, HRSA determines that child-care and elder-care expenses incurred by caregivers are appropriate reimbursable expenses for living organ donors, and adds child-care expenses at § 121.14(a)(2) and elder-care expenses at § 121.14(a)(3) as categories of reimbursable non-medical incidental expenditures.

IV. Public Comments and Responses

HRSA received a total of 267 comments from the public, including professional and patient stakeholder organizations, prior and potential living

[6] *See* 42 U.S.C. 274e(a).

kidney donors, donor stakeholder organizations, and clinical professionals. The vast majority (261) of commenters were in favor of the proposed rule, although several suggested modifications to the proposed rule (see details below). Only two commenters opposed the spirit of the proposed rule and expressed concern about the well-being of living organ donors.

All comments were considered in developing this rule. This section presents a summary of all major issues raised by commenters, grouped by subject, as well as responses to the comments.

1. Additional Financial Barriers to Organ Donation/Foregone Medical Insurance Benefits

HRSA specifically sought public comment on any literature or evidence on additional financial barriers to living organ donation, including whether foregone medical insurance benefits pose a significant barrier to living organ donation. In the NPRM, HRSA noted an interest in public comment regarding whether such expenses should be included in future rulemaking. Only three commenters from professional societies explicitly addressed HRSA's request for comments on whether ''foregone medical insurance benefits'' pose a significant barrier to living organ donation. These commenters did not provide literature or evidence in support of this additional category, but suggested it was appropriate for reimbursement to address concerns regarding potential impacts due to time away from work after donation.

Response: HRSA appreciates the feedback on the inclusion of ''foregone medical insurance benefits'' as a potential category of expenses eligible for reimbursement. HRSA reiterates its interest in receiving any detailed literature or evidence regarding how these expenses pose a barrier to living organ donation.

2. Definition of Lost Wages

We received five comments suggesting that HRSA include lost income as a reimbursable non-medical expense rather than ''lost wages.'' The commenters argue that lost income would more accurately reflect the potential disincentives to living organ donation. Specifically, the commenters suggest that lost wages may not include income received by independent contractors or others who do not receive a standard hourly, weekly, or monthly wage. The commenters further suggest that ''lost income'' would include foregone sick days, vacation pay, or disability payments that would otherwise have been available to the living organ donor.

Response: HRSA intends to proceed with the use of the term ''lost wages'' when describing available reimbursable incidental non-medical expense. The term ''lost wages''' is consistent with the direction to HHS provided in the July 2019 ''Advancing American Kidney Health'' E.O., and reflects the terminology used in the categories of expenses excluded from valuable consideration as defined in section 301 of NOTA.

HRSA does wish to make clear that ''lost wages'' need not be limited to consideration of traditional wage rate income. HRSA agrees that living organ donors with non-traditional or irregular income should be eligible for reimbursement of lost wages through the program if sufficient documentation of the lost wages is provided. The program will provide eligible donors with informational packets containing documentation requirements for reimbursement of lost wages through participating transplant programs; information will also be posted on the program's website. Regarding the inclusion of reimbursement for foregone sick days, vacation pay, or disability payments, HRSA is not including these categories as reimbursable incidental non-medical expenses at this time. More analysis is needed to determine whether including such expenses would be consistent with the statutory requirement that HRSA's reimbursement program cannot cover donor expenses that can be reimbursed from certain other sources, as detailed in 42 U.S.C. 274f(d).

3. Additional Incidental Non-Medical Expenses

We received two comments suggesting that pet care expenses also be included as reimbursable incidental non-medical expenses, given that a large proportion of potential donors are also pet owners who may incur expenses for pet care during their recovery after organ donation.

Response: HRSA appreciates the feedback on the inclusion of pet care as a reimbursable incidental non-medical expense. HRSA is not aware of literature or evidence regarding the impact pet care expenses may have as a disincentive to living organ donation. Therefore, HRSA is not including pet care as a reimbursable expense at this time. However, HRSA is interested in any evidence regarding the impact of pet care expenses posing a barrier to living organ donation.

4. Other Comments

a. Insurance Access

Eight commenters suggested that HHS take action to address the potential that living organ donors may be adversely impacted in access to health or life insurance, post-donation. The commenters cite experience and literature describing increased insurance premiums and a higher likelihood of denial of coverage for living organ donors. Several commenters raised the issue of medical problems that might arise post-donation and whether those expenses would be covered by health insurance. One commenter described the experience of a family member who had subsequent difficulty getting health insurance coverage, despite being in good health. Another individual stated that he was so concerned about his insurance company canceling his coverage that he never informed his insurance company that he had donated an organ. One commenter asked that HRSA consider the limited coverage that the average health insurance plan provides to living organ donors, and expressed concern that living organ donors who experience complications related to the donation may be personally responsible for the medical costs.

Response: HRSA acknowledges and appreciates commenters sharing these concerns. The purpose of HRSA's reimbursement program is to provide living organ donors with support by reimbursing non-medical expenses that pose a disincentive to living organ donation. HRSA will continue to analyze these issues.

b. Other Uncovered Medical Expenses

Approximately 14 commenters suggested that HRSA's reimbursement program be expanded to cover medical expenses related to the living organ donation that are not otherwise covered by their or the recipient's health insurance.

Response: The purpose of HRSA's reimbursement program is to provide living organ donors with support by reimbursing non-medical expenses that pose a disincentive to living organ donation. The statute authorizing HRSA's reimbursement program, section 377 of the Public Health Service Act, does not provide authority for the program to reimburse living organ donors for medical expenses related to living organ donation. Therefore, it is beyond the purview of the program to cover additional medical expenses or serve as a form of supplemental health insurance for living organ donors.

b. Payer of Last Resort

Approximately four commenters expressed concern about the description of HRSA's reimbursement program as a payer of last resort. The commenters suggest that this description may go beyond the requirements of section 377 of the Public Health Service Act, that requires that the program not cover expenses ''of a donating individual to the extent that payment has been made, or can reasonably be expected to be made, concerning such expenses (1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; (2) by an entity that provides health services on a prepaid basis; or (3) by the recipient of the organ.'' The commenters also suggest that the complexity of this structure unduly burdens the living organ donor by requiring documentation that the expenses are not otherwise covered, which could be a disincentive to living organ donation. Another commenter stated that this description is too narrow, and inconsistent with the benefits of reimbursing living organ donors. And finally, one commenter believed that the phrase implies that the program's reimbursement should be as limited as possible and could be considered to indicate that transplant recipients should be required to reimburse their donors as a matter of course.

Response: HRSA accepts these comments, and will no longer use the phrase ''payer of last resort'' to explain HRSA's reimbursement program. HRSA did not intend to imply any limitation of reimbursable expenses beyond the statutory requirements. However; per statute, HRSA's reimbursement program cannot cover donor expenses that can be reimbursed from certain other sources, as detailed in 42 U.S.C. 274f(d)—(1) any State compensation program, an insurance policy, or a Federal or State health benefits program; (2) an entity that provides health services on a prepaid basis; or (3) the recipient of the organ. Regarding the concern about how living organ donors might need to document that their potentially reimbursable expenses are not covered by other programs or individuals, HRSA maintains that sufficient documentation will be required to assure that its reimbursement program is operating within the authority of section 377 of the Public Health Service Act.

c. Compensation for Intangible Risks

Approximately eight commenters suggested that the program also address compensation for intangible risks incurred by living organ donors, including the surgical risks of donation, the long-term risks to donor health, the inconvenience and discomfort of surgery, and the concern that a friend or relative may need a kidney in the future.

Response: As previously discussed, HRSA's reimbursement program is limited by statute and may not provide compensation to living organ donors beyond reimbursement for eligible expenses. Undertaking a ''risk,'' whether it be a long-term health risk or surgical risk, is not an eligible expense.

d. Donor Caretaker

Six commenters suggested that HRSA's reimbursement program expand coverage to allow for reimbursement of expenses incurred by a ''donor caretaker'' who provides care for the living organ donor during post-operative recovery. The commenters stated that, since living donors rely on caretakers as they recover from surgery, these caretakers should be compensated for lost income. In addition, they argued that potential financial burdens that might be incurred by the donor's caretaker(s) constitute a disincentive for living organ donation. As such, they believe that removing this disincentive by covering ''donor caretaker'' expenses would increase living organ donation rates.

Response: Individuals eligible for reimbursement of expenses under HRSA's reimbursement program are limited to those who meet the statutory definition of ''donating individual'' and those referenced in the statutory definition of ''qualifying expenses'' for the program.[7] This statutory language limits reimbursement for expenses incurred by actual living organ donors, or ''individuals who in good faith incur qualifying expenses toward the intended donation of an organ,'' to allow for expenses incurred by potential donors who are ruled out for organ donation. The statute also allows for reimbursement for qualifying expenses incurred by up to two individuals who ''accompany or assist the donating individual'' for the purposes of living organ donation.

To date, HRSA has allowed for the reimbursement of travel and subsistence expenses related to the donation procedure for up to two ''donor caretakers'' providing assistance to the donating individual, whether the expenses were incurred before or after the donation procedure. This final rule allows that the additional expenses of lost wages, child-care, and elder-care are eligible for reimbursement, whether incurred by the donor or by the up to two accompanying or assisting individuals. Reimbursement of these expenses for accompanying or assisting individuals will be subject to availability of funds and as provided in the program's Eligibility Guidelines.

f. Change in Eligibility Criteria and ''Primary Caregiver''

HRSA received 31 comments encouraging a change in the program's eligibility criteria, including raising the threshold income level. A subset of those comments also questioned the references to ''primary caregiver'' in the NPRM preamble, and recommended removing the ''primary'' qualifier. The commenters expressed concern that the references to ''primary caregiver'' appeared to limit the number of individuals eligible for reimbursement for child-care and elder-care expenses. For example, one commenter expressed concern that it will be difficult to determine the ''primary caregiver'' and that all donors with caretaker responsibilities for children or elders should receive reimbursement if they need to pay someone else to take on those responsibilities during their recovery.

Response: With regard to a change in the current program eligibility criteria, note that, as previously stated, HRSA will revise the current Eligibility Guidelines, including consideration of an increase to the upper threshold for living organ donor and organ recipient household income. HRSA intends to publish a **Federal Register** notice during fiscal year 2020 regarding this issue.

With regard to the preamble's references to ''primary caregiver,'' HRSA recognizes there may have been some confusion with regard to this term. HRSA intends that all donors and potential donors with caregiver responsibilities for children or elders should be eligible for reimbursement for child-care or elder-care expenses. HRSA originally included this qualifier not to limit eligibility, but rather to indicate that any caregiver, despite their familial relationship, may be eligible for reimbursement under the program. Based on an analysis of the feedback, HRSA no longer uses the qualifier ''primary'' for ''caregiver'' in the preamble language in this final rule. HRSA intends to further address which individuals are eligible caregivers in the program's Eligibility Guidelines.

g. Safety of Living Organ Donation

Two commenters expressed complete opposition to the rule based on concern about the overall safety of living organ donation and well-being of living organ donors. These commenters expressed

[7] *See* 42 U.S.C. 274f(c).

specific concern regarding the potential risk to the living organ donor's health, the invasiveness of the procedure, and the cost of the surgery.

Response: HRSA recognizes that living organ donation is not without risk. We note in the preamble that the benefits of living organ donation must be weighed against risks to the donor. For anyone considering living organ donation, it is critical to gather as much information as possible to make an informed decision. Potential living organ donors should also ensure that they undergo a thorough screening prior to donation and receive counseling regarding informed consent.[8] Access to follow-up care and maintenance of a healthy lifestyle post-donation are also beneficial to the short- and long-term health of the living donor.[9] HRSA emphasizes that the decision to become a living organ donor is an individual choice. The purpose of this rule is to expand the scope of financial support available to those who decide to become living organ donors, in the form of reimbursement for qualifying expenses.

h. Impact of Rule Change on Other Existing Program

Four commenters (two public and two professional stakeholder organizations) expressed support for the concept of supporting living organ donors but opposition to the proposed rule. These commenters, including a non-profit organization that operates a national registry in the United States that lists kidney donors and recipients in need of a kidney transplant, argue that the proposal does not go far enough in providing reimbursement for living organ donors and would supplant an existing program established and operated by this organization that provides a broader array of support. The range of support from the referenced program includes reimbursement for lost wages, as well as ''donation life insurance,'' ''donation disability insurance,'' and legal support, should it be necessary.

These four comments suggest restructuring HHS' approach to addressing living organ donor expenses to allow for a public-private collaboration between HHS and this organization.

Response: HRSA appreciates the feedback and will continue to consider innovative models for future actions to support living organ donors. Nevertheless, HRSA is proceeding with finalizing the proposal outlined in the NPRM through this final rule. HRSA wishes to note that other entities, including the non-profit organization referenced above, are eligible to compete for future cooperative agreements for the operation of the living organ donor reimbursement program. Those entities are encouraged to submit proposals.

i. Miscellaneous

Other commenters raised a variety of issues that do not pertain directly to the expansion of reimbursable incidental non-medical expenses under the program, which was the focus of the proposed rule. HRSA will continue to analyze these issues.

- Allowing non-directed donors to receive reimbursement through the program which is currently tied to recipient income levels.
- Removing donor residence requirement to allow non-U.S. residents/citizens to participate in the program.

V. Statutory and Regulatory Requirements

Executive Orders 12866, 13563, and 13771: Regulatory Planning and Review

HHS examined the effects of this rule as required by E.O. 12866 on Regulatory Planning and Review, E.O. 13563 on Improving Regulation and Regulatory Review, the Regulatory Flexibility Act (Pub. L. 96–354), the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), E.O. 13132 on Federalism, and E.O. 13771 on Reducing Regulation and Controlling Regulatory Costs.

E.O. 12866 and E.O. 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 supplements and reaffirms the principles, structures, and definitions governing regulatory review as established in E.O. 12866, which emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

Section 3(f) of E.O. 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule: (1) Having an annual effect on the economy of $100 million or more in any one year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles outlined in the Executive Order. A regulatory impact analysis must be prepared for major rules with economically significant effects ($100 million or more in any 1 year), and a ''significant'' regulatory action is subject to review by the Office of Management and Budget (OMB). This rule has been determined to be a significant regulatory action. Accordingly, the rule has been reviewed by OMB.

E.O. 13771 (January 30, 2017) requires that the costs associated with significant new regulations ''to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.'' This rule is neither regulatory nor deregulatory for purposes of E.O. 13771. There are no additional costs; as finalized, this rule will only change how HRSA expends the appropriated funds.

Summary of Impacts

Research into similar legislative changes and changes to financial incentives have demonstrated increases in organ donations; thus, the agency estimates that these proposed regulatory changes will increase the number of living organ transplants. The agency expects this increase for two primary reasons. As described in more detail in the following paragraph, studies have shown that reimbursement measures have increased organ donations anywhere from 14 percent to 65 percent, depending on the particular circumstances of the study. Secondly, donor income also appears to play a role in living organ donor transplant rates.

Research showed the implementation of new laws, including a move toward reimbursing lost wages and providing other benefits, yielded the country of Israel a 65 percent increase in kidney transplants from living donors.[10] In the United States, paying donation-related

[8] See *Ann Intern Med.* 2018;168:276–284. doi:10.7326/M17–1235.

[9] See *Kidney Disease: Improving Global Outcomes* (KDIGO) Living Kidney Donor Work Group. KDIGO Clinical Practice Guideline on the Evaluation and Care of Living Kidney Donors. *Transplantation* 2017; 101(Suppl 8S):S1–S109.

[10] Lavee, J., Ashkenazi, T., Stoler, A., Cohen, J., & Beyar, R. (2012). Preliminary Marked Increase in the National Organ Donation Rate in Israel Following Implementation of a New Organ Transplantation Law. *American Journal of Transplantation,*13 (3), 780–785, 2012. doi:10.1111/ajt.12001.

travel costs through NLDAC increased the number of living donor kidney transplants by approximately 14 percent over baseline in participating transplant centers,[11] with a separate survey of NLDAC donors revealing that 75 percent of donors would not have donated without reimbursement.[12] In addition, tax incentive legislation in New York increased living kidney donations to non-family members by 52 percent.[13] Finally, a study looking at longitudinal trends found that income was strongly associated with donation, with higher rates of donation observed in higher-income populations and donation rates declining among the lowest earners after the last recession.[14]

Currently, the United States averages approximately 6,500 living organ donations per year. Determining how many of these, or any additional, living organ donors will be eligible for the financial incentives involves the interplay of several factors, as does calculating the cost of these incentives.

First, not all living donors will be eligible for these reimbursements. As previously stated, the E.O. titled ''Advancing American Kidney Health'' also directed HHS to propose raising the limit on the income of living organ donors eligible to be reimbursed under the program. The income eligibility threshold is the first criterion in determining whether a potential donor is eligible to receive reimbursement of expenses incurred.

Second, not all program-eligible living organ donors will incur expenses relating to each one of the new categories of reimbursements (lost wages, child-care, elder-care) offered through the regulatory change. Each donor's circumstances differ; some might request reimbursement for all three types of added reimbursable expenses, some for one or two, and some for none at all.

Third, donors' specific circumstances will determine the reimbursable amounts. Individual wages differ, as do the type, level, and amount of child-care and/or elder-care required to compensate those donors who are caregivers.

Fourth, while living organ donors typically face a 4–6 week post-surgical recovery time, individual recovery times will vary. Surgical complications or personal health issues might slow that process, and the physical demands of the donor's work (*e.g.,* strenuous versus sedentary) might dictate how quickly she or he can return to work.

Given these individual differences, HRSA is using median weekly figures for each expense to estimate the expected costs per individual of these regulatory changes. Please note that the lost wages category correlates to a typical 40-hour workweek, while child-care and elder-care are extrapolated out to a full 7-day week, on the presumption that caregivers will require assistance caring for children and the elderly on the weekends as well.

- *Wages:* $28 per hour [15] for 40 hours per week is a weekly average wage of $1,120 per week or $4,480–$6,720 over 4–6 weeks.
- *Child-care:* At $420 per full week [16] child-care will cost $1,680–$2,520 over 4–6 weeks.
- *Elder-care:* At $504 per full week [17] elder-care will cost $2,016–$3,024 over 4–6 weeks.

Funding for this program is a fixed amount that is determined through annual federal discretionary appropriations. These regulatory changes will result in expanded coverage and a potential increase in user demand of the living organ donor reimbursement program. Expanding the list of eligible expenses could increase the average reimbursement. The number of individuals receiving reimbursement and/or the amount of reimbursement per individual in any given fiscal year will be dependent upon annual appropriations. Therefore, increases in the average reimbursement without increases in appropriations could result in fewer individuals being served by the program. Based on the uncertainty of annual appropriation levels for the program, HRSA is considering a range of methods to ensure the ongoing viability of this program, such as a reimbursement cap.

In relation to caps on reimbursements, under current program guidelines, NLDAC limits donors to a maximum of $6,000 for reimbursement of solely travel and subsistence; a correlating demonstration project, on lost wages, limits reimbursement of solely lost wages to a maximum of $5,000; donors receiving reimbursements from both programs are capped at receiving a combined maximum of $8,000. In fiscal year 2018, the average NLDAC reimbursement was $1,934 per donor, which is lower than the current cap level. Approximately nine (9) percent of participants exceeded a reimbursement of $5,500 or more. HRSA may adjust the cap to account for the additions of lost wages, child-care, and elder-care. HRSA acknowledges that this cap may not cover the entirety of reimbursable expenses incurred by some donors; however, this assistance does align with one of the major goals of the reimbursement program: To reduce financial disincentives and disparities, not to necessarily make donors whole financially.

While expanding the list of expenses eligible for reimbursement for living organ donors will increase the average amount of reimbursement, the federal government can expect to save overall due to an increase in additional organ transplants performed and the aversion of dialysis. The costs/savings incurred by kidney transplantation vary by donor type. One study using Medicare claims data [18] estimated End-Stage Renal Disease (ESRD) expenditures to be $292,117 over ten years per beneficiary on dialysis. Living donor kidney transplants (LDKT) was cost-saving at ten years, reducing expected medical expenditures for ESRD treatment by 13 percent ($259,119) compared to maintenance dialysis.

The approximately $33,000 in Medicare savings per beneficiary over ten years for LDKT compared to maintenance dialysis is likely a lower bound, since living donation is likely to reduce the number of beneficiaries under the age of 65 who would be eligible for Medicare enrollment. The lower bound conditional savings can be adjusted to account for additional savings through reduced Medicare enrollment by considering the share of potential new live donations across three main scenarios.

The LDKT expected cost of $259,119 over ten years per beneficiary projected by Axelrod et al. (2018) assumes Medicare primary payer status. For roughly 25 percent of LDKTs, Medicare is assumed as the primary payer

[11] Schnier, K.E., Merion, R.M., Turgeon, N., & Howard, D. (2018). Subsidizing altruism in living organ donation. *Economic Inquiry, 56*(1), 398–423.

[12] Merion RM et al. Analysis of dialysis cost and median waiting time on return on investment (ROI) of the US National Living Donor Assistance Center (NLDAC) program [abstract]. *Transplantation.* 2016;100:S310.

[13] Bilgel, F., & Galle, B. (2015). Financial incentives for kidney donation: a comparative case study using synthetic controls. *Journal of Health Economics.* 43, 103–117.

[14] Gill, J., Dong, J., Rose, C., Johnston, O., Landsberg, D., & Gill, J. (2013). The effect of race and income on living kidney donation in the United States. *Journal of the American Society of Nephrology.* 24(11), 1872–1879.

[15] Information from the U.S. Bureau of Labor Statistics and available at *https://www.bls.gov/news.release/empsit.nr0.htm.*

[16] National Center for Education Statistics and available at *https://nces.ed.gov/programs/digest/d18/tables/dt18_202.30c.asp.*

[17] Paying for senior care, *https://www.payingforseniorcare.com/longtermcare/costs.html#Non-Medical-Home-Care.*

[18] Axelrod DA, Schnitzler MA, Xiao H, et al. An economic assessment of contemporary kidney transplant practice. *Am J Transplant.* 2018;18:1168–1176. *https://doi.org/10.1111/ajt.14702.*

regardless of transplant success; therefore, the projected spending need not be adjusted. For the next 25 percent of LDKTs, the assumption was that the beneficiary is on dialysis, and Medicare is the primary payer. Still, they would eventually no longer need dialysis and/or leave Medicare enrollment if they had a transplant, and are not otherwise eligible for Medicare due to age or disability. Therefore, the expected Medicare spending for these cases was adjusted downward by 33 percent. This projected a savings of approximately $119,000 over ten years relative to the baseline spending projection of $292,117 over ten years for beneficiaries on dialysis. For the remaining 50 percent of LDKTs it was assumed that Medicare is not the primary payer when the transplant occurs. In this case, it was assumed that Medicare spending is nominal relative to baseline spending of $292,117 over 10 years for beneficiaries on dialysis, and amounts were adjusted downward by 33 percent (that is, for these beneficiaries, Medicare would have become the primary payer after 30 months of coordinated medical services; it takes 30 months for Medicare to become the primary payer for diagnosed end stage renal disease patients, absent the transplant), which projected a savings of approximately $195,000 over 10 years. The projected weighted average federal budgetary savings to the Medicare program for LDKT is $136,000 over 10 years per beneficiary.

Therefore, a hypothetical 20 percent increase in the rate of LDKT in model markets in a single year, representing about 500 new kidney transplants mainly from relatives of recipients, would produce approximately $68 million in federal budgetary savings to the Medicare program over ten years (and multiples thereof for each successive year if the living donor kidney transplant rate was thusly elevated). Overall, having more end stage renal disease (ESRD) individuals receiving transplants will ultimately decrease Medicare expenditures.[19]

A. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) and the Small Business Regulatory Enforcement and Fairness Act of 1996, which amended the RFA, require HHS to analyze options for regulatory relief of small businesses. If a rule has a significant economic effect on a substantial number of small entities, the Secretary must specifically consider the economic effect of the rule on small entities and analyze regulatory options that could lessen the impact of the rule. HHS will use an RFA threshold of at least a 3 percent impact on at least 5 percent of small entities. HHS has determined, and the Secretary certifies that this rule will not have a significant impact on the operations of a substantial number of small manufacturers; therefore, we are not preparing an analysis of impact for the purposes of the RFA.

B. Unfunded Mandates Reform Act

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year.'' In 2019, that threshold was $154 million. HHS does not expect this rule to exceed the threshold.

C. Executive Order 13132—Federalism

HHS has reviewed this rule in accordance with E.O. 13132 regarding federalism and has determined that it does not have ''federalism implications.'' This rule would not ''have substantial direct effects on the States, or the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

D. Collection of Information

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) (PRA) requires that OMB approve all collections of information by a federal agency from the public before they can be implemented. This rule is projected to have no impact on current reporting and recordkeeping burden, as the amendments outlined in this rule will not impose any data collection requirements under the PRA.

List of Subjects in 42 CFR Part 121

Health care, Hospitals, Organ transplantation, Reporting and recordkeeping requirements, Transplant centers.

Dated: September 15, 2020.

Thomas J. Engels,

Administrator, Health Resources and Services Administration.

Approved: September 16, 2020.

Alex M. Azar II,

Secretary, Department of Health and Human Services.

Accordingly, by the authority vested in me as the Secretary of Health and Human Services, and for the reasons set forth in the preamble, 42 CFR part 121 is amended as follows:

PART 121—ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK

■ 1. The authority citation for part 121 is revised to read as follows:

Authority: Sections 215, 371–377, and 377E of the PHS Act (42 U.S.C. 216, 273–274d, 274f–5); sections 1102, 1106, 1138 and 1871 of the Social Security Act (42 U.S.C. 1302, 1306, 1320b–8, and 1395hh); section 301 of the National Organ Transplant Act, as amended (42 U.S.C. 274e); and E.O. 13879, 84 FR 33817.

■ 2. Revise § 121.1 to read as follows:

§ 121.1 Applicability.

(a) The provisions of this part, with the exception of §§ 121.13 and 121.14, apply to the operation of the Organ Procurement and Transplantation Network (OPTN) and the Scientific Registry.

(b) The provisions of § 121.13 apply to the prohibition set forth in section 301 of the National Organ Transplant Act, as amended.

(c) The provisions of § 121.14 apply to the reimbursement of specified incidental non-medical expenses incurred toward living organ donation under section 377 of the Public Health Service Act, as amended.

(d) In accordance with section 1138 of the Social Security Act, hospitals in which organ transplants are performed and which participate in the programs under titles XVIII or XIX of the Social Security Act, and organ procurement organizations designated under section 1138(b) of the Social Security Act, are subject to the requirements of this part.

■ 3. Add § 121.14 to read as follows:

§ 121.14 Reimbursement for living organ donors: incidental non-medical expenses.

(a) The following incidental non-medical expenses incurred by donating individuals toward making living donations of their organs may be reimbursed:

(1) Lost wages;

(2) Child-care expenses; and

(3) Elder-care expenses.

[19] Obtained from proposed rule CMS–5527–P S*pecialty Care Models to Improve Quality of Care and Reduce Expenditures* posted on July 18, 2019, and information available at *https://www.federalregister.gov/documents/2019/07/18/2019-14902/medicare-program-specialty-care-models-to-improve-quality-of-care-and-reduce-expenditures.*

(b) [Reserved]

[FR Doc. 2020–20804 Filed 9–18–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 180117042–8884–02; RTID 0648–XA483]

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule; quota transfer.

SUMMARY: NMFS is transferring 111.6 metric tons (mt) of Atlantic bluefin tuna (BFT) quota from the Reserve category to the General category. This action is intended to account for an accrued overharvest of 63.3 mt from previous time period subquotas, and to provide further opportunities for General category fishermen to participate in the September General category fishery, based on consideration of the regulatory determination criteria regarding inseason adjustments. This action would affect Atlantic tunas General category (commercial) permitted vessels and Highly Migratory Species (HMS) Charter/Headboat category permitted vessels with a commercial sale endorsement when fishing commercially for BFT.

DATES: Effective September 17, 2020 through September 30, 2020.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin or Nicholas Velseboer, 978–281–9260, or Larry Redd, 301–427–8503.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and as implemented by the United States among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006) and amendments. NMFS is required under ATCA and the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quota.

The current baseline General and Reserve category quotas are 555.7 mt and 29.5 mt, respectively. See § 635.27(a). Each of the General category time periods (January, June through August, September, October through November, and December) is allocated a ''subquota'' or portion of the annual General category quota. The baseline subquotas for each time period are as follows: 29.5 mt for January; 277.9 mt for June through August; 147.3 mt for September; 72.2 mt for October through November; and 28.9 mt for December. Any unused General category quota rolls forward from one time period to the next and is available for use in subsequent time periods. At the time of drafting this notice, NMFS has taken four actions that resulted in adjustments to the General and Reserve category quotas, resulting in currently adjusted quotas of 113 mt of quota for the Reserve category, 100 mt for the General category January through March 2020 subquota period, and 9.4 mt for the December 2020 subquota period (85 FR 17, January 2, 2020; 85 FR 6828, February 6, 2020; 85 FR 43148, July 16, 2020).

Transfer of 111.6 mt From the Reserve Category to the General Category

Under § 635.27(a)(9), NMFS has the authority to transfer quota among fishing categories or subcategories, after considering regulatory determination criteria provided under § 635.27(a)(8). NMFS has considered all of the relevant determination criteria and their applicability to this inseason quota transfer. These considerations include, but are not limited to, the following:

Regarding the usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock (§ 635.27(a)(8)(i)), biological samples collected from BFT landed by General category fishermen and provided by tuna dealers provides NMFS with valuable parts and data for ongoing scientific studies of BFT age and growth, migration, and reproductive status. Additional opportunity to land BFT in the General category would support the continued collection of a broad range of data for these studies and for stock monitoring purposes.

NMFS also considered the catches of the General category quota to date (including during the summer/fall and winter fisheries in the last several years), and the likelihood of closure of that segment of the fishery if no adjustment is made (§ 635.27(a)(8)(ii) and (ix)). Preliminary landings data as of September 15, 2020, indicate that the General category landed a cumulative total of 441.2 mt through August 31, which exceeds the cumulative adjusted quota available through August 31, *i.e.,* 377.9 mt. Preliminary September landings as of September 15, 2020, are 114.2 mt, which represents 78 percent of the baseline September subquota (147.3 mt). At the time of drafting of this inseason action, the General category subquota has not yet been exceeded, but without a quota transfer at this time, NMFS would likely close the General category fishery shortly, and participants would have to stop bluefin tuna fishing activities while commercial-sized bluefin tuna remain available in the areas where General category permitted vessels operate at this time of year. Transferring 111.6 mt of quota from the Reserve category would account for 63.3 mt of accrued overharvest from the prior time periods and result in an additional 48.3 mt being available for the September 2020 subquota period after, thus effectively providing limited additional opportunities to harvest the U.S. bluefin tuna quota while avoiding exceeding it.

Regarding the projected ability of the vessels fishing under the particular category quota (here, the General category) to harvest the additional amount of BFT quota transferred before the end of the fishing year (§ 635.27(a)(8)(iii)), NMFS considered General category landings over the last several years and landings to date this year. Landings are highly variable and depend on access to commercial-sized BFT and fishing conditions, among other factors, such as the restrictions that some dealers placed on their purchases of BFT from General category participants this year. A portion of the transferred quota covers the 63.3-mt overharvest in the category to date, and NMFS anticipates that General category participants will be able to harvest the remaining 48.3 mt of transferred BFT quota by the end of the subquota time period. In the unlikely event that any of this quota is unused by September 30, such quota will roll forward to the next subperiod within the calendar year (*i.e.,* to the October through November period), and NMFS anticipates that it would be used before the end of the fishing year. NMFS also anticipates that some underharvest of the 2019 adjusted U.S. BFT quota will be carried forward

to 2020 and placed in the Reserve category, in accordance with the regulations. Thus, this quota transfer would allow fishermen to take advantage of the availability of fish on the fishing grounds, and provide a reasonable opportunity to harvest the full U.S. BFT quota.

NMFS also considered the estimated amounts by which quotas for other gear categories of the bluefin tuna fishery might be exceeded (§ 635.27(a)(8)(iv)) and the ability to account for all 2020 landings and dead discards. In the last several years, total U.S. BFT landings have been below the available U.S. quota such that the United States has carried forward the maximum amount of underharvest allowed by ICCAT from one year to the next. NMFS will need to account for 2020 landings and dead discards within the adjusted U.S. quota, consistent with ICCAT recommendations, and anticipates having sufficient quota to do that.

NMFS also considered the effects of the adjustment on the BFT stock and the effects of the transfer on accomplishing the objectives of the FMP (§ 635.27(a)(8)(v) and (vi)). This transfer would be consistent with the current quotas, which were established and analyzed in the 2018 BFT quota final rule (83 FR 51391, October 11, 2018), and with objectives of the 2006 Consolidated HMS FMP and amendments and is not expected to negatively impact stock health or to affect the stock in ways not already analyzed in those documents. Another principal consideration is the objective of providing opportunities to harvest the full annual U.S. BFT quota without exceeding it based on the goals of the 2006 Consolidated HMS FMP and amendments, including to achieve optimum yield on a continuing basis and to optimize the ability of all permit categories to harvest their full BFT quota allocations (related to § 635.27(a)(8)(x)). Specific to the General category, this includes providing opportunity equitably across all time periods.

Based on the considerations above, NMFS is transferring 111.6 mt from the Reserve category to the General category. Of this amount, 63.3 mt accounts for preliminary overharvest of the January through March and June through August time period subquotas, and 48.3 mt is added to the September subquota. Therefore, NMFS adjusts the General category September 2020 subquota to 195.6 mt after accounting for the 63.3 mt of overharvest through for the prior 2020 time periods, and adjusts the Reserve category quota to 1.4 mt, the amount of Reserve category quota obligated for scientific research. Again, NMFS anticipates that some underharvest (*i.e.,* 127.3 mt) of the 2019 adjusted U.S. BFT quota will be carried forward to 2020 and placed in the Reserve category, in accordance with the regulations, in the next few weeks. The General category fishery will remain open until September 30, 2020, or until the adjusted General category quota is reached, whichever comes first.

Monitoring and Reporting

NMFS will continue to monitor the BFT fishery closely. Dealers are required to submit landing reports within 24 hours of a dealer receiving BFT. Late reporting by dealers compromises NMFS' ability to timely implement actions such as quota and retention limit adjustment, as well as closures, and may result in enforcement actions. Additionally, and separate from the dealer reporting requirement, General and HMS Charter/Headboat category vessel owners are required to report the catch of all BFT retained or discarded dead within 24 hours of the landing(s) or end of each trip, by accessing *hmspermits.noaa.gov* or by using the HMS Catch Reporting app, or calling (888) 872–8862 (Monday through Friday from 8 a.m. until 4:30 p.m.).

Depending on the level of fishing effort and catch rates, NMFS may determine that additional action (*e.g.,* quota adjustment, daily retention limit adjustment, or closure) is necessary to enhance scientific data collection from, and fishing opportunities in, all geographic areas, and to ensure all available subquotas are not exceeded. If needed, subsequent adjustments will be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (978) 281–9260, or access *hmspermits.noaa.gov,* for updates on quota monitoring and inseason adjustments.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 635, which was issued pursuant to section 304(c), and is exempt from review under Executive Order 12866.

The Assistant Administrator for NMFS (AA) finds that pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

The regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason retention limit adjustments to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. Affording prior notice and opportunity for public comment to implement the quota transfer for the September 2020 time period is also contrary to the public interest as such a delay would likely result in closure of the General category fishery when the baseline quota is met and the need to re-open the fishery, with attendant administrative costs and costs to the fishery. The delay would preclude the fishery from harvesting BFT that are available on the fishing grounds and that might otherwise become unavailable during a delay. This action does not raise conservation and management concerns. Transferring quota from the Reserve category to the General category does not affect the overall U.S. BFT quota, and available data shows the adjustment would have a minimal risk of exceeding the ICCAT-allocated quota.

NMFS notes that the public had an opportunity to comment on the underlying rulemakings that established the U.S. BFT quota and the inseason adjustment criteria.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: September 17, 2020.

Jennifer M. Wallace,

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

[FR Doc. 2020–20906 Filed 9–17–20; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 85, No. 184
Tuesday, September 22, 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 72

[NRC–2020–0166]

RIN 3150–AK50

List of Approved Spent Fuel Storage Casks: NAC International, Inc. MAGNASTOR® Storage System, Certificate of Compliance No. 1031, Amendment No. 9

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its regulations by revising the NAC International, Inc. MAGNASTOR® Storage System listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 9 to Certificate of Compliance No. 1031. Amendment No. 9 revises the certificate of compliance to add a new concrete storage overpack; four new heat load zone patterns and their associated decay heats that are specific to Babcock and Wilcox 15x15 fuel assemblies; a new Babcock & Wilcox 15x15 hybrid fuel assembly type (BW15H5); and a new maximum enrichment for the BW15H2 hybrid fuel assembly, including a new minimum soluble boron concentration during loading and unloading operations and neutron absorber areal density. In addition, Amendment No. 9 makes non-technical changes to reorganize Appendix B of the technical specifications.

DATES: Submit comments by October 22, 2020. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure 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–2020–0166. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions contact the individuals 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: Bernard White, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–6577; email: *Bernard.White@nrc.gov* or Angella Love Blair, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–3453; email: *Angella.LoveBlair@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2020–0166 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–2020–0166.
- *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/adams.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.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *Attention:* The Public Document Room (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–2020–0166 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, 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. Rulemaking Procedure

Because the NRC considers this action to be non-controversial, the NRC is publishing this proposed rule concurrently with a direct final rule in the Rules and Regulations section of this issue of the **Federal Register**. The direct final rule will become effective on December 7, 2020. However, if the NRC receives any significant adverse comment by October 22, 2020, then the NRC will publish a document that withdraws the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments in a subsequent final rule. Absent significant

modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action in the event the direct final rule is withdrawn.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC to make a change (other than editorial) to the rule.

For a more detailed discussion of the proposed rule changes and associated analyses, see the direct final rule published in the Rules and Regulations section of this issue of the **Federal Register**.

III. Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended, requires that ''[t]he Secretary [of the Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the Nuclear Waste Policy Act states, in part, that ''[the Commission] shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule which added a new subpart K in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) entitled ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new subpart L in 10 CFR part 72 entitled ''Approval of Spent Fuel Storage Casks,'' which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on November 21, 2008 (73 FR 70587), that approved the NAC International, Inc. MAGNASTOR® Storage System design and added it to the list of NRC-approved cask designs in § 72.214 as Certificate of Compliance No. 1031.

IV. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31883). The NRC requests comment on the proposed rule with respect to clarity and effectiveness of the language used.

V. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	Adams Accession No./Web Link/**Federal Register** Citation
Redacted SAR for MAGNASTOR® Amendment 9, dated October 29, 2019	ML19302F268 (package).
Submission of Responses to the U.S. Nuclear Regulatory Commission Request for Additional Information for Amendment No. 9 to Certificate of Compliance No. 1031 for the NAC International MAGNASTOR® Cask System, dated April 9, 2020.	ML20108F319 (package).
Submission of a Supplement to NAC's Request for Amendment No. 9 to Certificate of Compliance No. 1031 for the NAC International MAGNASTOR® Cask System, dated June 29, 2020.	ML20192A118.
Memo—User Need for Rulemaking for the NAC International MAGNASTOR® Cask System Certificate of Compliance No. 1031, Amendment No. 9, dated July 28, 2020.	ML20174A551.
Draft Proposed Certificate of Compliance No. 1031, Amendment 9	ML20174A552.
Proposed Certificate of Compliance No. 1031, Amendment 9—Appendix A, Technical Specifications	ML20174A553.
Proposed Certificate of Compliance No. 1031, Amendment 9—Appendix B, Technical Specifications	ML20174A554.
Preliminary Certificate of Compliance No. 1031, Amendment 9—Safety Evaluation Report	ML20174A555.

The NRC may post materials related to this document, including public comments, on the Federal Rulemaking website at *https://www.regulations.gov* under Docket ID NRC–2020–0166. The Federal Rulemaking website allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder (NRC–2020–0166); (2) click the ''Sign up for Email Alerts'' link; and (3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly).

Dated September 4, 2020.

For the Nuclear Regulatory Commission.

Margaret M. Doane,

Executive Director for Operations.

[FR Doc. 2020–20667 Filed 9–21–20; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0844; Product Identifier 2020–NM–100–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. This proposed AD was prompted by a report of cracks found in fastener holes at a certain station of the center wing box. This proposed AD would require repetitive external surface high frequency eddy current inspections (HFEC) and repetitive external surface ultrasonic inspections; or repetitive internal detailed inspections; of a certain station of the center wing box for any cracking, and repair if necessary. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by November 6, 2020.

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

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

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0844.

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–2020–0844; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Wayne Ha, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5238; email: *Wayne.Ha@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0844; Product Identifier 2020–NM–100–AD'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal 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 agency will also post a report summarizing each substantive verbal contact received about this proposed AD.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Wayne Ha, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5238; email: *Wayne.Ha@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Discussion

The FAA has received a report of cracks found in fastener holes at the center wing box, station 663.75 rear spar, of the lower skin located at left buttock line 6.50. The lower skin cracks were hidden between the center wing box lower chord on the upper surface and the keel beam upper chord on the lower surface. A crack in the center wing box, rear spar lower skin, or lower chord could go undetected. This condition, if not addressed, could result in inability of a principal structural element to sustain limit load and could adversely affect the structural integrity of the airplane.

Explanation of Applicability

The Boeing Company Model 737 airplanes having line numbers 1 through 291 have a limit of validity (LOV) of 34,000 total flight cycles, and the actions proposed in this NPRM, as specified in Boeing Alert Requirements Bulletin 737–57A1348 RB, dated June 1, 2020, would be required at a compliance time occurring after that LOV. Although operation of an airplane beyond its LOV is prohibited by 14 CFR 121.1115 and 129.115, this NPRM would include those airplanes in the applicability so that these airplanes are tracked in the event the LOV is extended in the future.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin 737–57A1348 RB, dated June 1, 2020. The service information describes procedures for repetitive external surface HFEC inspections and repetitive external surface ultrasonic inspections; or repetitive internal detailed inspections; of the center wing box, station 663.75 rear spar, lower skin, and lower chord

between left buttock line 31.83 and right buttock line 31.83, for any cracking, and repair if necessary.

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

FAA's Determination

The FAA is proposing this AD because the agency evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishment of the actions identified in Boeing Alert Requirements Bulletin 737–57A1348 RB, dated June 1, 2020, described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

For information on the procedures and compliance times, see this service information at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0844.

Explanation of Requirements Bulletin

The FAA worked in conjunction with industry, under the Airworthiness Directive Implementation Aviation Rulemaking Committee (AD ARC), to enhance the AD system. One enhancement is a process for annotating which steps in the service information are ''required for compliance'' (RC) with an AD. Boeing has implemented this RC concept into Boeing service bulletins.

In an effort to further improve the quality of ADs and AD-related Boeing service information, a joint process improvement initiative was worked between the FAA and Boeing. The initiative resulted in the development of a new process in which the service information more clearly identifies the actions needed to address the unsafe condition in the ''Accomplishment Instructions.'' The new process results in a Boeing Requirements Bulletin, which contains only the actions needed to address the unsafe condition (*i.e.,* only the RC actions).

Costs of Compliance

The FAA estimates that this proposed AD affects 141 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Repetitive external HFEC and external ultrasonic inspections.	3 work-hours × $85 per hour = $255 per inspection cycle.	$0	$255 per inspection cycle	Up to $35,955 per inspection cycle.
Repetitive internal detailed inspections.	28 work-hours × $85 per hour = $2,380 per inspection cycle.	$0	$2,380 per inspection cycle	Up to $335,580 per inspection cycle.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2020–0844; Product Identifier 2020–NM–100–AD.

(a) Comments Due Date

The FAA must receive comments by November 6, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, certificated in any category.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report of cracks found in fastener holes at the center wing box, station 663.75 rear spar, of the

lower skin located at left buttock line 6.50. The FAA is issuing this AD to address such cracking, which could result in inability of a principal structural element to sustain limit load and could adversely affect the structural integrity of the airplane.

(f) Compliance

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

(g) Actions for Group 1

For airplanes identified as Group 1 in Boeing Alert Requirements Bulletin 737–57A1348 RB, dated June 1, 2020: Within 120 days after the effective date of this AD, inspect the airplane and do all applicable on-condition actions using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(h) Required Actions

For airplanes identified as Group 2 in Boeing Alert Requirements Bulletin 737–57A1348 RB, dated June 1, 2020, except as specified by paragraph (i) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 737–57A1348 RB, dated June 1, 2020, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 737–57A1348 RB, dated June 1, 2020.

Note 1 to paragraph (h): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 737–57A1348, dated June 1, 2020, which is referred to in Boeing Alert Requirements Bulletin 737–57A1348 RB, dated June 1, 2020.

(i) Exceptions to Service Information Specifications

(1) Where Boeing Alert Requirements Bulletin 737–57A1348 RB, dated June 1, 2020, uses the phrase ''the original issue date of Requirements Bulletin 737–57A1348 RB,'' this AD requires using ''the effective date of this AD,'' except where Boeing Alert Requirements Bulletin 737–57A1348 RB, dated June 1, 2020, uses the phrase ''the original issue date of Requirements Bulletin 737–57A1348 RB'' in a note or flag note.

(2) Where Boeing Alert Requirements Bulletin 737–57A1348 RB, dated June 1, 2020, specifies contacting Boeing for repair instructions: This AD requires doing the repair using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (k)(1) of this AD. Information may be emailed to: *9-ANM-LAACO-AMOC-Requests@faa.gov.*

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Los Angeles ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(k) Related Information

(1) For more information about this AD, contact Wayne Ha, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5238; email: *Wayne.Ha@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued on September 11, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–20657 Filed 9–21–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0848; Product Identifier 2020–NM–088–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2007–07–03, which applies to certain The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes. AD 2007–07–03 requires repetitive tests to detect hot air leaking from the trim air diffuser ducts or sidewall riser duct assemblies (collectively referred to as TADDs), related investigative actions, and corrective actions if necessary. AD 2007–07–03 also provides an optional terminating action for the repetitive tests. Since the FAA issued AD 2007–07–03, operators reported high temperature composite material TADDs installed as specified in AD 2007–07–03 have also failed. This proposed AD would require repetitive inspections of all TADD material for damage and applicable on-condition actions. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by November 6, 2020.

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

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

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0848.

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–2020–0848; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Susan L. Monroe, Aerospace Engineer, Cabin Safety and Environmental Systems Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3570; email: *susan.l.monroe@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will file in the docket all comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments received on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments received.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Susan L. Monroe, Aerospace Engineer, Cabin Safety and Environmental Systems Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3570; email: *susan.l.monroe@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Discussion

The FAA issued AD 2007–07–03, Amendment 39–15003 (72 FR 14395, March 28, 2007) (''AD 2007–07–03''), for certain The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes. AD 2007–07–03 requires repetitive tests to detect hot air leaking from the TADDs, related investigative actions, and corrective actions if necessary. AD 2007–07–03 also provides an optional terminating action (replacement of the original fiberglass material TADDs with high temperature composition material TADDs) for the repetitive tests. AD 2007–07–03 resulted from reports of sealant deteriorating on the outside of the center wing fuel tank and analysis showing that sealant may deteriorate inside the tank due to excess heat from leaking TADDs. The FAA issued AD 2007–07–03 to address leakage of fuel or fuel vapors into areas where ignition sources may be present, which could result in a fire or explosion.

Actions Since AD 2007–07–03 Was Issued

Since the FAA issued AD 2007–07–03, operators reported high temperature composite material TADDs installed as specified in AD 2007–07–03 have also failed. Further inspection showed that the high temperature composite material TADDs were ruptured, with damaged insulation in poor condition. Analysis showed that hot trim air is causing material properties degradation of both the original fiberglass fabric material and high temperature composite material TADDs, which potentially causes hot air leakage from the TADD(s).

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin 747–21A2577 RB, dated February 18, 2020. The service information describes procedures for repetitive detailed inspections of TADDs made of original fiberglass fabric material and high temperature composite material for damage and applicable on-condition actions. On-condition actions include TADD replacement, detailed inspection of the center wing tank secondary fuel barrier and the center wing tank primary sealant for damage, a measurement of the electrical conductivity change of the upper skin of the center wing tank for indications of damage, other replacement as applicable, and repair. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

The FAA is proposing this AD because the agency evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would retain none of the requirements of AD 2007–07–03. However, the original TADDs specified in AD 2007–07–03, if installed, will continue to be inspected per the new proposed requirements of this AD. This proposed AD would require accomplishment of the actions identified in Boeing Alert Requirements Bulletin 747–21A2577 RB, dated February 18, 2020, described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

For information on the procedures and compliance times, see this service information at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0848.

Explanation of Requirements Bulletin

The FAA worked in conjunction with industry, under the Airworthiness Directive Implementation Aviation Rulemaking Committee (AD ARC), to enhance the AD system. One enhancement is a process for annotating which steps in the service information are ''required for compliance'' (RC) with an AD. Boeing has implemented this RC concept into Boeing service bulletins.

In an effort to further improve the quality of ADs and AD-related Boeing service information, a joint process improvement initiative was worked between the FAA and Boeing. The initiative resulted in the development of a new process in which the service information more clearly identifies the actions needed to address the unsafe condition in the ''Accomplishment Instructions.'' The new process results in a Boeing Requirements Bulletin, which contains only the actions needed

to address the unsafe condition (*i.e.,* only the RC actions).

Interim Action

The FAA considers this proposed AD interim action. The manufacturer is currently developing a modification that will address the unsafe condition identified in this AD. Once this modification is developed, approved, and available, the FAA might consider additional rulemaking.

Costs of Compliance

The FAA estimates that this proposed AD affects 188 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Repetitive inspections.	Up to 44 work-hours × $85 per hour = Up to $3,740 per inspection cycle.	$0	Up to $3,740 per inspection cycle.	Up to $703,120 per inspection cycle.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that the proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2007–07–03, Amendment 39–15003 (72 FR 14395, March 28, 2007), and adding the following new AD:

The Boeing Company: Docket No. FAA–2020–0848; Product Identifier 2020–NM–088–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by November 6, 2020.

(b) Affected ADs

This AD replaces AD 2007–07–03, Amendment 39–15003 (72 FR 14395, March 28, 2007).

(c) Applicability

This AD applies to all The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 21, Air conditioning.

(e) Unsafe Condition

This AD was prompted by reports of sealant deteriorating on the outside of the center wing fuel tank and analysis showing that sealant may deteriorate inside the tank due to excess heat from leaking trim air diffuser ducts or sidewall riser duct assemblies (collectively referred to as TADDs). This AD was also prompted by reports indicating that the high temperature composite material TADDs installed as specified in AD 2007–07–03 have also failed. The FAA is issuing this AD to address potential hot air leakage from original fiberglass fabric material or high temperature composite material TADDs that can cause damage to the center wing fuel tank secondary fuel barrier coating and primary sealant, which can cause fuel leakage into an ignition zone, possibly resulting in a fire or explosion.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the ''Compliance,'' paragraph of Boeing Alert Requirements Bulletin 747–21A2577 RB, dated February 18, 2020, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 747–21A2577 RB, dated February 18, 2020.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 747–21A2577, dated February 18, 2020, which is referred to in Boeing Alert Requirements Bulletin 747–21A2577 RB, dated February 18, 2020.

(h) Exceptions to Service Information Specifications

(1) Where Boeing Alert Requirements Bulletin 747–21A2577 RB, dated February 18, 2020, uses the phrase ''the original issue date of Requirements Bulletin 747–21A2577 RB,'' this AD requires using ''the effective date of this AD.''

(2) Where Boeing Alert Requirements Bulletin 747–21A2577 RB, dated February 18, 2020, specifies contacting Boeing for repair instructions: This AD requires doing the repair before further flight using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(i) Parts Installation Prohibition

As of the effective date of this AD, no person may install an original fiberglass fabric material TADD assembly, having a part number listed in Appendix A of Boeing Alert

Requirements Bulletin 747–21A2577 RB, dated February 18, 2020, on any airplane.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (k)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(k) Related Information

(1) For more information about this AD, contact Susan L. Monroe, Aerospace Engineer, Cabin Safety and Environmental Systems Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3570; email: *susan.l.monroe@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued on September 14, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–20807 Filed 9–21–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–3343; Product Identifier 2015–SW–078–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM); reopening of comment period.

SUMMARY: The FAA is revising an earlier proposal to supersede Airworthiness Directive (AD) 2014–12–12, which applies to certain Airbus Helicopters Model EC120B and EC130B4 helicopters. This action revises the notice of proposed rulemaking (NPRM) by revising the compliance time, expanding the applicability, and providing improved procedures for modifying the sliding door star support as specified in a European Union Aviation Safety Agency (EASA) AD, which will be incorporated by reference. The FAA is proposing this AD to address the unsafe condition on these products. Since these actions would impose an additional burden over those in the NPRM, the FAA is reopening the comment period to allow the public the chance to comment on these changes.

DATES: The comment period for the NPRM published in the **Federal Register** on October 26, 2016 (81 FR 74362), is reopened.

The FAA must receive comments on this SNPRM by November 6, 2020.

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

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

For material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3343.

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–2016–3343; 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 SNPRM, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: David Hatfield, Aviation Safety Engineer, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5116; email *david.hatfield@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to participate in this rulemaking by submitting written comments, data, or views about this proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2016–3343; Product Identifier 2015–SW–078–AD'' at the beginning of your comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments received by the closing date for comments. The FAA will consider comments filed after the

comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this NPRM because of those comments.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to David Hatfield, Aviation Safety Engineer, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5116; email *david.hatfield@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Discussion

The FAA issued AD 2014–12–12, Amendment 39–17873 (79 FR 36638, June 30, 2014) (''AD 2014–12–12''). AD 2014–12–12 requires actions to address an unsafe condition on certain Airbus Helicopters Model EC120B and EC130B4 helicopters. AD 2014–12–12 requires inspecting the upper and lower locking pin control rod fittings for a bend, twist, or breakage and the star support pin for a crack; replacing control rod end fittings and star support pins if necessary; and reinforcing the sliding door star support stringer by installing three carbon fabric plies.

The FAA issued an NPRM to amend 14 CFR part 39 by adding an AD to supersede AD 2014–12–12 that would apply to certain Airbus Helicopters Model EC120B and EC130B4 helicopters. The NPRM published in the **Federal Register** on October 26, 2016 (81 FR 74362) (''the NPRM''). The NPRM was prompted by a report of passengers not being able to open a helicopter's left-hand door after landing. The NPRM proposed to require inspecting each upper and lower locking pin control rod end fitting and replacing it if necessary, cleaning and dye-penetrant inspecting the star support pin for cracking and replacing it if necessary, and reinforcing the sliding door star support stringer.

Actions Since Previous NPRM Was Issued

Since the FAA issued the NPRM, there have been several incidents involving helicopter left-hand doors (both swinging and sliding) that revealed weaknesses in the locking mechanism. The FAA has determined the NPRM must be revised by revising the compliance time, expanding the applicability, and providing improved procedures for modifying the sliding door star support.

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0095, dated April 29, 2020 (''EASA AD 2020–0095'') (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Helicopters Model EC120B and EC130B4 helicopters. EASA advises that, after landing, the passengers on an Airbus Helicopters Model EC120B helicopter could not open the sliding door from inside. The passengers had to leave the helicopter through the other door. The results of the subsequent investigation revealed failure of a sliding door star axle support. This condition, if not corrected, could delay the evacuation from the helicopter in case of emergency, possibly resulting in injury to the occupants.

EASA AD 2020–0095 superseded EASA AD 2015–0020, dated February 11, 2015 (''EASA AD 2015–0020''), which corresponds to FAA NPRM, Docket No. FAA–2016–3343. EASA AD 2015–0020 superseded EASA AD 2013–0093, dated April 15, 2013; corrected April 17, 2013, which corresponds to FAA AD 2014–12–12.

EASA AD 2020–0095 revises the compliance time that was specified in EASA AD 2015–0020 and expands the applicability.

You may examine the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3343.

This proposed AD was prompted by a report of passengers not being able to open a helicopter's left-hand door after landing. The FAA is proposing this AD to address failure of the sliding door star support, which could inhibit the operation of the sliding door from the inside, delaying the evacuation of passengers during an emergency. See the MCAI for additional background information.

Related Material Under 1 CFR Part 51

EASA AD 2020–0095 describes improved procedures for modifying the door locking/unlocking mechanism (*e.g.* modifying the sliding door star support by installing a reinforcing bracket and replacing rod ends). This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Comments

The FAA gave the public the opportunity to participate in developing this proposed AD. The following presents the comment received on the NPRM and the FAA's response to that comment.

Request To Refer to Revised Service Information

Airbus Helicopters proposed that the service information specified in the NPRM be revised because it was not the current revision level. The commenter stated that revising the service information to reflect the current revision level would prevent having to revise the final rule in the near future. The commenter explained that Airbus Helicopters Alert Service Bulletin EC120–52A018, Revision 01; and Alert Service Bulletin EC130–52A019, Revision 01, were released July 12, 2016, and included improved procedures for replacing the rod ends and installing the reinforcements of the sliding door star support. The commenter noted that the revised service information also included additional helicopters in the effectivity.

The FAA acknowledges the commenter's concern regarding the revision level of the service information specified in the proposed AD (in the NPRM). Since the FAA issued the NPRM, the AD format has changed and instead of specifying the required service information in paragraph (g), Requirements, of this proposed AD (SNPRM), operators would be required to comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2020–0095, except for any differences identified as exceptions in the regulatory text of this proposed AD and except as discussed under ''Differences Between This Proposed AD and the MCAI.'' EASA AD 2020–0095 specifies that operators must use Airbus Helicopters Alert Service Bulletin EC120–52A018, Revision 01; and Alert Service Bulletin EC130–52A019, Revision 01, both dated July 12, 2016, as the required service information. The FAA has not changed

this proposed AD (SNPRM) in regard to this issue.

FAA's Determination and Requirements of This Proposed AD

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2020–0095 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD and except as discussed under ''Differences Between this Proposed AD and the MCAI.''

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2020–0095 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2020–0095 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2020–0095 that is required for compliance with EASA AD 2020–0095 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3343 after the FAA final rule is published.

Differences Between This Proposed AD and the MCAI

EASA AD 2020–0095 specifies to do the modification within 24 months. This proposed AD would require the modification be done within 460 hours time-in-service (TIS), based on an average of 230 hours TIS per year. The FAA has determined this compliance time represents the maximum interval of time allowable for the affected helicopters to continue to safely operate before the modification is done.

Costs of Compliance

The FAA estimates that this proposed AD affects 355 helicopters of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
20 work-hours × $85 per hour = $1,700	$642	$2,342	$831,410

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2014–12–12, Amendment 39–17873 (79 FR 36638, June 30, 2014), and adding the following new AD:

Airbus Helicopters: Docket No. FAA–2016–3343; Product Identifier 2015–SW–078–AD.

(a) Comments Due Date

The FAA must receive comments by November 6, 2020.

(b) Affected ADs

This AD replaces AD 2014–12–12, Amendment 39–17873 (79 FR 36638, June 30, 2014) (''AD 2014–12–12'').

(c) Applicability

This AD applies to Airbus Helicopters Model EC120B and EC130B4 helicopters, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2020–0095, dated April 29, 2020 (''EASA AD 2020–0095'').

(d) Subject

Joint Aircraft System Component (JASC) Code 5200, Doors.

(e) Reason

This AD was prompted by reports of passengers not being able to open a helicopter's left-hand door after landing. The FAA is issuing this AD to address failure of the sliding door star support, which could inhibit the operation of the sliding door from the inside, delaying the evacuation of passengers during an emergency.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2020–0095.

(h) Exceptions to EASA AD 2020–0095

(1) Where EASA AD 2020–0095 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (1) of EASA AD 2020–0095 specifies to complete the actions within 24 months after its effective date, this AD requires completion within 460 hours time-in-service after the effective date of this AD.

(3) The ''Remarks'' section of EASA AD 2020–0095 does not apply to this AD.

(4) Although the service information referenced in EASA AD 2020–0095 specifies to discard certain parts, this AD does not include that requirement.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: David Hatfield, Aviation Safety Engineer, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5116; email *9-ASW-FTW-AMOC-Requests@faa.gov.*

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

(j) Related Information

(1) For information about EASA AD 2020–0095, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3343.

(2) For more information about this AD, contact David Hatfield, Aviation Safety Engineer, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5485; email *david.hatfield@faa.gov.*

Issued on September 15, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–20718 Filed 9–21–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0811; Product Identifier 2019–CE–055–AD]

RIN 2120–AA64

Airworthiness Directives; Textron Aviation Inc. (Textron) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Textron (type certificate previously held by Cessna Aircraft Company) Models 208 and 208B airplanes. This proposed AD was prompted by reports of loose elevator torque tube attach fasteners. This proposed AD would require repetitively inspecting the inboard and outboard elevator torque tube attachments for loose or incorrectly installed fasteners, replacing all fasteners if loose or incorrectly installed fasteners are found, and reporting the inspection results to the FAA. This AD also includes optional actions to terminate the repetitive inspections. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by November 6, 2020.

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

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- For service information identified in this NPRM, contact Textron Aviation Inc., One Cessna Boulevard, Wichita, KS 67215: Telephone: 316–517–5800: email: *teamturbopropsupport@txtav.com;* internet: *https://support.cessna.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust St., Kansas City, MO 64106. For information on the availability of this material at the FAA, call 816–329–4148.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0811; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Bobbie Kroetch, Aerospace Engineer, Wichita ACO Branch, FAA, 1801 Airport Road, Wichita, Kansas 67209; phone: 316–946–4155; fax: 316–946–4107; email: *bobbie.kroetch@faa.gov* or *Wichita-COS@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0811; Product Identifier 2019–CE–055–AD'' at the beginning of your comments. The FAA will consider all comments received by

the closing date and may amend this NPRM 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 it receives about this proposed AD.

Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Bobbie Kroetch, Aerospace Engineer, Wichita ACO Branch, FAA, 1801 Airport Road, Wichita, Kansas 67209. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Discussion

The FAA received reports of loose elevator torque tube attach fasteners on low flight time Textron Model 208B airplanes. Textron identified a quality escape affecting certain serial-numbered Model 208 and 208B airplanes. Fastener holes in the inboard and outboard elevator torque tube connections may have been oversized and fasteners at the inboard and outboard torque tube connections may have been installed incorrectly.

This condition, if not addressed, could result in failure of the elevator torque tube fasteners, leading to loss of elevator control and loss of controlled flight.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Task 27–30–00–290, Left and Right Elevator Torque Tube Attach Points (Borescope) Special Detailed Inspection, dated October 1, 2018, of the Cessna Model 208 Maintenance Manual (Task 27–30–00–290). This service information contains procedures for performing a detailed borescope inspection of the left and right elevator torque tube attach points. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Other Related Service Information

The FAA also reviewed Textron Aviation Mandatory Caravan Service Bulletin CAB–27–06, dated October 14, 2019 (CAB–27–06). This service information contains instructions for visually inspecting the left and right elevator torque tube attach points for the presence of loose rivets and replacing loose or incorrectly installed rivets.

FAA's Determination

The FAA is proposing this AD because it evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of this same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between this Proposed AD and the Service Information.'' This proposed AD also requires reporting the inspection results to the FAA.

Differences Between This Proposed AD and the Service Information

Task 27–30–00–290 only specifies replacing loose fasteners. The proposed AD would require replacement of all 48 fasteners if any single inboard or outboard elevator torque tube attach fastener is found loose or incorrectly installed. The FAA determined based on field evidence that identification of one loose fastener often indicates other fasteners may be affected.

CAB–27–06, which would not be incorporated by reference in this proposed AD, specifies performing an initial inspection within 800 flight hours or 12 months from date of receipt, whichever occurs first. This proposed AD would require an initial inspection before the airplane accumulates 800 hours time-in-service (TIS) or within 200 hours TIS after the AD effectivity date, whichever occurs later.

CAB–27–06 also specifies, without sufficient data, that an inspection is not required for airplanes that have reached 4,000 hours. The FAA determined an inspection of high-time airplanes is necessary to verify whether these airplanes are affected. This proposed AD would require a one-time visual inspection for airplanes that have already accumulated 4,000 hours TIS.

Costs of Compliance

The FAA estimates that this proposed AD affects 232 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	1 work-hour × $85 per hour = $85	Not applicable	$85 per inspection cycle	$19,720 per inspection cycle.
Reporting Requirement	1 work-hour × $85 per hour = $85	Not applicable	$85 per report	$19,720 per report.

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Fastener Replacement: All 48 Fasteners	16 work-hours × $85 per hour = $1,360	$10	$1,370.

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

Paperwork Reduction Act

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Textron Aviation Inc. (Type Certificate Previously Held by Cessna Aircraft Company): Docket No. FAA–2020–0811; Product Identifier 2019–CE–055–AD.

(a) Comments Due Date

The FAA must receive comments by November 6, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Textron Aviation Inc. (Textron) (type certificate previously held by Cessna Aircraft Company) Model 208 airplanes, serial numbers 20800564 through 20800594 and 20800603 through 20800605; and Model 208B airplanes, serial numbers 208B5141 through 208B5285, 208B5287 through 208B5305, 208B5307 through 208B5312, 208B5314, 208B5316 through 208B5344, 208B5346 through 208B5350, 208B5353, 208B5354, 208B5356 through 208B5359, 208B5362 through 208B5366, 208B5401, 208B5403, 208B5404, and 208B5408; certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code: 5520, Elevator Structure.

(e) Unsafe Condition

This AD was prompted by reports loose elevator torque tube attach fasteners. The FAA is issuing this AD to detect and correct loosening and eventual failure of the elevator torque tube attach fasteners. The unsafe condition, if not addressed, could result in loss of elevator control, resulting in loss of control of the airplane.

(f) Compliance

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

(g) Inspection and Fastener Replacement

(1) At the following compliance times, inspect each inboard and outboard elevator torque tube attach fastener for looseness and fretting by following sections 2.C. and 2.D. of Task 27–30–00–290, Left and Right Elevator Torque Tube Attach Points (Borescope) Special Detailed Inspection, dated October 1, 2018, of the Cessna Model 208 Maintenance Manual. You must also inspect for incorrectly installed fasteners.

(i) For airplanes that have accumulated less than 800 hours time-in-service (TIS) as of the effective date of this AD, complete the initial inspection before the airplane accumulates 800 hours TIS or within 200 hours TIS after the effective date of the AD, whichever occurs later. Thereafter, repeat the visual inspection at intervals not to exceed 200 hours TIS until the airplane has accumulated 4,000 hours TIS or until all 48 elevator torque tube attach fasteners are replaced, whichever occurs first.

(ii) For airplanes that have accumulated 800 or more hours TIS but less than 4,000 hours TIS as of the effective date of this AD, complete the initial inspection within 200 hours TIS after the effective date of the AD. Thereafter, repeat the visual inspection at intervals not to exceed 200 hours TIS until the airplane has accumulated 4,000 hours

TIS or until all 48 elevator torque tube attach fasteners are replaced, whichever occurs first.

(iii) For airplanes that have accumulated 4,000 or more hours TIS as of the effective date of this AD, complete a one-time visual inspection within 200 hours TIS after the effective date of the AD. No repetitive inspections are required after completion of the one-time visual inspection.

(2) If there are any loose, fretting, or incorrectly installed fasteners, remove the elevator and replace all 48 elevator torque tube attach fasteners (24 per side, with 12 each on the inboard and outboard elevator torque tube attach point) before further flight. Maintain proper alignment by marking each part prior to removal and by replacing one fastener at a time. Replacing all 48 fasteners is terminating action for the repetitive inspections required by paragraphs (g)(1)(i) and (ii) of this AD.

(3) If all 48 fasteners were replaced before the effective date of this AD by following the instructions in paragraph (g)(2) of this AD, then the initial and recurring inspections detailed in paragraph (g)(1) of this AD are not required provided you report the information required by paragraph (h) of this AD.

(h) Reporting Requirement

Within 30 days after doing the initial inspection (regardless if loose, fretting, or incorrectly installed fasteners were found) or within 30 days after the effective date of this AD, whichever occurs later, and then within 30 days after each inspection where loose, fretting, or incorrectly installed fasteners were found, report the following information to the FAA at *Wichita-COS@faa.gov:*

(1) Name and address of owner.

(2) Date of the inspection.

(3) Name, address, telephone number, and email address of person submitting the report.

(4) Airplane serial number, registration number, and total hours TIS on the airplane at the time of the inspection.

(5) If an earlier inspection identified loose, fretting, or incorrectly installed fasteners, identify the hours TIS on the airplane and which fasteners were replaced, if known, or if all fasteners were replaced.

(6) If loose, fretting, or incorrectly installed fasteners were found, detailed information including a sketch or picture showing the location of the loose, fretting, or incorrectly installed fasteners and identification of any installed supplemental type certificates (STCs), alterations, repairs, or field approvals affecting the area of concern.

(i) Paperwork Reduction Act Burden Statement

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

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Wichita ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in the Related Information section of this AD.

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

(k) Related Information

(1) For more information about this AD, contact Bobbie Kroetch, Aerospace Engineer, Wichita ACO Branch, FAA, 1801 Airport Rd, Wichita, KS 67209; phone: 316–946–4155; fax: 316–946–4107; email: *bobbie.kroetch@faa.gov* or *Wichita-COS@faa.gov.*

(2) For service information identified in this AD, contact Textron Aviation Inc., One Cessna Boulevard, Wichita, KS 67215, telephone: 316–517–5800, email: *teamturbopropsupport@txtav.com,* internet: *https://support.cessna.com.* You may review this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued on September 15, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–20681 Filed 9–21–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0846; Project Identifier MCAI–2020–00806–T]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus SAS Model A350–941 and –1041 airplanes. This proposed AD was prompted by reports of migration of the bushings of the horizontal tail plane (HTP) lateral load fittings (LLFs) on the left- and right-hand sides during flight test. This proposed AD would require repetitive inspections for migration of the bushings of the HTP LLFs on the left- and right-hand sides, and terminating repair or modification of any affected bushing, as specified in a European Union Aviation Safety Agency (EASA), which will be incorporated by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by November 6, 2020.

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

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

For the material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0846.

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–2020–0846; or in person at Docket Operations

between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Kathleen Arrigotti, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218; email *kathleen.arrigotti@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to participate in this rulemaking by submitting written comments, data, or views about this proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0846; Project Identifier MCAI–2020–00806–T at the beginning of your comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments received by the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this NPRM because of those comments.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to the person identified in the **FOR FURTHER INFORMATION CONTACT** section. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0139R1, dated July 3, 2020 (''EASA AD 2020–0139R1'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A350–941 and –1041 airplanes.

This proposed AD was prompted by reports of migration of the bushings of the HTP LLFs on the left- and right-hand sides during flight test. The FAA is proposing this AD to address combined corrosion and fatigue damage of the primary structure, possibly resulting in failure of an HTP LLF and damage to adjacent structure, which could result in reduced controllability of the airplane. See the MCAI for additional background information.

Related IBR Material Under 1 CFR Part 51

EASA AD 2020–0139R1 describes procedures for repetitive detailed inspections for migration of the bushings of the HTP LLF on the left- and right-hand sides; and repair or modification of any affected bushing, which eliminates the need for the repetitive inspections. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2020–0139R1 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2020–0139R1 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2020–0139R1 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2020–0139R1 that is required for compliance with EASA AD 2020–0139R1 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0846 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this proposed AD affects 13 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
10 work-hours × $85 per hour = $850	$0	$850	$11,050 per inspection cycle.

The FAA estimates that it would take about 1 work-hour per product to comply with the proposed reporting requirement in this proposed AD. The average labor rate is $85 per hour. Based on these figures, the FAA estimates the cost of reporting the inspection results on U.S. operators to be $1,105, or $85 per product.

ESTIMATED COSTS FOR OPTIONAL ACTIONS

Labor cost	Parts cost	Cost per product
Up to 38 work-hours × $85 per hour = Up to $3,230	$0	Up to $3,230.

Paperwork Reduction Act

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus SAS: Docket No. FAA–2020–0846; Project Identifier MCAI–2020–00806–T.

(a) Comments Due Date

The FAA must receive comments by November 6, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A350–941 and –1041 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2020–0139R1, dated July 3, 2020 (''EASA AD 2020–0139R1'').

(d) Subject

Air Transport Association (ATA) of America Code 55, Stabilizers.

(e) Reason

This AD was prompted by reports of migration of the bushings of the horizontal tail plane (HTP) lateral load fittings (LLFs) on the left- and right-hand sides during flight test. The FAA is issuing this AD to address combined corrosion and fatigue damage of the primary structure, possibly resulting in failure of an HTP LLF and damage to adjacent structure, which could result in reduced controllability of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2020–0139R1.

(h) Exceptions to EASA AD 2020–0139R1

(1) The ''Remarks'' section of EASA AD 2020–0139R1 does not apply to this AD.

(2) Paragraph (6) of EASA AD 2020–0139R1 specifies to report inspection results to Airbus within a certain compliance time. For this AD, report inspection results at the applicable time specified in paragraph (h)(2)(i) or (ii) of this AD.

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

(ii) If the inspection was done before the effective date of this AD: Submit the report

within 30 days after the effective date of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (j)(2) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

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

(3) *Required for Compliance (RC*): For any service information referenced in EASA AD 2020–0139R1 that contains RC procedures and tests: Except as required by paragraph (i)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

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

(j) Related Information

(1) For information about EASA AD 2020–0139R1, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0846.

(2) For more information about this AD, contact Kathleen Arrigotti, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218; email *kathleen.arrigotti@faa.gov.*

Issued on September 14, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–20676 Filed 9–21–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0822; Airspace Docket No. 20–ASO–23]

RIN 2120–AA66

Proposed Amendment of Class D Airspace, and Proposed Removal of Class E Airspace; Homestead, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D airspace, and remove Class E airspace designated as an extension to a Class D surface area for Homestead Air Reserve Base (ARB), Homestead, FL. This action would also update the geographic coordinates of the airport. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

DATES: Comments must be received on or before November 6, 2020.

ADDRESSES: Send comments on this proposal to: the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; Telephone: (800) 647–5527, or (202) 366–9826. You must identify the Docket No. FAA–2020–0822; Airspace Docket No. 20–ASO–23, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

FAA Order 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on-line at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; Telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E 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 Avenue, 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 would amend Class D airspace and remove Class E airspace designated as an extension to a Class D surface area for Homestead ARB, Homestead, FL, to support IFR operations in the area.

Comments Invited

Interested persons are invited to comment on this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions

presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (Docket No. FAA–2020–0822 and Airspace Docket No. 20–ASO–23) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for the address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2020–0822; Airspace Docket No. 20–ASO–23.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this document may be changed in light of the comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays, at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA proposes an amendment to Title 14 Code of Federal Regulations part 71 to amend Class D airspace, and remove Class E airspace designated as an extension to a Class D surface area for Homestead Air Reserve Base, Homestead, FL, as the extensions are less than two miles, and are required to be Class D, as per the FAA Order 7400.2, Procedures for Handling Airspace Matters, chapter 17–2–7, part D. In addition, the FAA proposes to update the geographic coordinates of the airport to coincide with the FAA's aeronautical database.

Class D airspace and Class E airspace designations are published in Paragraphs 5000 and 6004, respectively, of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

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

Regulatory Notices and Analyses

The FAA has determined that this proposed 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 will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

■ 1. The authority citation for 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 Federal Aviation Administration Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO FL D Homestead, FL [Amended]

Homestead ARB, FL
(Lat. 25°29′19″ N, long. 80°23′01″ W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 5.5-mile radius of Homestead ARB, and within 1.5 miles each side of the 50° bearing to 7-miles northeast and within 1.5 miles each side of the 230° bearing of the airport, extending from the 5.5 mile radius to 7-miles southwest of the airport.

Paragraph 6004 Class E Airspace Designated as an Extension to Class D or E Surface Area.

* * * * *

ASO FL E4 Homestead, FL [Removed]

Issued in College Park, Georgia, on September 14, 2020.

Andreese C. Davis,

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

[FR Doc. 2020–20725 Filed 9–21–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0826; Airspace Docket No. 20–AEA–15]

RIN 2120–AA66

Proposed Amendment of Class E Airspace; DuBois, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E surface airspace and Class E airspace extending upward from 700 feet above the surface in DuBois, PA, due to the decommissioning of the Clarion VORTAC and cancellation of the associated approach at DuBois Regional Airport. This action would also update the name of the airport, as well as the name and geographic coordinates of Penn Highlands Healthcare-DuBois Heliport. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

DATES: Comments must be received on or before November 6, 2020.

ADDRESSES: Send comments on this proposal to: the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; Telephone: (800) 647–5527, or (202) 366–9826. You must identify the Docket No. FAA–2020–0826; Airspace Docket No. 20–AEA–15, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

FAA Order 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on-line at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; Telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E 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 Avenue, 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 would amend Class E airspace at DuBois Regional Airport, DuBois, PA, to support IFR operations in the area.

Comments Invited

Interested persons are invited to comment on this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (Docket No. FAA–2020–0826 and Airspace Docket No. 20–AEA–15) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for the address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2020–0826; Airspace Docket No. 20–AEA–15.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this document may be changed in light of the comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11E, Airspace Designations, and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available, as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA proposes an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 to amend Class E surface airspace and Class E airspace extending upward from 700 feet above the surface at DuBois Regional Airport (previously Du Bois-Jefferson County Airport), DuBois, PA, due to the decommissioning of the Clarion VORTAC and cancellation of the associated approach. In addition, the FAA proposes to update the airport's name and the name and geographic coordinates of Penn Highland Healthcare-DuBois Heliport (previously Du Bois Regional Medical Center) to coincide with the FAA's aeronautical database.

Class E airspace designations are published in Paragraphs 6002 and 6005, respectively, of FAA Order 7400.11E,

dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

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

Regulatory Notices and Analyses

The FAA has determined that this proposed 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 will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

■ 1. The authority citation for 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 Federal Aviation Administration Order 7400.11E, Airspace Designations, and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

Paragraph 6002 Class E Surface Airspace.

* * * * *

AEA PA E2 DuBois, PA [Amended]

DuBois Regional Airport, PA
(Lat. 41°10′42″ N, long. 78°53′55″ W)

That airspace extending upward from the surface within a 4.8-mile radius of DuBois Regional Airport. This Class E airspace is effective during the 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.

* * * * *

AEA PA E5 DuBois, PA [Amended]

DuBois Regional Airport, PA
(Lat. 41°10′42″ N, long. 78°53′55″ W)
Penn Highland Healthcare-Dubois Heliport
Point In Space Coordinates
(Lat. 41°6′52″ N, long. 78°46′26″ W)

That airspace extending upward from 700 feet or more above the surface within a 9.2-mile radius of DuBois Regional Airport and within a 6-mile radius of the Point In Space Coordinates serving Penn Highland Healthcare-Dubois Heliport

Issued in College Park, Georgia, on September 15, 2020.

Matthew N. Cathcart,

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

[FR Doc. 2020–20739 Filed 9–21–20; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 680

RIN 3084–AB63

Affiliate Marketing Rule

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking; request for public comment.

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') requests public comment on its Affiliate Marketing Rule as part of the FTC's systematic review of all current Commission regulations and guides. In addition, the FTC is proposing to amend the Rule to correspond to changes made to the Fair Credit Reporting Act (''FCRA'') by the Dodd-Frank Act.

DATES: Written comments must be received on or before December 7, 2020.

ADDRESSES: Interested parties may file comments online or on paper by following the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Amendment to the Affiliate Marketing Rule, 16 CFR part 680, Project No. P205408'' on your comment and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex B), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex B), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: David Lincicum (202–326–2773), Division of Privacy and Identity Protection, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Affiliate Marketing Rule

The Fair and Accurate Credit Transactions Act of 2003 (''FACT Act'') was signed into law on December 4, 2003. Public Law 108–159, 117 Stat. 1952. Section 214 of the FACT Act added a new section 624 to the FCRA. This provision gives the consumer the right to restrict a person from using certain information obtained from an affiliate to make solicitations to that consumer. Section 624 generally provides that if a person receives certain consumer eligibility information from an affiliate, the person may not use that information to make solicitations to the consumer about its products or services, unless the consumer is given notice and an opportunity (via a simple method) to opt out of such use of the information, and the consumer does not opt out. The statute also provides that section 624 does not apply, for example, to a person using eligibility information: (1) To make solicitations to a consumer with whom the person has a pre-existing business relationship; (2) to perform services for another affiliate subject to certain conditions; (3) in response to a communication initiated by the consumer; or (4) to make a solicitation that has been authorized or requested by the consumer. Unlike the FCRA affiliate sharing opt-out (15 U.S.C. 1681a(d)(2)(A)(iii)) and the Gramm-Leach-Bliley Act (''GLBA''), 15 U.S.C. 6801 *et seq.,* non-affiliate sharing opt-out—both of which apply indefinitely—section 624 provides that a consumer's affiliate marketing opt-out election must

be effective for a period of at least five years. Upon expiration of the opt-out period, the consumer must be given a renewal notice and an opportunity to renew the opt-out before information received from an affiliate may be used to make solicitations to the consumer. The Federal Trade Commission published regulations implementing Section 624, the Affiliate Marketing Rule, 16 CFR part 680, on October 30, 2007.[1]

B. Dodd-Frank Act

The Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act'') was signed into law in 2010.[2] The Dodd-Frank Act substantially changed the federal legal framework for financial services providers. Among the changes, the Dodd-Frank Act transferred to the Consumer Financial Protection Bureau (''CFPB'') the Commission's rulemaking authority under portions of the FCRA.[3] Accordingly, in 2012, the Commission rescinded several of its FCRA rules, which had been replaced by rules issued by the CFPB.[4] The FTC retained rulemaking authority for other rules promulgated under the Acts to the extent the rules apply to motor vehicle dealers described in section 1029(a) of the Dodd-Frank Act [5] that are predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both (''motor vehicle dealers'').[6] The rules for which the FTC retains rulemaking authority include the Affiliate Marketing Rule, which now applies only to motor vehicle dealers.[7] Entities that are not motor vehicle dealers are covered by the CFPB's Regulation V, Subpart C, which is substantially similar to the Commission's Rule.[8]

II. Technical Changes To Correspond to Statutory Changes Resulting From the Dodd-Frank Act

The Commission promulgated the Affiliate Marketing Rule at a time when it had rulemaking authority for a broader group of entities. While the Dodd-Frank Act did not change the Commission's enforcement authority for the Affiliate Marketing Rule, it did narrow the Commission's rulemaking authority with respect to the Rule. It now covers only motor vehicle dealers. The amendments in the Dodd-Frank Act necessitate a technical revision to the Affiliate Marketing Rule to ensure that the regulation is consistent with the text of the amended FCRA. Accordingly, the Commission proposes to modify the Affiliate Marketing Rule to properly reflect the Rule's scope.

The proposed amendment to § 680.1(b) narrows the scope description of the Affiliate Marketing Rule to the entities excluded from Consumer Financial Protection Bureau jurisdiction as described in the Dodd-Frank Act.[9] It does so by replacing the broad term ''person'' with the term ''motor vehicle dealer,'' as defined in amended § 680.3.

The proposed amendment to § 680.3 adds a definition of ''motor vehicle dealer'' that defines motor vehicle dealers as those entities excluded from Consumer Financial Protection Bureau jurisdiction as described in the Dodd-Frank Act.[10] Also, the proposed amendments revise the term ''you'' (*see* 680.3(m)) to refer to a motor vehicle dealer.

The proposed amendments do not change the substantive provisions of the Rule or the examples in the Rule, even where those provisions and examples involve entities other than motor vehicle dealers that are covered by the CFPB's rule, rather than the Commission's Rule. The primary reason for retaining these provisions and examples is that the Rule addresses the relationship between covered motor vehicle dealers and their affiliates, which may not be motor vehicle dealers. The obligations and exceptions set forth by the rule are inextricably linked to a consumer's relationship and actions in relation to all affiliates, both motor vehicle dealers and non-motor vehicle dealers. In order for the Rule to apply meaningfully, it must address both types of entities, even those that are not directly covered by the rule. This will not create any conflict with the CFPB's corresponding rule, as the Commission's Affiliate Marketing Rule and the CFPB's rule are substantially similar and impose the same obligations and exceptions on entities that they cover.

III. Regulatory Review of the Affiliate Marketing Rule

In addition to proposing the changes described above, the Commission seeks information about the costs and benefits of the Rule, and its regulatory and economic impact. Consistent with its practice of reviewing all of its rules and guides periodically, the Commission seeks to ascertain whether changes in technology, business models, or the law warrant modification or rescission of the Rule. As part of this review the Commission solicits comments on, among other things, the economic impact and benefits of the Affiliate Marketing Rule; possible conflict between the Affiliate Marketing Rule and state, local, or other federal laws or regulations; and the effect on the Affiliate Marketing Rule of any technological, economic, or other industry changes.

IV. Issues for Comment

The Commission requests written comment on any or all of the following questions. These questions are designed to assist the public and should not be construed as a limitation on the issues about which public comments may be submitted. The Commission requests that responses to its questions be as specific as possible, including a reference to the question being answered, and refer to empirical data or other evidence upon which the comment is based whenever available and appropriate.

1. Is there a continuing need for specific provisions of the Affiliate Marketing Rule? Why or why not?

2. What benefits has the Affiliate Marketing Rule provided to consumers? What evidence supports the asserted benefits?

3. What modifications, if any, should be made to the Affiliate Marketing Rule to increase the benefits to consumers?

a. What evidence supports the proposed modifications?

b. How would these modifications affect the costs imposed by the Affiliate Marketing Rule?

4. What significant costs, if any, has the Affiliate Marketing Rule imposed on consumers? What evidence supports the asserted costs?

5. What modifications, if any, should be made to the Affiliate Marketing Rule to reduce any costs imposed on consumers?

a. What evidence supports the proposed modifications?

b. How would these modifications affect the benefits provided by the Affiliate Marketing Rule?

6. What benefits, if any, has the Affiliate Marketing Rule provided to

[1] 72 FR 61423 (October 30, 2007).

[2] Public Law 111–203 (2010).

[3] 15 U.S.C. 1681 *et seq.* The Dodd-Frank Act does not transfer to the CFPB rulemaking authority for section 615(e) of the FCRA (''Red Flag Guidelines and Regulations Required'') and section 628 of the FCRA (''Disposal of Records''). *See* 15 U.S.C. 1681s(e).

[4] 77 FR 22200 (April 13, 2012).

[5] 12 U.S.C. 5519.

[6] 77 FR 22200 (April 13, 2012).

[7] *Id.*

[8] 12 CFR 1022.20–27. While there are no substantive differences between the two rules, they are organized differently and, in some cases, use different examples. *See, e.g.,* 12 CFR 1022.20(b)(4)(iii).

[9] 12 U.S.C. 5519.

[10] *Id.*

businesses, including small businesses? What evidence supports the asserted benefits?

7. What modifications, if any, should be made to the Affiliate Marketing Rule to increase its benefits to businesses, including small businesses?

a. What evidence supports the proposed modifications?

b. How would these modifications affect the costs the Affiliate Marketing Rule imposes on businesses, including small businesses?

c. How would these modifications affect the benefits to consumers?

8. What significant costs, if any, including costs of compliance, has the Affiliate Marketing Rule imposed on businesses, including small businesses? What evidence supports the asserted costs?

9. What modifications, if any, should be made to the Affiliate Marketing Rule to reduce the costs imposed on businesses, including small businesses?

a. What evidence supports the proposed modifications?

b. How would these modifications affect the benefits provided by the Affiliate Marketing Rule?

10. What evidence is available concerning the degree of industry compliance with the Affiliate Marketing Rule?

11. What modifications, if any, should be made to the Affiliate Marketing Rule to account for changes in relevant technology or economic conditions? What evidence supports the proposed modifications?

12. Does the Affiliate Marketing Rule overlap or conflict with other federal, state, or local laws or regulations? If so, how?

a. What evidence supports the asserted conflicts?

b. With reference to the asserted conflicts, should the Affiliate Marketing Rule be modified? If so, why, and how? If not, why not?

13. Should the Affiliate Marketing Rule be amended to remove provisions addressing circumstances that do not apply, or typically do not apply, to motor vehicle dealers?

14. Can the examples set forth in the Affiliate Marketing Rule be further amended to make them more helpful and informative to motor vehicle dealers? Would additional examples be helpful, and if so, what examples? Should examples that relate to types of transactions that are not typical in the motor vehicle context be removed?

15. The Commission proposes to amend the Rule to reflect statutory changes to the Rule's scope. Are the proposed modifications appropriate? Should additional amendments be made? Would these amendments create conflicts with any other federal, state, or local regulations or laws?

V. Request for Comment

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before December 7, 2020. Write ''Affiliate Marketing Rule, 16 CFR part 680, Project No. P205408'' on the comment. Your comment, including your name and your state, will be placed on the public record of this proceeding, including the *https://www.regulations.gov* website.

Because of the public health emergency in response to the COVID–19 outbreak and the agency's heightened security screening, postal mail addressed to the Commission will be subject to delay. We strongly encourage you to submit your comment online through the *https://www.regulations.gov* website. To ensure the Commission considers your online comment, please follow the instructions on the web-based form provided by *regulations.gov.*

If you file your comment on paper, write ''Affiliate Marketing Rule, 16 CFR part 680, Project No. P205408'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex B), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex B), Washington, DC 20024. If possible, please submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible website, *https://www.regulations.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include sensitive personal information, such as your or anyone else's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential,'' as provided by section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2), including in particular, competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on *https://www.regulations.gov,* we cannot redact or remove your comment from that website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the Commission website at *https://www.ftc.gov* to read this document and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before December 7, 2020. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

VI. Communications by Outside Parties to the Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding, from any outside party to any Commissioner or Commissioner's advisor, will be placed on the public record.[11]

VII. Paperwork Reduction Act

The Affiliate Marketing Rule contains information collection requirements as defined by 5 CFR 1320.3(c), the definitional provision within the Office of Management and Budget (''OMB'') regulations that implement the Paperwork Reduction Act (''PRA''). OMB has approved the Rule's existing information collection requirements

[11] 16 CFR 1.26(b)(5).

through February 28, 2023 (OMB Control No. 3084–0131). Under the existing clearance, the FTC has attributed to itself the estimated burden regarding all motor vehicle dealers, and it shares the remaining estimated PRA burden equally with the CFPB for other persons for which both agencies have enforcement authority.

This proposal would amend 16 CFR part 680. The proposed amendments do not modify or add to information collection requirements that were previously approved by OMB. The amendments make no substantive changes to the Rule, other than to clarify that the scope of the Rule is limited to motor vehicle dealers. The Rule's OMB clearance already reflects that scope. Therefore, the Commission does not believe that the proposed amendments would substantially or materially modify any ''collections of information'' as defined by the PRA.

VIII. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires an agency to provide an Initial Regulatory Flexibility Analysis (''IRFA'') with a proposed rule, or certify that the proposed rule will not have a significant impact on a substantial number of small entities.[12] The Commission does not expect that this Rule, if adopted, would have the threshold impact on small entities. The Commission does not expect the proposal to impose costs on small motor vehicle dealers because the amendments are primarily for clarification purposes and should not result in any increased burden on any motor vehicle dealer. Thus, a small entity that complies with current law need not take any different or additional action if the proposal is adopted.

Therefore, based on available information, the Commission certifies that amending the Affiliate Marketing Rule as proposed will not have a significant economic impact on a substantial number of small businesses. Although the Commission certifies under the RFA that the proposed amendment would not, if promulgated, have a significant impact on a substantial number of small entities, the Commission has determined, nonetheless, that it is appropriate to publish an IRFA to inquire into the impact of the proposed amendment on small entities. Therefore, the Commission has prepared the following analysis:

[12] 5 U.S.C. 603–605.

A. Description of the Reasons for the Proposed Rule

To address the Dodd-Frank Act's changes to the Commission's rulemaking authority, the Commission proposes to clarify that the Rule applies only to motor vehicle dealers.

B. Succinct Statement of the Objectives, and Legal Basis For, the Proposed Rule

The objectives of the proposed Rule are discussed above. The legal basis for the proposed Rule is 15 U.S.C. 1681s–3.

C. Description of Small Entities to Which the Proposed Rule Will Apply

Determining a precise estimate of the number of small entities [13] to which the Rule applies is not readily feasible. Financial institutions covered by the Rule include certain motor vehicle dealers. A substantial number of these entities likely qualify as small businesses. The Commission estimates that the proposed amendment will not have a significant impact on small businesses because it imposes no new obligations.

D. Projected Reporting, Recordkeeping, and Other Compliance Requirements, Including Classes of Covered Small Entities and Professional Skills Needed To Comply

The proposed amendments would impose no new reporting, recordkeeping, or other compliance requirements. The small entities potentially covered by the proposed amendment will include all such entities subject to the Rule.

E. Identification of Duplicative, Overlapping, or Conflicting Federal Rules

The Commission has not identified any other federal statutes, rules, or policies that would duplicate, overlap, or conflict with the proposed amendment. Nonetheless, the Commission is requesting comment on the extent to which other federal standards involving consumer information may duplicate and/or satisfy or possibly conflict with the Rule's requirements for any covered financial institutions.

[13] The U.S. Small Business Administration Table of Small Business Size Standards Matched to North American Industry Classification System Codes (NAICS) are generally expressed in either millions of dollars or number of employees. A size standard is the largest that a business can be and still qualify as a small business for Federal Government programs. For the most part, size standards are the annual receipts or the average employment of a firm. New car dealers (NAICS code 441100) are classified as small if they have fewer than 200 employees. Used car dealers (NAICS code 441120) are classified as small if their annual receipts are $27 million or less. Recreational vehicle dealers, boat dealers, motorcycle, ATV and all other motor vehicle dealers (NAICS codes 441210, 441222 and 441228) are classified as small if their annual receipts are $35 million or less. The 2019 Table of Small Business Size Standards is available at *https://www.sba.gov/document/support—table-size-standards.*

F. Description of Any Significant Alternatives to the Proposed Rule

The Commission has not proposed any specific small entity exemption or other significant alternatives because the proposed amendment would not impose any new requirements or compliance costs. Nonetheless, the Commission welcomes comment on any significant alternative consistent with the FCRA that would minimize the impact of the proposed Rule on small entities.

IX. Proposed Rule Language

List of Subjects in 16 CFR Part 680

Consumer protection, Credit, Trade practices.

For the reasons stated above, the Federal Trade Commission proposes to amend part 680 of title 16 of the Code of Federal Regulations as follows:

PART 680—AFFILIATE MARKETING

■ 1. Revise the authority section for part 680 to read as follows:

Authority: Pub. L. 108–159, sec. 311; 15 U.S.C.A. 1681s–3; 12 U.S.C. 5519(d).

■ 2. Revise § 680.1 paragraph (b) to read as follows:

§ 680.1 Purpose and scope.

* * * * *

(b) *Scope.* This part applies to any motor vehicle dealer as defined in § 680.3 that uses information from its affiliates for the purpose of marketing solicitations, or provides information to its affiliates for that purpose.

■ 3. In § 680.3, redesignate paragraphs (i) through(l) as paragraphs (j) through(m) and add a new paragraph (i) to read as follows:

§ 680.3 Definitions.

* * * * *

(i) *Motor vehicle dealer.* The term ''motor vehicle dealer'' means any person excluded from Consumer Financial Protection Bureau jurisdiction as described in 12 U.S.C. 5519.

* * * * *

By direction of the Commission, Commissioner Slaughter and Commissioner Wilson not participating.

April J. Tabor,

Acting Secretary.

[FR Doc. 2020–19174 Filed 9–21–20; 8:45 am]

BILLING CODE 6750–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 23

RIN 3038–AF06

Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is proposing to amend the margin requirements for uncleared swaps for swap dealers (''SD'') and major swap participants (''MSP'') for which there is no prudential regulator. The proposed amendments would permit the application of separate minimum transfer amounts (''MTA'') for initial margin (''IM'') and variation margin (''VM''), and the application of an MTA of up to $50,000 for separately managed accounts (''SMA'') (together, ''Proposal'').

DATES: With respect to the proposed amendments, comments must be received on or before October 22, 2020.

ADDRESSES: You may submit comments, identified by RIN 3038–AE77, by any of the following methods:

- *CFTC Comments Portal: https://comments.cftc.gov.* Select the ''Submit Comments'' link for this rulemaking and follow the instructions on the Public Comment Form.
- *Mail:* Send to Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Follow the same instructions as for Mail, above.

Please submit your comments using only one of these methods. Submissions through the CFTC Comments Portal are encouraged.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *https://comments.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act (''FOIA''), a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *https://comments.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the FOIA.

FOR FURTHER INFORMATION CONTACT: Joshua B. Sterling, Director, 202–418–6056, *jsterling@cftc.gov;* Thomas J. Smith, Deputy Director, 202–418–5495, *tsmith@cftc.gov;* Warren Gorlick, Associate Director, 202–418–5195, *wgorlick@cftc.gov;* Liliya Bozhanova, Special Counsel, 202–418–6232, *lbozhanova@cftc.gov;* or Carmen Moncada-Terry, Special Counsel, 202–418–5795, *cmoncada-terry@cftc.gov,* Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory and Regulatory Background

In January 2016, the Commission adopted regulations 23.150 through 23.161 (collectively, ''CFTC Margin Rule'') [2] to implement section 4s(e) of the Commodity Exchange Act (''CEA''),[3] which requires SDs and MSPs for which there is not a prudential regulator (''covered swap entity'' or ''CSE'') to meet minimum IM and VM requirements adopted by the Commission by rule or regulation.[4]

Commission regulations 23.152 and 23.153 require CSEs to collect or post, each business day, VM [5] for uncleared swap transactions with each counterparty that is an SD, MSP, or financial end user, and IM [6] for uncleared swap transactions for each counterparty that is an SD, MSP, or a financial end user that has material swaps exposure.[7] IM posted or collected by a CSE must be held by one or more custodians that are not affiliated with the CSE or the counterparty.[8] VM posted or collected by a CSE is not required to be maintained with a custodian.[9]

However, to alleviate the operational burdens associated with making de minimis margin transfers without resulting in an unacceptable level of uncollateralized credit risk, Commission regulations 23.152(b)(3) and 23.153(c) provide that a CSE is not required to collect or post IM or VM with a counterparty until the combined amount of such IM and VM, as computed under Commission regulations 23.154 and 23.155 respectively, exceeds the MTA of $500,000.[10] The term MTA (or minimum transfer amount) is further defined in Commission regulation 23.151 as a combined amount of IM and VM, not exceeding $500,000, under which no exchange of IM or VM is required.[11] Once the MTA is exceeded, the SD or MSP must collect or post the full amount of both the IM and VM required to be exchanged with the counterparty.[12]

During the implementation of the CFTC Margin Rule, market participants identified certain operational and

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[1] 17 CFR 145.9. Commission regulations referred to herein are found at 17 CFR Chapter I.

[2] *See generally* Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 81 FR 636 (Jan. 6, 2016). The CFTC Margin Rule, which became effective April 1, 2016, is codified in part 23 of the Commission's regulations. 17 CFR 23.150—23.159, 23.161. In May 2016, the Commission amended the CFTC Margin Rule to add Commission regulation 23.160, 17 CFR 23.160, providing rules on its cross-border application. *See generally* Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants—Cross-Border Application of the Margin Requirements, 81 FR 34818 (May 31, 2016).

[3] 7 U.S.C. 6s(e) (capital and margin requirements).

[4] CEA section 1a(39), 7 U.S.C. 1a(39) (defining the term ''prudential regulator'' to include the Board of Governors of the Federal Reserve System; the Office of the Comptroller of the Currency; the Federal Deposit Insurance Corporation; the Farm Credit Administration; and the Federal Housing Finance Agency). The definition of prudential regulator further specifies the entities for which these agencies act as prudential regulators.

[5] VM (or variation margin), as defined in Commission regulation 23.151, is the collateral provided by a party to its counterparty to meet the performance of its obligation under one or more uncleared swaps between the parties as a result of a change in the value of such obligations since the trade was executed or the last time such collateral was provided. 17 CFR 23.151.

[6] IM (or initial margin) is the collateral (calculated as provided by § 23.154 of the Commission's regulations) that is collected or posted in connection with one or more uncleared swaps pursuant to § 23.152. IM is intended to secure potential future exposure following default of a counterparty (*i.e.,* adverse changes in the value of an uncleared swap that may arise during the period of time when it is being closed out). *See* CFTC Margin Rule, 81 FR at 683.

[7] 17 CFR 23.152; 17 CFR 23.153.

[8] *See* 17 CFR 23.157(a).

[9] Commission regulation 23.157 does not require VM to be maintained in a custodial account. 17 CFR 23.157.

[10] 17 CFR 23.152(b)(3); 17 CFR 23.153(c); 81 FR at 653.

[11] 17 CFR 23.151 (defining the term ''minimum transfer amount'').

[12] *See* 17 CFR 23.152(b)(3); 17 CFR 23.153(c).

compliance burdens associated with the application of the MTA. To mitigate these burdens, the Division of Swap Dealer and Intermediary Oversight (''DSIO'') staff issued two no-action letters.

B. DSIO No-Action Letter Addressing the Application of MTA to SMAs

In February 2017, DSIO staff issued a no-action letter in response to a request for relief from the Securities Industry and Financial Markets Association's Asset Management Group (''SIFMA AMG'').[13] SIFMA AMG sought relief on behalf of members that enter into uncleared swaps with SDs that are registered with the Commission and are subject to the CFTC Margin Rule.

DSIO stated that it would not recommend enforcement action against an SD that does not comply with the MTA requirements of Commission regulations 23.152(b)(3) (requiring the exchange of IM when the MTA has been exceeded) [14] or 23.153(c) (requiring the exchange of VM when the MTA has been exceeded),[15] with respect to the swaps of a legal entity that is the owner of multiple SMAs, provided that the SD applies an MTA no greater than $50,000 to each SMA.

In Letter 17–12, DSIO noted that SIFMA AMG's members are large institutional investors, such as pension plans and endowments, which typically hire asset managers to exercise investment discretion over a portion of their assets for management through separate accounts. Each separate account is governed by an investment management agreement that grants asset managers authority over a portion of their clients' assets. As a swap counterparty, an SD may face the same legal entity—the owner of the accounts—through multiple separate accounts managed by multiple asset managers. Each SMA that trades derivatives typically has its own payment netting set corresponding to each International Swaps and Derivatives Association (''ISDA'') Master Agreement and Credit Support Annex (''CSA'') used by the asset manager.[16]

SIFMA AMG represented that the application of the MTA at the owner or legal entity level presented significant practical challenges for SMAs because the assets for each SMA are held, transferred, and returned separately at the account level. As a result, it is impractical for asset managers to collectively calculate the MTA across the SMAs of a single owner, and, according to SIFMA AMG, asset managers cannot move collateral in aggregate across the accounts. SIFMA AMG also stated that SDs cannot dynamically calculate and manage the MTA across the owner's separate eligible master netting agreements either, for several reasons, including timing, additional regulatory risk, and confidentiality requirements.

C. DSIO No-Action Letter Concerning the Application of Separate MTAs for IM and VM

DSIO staff issued in December 2019 an additional no-action letter concerning the application of the MTA in response to a request for relief from ISDA on behalf of its member SDs.[17] DSIO stated that it would not recommend enforcement action against an SD or MSP that does not combine IM and VM amounts for the purposes of Commission regulations 23.152(b)(3) and 23.153(c). More specifically, the no-action position covers SDs or MSPs that apply separate MTAs for IM and VM obligations on uncleared swap transactions with each swap counterparty, provided that the combined MTA for IM and VM with respect to that counterparty does not exceed $500,000.

DSIO issued the no-action letter based on ISDA's representations. ISDA had stated that the MTA for VM and IM for each party to a swap transaction has, routinely and historically, been included in CSAs to avoid frequent exchanges of small amounts of collateral between the parties. ISDA noted that separate MTAs for IM and VM better reflect the operational requirements and the legal structure of the Commission's regulations. ISDA further stated that because the CFTC Margin Rule requires IM to be segregated with an unaffiliated third party and does not impose similar segregation requirements with respect to VM, distinct workflows for IM settlement through custodians and tri-party agents have been established that are completely separate from the VM settlement process.

D. Market Participant Feedback

Swap market participants, including a subcommittee established by the CFTC's Global Markets Advisory Committee (''GMAC subcommittee''), have expressed support for the adoption of regulations consistent with these no-action letters, noting that Letter 19–25 is time-limited and that, more generally, codifying no-action positions can be beneficial for market participants in providing certainty in the application of the Commission's regulations.[18] The Commission believes that adopting regulations in accordance with the terms of no-action letters, under certain circumstances, is appropriate and could facilitate efforts by market participants to take the operation of the Commission's regulations into account in planning their uncleared swap activities. Based on its implementation experience, and for the reasons provided below, the Commission preliminarily believes that it would be appropriate to amend the CFTC Margin Rule consistent with the staff positions set forth in the no-action letters discussed above.

II. Proposal

The Commission is proposing to amend Commission regulations 23.151, 23.152(b)(3), 23.153(c) and 23.158(a), consistent with Letters 17–12 and 19–25.[19] Commission regulation 23.151 defines MTA as a combined VM and IM amount of $500,000, under which no transfer of funds is required.[20] Commission regulations 23.152(b)(3) and 23.153 (c) describe the application of the MTA in determining whether the

[13] CFTC Letter No. 17–12, Commission Regulations 23.152(b)(3) and 23.153(c): No-Action Position for Minimum Transfer Amount with respect to Separately Managed Accounts (Feb. 13, 2017) (''Letter 17–12''), *https://www.cftc.gov/idc/groups/public/@lrlettergeneral/documents/letter/17-12.pdf.*

[14] *See* 17 CFR 23.152(b)(3).

[15] *See* 17 CFR 23.153(c).

[16] The ISDA Master Agreement is a standard contract published by ISDA commonly used in over-the-counter derivatives transactions governing the rights and obligations of parties to a derivatives transaction. A CSA sets forth the terms of the collateral arrangement for the derivatives transaction.

[17] CFTC Letter No. 19–25, Commission Regulations 23.151, 23.152, and 23.153—Staff Time-Limited No-Action Position Regarding Application of Minimum Transfer Amount under the Uncleared Margin Rules (Dec. 6, 2019) (''Letter 19–25''), *https://www.cftc.gov/csl/19-25/download.*

[18] *See Recommendations to Improve Scoping and Implementation of Initial Margin Requirements for Non-Cleared Swaps,* Report to the CFTC's Global Markets Advisory Committee by the Subcommittee on Margin Requirements for Non-Cleared Swaps (April 2020), *https://www.cftc.gov/media/3886/GMAC_051920MarginSubcommitteeReport/download* (''GMAC Subcommittee Report''). The Global Markets Advisory Committee (''GMAC'') established the GMAC subcommittee to consider issues raised by the implementation of margin requirements for non-cleared swaps, to identify challenges associated with forthcoming implementation phases, and to make recommendations through a report. The GMAC subcommittee issued the GMAC Subcommittee Report recommending various actions, including the codification of Letters 17–12 and 19–25. The GMAC adopted the Report and recommended to the Commission that it consider adopting the Report's recommendations.

[19] Commission regulations are found at 17 CFR part 1 (2017), and may be accessed through the Commission's website, *https://www.cftc.gov.*

[20] 17 CFR 23.151.

exchange of IM or VM is required.[21] Commission regulation 23.158(a) requires the execution of documentation providing CSEs with contractual rights and obligations to exchange IM and VM in accordance with the Commission's regulations.[22]

A. Application of MTA to SMAs

The Commission proposes to amend the definition of MTA in Commission regulation 23.151 to allow a CSE to apply an MTA of up to $50,000 to each SMA owned by a counterparty with which the CSE enters into uncleared swaps. The proposed amendment is consistent with the terms of Letter 17–12, which provides that DSIO would not recommend enforcement action if an SD applies an MTA no greater than $50,000 to each SMA of a legal entity, subject to certain conditions.

When the Commission adopted the CFTC Margin Rule, it rejected the notion that SMAs of a legal entity should be treated separately from each other in applying certain aspects of the margin requirements for uncleared swaps.[23] However, after implementing the margin requirements for several years, the Commission preliminarily believes that separately treating SMAs, at least with respect to the application of the MTA, may be necessary from an operational perspective.

The GMAC subcommittee, in the GMAC Subcommittee Report recently submitted to the Commission for its consideration, stated that while the owner of the SMAs may be the same across the ISDA master agreements and credit support documents entered into with each CSE, the SMAs managed by each asset manager on behalf of the same SMA owner are contractually treated as distinct counterparties in uncleared swap transactions.[24] Given the separation between SMAs existing independently from each other, and the resulting lack of coordination, the management of collateral, and more specifically the calculation of the MTA, across the SMAs may be impractical for each asset manager, hindering efforts to comply with the CFTC Margin Rule.

The Commission acknowledges that certain owners of SMAs, such as pension funds, in administering investments for beneficiaries, may engage in collateral management exercises and may have the capability to aggregate collateral across SMAs that trade uncleared swaps with the same CSE. These beneficial owners of the SMA may be able to aggregate the MTA across each of their SMAs and centralize the management of collateral for all of their SMAs, which may result in increased netting among the SMAs and the CSE, and more efficient collateral management.

Other SMA owners, however, do not have the capability to manage the calculation and aggregation of MTA across their SMAs. In the GMAC Subcommittee Report, the GMAC subcommittee stated that SMA owners are not in a position to coordinate the trading activity across their SMAs, as they typically grant full investment discretion to their asset managers and do not employ a centralized collateral manager in-house.[25] Therefore, these SMA owners are not able to perform collateral management across their accounts.

In theory, asset managers could coordinate with each other the calculation of the MTA across SMAs under their management. However, the Report stated that owners of SMAs typically prohibit information sharing among their SMAs and require asset managers to keep trading information confidential. The Report noted that asset managers lack transparency and control over any assets of the SMA owner other than the specific assets under their management.

The Report also stated that, while a CSE may face the same legal entity—the owner of the accounts—through multiple SMAs managed by different asset managers, a duty of confidentiality to the legal entity prevents the CSE from sharing information with each asset manager concerning the overall legal entity's trading activity.[26] As a result, while each of the SMAs of an owner may contribute to reaching the MTA limit, asset managers for the SMAs only know the amounts of IM and VM being contributed by SMAs under their management.

In light of the practical challenges that the calculation of the MTA across SMAs poses, as described above, the Commission proposes to amend Commission regulation 23.151 to allow CSEs to apply an MTA of up to $50,000 for each SMA of a counterparty. The Commission notes, however, that under the proposed application of the MTA to SMAs, an MTA of up to $50,000 could be applied to an indefinite number of SMAs. This application of the MTA could effectively result in the replacement of the aggregate limit of $500,000 on a particular counterparty's uncollateralized risk for uncleared swaps with an individual limit of $50,000 on each SMA of such counterparty. In turn, the counterparty could have an aggregate amount of uncollateralized margin in excess of $500,000.

While the proposed approach to the application of the MTA for SMAs could provide an incentive for owners of SMAs to create separate accounts or formulate their trading strategies to reduce or avoid margin transfers, the Commission believes that an owner's inability to net collateral across separate accounts may serve as a disincentive to the fragmentation of investments across many SMAs.[27] This is particularly so because the MTA for SMAs, as proposed, would be set at a low level (*i.e.,* $50,000).

The Commission further notes that there are other provisions in the CEA and the Commission's regulations that would mitigate the increase in uncollateralized credit risk resulting from the absence of an aggregate limit on the amount of uncollateralized margin and the use of multiple SMAs by a single counterparty. Specifically, section 4s(j)(2) of the CEA requires CSEs to adopt a robust and professional risk management system adequate for the management of their swap activities,[28] and Commission regulation 23.600[29] mandates that CSEs establish a risk management program to monitor and manage risks associated with their swap activities that includes, among other things, a description of risk tolerance limits.

In addition to amending the definition of MTA, the Commission proposes to define the term SMA in Commission

[21] 17 CFR 23.152(b)(3); 17 CFR 23.153(c).

[22] 17 CFR 23.158(a) (setting forth margin documentation requirements).

[23] *See* 81 FR at 653 (rejecting commenters' request to extend to each separate account of a fund or plan its own initial margin threshold, while acknowledging that separate managers acting for the same fund or plan may not take steps to inform the fund or plan of their uncleared swap exposures on behalf of their principal on a frequent basis).

[24] GMAC Subcommittee Report at 16. However, it should be noted that for credit risk purposes, the beneficial owner of the SMA is the counterparty and the SD has credit exposure to the beneficial owner and not the asset manager.

[25] *Id.*

[26] The Commission notes that Commission regulation 23.410(c)(1)(i) prohibits disclosure by an SD or MSP, including a CSE, of confidential information provided by or on behalf of a counterparty to the SD or MSP. Nevertheless, Commission regulation 23.410(c)(2) provides that the SD or MSP may disclose the counterparty's confidential information if the disclosure is authorized in writing by the counterparty.

[27] As further discussed below, the proposed application of the MTA would only be available for separate accounts of an owner that, consistent with the proposed definition of SMA, are not subject to collateral agreements that provide for netting across the separate accounts.

[28] *See* 7 U.S.C. 6s(j).

[29] 17 CFR 23.600.

regulation 23.151. The term was defined in Letter 17–12 as an account managed by an asset manager and governed by an investment management agreement that grants the asset manager authority with respect to a portion of a legal entity's assets.

The proposed definition of SMA would include the definition of the term as well as certain conditions set forth in Letter 17–12. Specifically, Letter 17–12 provides that the no-action position would only apply with respect to swaps of an SMA of a legal entity that (i) are entered into by an asset manager on behalf of the SMA pursuant to authority granted under an investment management agreement, and (ii) are subject to a master netting agreement that does not permit the netting of IM or VM obligations across SMAs.

DSIO staff included these conditions in the no-action letter because SIFMA AMG stated, in seeking relief, that the authority of asset managers under their investment management agreements with the owners of the SMAs is limited to assets under their management. SIFMA AMG also stated that each SMA that trades uncleared swaps typically has its own payment netting set corresponding to each ISDA master agreement and CSA that is used by an asset manager. These conditions reflect DSIO's recognition that asset managers' limited authority over the assets of a legal entity and the practical inability to net collateral payments across SMAs pose obstacles in the calculation and aggregation of the MTA across SMAs.

As proposed, the term SMA would be defined as an account of a counterparty to a CSE that is managed by an asset manager pursuant to a specific grant of authority to such asset manager under an investment management agreement between the counterparty and the asset manager, with respect to a specified portion of the counterparty's assets.[30] In addition, the definition would require that the swaps of the SMA be: (i) Entered into between the counterparty and the CSE by the asset manager pursuant to authority granted by the counterparty to the asset manager through an investment management agreement, and (ii) subject to a master netting agreement that does not provide for the netting of IM or VM obligations across all SMAs of the counterparty that have swaps outstanding with the CSE.

Request for comment: The Commission requests comment regarding the proposed amendments to Commission regulation 23.151. The Commission specifically requests comment on the following questions:

- The proposed amendments to Commission regulation 23.151 would allow a CSE to apply up to $50,000 of MTA for each SMA of a counterparty with multiple SMAs. The aggregate MTA for the counterparty could thus exceed the $500,000 MTA threshold, which could result in delaying the exchange of IM and VM, as neither IM nor VM would need to be exchanged until the threshold has been exceeded. As such, less margin may be collected and posted than would be permitted under the current requirements. In light of the resulting potential uncollateralized swap risk, should the Commission consider an alternative to the proposed amendments? Should the Commission impose any additional limits or conditions? Would the proposed amendments to Commission regulation 23.151 incentivize SMA owners to create additional separate accounts to potentially benefit from a higher MTA limit, or otherwise alter their trading strategies, thus increasing the amount of uncollateralized swap risk? What measures could the Commission take to mitigate any such risk? Please provide data on the current average number of separate accounts per counterparty and the current average amount of daily collateral movements between CSEs and counterparties who own SMAs. Has there been a change in the number of SMAs per counterparty following the adoption of Letter 17–12?
- Market participants have indicated that the aggregation of the MTA across SMAs may not be practicable because SMA owners generally grant full investment discretion to asset managers and do not employ a centralized collateral manager in-house to coordinate swap activity and manage collateral payments across their SMAs. Nevertheless, as an alternative to the proposed rule, the Commission seeks comments on whether it is feasible and desirable to maintain the CFTC's existing requirements, which would therefore necessitate that owners of SMAs and their asset managers address these challenges through coordination and arrangements between themselves, so that they are able to manage the relationship with the CSE with whom the SMAs enter into uncleared swaps and are able to meet margin obligations as they arise. Do the practical challenges posed by the status quo outweigh any potential concerns raised by this Proposal?
- Should the Commission proceed to adopt the proposed amendments to Commission regulation 23.151 if the prudential regulators do not adopt similar regulatory changes? Is there a potential for confusion if that were to be the case?

B. Application of Separate MTAs for IM and VM

The Commission proposes to revise the margin documentation requirements outlined in Commission regulation 23.158(a) in recognition that, consistent with Letter 19–25, a CSE may apply separate MTAs for IM and VM with each counterparty, provided that the MTAs corresponding to IM and VM are specified in the margin documentation required by Commission regulation 23.158 and that the MTAs, on a combined basis, do not exceed the MTA specified in Commission regulation 23.151.

Letter 19–25 provides that CSEs can apply separate MTAs for IM and VM for determining whether IM and VM must be exchanged under Commission regulations 23.152(b)(2) and 23.153(c), provided that the MTAs set out for IM and VM for a counterparty, on a combined basis, do not exceed $500,000. In issuing Letter 19–25, DSIO acknowledged that applying separate MTAs for IM and VM may result in the exchange of less total margin than the amount that would be exchanged if the MTA were computed on an aggregate basis.[31] However, in DSIO's view, given that the total amount of combined IM and VM that would not be exchanged would never exceed $500,000, differences in the total margin exchanged would not be material and would not result in an unacceptable level of credit risk.[32]

[30] The proposed definition of the term SMA would refer to the aggregate account of a counterparty managed by an asset manager under the investment management agreement, and not to fund or pool sleeves overseen by sub-advisers.

[31] Letter 19–25 provides the following example to illustrate the effect of the no-action relief. An SD and a counterparty agree to a $300,000 IM MTA and a $200,000 VM MTA. If the margin calculations set forth in Commission regulations 23.154 (for IM) and 23.155 (for VM) require the SD to post $400,000 of IM with the counterparty and $150,000 of VM with the counterparty, the SD will be required to post $400,000 of IM with the counterparty (assuming that the $50 million IM threshold amount, defined in Commission regulation 23.151, for the counterparty has been exceeded). The SD, however, will not be obligated to post any VM with the counterparty as the $150,000 requirement is less than the $200,000 MTA. By contrast, in the absence of relief, the SD would have been required to post $550,000 (the full amount of both IM and VM), given that the combined amount of IM and VM exceeds the MTA of $500,000.

[32] The Commission acknowledges, however, that if the application of MTAs of up to $50,000 for SMAs is adopted as set forth in this Proposal, the amounts of margin that would not be exchanged may in some cases exceed the $500,000 limit. Specifically, this may be the case if the CSE enters into swaps with more than ten SMAs belonging to the same counterparty. If each SMA is allocated an MTA of $50,000, the amount of margin not exchanged between the counterparties may exceed $500,000, even if the sum of the separate IM and

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The Commission preliminarily believes that adopting regulations consistent with the terms of Letter 19–25 would accommodate a widespread market practice that facilitates the implementation of the CFTC margin requirements. The Commission notes that CSEs and their counterparties maintain separate settlement workflows for IM and VM to reflect, from an operational perspective, the different regulatory requirements applicable to IM and VM. IM posted or collected by a CSE must be held by one or more custodians that are not affiliated with the CSE or the counterparty.[33] VM posted or collected by a CSE is not required to be segregated with an independent custodian.[34]

DSIO, in taking a no-action position, stated its belief that the application of separate MTAs for IM and VM, subject to certain conditions, is consistent with the Commission's objective of requiring swap counterparties to mitigate credit and market risks, while reducing the cost and burdens associated with the transfer of small margin balances. The Commission preliminarily agrees with that view and requests public comment.

The Commission also notes that similar applications of the MTA are permitted in certain foreign jurisdictions, including the European Union.[35] The proposed amendment to Commission regulation 23.158(a) would therefore promote consistent regulatory standards across jurisdictions, in line with the statutory mandate set forth in the Dodd-Frank Act [36] and reduce the need for market participants to create and implement IM and VM settlement flows tailored to different jurisdictions.

The proposed amendment to Commission regulation 23.158(a) would incorporate the conditions set forth in Letter 19–25. To that effect, the Commission would require that the separate MTAs to be applied for IM and VM be specified in the margin documentation required by Commission regulation 23.158(a). Consistent with Letter 19–25 and the proposed definition of MTA, Commission regulation 23.158(a), as proposed, would further specify that, on a combined basis, the MTAs to be applied for IM and VM must not exceed the MTA as the term is defined in Commission regulation 23.151.

In imposing these conditions, the Commission seeks to ensure maximum margin coverage for uncleared swaps, while recognizing that swap counterparties may apply separate MTAs for IM and VM, thus facilitating the implementation and administration of the uncleared margin requirements.

Request for comment: The Commission requests comment regarding the proposed amendment to Commission regulation 23.158(a). The Commission specifically requests comment on the following questions:

- Is the proposed amendment to Commission regulation 23.158(a) appropriate in light of the CFTC's overall approach to margin requirements for uncleared swaps? Should the Commission impose any additional limits or conditions?
- The application of separate MTAs for IM and VM may result in less margin being exchanged as compared to the amounts that would be exchanged if separate MTAs are not permitted, increasing the amount of uncleared swap uncollateralized risk. Should the Commission consider any alternative to the proposed amendment that more fully addresses the risk of uncleared swaps?
- Should the application of separate MTAs for IM and VM be extended to SMAs of a counterparty, for each of which an MTA of up to $50,000 would be applied under the proposed amendment to Commission regulation 23.151?
- Should the Commission proceed to adopt the proposed amendment to Commission regulation 23.158(a) if the prudential regulators do not adopt similar regulatory changes? Is there a potential for confusion if that were to be the case?

C. Conforming Changes

Consistent with the proposed amendment to the definition of MTA in Commission regulation 23.151, the Commission proposes to make conforming changes to Commission regulations 23.152(b)(3) and 23.153(c) by replacing ''$500,000'' with ''the minimum transfer amount, as the term is defined in 23.151.'' The proposed changes would replace the reference to $500,000 in current Commission regulations 23.152(b)(3) and 23.153(c), which effectively limits the MTA to $500,000, with a reference to the revised definition of MTA, incorporating the proposed definition of MTA, which would allow for the application of an MTA of up to $50,000 for each SMA.

III. Administrative Compliance

The Regulatory Flexibility Act (''RFA'') requires Federal agencies to consider whether the rules they propose will have a significant economic impact on a substantial number of small entities and, if so, provide a regulatory flexibility analysis respecting the impact.[37] Whenever an agency publishes a general notice of proposed rulemaking for any rule, pursuant to the notice-and-comment provisions of the Administrative Procedure Act,[38] a regulatory flexibility analysis or certification typically is required.[39] The Commission previously has established certain definitions of ''small entities'' to be used in evaluating the impact of its regulations on small entities in accordance with the RFA.[40] The proposed amendments only affect certain SDs and MSPs and their counterparties, which must be eligible contract participants (''ECPs'').[41] The Commission has previously established that SDs, MSPs and ECPs are not small entities for purposes of the RFA.[42]

Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that the proposed amendments will not have a significant economic impact on a substantial number of small entities.

A. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (''PRA'') [43] imposes certain requirements on Federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information, as defined by the PRA. The Commission may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid

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VM MTAs applied to each SMA does not exceed the $50,000 MTA threshold applicable to SMAs.

[33] *See* 17 CFR 23.157(a).

[34] *See supra* note 9.

[35] *See* Commission Delegated Regulation (EU) 2016/2251 Supplementing Regulation (EU) No. 648/2012 of the European Parliament and of the Council of July 4, 2012 on OTC Derivatives, Central Counterparties and Trade Repositories with Regard to Regulatory Technical Standards for Risk-Mitigation Techniques for OTC Derivative Contracts Not Cleared by a Central Counterparty (Oct. 4, 2016), Article 25(4), *https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R2251&from=EN*.

[36] *See* section 752 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010), calling on the CFTC to consult and coordinate on the establishment of consistent international standards with respect to the regulation of swaps.

[37] 5 U.S.C. 601 *et seq.*

[38] 5 U.S.C. 553. The Administrative Procedure Act is found at 5 U.S.C. 500 *et seq*.

[39] *See* 5 U.S.C. 601(2), 603, 604, and 605.

[40] *See* Registration of Swap Dealers and Major Swap Participants, 77 FR 2613 (Jan. 19, 2012).

[41] Pursuant to section 2(e) of the CEA, 7 U.S.C. 2(e), each counterparty to an uncleared swap must be an ECP, as defined in section 1a(18) of the CEA, 7 U.S.C. 1a(18).

[42] *See* Further Definition of ''Swap Dealer,'' ''Security-Based Swap Dealer,'' ''Major Swap Participant,'' ''Major Security-Based Swap Participant'' and ''Eligible Contract Participant,'' 77 FR 30596, 30701 (May 23, 2012).

[43] 44 U.S.C. 3501 *et seq.*

Office of Management and Budget control number. The proposed rules contain no requirements subject to the PRA.

B. Cost-Benefit Considerations

Section 15(a) of the CEA [44] requires the Commission to consider the costs and benefits of its actions before promulgating a regulation under the CEA. Section 15(a) further specifies that the costs and benefits shall be evaluated in light of the following five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission considers the costs and benefits resulting from its discretionary determinations with respect to the section 15(a) considerations.

The Commission is proposing to amend Commission regulation 23.151 consistent with Letter 17–12. The Commission proposes to revise the definition of MTA in Commission regulation 23.151 to permit CSEs to apply an MTA of up to $50,000 for each SMA of a counterparty that enters into uncleared swaps with a CSE. The Commission also proposes to amend Commission regulation 23.151 to add a definition for the term SMA (or separately managed account). The Commission is also proposing to revise Commission regulation 23.158(a) consistent with Letter 19–25 to state that if a CSE and its counterparty agree to have separate MTAs for IM and VM, the respective amounts of MTA must be reflected in the margin documentation required by Commission regulation 23.158(a). Finally, the Commission proposes conforming changes to Commission regulations 23.152(b)(3) and 23.153(c) to incorporate the proposed change to the definition of MTA in Commission regulation 23.151.

The baseline for the Commission's consideration of the costs and benefits of this Proposal is the CFTC Margin Rule. The Commission recognizes that to the extent market participants have relied on Letters 17–12 and 19–25, the actual costs and benefits of the proposed amendments, as realized in the market, may not be as significant.

The Commission notes that the consideration of costs and benefits below is based on the understanding that the markets function internationally, with many transactions involving U.S. firms taking place across international boundaries; with some Commission registrants being organized outside of the United States; with leading industry members typically conducting operations both within and outside the United States; and with industry members commonly following substantially similar business practices wherever located. Where the Commission does not specifically refer to matters of location, the below discussion of costs and benefits refers to the effects of the proposed amendments on all activity subject to the amended regulations, whether by virtue of the activity's physical location in the United States or by virtue of the activity's connection with or effect on U.S. commerce under section 2(i) of the CEA.[45]

1. Benefits

The proposed amendments to Commission regulation 23.151 would allow CSEs to apply an MTA of up to $50,000 to SMAs of a counterparty. Under the current requirements, a CSE must apply the MTA with respect to each counterparty to an uncleared transaction. As a result, in the context of a counterparty that has multiple SMAs through which uncleared swaps are traded, with each SMA potentially giving rise to IM and VM obligations, the amounts of IM and VM attributable to the SMAs of the counterparty must be aggregated to determine whether the MTA has been exceeded, which would require the exchange of IM or VM.

As previously discussed, because the assets of SMAs are separately held, transferred, and returned at the account level, and CSEs and SMA asset managers do not share trading information across SMAs, aggregation of IM and VM obligations across SMAs for the purpose of determining whether the MTA has been exceeded may be impractical, hindering efforts to comply with the CFTC Margin Rule. The Commission acknowledges, however, the possibility that, in certain contexts, an owner of SMAs, such as a pension fund that administers investments for beneficiaries, may be set up to and may perform collateral management exercises, and may have the capability to aggregate collateral across SMAs. Nevertheless, according to preliminary industry feedback, the only practical alternative to fully ensure compliance with the margin requirements is to set the MTA for each SMA at zero, so that trading by a given SMA does not result in an inadvertent breach of the aggregate MTA threshold without the exchange of the required margin.

The proposed amendments to Commission regulation 23.151, by allowing the application of an MTA of up to $50,000 for each SMA of a counterparty, would ease the operational burdens and transactional costs associated with managing frequent transfers of small amounts of collateral that counterparties would incur if the MTA for SMAs were to be set at zero. In addition, the proposed amendments give flexibility to CSEs, owners of SMAs, and asset managers to negotiate MTA levels within the regulatory limits that match the risks of the SMAs and their investment strategies, and the uncleared swaps being traded.

Furthermore, because the proposed amendments to Commission 23.151 would simplify the application of the MTA in the SMA context, thereby reducing the operational burden, market participants may be encouraged to participate in the uncleared swap markets through managed accounts, and account managers may also make their services more readily available to clients. As a result, trading in the uncleared swap markets may increase, promoting competition and liquidity.

The amendment of Commission regulation 23.158(a) would likewise lead to efficiencies in the application of the MTA. The proposed amendment would state that if a CSE and its counterparty agree to have separate MTAs for IM and VM, the respective amounts of MTA must be reflected in the margin documentation required by Commission regulation 23.158(a). CSEs would thus be able to maintain separate margin settlement workflows for IM and VM to address the differing segregation treatments for IM and VM under the CFTC Margin Rule.

The Commission notes that the application of separate MTAs for IM and VM has been adopted in other jurisdictions, including the European Union, and the practice is widespread. The proposed amendment, in aligning the CFTC with other jurisdictions with respect to the application of the MTA, would advance the CFTC's efforts in promoting consistent international standards, in line with the statutory mandate set forth in the Dodd-Frank Act.

Finally, the proposed amendments would provide certainty to market participants who may have relied on Letters 17–12 and 19–25, and could thereby facilitate their efforts to take the operation of the Commission's regulations into account in the planning of their uncleared swap activities.

[44] 7 U.S.C. 19(a).

[45] 7 U.S.C. 2(i).

2. Costs

The proposed amendments to Commission regulation 23.151 could result in a CSE applying an MTA that exceeds, in the aggregate, the current MTA limit of $500,000. That is because the proposed amendments would permit the application of an MTA of up to $50,000 for each SMA of a counterparty, without limiting the number of SMAs to which the $50,000 threshold may be applied. The amendments may even incentivize SMA owners to increase the number of separate accounts in order to benefit from the higher MTA limit. As a result, the collection and posting of margin for some SMAs may be delayed, since margin would not need to be exchanged until the MTA threshold is exceeded, which could result in the exchange of less collateral to mitigate the risk of uncleared swaps.

The proposed amendment to Commission regulation 23.158(a) would state that if a CSE and its counterparty agree to have separate MTAs for IM and VM, the respective amounts of MTA must be reflected in the margin documentation required by Commission regulation 23.158(a). The proposed amendment would recognize that CSEs can apply separate MTAs for IM and VM for determining whether Commission regulations 23.152(b)(3) and 23.153(c) require the exchange of IM or VM. The Commission acknowledges that the application of separate IM and VM MTAs may result in the exchange of a lower amount of total margin between a CSE and its counterparty to mitigate the risk of their uncleared swaps than the amount that would be exchanged if the IM and VM MTA were computed on an aggregate basis.[46] The Commission notes that this cost may be mitigated because the application of separate IM and VM MTAs could also result in the exchange of higher rather than lower amounts of margin.[47]

While the Commission recognizes that the uncollateralized exposure that may result from amending Commission regulations 23.151 and 23.158(a) in line with Letters 17–12 and 19–25 could increase credit risk associated with uncleared swaps, the Commission believes that a number of safeguards exist to mitigate this risk. The Commission notes that the proposed amendments set the MTA at low levels. When the MTA is applied to a counterparty, the sum of the IM and VM MTAs must not exceed $500,000. When the MTA is applied to an SMA of a counterparty, the sum of the IM and VM MTAs must not exceed $50,000. Even if the aggregate MTA applied to a counterparty that owns multiple SMAs may exceed $500,000, the total amount of margin that is permitted to remain unexchanged is expected to be low, because other regulatory safeguards exist to limit the credit exposure, including section 4s(j)(2) of the CEA,[48] which mandates that CSEs adopt a robust and professional risk management system adequate for the management of day-to-day swap activities, and Commission regulation 23.600,[49] which requires CSEs, in establishing a risk management program for the monitoring and management of risk related to their swap activities, to account for credit risk and to set risk tolerance limits.

3. Section 15(a) Considerations

In light of the foregoing, the CFTC has evaluated the costs and benefits of the Proposal pursuant to the five considerations identified in section 15(a) of the CEA as follows:

a. Protection of Market Participants and Public

As discussed above, the proposed amendments to Commission regulations 23.151 and 23.158(a), which address the application of the MTA to SMAs and the application of separate MTAs for IM and VM, would remove practical burdens in the application of the MTA, facilitating the implementation of the CFTC Margin Rule, with minimal impact on the protection of market participants and the public in general. Although the proposed amendments could result in larger amounts of MTA being applied to uncleared swaps, potentially resulting in the exchange of reduced margin to offset the risk of uncleared swaps, the impact is likely to be negligible relative to the size of the uncleared swap positions. The Commission notes that the MTA thresholds are set at low levels. In addition, CSEs are required to monitor and manage risk associated with their swaps, in particular credit risk, and to set tolerance levels as part of the risk management program mandated by Commission regulation 23.600. To meet the risk tolerance levels, CSEs may contractually limit the MTA or the number of SMAs with which they enter into transactions.

b. Efficiency, Competitiveness, and Financial Integrity of Markets

By amending Commission regulation 23.151 to allow CSEs to apply an MTA of up to $50,000 for each SMA of a counterparty, the Commission would eliminate burdens and practical challenges associated with the computation and aggregation of the MTA across multiple SMAs. In addition, the new MTA threshold for SMAs could have the effect of delaying how soon margin would be exchanged, as the aggregate MTA for SMAs would no longer be limited to $500,000.

The simplification of the process for applying the MTA to SMAs and the reduced cost that may be realized from the deferral of margin obligations may encourage market participants to enter into uncleared swaps through accounts managed by asset managers and also encourage asset managers to accept more clients. The proposed amendments to Commission regulation 23.151 could therefore foster competitiveness by encouraging increased participation in the uncleared swap markets.

The proposed amendment to Commission 23.158(a) would state that if a CSE and its counterparty agree to have separate MTAs for IM and VM, the respective amounts of MTA must be reflected in the margin documentation required by Commission regulation 23.158(a). The proposed amendment would recognize that CSEs can apply separate MTAs for IM and VM, enabling CSEs to accommodate the different segregation treatments for IM and VM under the CFTC's margin requirements and to more efficiently comply with the CFTC Margin Rule.

The proposed amendments to Commission regulations 23.151 and 23.158(a) could have the overall effect of permitting larger amounts of MTA being applied to uncleared swaps, resulting in the collection and posting of less collateral to offset the risk of uncleared swaps, which could undermine the integrity of the markets. The Commission, however, believes that the

[46] *Supra* note 31 (explaining how the application of separate MTAs for IM and VM could result in the exchange of lower amounts of margin than if IM and VM MTA were computed on an aggregate basis).

[47] The following illustration explains how the application of separate MTAs for IM and VM could result in the exchange of higher amounts of margin than if IM and VM MTA were computed on an aggregate basis: An SD and a counterparty agree to $300,000 IM MTA, and $200,000 VM MTA. If the margin calculations set forth in Commission regulations 23.154 (for IM), and 23.155 (for VM) require the SD to post $200,000 of IM with the counterparty and $250,000 of VM with the counterparty, the SD would not be required to post IM with the counterparty as the $200,000 requirement is less than the $300,000 MTA. However, the SD would be required to post $250,000 in VM as the VM required exceeds the $200,000 VM MTA, even though the total amount of margin owed is below the $500,000 MTA set forth in Commission regulations 23.152(b)(3) and 23.153(c). Letter 19–25 at 4.

[48] 7 U.S.C. 6s(j)(2).

[49] 17 CFR 23.600.

uncollateralized swap exposure would be limited given that the MTA thresholds are set at low levels, and there are other built-in regulatory safeguards, such as the requirement that CSEs establish a risk management program under Commission regulation 23.600 that provides for the implementation of internal risk parameters for the monitoring and management of swap risk.

The Commission also notes that the proposed amendments would provide certainty to market participants who may have relied on Letters 17–12 and 19–25, and thereby facilitate their efforts to take the operation of the Commission's regulations into account in planning their uncleared swap activities.

c. Price Discovery

The proposed amendments to Commission regulations 23.151 and 23.158(a) would simplify the process for applying the MTA, reducing the burden and cost of implementation. Given these cost savings, CSEs and other market participants may be encouraged to increase their participation in the uncleared swap markets. As a result, trading in uncleared swaps may increase, leading to increased liquidity and enhanced price discovery.

d. Sound Risk Management

Because the proposed amendments to Commission regulations 23.151 and 23.158(a) may permit the application of larger amounts of MTA, less margin may be collected and posted to offset the risk of uncleared swaps. Nevertheless, the Commission believes that the risk would be mitigated because the regulatory MTA thresholds are set at low levels, and CSEs are required to have a risk management program that provides for the implementation of internal risk management parameters for the monitoring and management of swap risk.

The Commission also notes that the proposed amendments would simplify the application of the MTA, reducing the burden and cost of implementation, without leading to an unacceptable level of uncollateralized credit risk. Such reduced burden and cost could encourage market participants to increase their participation in the uncleared swap markets, potentially facilitating improved risk management for counterparties using uncleared swaps to hedge risks. Moreover, by facilitating compliance with certain aspects of the Commission's regulations, the Commission would allow market participants to focus their efforts on monitoring and ensuring compliance with other substantive aspects of the CFTC Margin Rule, thus promoting balanced and sound risk management.

e. Other Public Interest Considerations

The proposed amendment to Commission regulation 23.158(a) would address the application of separate MTAs for IM and VM, contributing to the CFTC's alignment with other jurisdictions, such as the European Union, which would advance the CFTC's efforts to achieve consistent international standards. The CFTC's alignment with other jurisdictions with respect to the application of the MTA will benefit CSEs that are global market participants by eliminating the need to establish different settlement workflows tailored to each jurisdiction in which they operate.

Request for Comment. The Commission invites comment on its preliminary consideration of the costs and benefits associated with the proposed amendments to Commission regulations 23.151, 23.152(b)(3), 23.153(c) and 23.158(a), especially with respect to the five factors the Commission is required to consider under section 15(a) of the CEA. In addressing these areas and any other aspect of the Commission's preliminary cost-benefit considerations, the Commission encourages commenters to submit any data or other information they may have quantifying and/or qualifying the costs and benefits of the Proposal. The Commission also specifically requests comment on the following questions:

- Has the Commission accurately identified the benefits of this Proposal? Are there other benefits to the Commission, market participants, and/or the public that may result from the adoption of this Proposal that the Commission should consider? Please provide specific examples and explanations of any such benefits.
- Has the Commission accurately identified the costs of this Proposal? Are there additional costs to the Commission, market participants, and/or the public that may result from the adoption of this Proposal that the Commission should consider? Please provide specific examples and explanations of any such costs.
- Does this Proposal impact the section 15(a) factors in any way that is not described above? Please provide specific examples and explanations of any such impact.
- Whether, and the extent to which, any specific foreign requirement(s) may affect the costs and benefits of the Proposal. If so, please identify the relevant foreign requirement(s) and any monetary or other quantitative estimates of the potential magnitude of those costs and benefits.
- What are the benefits and costs if the Commission, as an alternative to this Proposal, were to maintain the status quo with respect to SMAs, which would therefore necessitate that the owners of SMAs and their asset managers address the practical challenges in the calculation of the MTA across SMAs through coordination and arrangements between the parties, in conjunction with the CSE that executes the swap trades? Would such an approach impose an undue burden on either the CSE or the SMA owner? Would the potential benefit of maintaining the existing $500,000 MTA threshold outweigh any potential costs?

C. Antitrust Considerations

Section 15(b) of the CEA requires the Commission to ''take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the purposes of the CEA, in issuing any order or adopting any Commission rule or regulation (including any exemption under section 4(c) or 4c(b)), or in requiring or approving any bylaw, rule, or regulation of a contract market or registered futures association established pursuant to section 17 of the CEA.[50]

The Commission believes that the public interest to be protected by the antitrust laws is generally to protect competition. The Commission requests comment on whether the Proposal implicates any other specific public interest to be protected by the antitrust laws.

The Commission has considered the Proposal to determine whether it is anticompetitive and has preliminarily identified no anticompetitive effects. The Commission requests comment on whether the Proposal is anticompetitive and, if it is, what the anticompetitive effects are.

Because the Commission has preliminarily determined that the Proposal is not anticompetitive and has no anticompetitive effects, the Commission has not identified any less anticompetitive means of achieving the purposes of the CEA. The Commission requests comment on whether there are less anticompetitive means of achieving the relevant purposes of the CEA that would otherwise be served by adopting the Proposal.

[50] 7 U.S.C. 19(b).

List of Subjects in 17 CFR Part 23

Capital and margin requirements, Major swap participants, Swap dealers, Swaps.

For the reasons stated in the preamble, the Commodity Futures Trading Commission proposes to amend 17 CFR part 23 as set forth below:

PART 23—SWAP DEALERS AND MAJOR SWAP PARTICIPANTS

■ 1. The authority citation for part 23 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 6, 6a, 6b, 6b–1, 6c, 6p, 6r, 6s, 6t, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21.

Section 23.160 also issued under 7 U.S.C. 2(i); Sec. 721(b), Pub. L. 111–203, 124 Stat. 1641 (2010).

■ 2. In § 23.151:

■ a. Revise the definition of ''Minimum transfer amount''; and

■ b. Add the definition for ''Separately managed account'' in alphabetical order.

The revision and addition read as follows:

§ 23.151 Definitions applicable to margin requirements.

* * * * *

Minimum transfer amount means a combined initial and variation margin amount under which no actual transfer of funds is required. The minimum transfer amount shall be $500,000. Where a counterparty to a covered swap entity owns two or more separately managed accounts, a minimum transfer amount of up to $50,000 may be applied for each separately managed account.

* * * * *

Separately managed account means an account of a counterparty to a covered swap entity that meets the following requirements:

(1) The account is managed by an asset manager and governed by an investment management agreement, pursuant to which the counterparty grants the asset manager authority with respect to a specified amount of the counterparty's assets;

(2) Swaps are entered into between the counterparty and the covered swap entity by the asset manager on behalf of the account pursuant to authority granted by the counterparty through an investment management agreement; and

(3) The swaps of such account are subject to a master netting agreement that does not provide for the netting of initial or variation margin obligations across all such accounts of the counterparty that have swaps outstanding with the covered swap entity.

* * * * *

■ 3. Amend § 23.152 by revising paragraph (b)(3) to read as follows:

§ 23.152 Collection and posting of initial margin.

* * * * *

(b) * * *

(3) *Minimum transfer amount.* A covered swap entity is not required to collect or to post initial margin pursuant to §§ 23.150 through 23.161 with respect to a particular counterparty unless and until the combined amount of initial margin and variation margin that is required pursuant to §§ 23.150 through 23.161 to be collected or posted and that has not been collected or posted with respect to the counterparty is greater than the minimum transfer amount, as the term is defined in § 23.151.

* * * * *

■ 4. Amend § 23.153 by revising paragraph (c) to read as follows:

§ 23.153 Collection and posting of variation margin.

* * * * *

(c) *Minimum transfer amount.* A covered swap entity is not required to collect or to post variation margin pursuant to §§ 23.150 through 23.161 with respect to a particular counterparty unless and until the combined amount of initial margin and variation margin that is required pursuant to §§ 23.150 through 23.161 to be collected or posted and that has not been collected or posted with respect to the counterparty is greater than the minimum transfer amount, as the term is defined in § 23.151.

* * * * *

■ 5. Amend § 23.158 by revising paragraph (a) to read as follows:

§ 23.158 Margin documentation.

(a) *General requirement.* Each covered swap entity shall execute documentation with each counterparty that complies with the requirements of §§ 23.504 and that complies with this section, as applicable. For uncleared swaps between a covered swap entity and a counterparty that is a swap entity or a financial end user, the documentation shall provide the covered swap entity with the contractual right and obligation to exchange initial margin and variation margin in such amounts, in such form, and under such circumstances as are required by §§ 23.150 through 23.161. With respect to the minimum transfer amount, if a covered swap entity and a counterparty that is a swap entity or a financial end user agree to have separate minimum transfer amounts for initial and variation margin, the documentation shall specify the amounts to be allocated for initial margin and variation margin. Such amounts, on a combined basis, must not exceed the minimum transfer amount, as the term is defined in § 23.151.

* * * * *

Issued in Washington, DC, on August 14, 2020, by the Commission.

Robert Sidman,

Deputy Secretary of the Commission.

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

Appendices to Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants—Commission Voting Summary and Commissioners' Statements

Appendix 1—Commission Voting Summary

On this matter, Chairman Tarbert and Commissioners Quintenz, Behnam, Stump, and Berkovitz voted in the affirmative. No Commissioner voted in the negative.

Appendix 2—Supporting Statement of Commissioner Dawn D. Stump

Overview

I am pleased to support the proposed rulemaking that the Commission is issuing with respect to the ''minimum transfer amount'' provisions of its margin requirements for uncleared swaps.

This proposed rulemaking addresses recommendations that the Commission has received from its Global Markets Advisory Committee (''GMAC''), which I am proud to sponsor, and is based on a comprehensive report prepared by GMAC's Subcommittee on Margin Requirements for Non-Cleared Swaps (''GMAC Margin Subcommittee'').[1] It demonstrates the value added to the Commission's policymaking by its Advisory Committees, in which market participants and other interested parties come together to provide us with their perspectives and potential solutions to practical problems.

The proposed rulemaking contains two proposals, which have much to commend them. These proposals further objectives that I have commented on before:

- The need to tailor our rules to assure that they are workable for those required to comply with them; and
- the benefits of codifying relief that has been issued by our Staff and re-visiting our rules, where appropriate.

I am very appreciative of the many people whose efforts have contributed to bringing this proposed rulemaking to fruition. First, the members of the GMAC, and especially the GMAC Margin Subcommittee, who devoted a tremendous amount of time to

[1] *Recommendations to Improve Scoping and Implementation of Initial Margin Requirements for Non-Cleared Swaps,* Report to the CFTC's Global Markets Advisory Committee by the Subcommittee on Margin Requirements for Non-Cleared Swaps (April 2020), available at *https://www.cftc.gov/media/3886/GMAC_051920MarginSubcommitteeReport/download.*

quickly provide us with a high-quality report on complex margin issues at the same time they were performing their ''day jobs'' during a global pandemic. Second, Chairman Tarbert, for his willingness to include this proposed rulemaking on the busy agenda that he has laid out for the Commission for the rest of this year. Third, my fellow Commissioners, for working with me on these important issues. And finally, the Staff of the Division of Swap Dealer and Intermediary Oversight (''DSIO''), whose tireless efforts have enabled us to advance these initiatives to assure that our uncleared margin rules are workable for all, thereby enhancing compliance consistent with our responsibilities under the Commodity Exchange Act (''CEA'').

A Different Universe is coming into Scope of the Uncleared Margin Rules

The Commission's uncleared margin rules for swap dealers, like the Framework of the Basel Committee on Banking Supervision and the Board of the International Organization of Securities Commissions (''BCBS/IOSCO'') [2] on which they are based, were designed primarily to ensure the exchange of margin between the largest financial institutions for their uncleared swap transactions with one another. These institutions and transactions are already subject to uncleared margin requirements.

Pursuant to the phased implementation schedule of the Commission's rules and the BCBS/IOSCO Framework, though, a different universe of market participants—presenting unique considerations—is coming into scope of the margin rules. It is only now, as we enter into the final phases of the implementation schedule, that the Commission's uncleared margin rules will apply to a significant number of financial end-users, and we have a responsibility to make sure they are fit for that purpose.

Accordingly, now is the time we must explore whether the regulatory parameters that we have applied to the largest financial institutions in the earlier phases of margin implementation need to be tailored to account for the practical operational challenges posed by the exchange of margin when one of the counterparties is a pension plan, endowment, insurance provider, mortgage service provider, or other financial end-user.

The proposed rulemaking regarding the ''minimum transfer amount'' does exactly that. The Commission's uncleared margin rules provide that a swap dealer is not required to collect or post initial margin (''IM'') or variation margin (''VM'') with a counterparty until the combined amount of such IM and VM exceeds the minimum transfer amount (''MTA'') of $500,000. Yet, the application of the MTA presents a significant operational challenge for institutional investors that typically hire asset managers to exercise investment discretion over portions of their assets in separately managed accounts (''SMAs'') for purposes of diversification. As a practical matter, neither the owner of the SMA, the manager of the assets in the SMA, nor the swap dealer that is a counterparty to the SMA is in a position to readily determine when the MTA has been exceeded on an aggregate basis (or to assure that it is not).

To address this challenge, the Commission is proposing to amend the definition of MTA in its margin rules to allow a swap dealer to apply an MTA of up to $50,000 to each SMA owned by a counterparty with which the swap dealer enters into uncleared swaps. As noted in the proposing release, any potential increase in uncollateralized credit risk as a result would be mitigated both by the conditions set out in the proposed rules, as well as existing safeguards in the CEA and the Commission's regulations.[3]

I believe that this is a sensible approach and an appropriate refinement to make the Commission's uncleared margin rules workable for SMAs given the realities of the modern investment management environment. As I have stated before, no matter how well-intentioned a rule may be, if it is not workable, it cannot deliver on its intended purpose.[4]

The Benefits of Codifying Staff Relief and Re-Visiting our Rules

Application of MTA to SMAs: The proposal that I have discussed above to amend the application of the MTA to SMAs would codify no-action relief in Letter No. 17–12 that DSIO issued in 2017.[5] Our Staff often has occasion to issue relief or take other action in the form of no-action letters, interpretative letters, or advisories on various issues and in various circumstances. This affords the Commission a chance to observe how the Staff action operates in real-time, and to evaluate lessons learned. With the benefit of this time and experience, the Commission should then consider whether codifying such staff action into rules is appropriate.[6]

As I have said before, ''[i]t is simply good government to re-visit our rules and assess whether certain rules need to be updated, evaluate whether rules are achieving their objectives, and identify rules that are falling short and should be withdrawn or improved.'' [7] Experience with DSIO's no-action relief in Letter No. 17–12 supports today's proposal to tailor the application of the MTA under the Commission's uncleared margin rules in the SMA context.

Separate MTAs for IM and VM: The second proposal regarding the MTA in this proposed rulemaking similarly would codify existing DSIO no-action relief in recognition of market realities. Consistent with DSIO's Letter No. 19–25,[8] it would recognize that a swap dealer may apply separate MTAs for IM and VM with each counterparty, provided that the MTAs corresponding to IM and VM are specified in the margin documentation required under the Commission's regulations, and that the MTAs, on a combined basis, do not exceed the prescribed MTA.

DSIO's no-action relief, and the Commission's proposed codification, take into account the separate settlement workflows that swap counterparties maintain to reflect, from an operational perspective, the different regulatory treatment of IM and VM.[9] At the same time, given that the total amount of combined IM and VM exchanged would not exceed the prescribed MTA, separate MTAs for IM and VM would not materially increase the amount of credit risk at a given time. Under Letter No. 19–25 and this proposal, swap dealers and their counterparties can manage MTA in an operationally practicable way that aligns with the market standard.

There Remains Unfinished Business

The report of the GMAC Margin Subcommittee recommended several actions beyond those contained in this proposed rulemaking in order to address the unique challenges associated with the application of uncleared margin requirements to end-users. Having been present for the development of the Dodd-Frank Act, I recall the concerns expressed by many lawmakers about applying the new requirements to end-users. The practical challenges with respect to

[2] *See generally* BCBS/IOSCO, Margin requirements for non-centrally cleared derivatives (July 2019), available at *https://www.bis.org/bcbs/publ/d475.pdf.*

[3] Specifically, CEA Section 4s(j)(2), 7 U.S.C. 6s(j)(2), requires swap dealers to adopt a robust risk management system adequate for the management of their swap activities, and CFTC Rule 23.600, 17 CFR 23.600, requires swap dealers to establish a risk management program to monitor and manage risks associated with their swap activities.

[4] Statement of Commissioner Dawn D. Stump Regarding Final Rule: Cross-Border Application of the Registration Thresholds and Certain Requirements Applicable to Swap Dealers and Major Swap Participants (July 23, 2020), available at *https://www.cftc.gov/PressRoom/SpeechesTestimony/stumpstatement072320.*

[5] CFTC Letter No. 17–12, Commission Regulations 23.152(b)(3) and 23.153(c): No-Action Position for Minimum Transfer Amount with respect to Separately Managed Accounts (February 13, 2017), available at *https://www.cftc.gov/idc/groups/public/@lrlettergeneral/documents/letter/17-12.pdf.*

[6] *See* comments of Commissioner Dawn D. Stump during Open Commission Meeting on January 30, 2020, at 183 (noting that after several years of no-action relief regarding trading on swap execution facilities (''SEFs''), ''we have the benefit of time and experience and it is time to think about codifying some of that relief. . . . [T]he SEFs, the market participants, and the Commission have benefited from this time and we have an obligation to provide more legal certainty through codifying these provisions into rules.''), available at *https://www.cftc.gov/sites/default/files/2020/08/1597339661/openmeeting_013020_Transcript.pdf.*

[7] Statement of Commissioner Dawn D. Stump for CFTC Open Meeting on: (1) Final Rule on Position Limits and Position Accountability for Security Futures Products; and (2) Proposed Rule on Public Rulemaking Procedures (Part 13 Amendments) (September 16, 2019), available at *https://www.cftc.gov/PressRoom/SpeechesTestimony/stumpstatement091619.*

[8] CFTC Letter No. 19–25, Commission Regulations 23.151, 23.152, and 23.153—Staff Time-Limited No-Action Position Regarding Application of Minimum Transfer Amount under the Uncleared Margin Rules (December 6, 2019), available at *https://www.cftc.gov/csl/19-25/download.*

[9] Under the Commission's uncleared margin rules, IM posted or collected by a swap dealer must be held by one or more custodians that are not affiliated with the swap dealer or the counterparty, whereas VM posted or collected by a swap dealer is not required to be segregated with an independent custodian. *See* 17 CFR 23.157.

uncleared margin that caused uneasiness back in 2009–2010 are now much more immediate as the margin requirements are being phased in to apply to these end-users.

So, while I am pleased at the steps the Commission is taking in this proposed rulemaking, I hope that we can continue to work together to address the other recommendations included in the GMAC Margin Subcommittee's report. The need to do so will only become more urgent as time marches on.

Conclusion

To be clear, these proposals to amend the Commission's uncleared margin rules are not a ''roll-back'' of the margin requirements that apply today to the largest financial institutions in their swap transactions with one another. Rather, the proposals reflect a thoughtful refinement of our rules to take account of specific circumstances in which they impose substantial operational challenges (*i.e.,* they are not workable) when applied to other market participants that are coming within the scope of their mandates. I look forward to receiving public input on any improvements that can be made to the proposals to further enhance compliance with the Commission's uncleared margin requirements.

Appendix 3—Statement of Commissioner Dan M. Berkovitz

I support issuing for public comments two notices of proposed rulemaking to improve the operation of the CFTC's Margin Rule.[1] The Margin Rule requires certain swap dealers (''SDs'') and major swap participants (''MSPs'') to post and collect initial and variation margin for uncleared swaps.[2] The Margin Rule is critical to mitigating risks in the financial system that might otherwise arise from uncleared swaps. I support a strong Margin Rule, and I look forward to public comments on the proposals, including whether certain elements of the proposals could increase risk to the financial system and how the final rule should address such risks.

The proposals address: (1) The definition of material swap exposure (''MSE'') and an alternative method for calculating initial margin (''the MSE and Initial Margin Proposal''); and (2) the application of the minimum transfer amount (''MTA'') for initial and variation margin (''the MTA Proposal''). They build on frameworks developed by the Basel Committee on Banking Supervision and International Organization of Securities Commissions (''BCBS/IOSCO''),[3] existing CFTC staff no-action letters, and recommendations made to the CFTC's Global Markets Advisory Committee (''GMAC'').[4] I thank Commissioner Stump for her leadership of the GMAC and her work to bring these issues forward for the Commission's consideration.

Today's proposed amendments to the Margin Rule could help promote liquidity and competition in swaps markets by allowing the counterparties of certain end-users to rely on the initial margin calculations of the more sophisticated SDs with whom they enter into transactions designed to manage their risks, subject to safeguards. They would also address practical challenges in the Commission's MTA rules that arise when an entity such as a pension plan or endowment retains asset managers to invest multiple separately managed accounts (''SMAs''). Similar operational issues are addressed with respect to initial and variation margin MTA calculations.

These operational and other benefits justify publishing the MSE and Initial Margin Proposal and the MTA Proposal in the **Federal Register** for public comment. However, I am concerned that specific aspects of each of these proposed rules could weaken the Margin Rule and increase risk by creating a potentially larger pool of uncollateralized, uncleared swaps exposure. My support for finalizing these proposals will depend on how the potential increased risks are addressed.

One potential risk in the MSE and Initial Margin Proposal arises from amending the definition of MSE to align it with the BCBS/IOSCO framework.[5] One element of the proposal would amend the calculation of the average daily aggregate notional amount (''AANA'') of swaps. The proposed rule would greatly reduce the number of days used in the calculation, reducing it from an average of all business days in a three month period to the average of the last business day in each month of a three month period.[6] The result would be that a value now calculated across approximately 60+ data points (*i.e.,* business days) would be confined to only three data points, and could potentially become less representative of an entity's true AANA and swaps exposure. Month-end trading adjustments could greatly skew the AANA average for an entity.

When the Commission adopted the Margin Rule in 2016, it rejected the MSE calculation approach now under renewed consideration. U.S. prudential regulators also declined to follow the BCBS/IOSCO framework in this regard. The Commission noted in 2016 that an entity could ''window dress'' its exposure and artificially reduce its AANA during the measurement period.[7] Even in the absence of window dressing, there are also concerns that short-dated swaps, including intra-month natural gas and electricity swaps, may not be captured in a month-end calculation window. While the MSE and Initial Margin Proposal offers some analysis addressing these issues, it may be difficult to extrapolate market participants' future behavior based on current regulatory frameworks. I look forward to public comment on these issues.

The MSE and Initial Margin Proposal and the MTA Proposal each raise additional concerns that merit public scrutiny and comment. The MTA Proposal, for example, would permit a minimum transfer amount of $50,000 for each SMA of a counterparty. In the event of more than 10 SMAs with a single counterparty (each with an MTA of $50,000), the proposal would functionally displace the existing aggregate limit of $500,000 on a particular counterparty's uncollateralized risk for uncleared swaps. The proposal would also state that if certain entities agree to have separate MTAs for initial and variation margin, the respective amounts of MTA must be reflected in their required margin documentation. Under certain scenarios, these separate MTAs could result in the exchange of less total margin than if initial and variation margin were aggregated.

The MSE and Initial Margin Proposal and the MTA Proposal both articulate rationales why the Commission preliminarily believes that the risks summarized above, and others noted in the proposals, may not materialize. The Commission's experience with relevant staff no-action letters may also appear to lessen concerns around the proposals. While each item standing on its own may not be a significant concern, the collective impact of the proposed rules may be a reduction in the strong protections afforded by the 2016 Margin Rule—and an increase in risk to the U.S. financial system. The Commission must resist the allure of apparently small, apparently incremental, changes that, taken together, dilute the comprehensive risk framework for uncleared swaps.

I look forward to public comments and to continued deliberation on what changes to the MSE and Initial Margin Proposal and the MTA Proposal are appropriate. I thank Commissioner Stump, our fellow Commissioners, and staff of the Division of Swap Dealer and Intermediary Oversight for their extensive engagement with my office on these proposals.

[FR Doc. 2020–18222 Filed 9–21–20; 8:45 am]

BILLING CODE 6351–01–P

[1] Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 81 FR 636 (Jan. 6, 2016) (''Margin Rule'').

[2] *See also* Commodity Exchange Act (''CEA'') section 4s(e). The CEA, as amended by the Dodd-Frank Act, requires the Commission to adopt rules for minimum initial and variation margin for uncleared swaps entered into by SDs and MSPs for which there is no prudential regulator. Although addressed in the rules, there are currently no registered MSPs.

[3] BCBS/IOSCO, Margin requirements for non-centrally cleared derivatives (July 2019), *https://www.bis.org/bcbs/publ/d475.pdf*. The BCBS/IOSCO framework was originally promulgated in 2013 and later revised in 2015.

[4] Recommendations to Improve Scoping and Implementation of Initial Margin Requirements for Non-Cleared Swaps, Report to the CFTC's Global Markets Advisory Committee by the Subcommittee on Margin Requirements for Non-Cleared Swaps, April 2020, *https://www.cftc.gov/media/3886/GMAC_051920MarginSubcommitteeReport/download*.

[5] 17 CFR 23.151.

[6] Existing Commission regulation 23.151 specifies June, July, and August of the prior year as the relevant calculation months. The proposed rule would amend this to March, April, and May of the current year. The proposed rule would also amend the calculation date from January 1 to September 1. These amendments would be consistent with the BCBS/IOSCO framework.

[7] *See* CFTC Margin Rule, 81 FR at 645.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[[REG–110059–20]

RIN 1545–BP83

Ownership Attribution Under Section 958 for Purposes of Sections 367(a) and 954(c)(6)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the modification of section 958(b) of the Internal Revenue Code (''Code'') by the Tax Cuts and Jobs Act, which was enacted on December 22, 2017. The proposed regulations modify the ownership attribution rules applicable to outbound transfers of stock or securities of a domestic corporation under section 367(a). The proposed regulations also narrow the scope of foreign corporations that are treated as controlled foreign corporations for purposes of the look-through rule under section 954(c)(6). The proposed regulations affect United States persons that transfer stock or securities of a domestic corporation to a foreign corporation that are subject to section 367(a), and United States shareholders of foreign corporations.

DATES: Written or electronic comments and requests for a public hearing must be received by November 20, 2020. Requests for a public hearing must be submitted as prescribed in the ''Comments and Requests for a Public Hearing'' section.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically. Submit electronic submissions via the Federal eRulemaking Portal at *www.regulations.gov* (indicate IRS and REG–110059–20) by following the online instructions for submitting comments. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The IRS expects to have limited personnel available to process public comments that are submitted on paper through mail. Until further notice, any comments submitted on paper will be considered to the extent practicable. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comment submitted electronically, and to the extent practicable on paper, to its public docket. Send paper submissions to: CC:PA:LPD:PR (REG–REG–110059–20), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Christina G. Daniels at (202) 317–6934 or Lynlee C. Baker at (202) 317–6937; concerning submissions of comments or requests for a public hearing, Regina Johnson at (202) 317–5177 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

I. Sections 318 and 958(b)(4)

Section 958 provides rules for determining direct, indirect, and constructive stock ownership. Under section 958(a)(1), stock is considered owned by a person if it is owned directly or is owned indirectly through certain foreign entities under section 958(a)(2). Under section 958(b), the constructive stock ownership rules of section 318 apply, with certain modifications, to the extent that the effect is to treat any United States person as a United States shareholder within the meaning of section 951(b) (''U.S. shareholder'') of a foreign corporation, to treat a person as a related person within the meaning of section 954(d)(3), to treat the stock of a domestic corporation as owned by a U.S. shareholder of a controlled foreign corporation within the meaning of section 957 (''CFC'') for purposes of section 956(c)(2), or to treat a foreign corporation as a CFC.

As in effect before repeal, section 958(b)(4) provided that section 318(a)(3)(A), (B), and (C) (providing for so-called ''downward attribution'') was not to be applied so as to consider a United States person as owning stock owned by a person who is not a United States person (a ''foreign person''). Effective for the last taxable year of foreign corporations beginning before January 1, 2018, and each subsequent year of the foreign corporations, and for the taxable years of U.S. shareholders in which or with which such taxable years of the foreign corporations end, section 958(b)(4) was repealed by section 14213 of the Tax Cuts and Jobs Act, Public Law 115–97 (2017) (the ''Act''). As a result of this repeal, stock of a foreign corporation owned by a foreign person can be attributed to a United States person under section 318(a)(3) for various purposes, including for purposes of determining whether a United States person is a U.S. shareholder of the foreign corporation and, therefore, whether the foreign corporation is a CFC. In other words, as a result of the repeal of section 958(b)(4), section 958(b) now provides for downward attribution from a foreign person to a United States person in circumstances in which section 958(b), before the Act, did not so provide. As a result, among other consequences, United States persons that were not previously treated as U.S. shareholders may be treated as U.S. shareholders, and foreign corporations that were not previously treated as CFCs may be treated as CFCs.

On October 2, 2019, the Treasury Department and the IRS published proposed regulations (REG–104223–18) relating to the repeal of section 958(b)(4) in the **Federal Register** (84 FR 52398) (the ''2019 proposed regulations''). The 2019 proposed regulations are issued as final regulations in the Rules and Regulations section of this issue of the **Federal Register**. Consistent with the purpose underlying the 2019 proposed regulations, these proposed regulations propose additional changes that are intended to ensure that certain rules under sections 367(a) and 954(c)(6) apply in the same manner in which they applied before the repeal of section 958(b)(4).

II. Section 367(a)

Section 367(a)(1) generally provides that if a United States person transfers property to a foreign corporation in connection with an exchange described in section 332, 351, 354, 356, or 361, the foreign corporation will not be treated as a corporation for purposes of determining the extent to which gain is recognized on the transfer.

Section 1.367(a)–3 provides rules regarding the treatment of transfers of stock or securities by a United States person to a foreign corporation in an exchange described in section 367(a)(1) (''outbound transfer''). Section 1.367(a)–3(b)(1) generally requires a United States person to enter into a gain recognition agreement, pursuant to rules under § 1.367(a)–8, to obtain nonrecognition treatment on an outbound transfer of stock or securities of a foreign corporation if the United States person owns at least five percent (applying the attribution rules of section 318, as modified by section 958(b)) of the transferee foreign corporation immediately after the transfer. To obtain nonrecognition treatment on outbound transfers of stock or securities of a domestic corporation (the ''U.S. target company''), § 1.367(a)–3(c)(1) generally requires the U.S. target company to meet certain reporting requirements and that each of four conditions is satisfied: (1) Fifty percent or less of both the total voting power and the total value of the

stock of the transferee foreign corporation is received in the transaction, in the aggregate, by U.S. transferors; (2) fifty percent or less of each of the total voting power and the total value of the stock of the transferee foreign corporation is owned, in the aggregate, immediately after the transfer by United States persons that are either officers or directors of the U.S. target company or that are five-percent target shareholders (as defined in § 1.367(a)–3(c)(5)(iii)); (3) either the United States person is not a five-percent transferee shareholder (as defined in § 1.367(a)–3(c)(5)(ii)), or the United States person enters into a gain recognition agreement as provided in § 1.367(a)–8; and (4) the active trade or business test (as defined in § 1.367(a)–3(c)(3)) is satisfied. For purposes of applying these tests, § 1.367(a)–3(c)(4)(iv) states that, except as otherwise provided, the stock attribution rules of section 318, as modified by section 958(b), apply in determining the ownership or receipt of stock, securities, or other property.

III. Section 954(c)(6)

Section 954(c)(6)(A) generally provides that for purposes of section 954(c), dividends, interest, rents, and royalties received or accrued by a CFC from a CFC that is a related person are not treated as foreign personal holding company income to the extent attributable or properly allocable (determined under rules similar to the rules of section 904(d)(3)(C) and (D)) to income of the related person that is neither subpart F income nor income treated as effectively connected with the conduct of a trade or business in the United States (the ''section 954(c)(6) exception''). In general, and subject to certain limitations, the section 954(c)(6) exception is intended to make U.S.-based multinational corporations more competitive with foreign-based multinational corporations by allowing U.S.-based multinational corporations to reinvest their active foreign earnings where they are needed without giving rise to immediate additional taxation under the subpart F provisions. *See* H.R. Rep. No. 109–304 at 45 (2005).

Section 954(c)(6)(A) provides that the Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the provision, including regulations to prevent the abuse of the purposes of the provision. As most recently extended by the Further Consolidated Appropriations Act, Public Law 116–94 (2020), section 954(c)(6) applies to taxable years of foreign corporations beginning after December 31, 2005, and before January 1, 2021, and to taxable years of U.S. shareholders with or within which such taxable years of foreign corporations end.

Notice 2007–9, 2007–5 I.R.B. 401, describes guidance that the Treasury Department and the IRS intend to issue regarding the application of section 954(c)(6), including certain anti-abuse rules. That notice, in section 7(d), provides, in relevant part:

> When the use of options or similar interests causes a foreign corporation to become a CFC payor, and a principal purpose for the use of the options or similar interests is to qualify dividends, interest, rents, or royalties paid by the foreign corporation for the section 954(c)(6) exception, the dividends, interest, rents, or royalties received or accrued from such foreign corporation will not be treated as being received or accrued from a CFC payor and, therefore, will not be eligible for the section 954(c)(6) exception.

A rule similar to that in section 7(d) of Notice 2007–9 was included in § 1.954–1(f)(2)(iv), T.D. 9883, 84 FR 69107 (2019).

Explanation of Provisions

I. Changes in Connection With Section 367(a)

As discussed in part II of the Background section of this preamble, § 1.367(a)–3(c)(4)(iv) states that, except as otherwise provided, the constructive stock ownership rules of section 318, as modified by section 958(b), apply for purposes of determining the ownership or receipt of stock, securities or other property under § 1.367(a)–3(c). The repeal of section 958(b)(4) and the resulting application of section 318(a)(3)(A), (B), and (C) to the stock ownership tests under § 1.367(a)–3(c)(1) can cause a transfer that previously would have satisfied the conditions set forth in § 1.367(a)–3(c)(1) to no longer qualify for the exception to section 367(a)(1) because, for example, more shareholders are now considered to be five-percent target shareholders as a result of downward attribution. The conditions set forth in § 1.367(a)–3(c)(1) and the attribution rule in § 1.367(a)–3(c)(4)(iv) were promulgated when section 958(b)(4) did not allow for downward attribution from foreign persons.

The Treasury Department and the IRS have determined that, for purposes of applying § 1.367(a)–3(c)(1)(i), (ii), and (iv), a United States person's constructive ownership interest should not include an interest that is treated as owned as a result of downward attribution from a foreign person as it would inappropriately treat the United States person as owning an interest it would not have owned under the rules in effect when those regulations were promulgated. The Treasury Department and IRS have determined, however, that the constructive ownership rules as they apply to the condition set forth in § 1.367(a)–3(c)(1)(iii) (which requires that either the United States person is not a five-percent transferee shareholder or the United States person must enter into a gain recognition agreement) should not be modified, and thus will continue to take into account downward attribution. The continued application of downward attribution for purposes of § 1.367(a)–3(c)(1)(iii) results in a consistent application of the gain recognition agreement provisions for outbound transfers of stock or securities of domestic and foreign corporations. Although the Act's repeal of section 958(b)(4) may require a United States person to enter into a gain recognition agreement in connection with an outbound transfer of stock or securities of a foreign corporation to obtain nonrecognition treatment when no such agreement would have been required before the Act, no changes are being proposed to § 1.367(a)–3(b)(1) because the Treasury Department and the IRS have decided this result is appropriate in light of the policies of section 367(a) and the Act.

Therefore, and in accordance with the regulatory authority provided in section 367(a), the proposed regulations revise § 1.367(a)–3(c)(4)(iv) to apply the attribution rules of section 318, as modified by section 958(b) but without applying section 318(a)(3)(A), (B), and (C) to treat a United States person as owning stock that is owned by a foreign person, for all purposes of § 1.367(a)–3(c) other than for purposes of determining whether a U.S. person is a five-percent transferee shareholder under § 1.367(a)–3(c)(1)(iii).

II. Changes in Connection With Section 954(c)(6)

As discussed in part III of the Background section of this preamble, Congress enacted section 954(c)(6) to generally allow U.S.-based multinational corporations to reinvest their active foreign earnings (in other words, earnings of CFCs subject to U.S. tax deferral) where they are needed outside the United States without giving rise to immediate additional taxation under the subpart F provisions. Accordingly, the section 954(c)(6) exception is intended to apply to payments between CFCs of a U.S.-based multinational group that have active foreign earnings that are subject to the subpart F provisions. If a foreign corporation is a CFC solely by reason of downward attribution from a foreign

person, however, most or all of that foreign corporation's earnings typically are not under U.S. taxing jurisdiction (that is, subject to the subpart F and GILTI provisions or, in some cases, taxed in the United States when distributed to its owners) and, as a result, amounts paid or accrued by that foreign corporation to another foreign corporation that is a CFC (without regard to downward attribution) should not be eligible for the section 954(c)(6) exception. For example, assume a foreign corporation (FC1) is a CFC (without regard to downward attribution) and a member of a foreign parented multinational group, the common parent of which is not a CFC, and another foreign corporation (FC2) that is also a member of the multinational group is a CFC but solely by reason of downward attribution and does not have any U.S. shareholders that own (within the meaning of section 958(a)) stock in such CFC (a ''section 958(a) U.S. shareholder''). FC1 makes a loan to FC2. In the absence of regulations, interest received by FC1 from FC2 would be eligible for the exception under section 954(c)(6) even though the income of FC2 is not taxed by the United States. In comparison, if FC1 made a loan to the foreign parent instead of to FC2, interest received by FC1 from the foreign parent would not be eligible for the exception under section 954(c)(6).

Therefore, in accordance with the regulatory authority provided in section 954(c)(6)(A), the proposed regulations limit the application of the section 954(c)(6) exception to amounts received or accrued from foreign corporations that are CFCs without applying section 318(a)(3)(A), (B), and (C) to treat a United States person as owning stock that is owned by a foreign person. The modification in these proposed regulations is consistent with the treatment of interest received by FC1 in the example if instead of making the loan to FC2, FC1 made the loan to the foreign parent of the group and with the purposes of the anti-abuse rules set forth in section 7(d) of Notice 2007–9 and § 1.954–1(f)(2)(iv).

Comments are requested as to whether, and if so, to what extent, the section 954(c)(6) exception should be available in cases in which a related foreign payor corporation (that is a CFC solely as a result of downward attribution) has section 958(a) U.S. shareholders and therefore is partially under U.S. taxing jurisdiction.

III. Applicability Dates

The regulations under section 367(a) are proposed to apply to transfers made on or after September 21, 2020.

Subject to special rules for certain entity classification elections and changes in taxable years, the regulations under section 954(c)(6) are proposed to apply to payments or accruals of dividends, interest, rents, and royalties made by a foreign corporation during taxable years of the foreign corporation ending on or after September 21, 2020, and to taxable years of United States shareholders in which or with which such taxable years of the foreign corporation end.

The proposed regulations further provide that taxpayers may choose to apply the rules under section 367 or 954(c)(6), once filed as final regulations in the **Federal Register**, to the last taxable year of a foreign corporation beginning before January 1, 2018, and each subsequent taxable year of the foreign corporation, subject to a consistency requirement. *See* section 7805(b)(7).

Finally, a taxpayer may rely on the proposed regulations under section 367 or 954(c)(6) with respect to any taxable year before the date that these regulations are published as final regulations in the **Federal Register**, provided that the taxpayer and persons that are related (within the meaning of section 267 or 707) to the taxpayer consistently rely on the proposed regulations under section 367 or 954(c)(6), respectively, with respect to all foreign corporations.

Statement of Availability of IRS Documents

IRS Revenue Procedures, Revenue Rulings, notices, and other guidance cited in this document are published in the Internal Revenue Bulletin and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at *http://www.irs.gov.*

Special Analyses

These proposed regulations are not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations.

It is hereby certified that these proposed regulations will not have a significant economic impact on a substantial number of small entities within the meaning of section 601(6) of the Regulatory Flexibility Act (5 U.S.C. chapter 6). The proposed regulations are intended to ensure that certain rules under sections 367(a) and 954(c)(6) apply in the same manner in which they applied before the repeal of section 958(b)(4). The proposed regulations do not impose any new costs on taxpayers. Consequently, the Treasury Department and the IRS have determined that the proposed regulations will not have a significant economic impact on a substantial number of small entities. Notwithstanding this certification, the Treasury Department and the IRS invite comments on the impacts of these rules on small entities.

Pursuant to section 7805(f), this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business. The Treasury Department and the IRS request comments on the impact of these proposed regulations on small business entities.

Comments and Requests for a Public Hearing

Before these proposed amendments to the regulations are adopted as final regulations, consideration will be given to comments that are submitted timely to the IRS as prescribed in the preamble under the **ADDRESSES** section. The Treasury Department and the IRS request comments on all aspects of the proposed regulations. Any electronic comments submitted, and to the extent practicable any paper comments submitted, will be made available at *www.regulations.gov* or upon request.

As noted in the preamble to the 2019 proposed regulations, the Treasury Department and the IRS intend to update the regulations under section 267 to take into account the changes made to that section by Public Law 108–357 in future guidance. The Treasury Department and the IRS also intend to update the regulations under section 163(e) to take into account the changes made to that section by Public Law 108–357 in future guidance. The Treasury Department and the IRS request comments on the appropriate scope of such guidance.

A public hearing will be scheduled if requested in writing by any person who timely submits electronic or written comments. Requests for a public hearing are also encouraged to be made electronically. If a public hearing is scheduled, notice of the date and time for the public hearing will be published in the **Federal Register**. Announcement 2020–4, 2020–17 IRB 1, provides that until further notice, public hearings

conducted by the IRS will be held telephonically. Any telephonic hearing will be made accessible to people with disabilities.

Drafting Information

The principal authors of the proposed regulations are Karen J. Cate, Christina G. Daniels, and Lynlee C. Baker of the Office of Associate Chief Counsel (International). However, other personnel from the Treasury Department and the IRS participated in the development of the proposed regulations.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding an entry for § 1.954(c)(6)–2 in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805.

* * * * *

Section 1.954(c)(6)–2 issued under 26 U.S.C. 954(c)(6)(A).

* * * * *

■ **Par. 2.** Section 1.367(a)–3 is amended by revising paragraph (c)(4)(iv) and adding two sentences at the end of paragraph (c)(11)(ii) to read as follows:

§ 1.367(a)–3 Treatment of transfers of stock or securities to foreign corporations.

* * * * *

(c) * * *

(4) * * *

(iv) *Attribution rule.* Except as otherwise provided in this section, the rules of section 318, as modified by the rules of section 958(b) but without applying section 318(a)(3)(A), (B), and (C) so as to consider a U.S. person as owning stock which is owned by a person who is not a U.S. person, apply for purposes of determining the ownership or receipt of stock, securities, or other property under this paragraph. For purposes of determining whether a U.S. person is a five-percent transferee shareholder under paragraph (c)(1)(iii) of this section, however, the rules of section 318, as modified by the rules of section 958(b) (taking into account section 318(a)(3)(A), (B), and (C) so as to consider a U.S. person as owning stock which is owned by a person who is not a U.S. person), apply.

* * * * *

(11) * * *

(ii) * * * Paragraph (c)(4)(iv) of this section applies to transfers occurring on or after September 21, 2020. For transfers occurring before September 21, 2020, a taxpayer may apply paragraph (c)(4)(iv) of this section to transfers occurring during the last taxable year of a foreign corporation beginning before January 1, 2018, and each subsequent taxable year of the foreign corporation, provided that the taxpayer and persons that are related (within the meaning of section 267 or 707) to the taxpayer consistently apply this paragraph with respect to all transfers to all foreign corporations.

* * * * *

■ **Par. 3.** Section 1.954(c)(6)–2 is added to read as follows:

§ 1.954(c)(6)–2 Definition of controlled foreign corporation for purposes of section 954(c)(6).

(a) *Controlled foreign corporation.* For purposes of section 954(c)(6), the term controlled foreign corporation has the meaning given such term by section 957 (taking into account the special rule for certain captive insurance companies contained in section 953(c)), determined without applying section 318(a)(3)(A), (B), and (C) so as to consider a United States person as owning stock which is owned by a person who is not a United States person.

(b) *Applicability dates*—(1) *In general.* Except as provided in paragraph (b)(2) of this section, this section applies to payments or accruals of dividends, interest, rents, and royalties made by a foreign corporation during taxable years of the foreign corporation ending on or after September 21, 2020, and taxable years of United States shareholders in which or with which such taxable years of the foreign corporation end. This section also applies to taxable years of a foreign corporation ending before September 21, 2020, and taxable years of United States shareholders in which or with which such taxable years of the foreign corporation end, resulting from an entity classification election made under § 301.7701–3 of this chapter, or resulting from a change in taxable year under section 898, with respect to the foreign corporation that was effective on or before September 21, 2020, but was filed on or after September 21, 2020.

(2) *Special rule.* A taxpayer may apply this section to the last taxable year of a foreign corporation beginning before January 1, 2018, and each subsequent taxable year of the foreign corporation ending before September 21, 2020, and to taxable years of United States shareholders in which or with which such taxable years of the foreign corporation end, provided that the taxpayer and persons that are related (within the meaning of section 267 or 707) to the taxpayer consistently apply this section with respect to all foreign corporations.

Sunita Lough,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2020–17550 Filed 9–21–20; 8:45 am]

BILLING CODE 4830–01–P

POSTAL SERVICE

39 CFR Part 111

Addressing Standards

AGENCY: Postal Service™.

ACTION: Proposed rule.

SUMMARY: The Postal Service is proposing to amend *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®) in various sections of 602, *Addressing,* to update addressing standards.

DATES: Submit comments on or before October 22, 2020.

ADDRESSES: Mail or deliver written comments to the manager, Product Classification, U.S. Postal Service, 475 L'Enfant Plaza SW, Room 4446, Washington, DC 20260–5015. If sending comments by email, include the name and address of the commenter and send to *PC Federal Register@usps.gov,* with a subject line of ''Addressing Standards''. Faxed comments are not accepted.

Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

You may inspect and photocopy all written comments, by appointment only, at USPS® Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor North, Washington, DC 20260. These records are available for review on Monday through Friday, 9 a.m.–4 p.m., by calling 202–268–2906.

FOR FURTHER INFORMATION CONTACT: James Wilson at (901) 681–4600, Kai Fisher at (901) 681–4634, or Garry Rodriguez at (202) 268–7281.

SUPPLEMENTARY INFORMATION:

Background

Currently, DMM section 602.6.0, *ZIP Code Accuracy Standards,* provides that a ZIP Code may be used on a mail piece within 12 months after verified by the use of an approved method. Once a ZIP Code is used on a mailpiece, the same

address is considered to meet the standards for an additional 1 year.

DMM sections 602.7.0, *Carrier Route Accuracy Standard, and 9.0, Coding Accuracy Support System (CASS),* provide that Address Matching and Coding Update standards require coding to be performed within 90 days before the mailing date for carrier route mailings and 180 days for all non-carrier route mailings using the most current USPS database. The current product release schedule allows for use of a database that is valid for 105 days and may be used for an additional 6 months beyond that timeframe. As such, an address added or modified in the database may not be updated on a mailing list for nearly 1 year after the change was made.

In 2012 the Postal Service implemented address management product fulfillment via an electronic product fulfillment method designed to provide subscription products to customers more efficiently. The database product updates are posted each month to a secure site where customers can log in to simply download the product files. A recent survey of licensed Address Management data products indicate that CASS and Multiline Accuracy Support System (MASS) Certified software and service providers are retrieving and using the monthly updates during the address matching and coding processes.

Proposal

The Postal Service is proposing a database product cycle that aligns with the release of other mailing products. This will provide consistency across all mailing products and the method by which the data files are available and distributed. This proposal would require the use of monthly updates for both carrier route and non-carrier route mailings and would reduce the risk of using data that is no longer current.

More frequent updates allow the customer and the Postal Service to take advantage of the most current information available for the 158.6 million addresses served by the USPS. It will maximize mailers' ability to obtain postage discounts and improve the ability to sort that mail to the proper carrier and in the proper sequence for delivery.

The proposed release schedule allows for an overlap in dates for product use and will allow mailers adequate time to transfer and install the new data files and test their systems. Mailers will be expected to update their systems with the latest data files as soon as practicable and should not wait until the ''last permissible use'' date.

The Postal Service is proposing to implement this change effective July 1, 2021. However, mailers may opt to use the new monthly update cycles for both carrier route and non-carrier route mailings immediately.

We believe this proposed revision will provide customers with a more efficient process and will reduce the risk of using address information that is not current.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. *See* 39 CFR 111.1.

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

Accordingly, 39 CFR part 111 is proposed to be amended as follows:

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM) as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

600 Basic Standards for All Mailing Services

* * * * *

602 Addressing

* * * * *

6.0 ZIP Code Accuracy Standards

6.1 Basic Standards

Except for mail bearing a simplified address, addresses used on pieces in a mailing at all commercial First-Class Mail, nonbarcoded presorted Periodicals, USPS Marketing Mail, Parcel Select Lightweight, and Bound Printed Matter presorted and carrier route prices are subject to the ZIP Code accuracy standard and must meet these requirements:

[Revise the text of items a and b to read as follows:]

a. Each address and associated 5-digit ZIP Code on the mailpieces in a mailing must be verified and corrected within 6 months before the mailing date with one of the USPS-approved methods in 6.2.

b. If an address used on a mailpiece in a mailing at one class of mail and price is verified and corrected with an approved method, the same address may be used during the following 6 months to meet the ZIP Code accuracy standard required for mailing at any other class of mail and price.

6.2 USPS—Approved Methods

The following methods meet the ZIP Code accuracy standard:

* * * * *

b. For manually maintained lists or small computerized lists, options include the following:

[Delete item b1 and renumber items b2 through b5 as items b1 through b4.]

* * * * *

7.0 Carrier Route Accuracy Standard

7.1 Basic Standards

* * * Addresses used on pieces claiming any Periodicals carrier route prices, any USPS Marketing Mail Enhanced Carrier Route prices (including DALs or DMLs used with Product Samples), or any Bound Printed Matter carrier route prices are subject to the carrier route accuracy standard and must meet the following requirements:

[Revise the text of item a to read as follows:]

a. Each address and associated carrier route code used on the mailpieces (or DALs or DMLs) in a mailing must be updated within 60 days before the mailing date with one of the USPS-approved methods in 6.2.

* * * * *

[Revise the text of item c to read as follows:]

c. If the carrier route code (and accuracy) of an address, used on a mailpiece in a carrier route mailing at one class of mail and price, is updated with an approved method, the same address may be used during the following 60 days to meet the carrier route accuracy standard required for mailing at any other class of mail and price.

* * * * *

9.0 Coding Accuracy Support System (CASS)

* * * * *

9.3 Date of Address Matching and Coding

9.3.1 Update Standards

[Revise the second sentence and last sentence of 9.3.1 to read as follows:]

* * * Coding must be done no more than 60 days before the mailing date for all carrier route mailings and for all non-carrier route automation price mailings. * * *

* * * The ''current USPS database'' product cycle is defined by the table in Exhibit 9.3.1.

[Delete current table under 9.3.1 and add new table as Exhibit 9.3.1 to read as follows:]

EXHIBIT 9.3.1—USPS DATABASE PRODUCT CYCLE

Release date (posted)	Product date	Mandatory begin usage date	Expiration date (last permissible use date)	Last permissible mailing date
Use of file released on	(Publish date)	Must begin no later than	And must end no later than	(Exp date + 30 days)
November 15	December 1	January 1	February 28/29	March 31
December 15	January 1	February 1	March 31	April 30
January 15	February 1	March 1	April 30	May 31
February 15	March 1	April 1	May 31	June 30
March 15	April 1	May 1	June 30	July 31
April 15	May 1	June 1	July 31	August 31
May 15	June 1	July 1	August 31	September 30
June 15	July 1	August 1	September 30	October 31
July 15	August 1	September 1	October 31	November 30
August 15	September 1	October 1	November 30	December 31
September 15	October 1	November 1	December 31	January 31
October 15	November 1	December 1	January 31	February 28/29

* * * * *

Joshua J. Hofer,

Attorney, Federal Compliance.

[FR Doc. 2020–19096 Filed 9–21–20; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2018–0062; FRL–10013–67–Region 10]

Air Plan Approval; WA; Interstate Transport Requirements for the 2010 Sulfur Dioxide National Ambient Air Quality Standards; Correction and Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; correction and reopening of comment period.

SUMMARY: On July 27, 2020, the Environmental Protection Agency (EPA) published a proposed rulemaking finding that the Washington State Implementation Plan (SIP) meets specific Clean Air Act (CAA) interstate transport requirements for the 2010 1-hour Sulfur Dioxide (SO_2) National Ambient Air Quality Standards (NAAQS). In that publication, we supplied an incorrect docket number for commenters to use when submitting comments. The correct docket number is EPA–R10–OAR–2018–0062 and appears in the heading and the **ADDRESSES** sections read correctly, below. If commenters have already submitted comments, they need not resubmit them, because they will be routed to the correct docket.

DATES: The comment period for the proposed rule published on July 27, 2020 (85 FR 45146), is reopened. Comments must be received on or before October 22, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2018–0062, at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *regulations.gov.* the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: John Chi, EPA Region 10, Air and Radiation Division, 1200 Sixth Avenue–Suite 155, Seattle, WA 98101, at 206–553–1185, or *chi.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

Correction

On July 27, 2020 (85 FR 45146), we, the EPA, published a proposed rulemaking finding that the Washington SIP meets CAA interstate transport requirements for the 2010 1-hour SO_2 NAAQS. In that publication, we supplied an incorrect docket number for commenters to use when they submit comments. We are publishing this document to clarify that the correct docket number is EPA–R10–OAR–2018–0062. However, if you already submitted a comment, you need not resubmit it, because it will be routed to the correct docket. For details on the proposed rulemaking, please refer to the **Federal Register** publication at 85 FR 45146, July 27, 2020.

Dated: August 12, 2020.

Christopher Hladick,

Regional Administrator, Region 10.

[FR Doc. 2020–17979 Filed 9–21–20; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2018–0046; FF09E21000 FXES11110900000 201]

RIN 1018–BD12

Endangered and Threatened Wildlife and Plants; Threatened Species Status With Section 4(d) Rule and Critical Habitat Designation for Atlantic Pigtoe

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; revisions and reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the comment period on our October 11, 2018, proposed rule to list the Atlantic pigtoe (*Fusconaia masoni*) as a threatened species with a section 4(d) rule, and to designate critical habitat for the species, under the Endangered Species Act of 1973, as amended (Act). In this document, we present revisions to the section 4(d) rule language and to the critical habitat designation we proposed for the species on October 11, 2018. As a result of the critical habitat revisions, we now propose to designate a total of 566 miles (910 kilometers) as critical habitat for the Atlantic pigtoe across 18 units within portions of 14 counties in Virginia and 17 counties in North Carolina. This amounts to an increase of 24 miles (38 kilometers) in our proposed critical habitat designation for the species. We are reopening the comment period to allow all interested parties the opportunity to comment on the October 11, 2018, proposed rule, as well as the revisions described in this document. Comments previously submitted need not be resubmitted, as they will be fully considered in preparation of the final rule.

DATES: The comment period for the proposed rule published October 11, 2018, at 83 FR 51570 is reopened. So that we can fully consider your comments in our final determination, submit them on or before October 22, 2020. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date.

ADDRESSES:

Document availability: You may obtain copies of the October 11, 2018, proposed rule and associated documents on the internet at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2018–0046 or by mail from the Raleigh Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Written comments: You may submit written comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter FWS–R4–ES–2018–0046, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rule box to locate this document. You may submit a comment by clicking on ''Comment Now!''

(2) *By hard copy:* Submit your comments by U.S. mail to: Public Comments Processing, Attn: FWS–R4–ES–2018–0046, U.S. Fish and Wildlife Service, MS: JAO/1N, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Public Comments, below, for more information).

FOR FURTHER INFORMATION CONTACT: Pete Benjamin, Field Supervisor, U.S. Fish and Wildlife Service, Raleigh Ecological Services Field Office, 551F Pylon Drive, Raleigh, NC 27606; telephone 919–856–4520. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments

We will accept written comments and information during this reopened comment period on our October 11, 2018, proposed listing determination with section 4(d) rule and designation of critical habitat for the Atlantic pigtoe (83 FR 51570), the revisions to the section 4(d) rule and proposed critical habitat designation that are described in this document, and our draft economic assessment (DEA) of the proposed critical habitat designation. We will consider information and recommendations from all interested parties. We are particularly interested in comments concerning:

(1) The Atlantic pigtoe's biology, range, and population trends, including:

(a) Biological or ecological requirements of the species, including habitat requirements for feeding, breeding, and sheltering;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the species, its habitat, or both.

(2) Factors that may affect the continued existence of the species, which may include habitat modification or destruction, overutilization, disease, predation, the inadequacy of existing regulatory mechanisms, or other natural or manmade factors.

(3) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to this species and existing regulations that may be addressing those threats.

(4) Additional information concerning the historical and current status, range, distribution, and population size of this species, including the locations of any additional populations of this species.

(5) Information on activities that are necessary and advisable for the conservation of the Atlantic pigtoe to include in a section 4(d) rule for the species. In particular, we request information concerning the extent to which we should include any of the section 9 prohibitions in the 4(d) rule or whether any other forms of take should be excepted from the prohibitions in the 4(d) rule.

(6) The reasons why we should or should not designate habitat as ''critical habitat'' under section 4 of the Act, including whether there are threats to the species from human activity, the degree of which can be expected to increase due to the designation, and whether that increase in threat outweighs the benefit of designation such that the designation of critical habitat may not be prudent.

(7) Specific information on:

(a) The amount and distribution of Atlantic pigtoe habitat;

(b) What areas, that were occupied at the time of listing and that contain the physical or biological features essential to the conservation of the species, should be included in the designation and why;

(c) Special management considerations or protection that may be needed in critical habitat areas we are proposing, including managing for the potential effects of climate change; and

(d) What areas not occupied at the time of listing are essential for the conservation of the species and why.

(8) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat.

(9) Any probable economic, national security, or other relevant impacts of designating any area that may be included in the final designation, and the benefits of including or excluding areas that may be impacted.

(10) Information on the extent to which the description of probable economic impacts in the DEA is a reasonable estimate of the likely economic impacts and the description of the environmental impacts in the draft environmental assessment is complete and accurate.

(11) Whether any specific areas we are proposing for critical habitat designation should be considered for exclusion under section 4(b)(2) of the Act, and whether the benefits of potentially excluding any specific area outweigh the benefits of including that area under section 4(b)(2) of the Act.

(12) Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments.

If you submitted comments or information on the October 11, 2018, proposed rule or DEA during the comment period that was open from October 11, 2018, to December 10, 2018, please do not resubmit them. Any such comments are already part of the public record of this rulemaking proceeding, and we will fully consider them in the preparation of our final determination. Our final determination will take into consideration all written comments and any additional information we receive during both comment periods. The final decision may differ from this revised proposed rule, based on our review of all information we receive during this rulemaking proceeding.

You may submit your comments and materials by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information—will be posted on the website. We will post all hardcopy comments on *http://www.regulations.gov* as well. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule and DEA, will be available for public inspection on *http://www.regulations.gov* at Docket No. FWS–R4–ES–2018–0046, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Raleigh Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**). You may obtain copies of the proposed rule and the DEA on the internet at *http://www.regulations.gov* at Docket No. FWS–R4–ES–2018–0046, or by mail from the Raleigh Ecological Services Field Office.

Background

It is our intent to discuss in this document only those topics directly relevant to the revised proposed section 4(d) rule and designation of critical habitat. For more information on the species, its habitat, and previous Federal actions concerning the Atlantic pigtoe, refer to the proposed rule published in the **Federal Register** on October 11, 2018 (83 FR 51570).

In our October 11, 2018, proposed rule, we proposed to list the Atlantic pigtoe as a threatened species with a section 4(d) rule, including exceptions for species restoration efforts by State wildlife agencies, channel restoration projects, bank stabilization projects, and silvicultural practices and forest management activities. That rule also proposed to designate critical habitat in 16 units encompassing approximately 542 stream miles (872 kilometers) in Craig, Botetourt, Fluvanna, Buckingham, Nottoway, Lunenburg, Brunswick, Dinwiddie, Greensville, Mecklenburg, and Halifax Counties in Virginia, and in Rockingham, Granville, Vance, Franklin, Nash, Halifax, Warren, Edgecombe, Pitt, Person, Durham, Orange, Wake, Johnston, Wilson, Randolph, and Montgomery Counties in North Carolina. In addition, we announced the availability of a DEA of the proposed critical habitat designation. We accepted comments on the proposed rule and DEA for 60 days, ending December 10, 2018. Based on information we received during the public comment period, we propose to revise the proposed section 4(d) rule and critical habitat designation, and are therefore reopening the comment period to allow the public additional time to submit comments on both the October 11, 2018, proposed rule, as well as the revisions described in this document.

New Information and Revisions to Proposed Section 4(d) Rule

Section 4(d) of the Act states that the ''Secretary shall issue such regulations as he deems necessary and advisable to provide for the conservation'' of species listed as threatened. The U.S. Supreme Court has noted that very similar statutory language demonstrates a large degree of deference to the agency (see *Webster* v. *Doe,* 486 U.S. 592 (1988)). Conservation is defined in the Act to mean ''the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to [the Act] are no longer necessary.'' Additionally, section 4(d) of the Act states that the Secretary ''may by regulation prohibit with respect to any threatened species any act prohibited under section 9(a)(1), in the case of fish or wildlife, or section 9(a)(2), in the case of plants.'' Thus, regulations promulgated under section 4(d) of the Act provide the Secretary with wide latitude of discretion to select appropriate provisions tailored to the specific conservation needs of the threatened species. The statute grants particularly broad discretion to the Service when adopting the prohibitions under section 9.

The courts have recognized the extent of the Secretary's discretion under this standard to develop rules that are appropriate for the conservation of a species. For example, courts have approved rules developed under section 4(d) that include a taking prohibition for threatened wildlife, or include a limited taking prohibition (see *Alsea Valley Alliance* v. *Lautenbacher,* 2007 U.S. Dist. Lexis 60203 (D. Or. 2007); *Washington Environmental Council* v. *National Marine Fisheries Service,* 2002 U.S. Dist. Lexis 5432 (W.D. Wash. 2002)). Courts have also approved 4(d) rules that do not address all of the threats a species faces (see *State of Louisiana* v. *Verity,* 853 F.2d 322 (5th Cir. 1988)). As noted in the legislative history when the Act was initially enacted, ''once an animal is on the threatened list, the Secretary has an almost infinite number of options available to him with regard to the permitted activities for those species. He may, for example, permit taking, but not importation of such species, or he may choose to forbid both taking and importation but allow the transportation of such species'' (H.R. Rep. No. 412, 93rd Cong., 1st Sess. 1973).

Although the statute does not require the Service to make a ''necessary and advisable'' finding with respect to the adoption of specific prohibitions under section 9, we find that this rule is necessary and advisable to provide for the conservation of the Atlantic pigtoe. The Service proposed a species-specific 4(d) rule that is designed to address the Atlantic pigtoe's specific threats and

conservation needs. It would promote conservation of the Atlantic pigtoe by encouraging management of the landscape in ways that meet both land management considerations and meeting the conservation needs of the Atlantic pigtoe. It would be one of many tools that the Service would use to promote the conservation of the Atlantic pigtoe. It would apply only if and when the Service makes final the listing of the Atlantic pigtoe as a threatened species.

As discussed under the October 11, 2018, proposed rule's *Summary of Biological Status and Threats* (83 FR 51570, pp. 83 FR 51572–51577), declines in water quality, loss of stream flow, riparian and instream fragmentation, and deterioration of instream habitats are affecting the status of the Atlantic pigtoe. These threats, which are expected to be exacerbated by continued urbanization and the effects of climate change, were central to our assessment of the future viability of the Atlantic pigtoe. Therefore, we prohibit actions that result in the incidental take of Atlantic pigtoe by altering or degrading the habitat. Regulating incidental take resulting from these activities would help preserve the species' remaining populations, slow its rate of decline, and decrease synergistic, negative effects from other stressors.

This 4(d) rule would provide for the conservation of the Atlantic pigtoe by prohibiting the following activities, except as otherwise authorized or permitted: Importing or exporting; take; possession and other acts with unlawfully taken specimens; delivering, receiving, transporting, or shipping in interstate or foreign commerce in the course of commercial activity; or selling or offering for sale in interstate or foreign commerce.

Under the Act, ''take'' means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Some of these provisions have been further defined in regulation at 50 CFR 17.3. Take can result knowingly or otherwise, by direct and indirect impacts, intentionally or incidentally. Regulating incidental and/or intentional take would help preserve the species' remaining populations, slow their rate of decline, and decrease synergistic, negative effects from other stressors. Therefore, we proposed to prohibit intentional take of the Atlantic pigtoe, including, but not limited to, capturing, handling, trapping, collecting, or other activities. In this proposed revision, we would change the way in which the provisions of the 4(d) rule for the Atlantic pigtoe would appear in 50 CFR 17.45, and we would no longer refer to the prohibitions set forth at 50 CFR 17.31(a). Instead, we propose to refer to the prohibitions set forth at 50 CFR 17.21, which apply to endangered species. However, the substance of the prohibitions, and exceptions to those prohibitions, in the proposed 4(d) rule for the Atlantic pigtoe have not changed. As we stated in the October 11, 2018, proposed rule, the species needs active conservation to improve the quality of its habitat. By excepting some of the general prohibitions of 50 CFR 17.21, these excepted actions can encourage cooperation by landowners and other affected parties in implementing conservation measures. This would allow use of the land while at the same time ensuring the protection of suitable habitat and minimizing impact on the species.

We are retaining the exceptions to the prohibitions proposed in the October 11, 2018, section 4(d) rule. We believe that those actions and activities, while they may have some minimal level of disturbance to the Atlantic pigtoe, are unlikely to negatively impact the species' conservation and recovery efforts. The proposed exceptions to these prohibitions include (1) species restoration efforts by State wildlife agencies, (2) channel restoration projects, (3) bank stabilization projects, and (4) silvicultural practices and forest management activities.

During the comment period on the October 11, 2018, proposed rule, we received numerous comments from the public and peer reviewers on several of the exceptions to the prohibitions in the proposed 4(d) rule. As a result, we retain the four exceptions but propose to revise some of them. Below, we describe the four exceptions and their proposed revisions, if any.

The first exception for species restoration efforts by State wildlife agencies remains unchanged from what we proposed on October 11, 2018 (83 FR 51570, p. 83 FR 51593), and includes collection of broodstock, tissue collection for genetic analysis, captive propagation, and subsequent stocking into currently occupied and unoccupied areas within the historical range of the species. The Service recognizes our special and unique relationship with our State natural resource agency partners in contributing to conservation of listed species. State agencies often possess scientific data and valuable expertise on the status and distribution of endangered, threatened, and candidate species of wildlife and plants. State agencies, because of their authorities and their close working relationships with local governments and landowners, are in a unique position to assist the Services in implementing all aspects of the Act. In this regard, section 6 of the Act provides that the Services shall cooperate to the maximum extent practicable with the States in carrying out programs authorized by the Act. Therefore, any qualified employee or agent of a State conservation agency that is a party to a cooperative agreement with the Service in accordance with section 6(c) of the Act, who is designated by his or her agency for such purposes, would be able to conduct activities designed to conserve Atlantic pigtoe that may result in otherwise prohibited take for wildlife without additional authorization.

We propose revisions to the second exception for channel restoration projects based on public comments received. This exception retains most of the language from the October 11, 2018, proposed rule for creation of natural, physically stable, ecologically functioning streams that are reconnected with their groundwater aquifer (83 FR 51570, p. 83 FR 51593). Second- to third-order, headwater streams reconstructed in this way would offer suitable habitats for the Atlantic pigtoe and contain stable channel features, such as pools, glides, runs, and riffles, which could be used by the species and its host fish for spawning, rearing, growth, feeding, migration, and other normal behaviors. In this document, we propose to add language that would require surveys and relocation for Atlantic pigtoes observed prior to commencement of restoration action.

The third exception for bank stabilization projects remains largely unchanged from what we proposed on October 11, 2018, except that we propose to include a requirement that appropriate ''native'' vegetation, including woody species appropriate for the region and habitat, should be used for stabilization. We propose this revision based on comments we received.

During the public comment period, the Service received several comments on the fourth exception for silvicultural practices and forest management activities, including seeking further clarification of the meaning of ''highest standard'' best management practices (BMPs). As a result, we propose to revise the language to clarify that the BMPs must result in protection of the habitat features that provide for the breeding, feeding, sheltering, and dispersal needs of the Atlantic pigtoe. Specifically concerning streamside management zones (SMZs), the proposed 4(d) rule has been revised to provide details about SMZ widths that

would be most protective of the habitat for the species, similar to those more substantial BMPs considered for ''special/sensitive'' streams that are designated ''trout waters'' and already implemented by both Virginia and North Carolina State forestry programs (North Carolina Forest Service (NCFS) 2006, entire; Virginia Department of Forestry (VADF) 2011, entire). SMZs for waterbodies that are occupied by the Atlantic pigtoe are intended to be similar to the trout water SMZs, as described in the Virginia BMP Technical Manual (VADF 2011, p. 37), the North Carolina Forestry BMP Manual to Protect Water Quality (NCFS 2006, pp. 21, 30–31), and life-history requirements as documented in the species status assessment (SSA) for the Atlantic pigtoe (USFWS 2019, pp. 5–11). In waterbodies that support listed freshwater mussel species, a wider SMZ is more effective at reducing sedimentation, maintaining lower water temperatures through shading, and introducing food (such as leaves and insects) into the food chain (VADF 2011, p. 37). Ninety percent of the food in forested streams comes from bordering vegetation (NCWRC 2002, p. 6; USFWS 2006, p. 6; Stewart et al. 2000, p. 210; USFWS 2019, p. 55). Freshwater mussels require cool, well-oxygenated water, and a clean stream bottom (USFWS 2019, p. 11). A lack of these features limits the number of freshwater mussels a stream can support. Aquatic habitat and suitable water temperature can be maintained even during logging operations when streamside vegetation is left intact (VADF 2011, p. 37).

In addition, we propose to revise the 4(d) rule to provide details on how access roads, skid trails, and crossings can be used in a way that would be most protective of the habitat by reducing sedimentation (NCFS 2018, entire). Silted stream bottoms suffocate filter-feeding animals and decrease the stream's insect population, an important source of food for host fish (VADF 2011, p. 37). Siltation also makes mussel and host fish reproduction difficult (USFWS 2019, pp. 29, 41, 47, 57). Transformed juvenile mussels require clean gravel/coarse sand substrates with oxygenated water to successfully become adults (USFWS 2019, p. 11). Lastly, a silted bottom substrate can result in mortality (USFWS 2019, pp. 29, 59).

Accordingly, we have clarified the intent of the fourth exception for silviculture practices and forest management activities to those that implement State-approved best management practices (BMPs), which include the following specifications for streamside management zones (SMZ), stream crossings, and access roads:

1. A two-zoned SMZ is established and maintained along each side of the margins of intermittent streams, perennial streams, and perennial waterbodies (see table for example of current specifications based on slope similar to Trout Waters (VADF 2011, p.15)). The SMZ is measured from the top of the stream bank, and is expected to confine visible sediment resulting from accelerated erosion.

TABLE 1—STREAMSIDE MANAGEMENT ZONE (SMZ) FOR WATERBODIES OCCUPIED BY ATLANTIC PIGTOE.

Percent slope of adjacent lands (%)	Zone 1 (no touch/no harvest; measured in feet)	Zone 2 (selective harvest allowed; measured in feet)	Total SMZ width (measured in feet)
0–10	50	16	66
11–20	50	25	75
21–45	50	50	100
46+	50	70	120

2. Access roads and skid trails that cross an intermittent stream, a perennial stream, or a perennial waterbody are installed using properly designed and constructed structures installed at right angles to the stream. Structures do not impede fish passage or stream flow, and minimize the amount of visible sediment that enters that stream or waterbody. Number of crossings is minimized, and stable sites for crossings are chosen. These crossings are installed so that:

a. Stream flow is not obstructed or impeded;

b. No intermittent stream channel, perennial stream channel, or perennial waterbody is used as an access road or skid trail;

c. Crossings are provided with effective structures or native ground cover to protect the stream banks and stream channel from accelerated erosion;

d. Crossings have sufficient water control devices to collect and divert surface flow from the access road or skid trail into undisturbed areas or other control structures to restrain accelerated erosion and prevent visible sediment from entering intermittent streams, perennial streams, and perennial waterbodies; and

e. Native ground cover, or best management practices, that prevent visible sediment from entering intermittent streams, perennial streams, and perennial waterbodies are provided within 10 working days of initial disturbance and are maintained until the site is permanently stabilized.

3. All access roads and skid trails are located outside of SMZs unless no other alternative exists.

State-approved forestry BMPs are upheld by North Carolina's Forest Practice Guidelines (FPGs) related to water quality standards, the Virginia Department of Forestry, and the Sustainable Forestry Initiative/Forest Stewardship Council/American Tree Farm System certification standards for both forest management and responsible fiber sourcing, and are publicly available on websites for these organizations, as follows:

- *https://www.stateforesters.org/bmps/*
- *https://www.ncforestservice.gov/publications/Forestry%20Leaflets/WQ01.pdf*
- *http://www.dof.virginia.gov/infopubs/BMP-Technical-Guide_pub.pdf*
- *https://www.sfiprogram.org/wp-content/uploads/2015_2019StandardsandRulesSection2Oct2015.pdf*
- *https://us.fsc.org/download.fsc-us-forest-management-standard-v1-0.95.htm*
- *https://www.treefarmsystem.org/certification-american-tree-farm-standards*

We reiterate that these actions and activities may have some minimal level of take of the Atlantic pigtoe, but are not expected to negatively impact the species' conservation and recovery efforts. Rather, we expect they would have a net beneficial effect on the species. Across the species' range, instream habitats have been degraded physically by sedimentation and by direct channel disturbance. The activities in the proposed 4(d) rule would correct some of these problems,

creating more favorable habitat conditions for the species.

Further, the proposed 4(d) rule would allow the issuance of permits to carry out otherwise prohibited activities, including those described above, involving threatened wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.32. With regard to threatened wildlife, a permit may be issued for the following purposes: for scientific purposes, to enhance the propagation or survival of the species, for economic hardship, for zoological exhibition, for educational purposes, for incidental taking, or for special purposes consistent with the purposes of the Act.

The Service recognizes the special and unique relationship with our State natural resource agency partners in contributing to conservation of listed species. State agencies often possess scientific data and valuable expertise on the status and distribution of endangered, threatened, and candidate species of wildlife and plants. State agencies, because of their authorities and their close working relationships with local governments and landowners, are in a unique position to assist the Services in implementing all aspects of the Act. In this regard, section 6 of the Act provides that the Services shall cooperate to the maximum extent practicable with the States in carrying out programs authorized by the Act. Therefore, any qualified employee or agent of a State conservation agency that is a party to a cooperative agreement with the Service in accordance with section 6(c) of the Act, who is designated by his or her agency for such purposes, would be able to conduct activities designed to conserve the Atlantic pigtoe that may result in otherwise prohibited take without additional authorization.

Finally, the proposed 4(d) rule would allow take of the Atlantic pigtoe without a permit by any employee or agent of the Service or a State conservation agency designated by his agency for such purposes and when acting in the course of his official duties if such action is necessary to aid a sick, injured, or orphaned specimen; to dispose of a dead specimen; or to salvage a dead specimen which may be useful for scientific study. In addition, Federal and State law enforcement officers may possess, deliver, carry, transport, or ship Atlantic pigtoe taken in violation of the Act as necessary.

Nothing in this proposed 4(d) rule would change in any way the recovery planning provisions of section 4(f) of the Act, the consultation requirements under section 7 of the Act, or the ability of the Service to enter into partnerships for the management and protection of the Atlantic pigtoe. However, interagency cooperation may be further streamlined through planned programmatic consultations for the species between Federal agencies and the Service. Anyone undertaking activities that are not covered by the provisions and that may result in take would need to ensure, in consultation with the Service, that those activities are not likely to jeopardize the continued existence of the species where the entity is a Federal agency or there is a Federal nexus, or consider applying for a permit before proceeding with the activity (if there is no Federal nexus).

New Information and Revisions to Proposed Critical Habitat

During the public comment period, we received 12 comment letters containing over 80 comments on the proposed critical habitat designation. Some of the comments from the North Carolina Wildlife Resources Commission (NCWRC) provided information that recommended shortening proposed units to better match the Natural Heritage Program element occurrences. The NCWRC also provided new observation data collected since the first version of the SSA report, which was finalized in December 2016, including updated 2017 and 2018 survey records in Little Grassy Creek (Dan River Basin, Granville County, North Carolina), the Dan River (Rockingham County, North Carolina), and the Tar River (Nash County, North Carolina), and an updated 2015 survey location in Sturgeon Creek (Nottoway River Basin, Dinwiddie County, Virginia). We also determined we had accidentally omitted observations from 2011 in Sappony Creek (Nottoway River Basin, Dinwiddie County, Virginia) and the Nottoway River (in Brunswick, Dinwiddie, and Greensville Counties, Virginia) in the October 11, 2018, proposed rule (83 FR 51570). We also noted an error in the critical habitat table, where the measurement for the New Hope Creek unit is 4 river miles (6.4 kilometers (km)), not 6 river miles (9.7 km). This information had been included in the SSA report but not in the proposed critical habitat designation.

Therefore, in this document, we propose certain revisions to the critical habitat designation we proposed for the Atlantic pigtoe on October 11, 2018 (83 FR 51570). Because of these revisions, the numbering for most of the critical habitat units has changed from the October 11, 2018, proposed rule, although the names and descriptions remain the same. All revised changes to unit numbers are described below and listed in Table 2. Specifically, we propose to add two units based on updated observations of the species in locations previously considered historical; the new Unit 4 is 4 miles (6.6 km) of Sappony Creek in the Chowan River Basin in Dinwiddie County, Virginia (J. Stanhope 2019, pers. comm.), and the new Unit 9 is 3 miles (4.8 km) of Little Grassy Creek in the Roanoke River Basin in Granville County, North Carolina (NCWRC 2018, p.6). We also propose to revise Unit 5 (previously Unit 4) to add 3.5 river miles (5.6 km) of Sturgeon Creek based on a 2015 observation of Atlantic pigtoe not included in the October 11, 2018, proposed rule, and 10.3 river miles (16.6 km) of Nottoway River based on accidental omission of data in the October 11, 2018, proposed rule (J.Stanhope 2018, pers. comm.). We propose to revise Unit 7 (previously Unit 6) to add 7 miles (11.3 km) of the Dan River in Rockingham County, North Carolina, based on a 2017 observation of Atlantic pigtoe (NCWRC 2018, p.6). We propose to revise Unit 10 (previously Unit 8) to remove two portions from this unit totaling 3.75 miles (3.4 miles (5.5 km) from unnamed tributary to Bear Swamp Creek and 0.35 miles (0.6 km) from unnamed tributary to Cub Creek) to better match the Natural Heritage Element Occurrence data, and add one portion of 10 miles (16.1 km) to the Tar River in Nash County, North Carolina, based on a 2016 observation of Atlantic pigtoe. We also propose to revise Unit 11 (previously, Unit 9) to remove 8 miles (12.9 km) from Sandy Creek to better match the Natural Heritage Element Occurrence data in response to the public comments from the NCWRC. All of the additional stream miles are currently occupied, contain most or all of the physical or biological features to support life-history functions essential to the conservation of the Atlantic pigtoe, and may require special management considerations or protection from threats as described in the October 11, 2018, proposed rule (83 FR 51570). For clarity, we also propose to add short textual descriptions of each proposed unit in the regulatory text of the critical habitat designation.

The DEA for the proposed critical habitat designation has not been revised. The counties containing the new units (Units 4 and 9) and the revised units (Units 7, 10, and 11) are included in the DEA's analysis that uses the consultation efforts occurring in counties, which overlap with the October 11, 2018, proposed designation

for Atlantic pigtoe critical habitat, as the basis of determining incremental costs. The revised Unit 5 (previously Unit 4) includes 0.99 river miles (1.6 km) in Sussex County, Virginia, which was not considered in our DEA. However, given the small amount of habitat and zero consultation efforts on co-occurring species (yellow lance and Roanoke logperch) to date in this area of the Unit, we do not anticipate an increase in the overall incremental costs of designating critical habitat for the Atlantic pigtoe.

Revised Proposed Critical Habitat Designation

In total, we now propose to designate approximately 566 miles (910 kilometers) in 18 units in Virginia and North Carolina as critical habitat for the Atlantic pigtoe. The proposed critical habitat areas described below constitute our best assessment, at this time, of areas that meet the definition of critical habitat, and all units are considered currently occupied by the species. Those 18 units are: (1) Craig Creek, (2) Mill Creek, (3) Middle James River, (4) Sappony Creek, (5) Nottoway River Subbasin, (6) Meherrin River, (7) Dan River, (8) Aarons Creek, (9) Little Grassy Creek, (10) Upper/Middle Tar River Subbasin, (11) Sandy/Swift Creek, (12) Fishing Creek Subbasin, (13) Lower Tar River, (14) Upper Neuse River Subbasin, (15) Middle Neuse River Subbasin, (16) New Hope Creek, (17) Deep River Subbasin, and (18) Little River Subbasin. Table 2 shows the name, land ownership of the riparian areas surrounding the units, and approximate river miles of the proposed designated units for the Atlantic pigtoe. Where appropriate, Table 2 also notes the previous number for units for which the numbering has changed.

TABLE 2—REVISED PROPOSED CRITICAL HABITAT UNITS FOR THE ATLANTIC PIGTOE

Critical habitat unit	Riparian ownership	River miles (kilometers)	Proposed changes	Previous unit numbering
Unit 1. JR1—Craig Creek	Private; Federal	29 (46.7)	None	Unit 1: JR1
Unit 2. JR2—Mill Creek	Federal	1 (1.6)	None	Unit 2: JR2
Unit 3. JR3—Middle James River	Private	3 (4.8)	None	Unit 3: JR3
Unit 4. CR1—Sappony Creek	Private	4 (6.6)	New Unit	New Unit
Unit 5. CR2—Nottoway River Subbasin	Private; Federal	64 (103)	+ 14 mi (22.5 km)	Unit 4: CR1
Unit 6. CR3—Meherrin River	Private	5 (8)	None	Unit 5: CR2
Unit 7. RR1—Dan River	Private	14 (22.5)	+7 mi (11.2 km)	Unit 6: RR1
Unit 8. RR2—Aarons Creek	Private	12 (19.3)	None	Unit 7: RR2
Unit 9. RR3—Little Grassy Creek	Private	3 (4.8)	New Unit	New Unit
Unit 10. TR1—Upper/Middle Tar River Subbasin	Private; Easements	91 (146.5)	+6 mi (9.7 km)	Unit 8: TR1
Unit 11. TR2—Sandy/Swift Creek	Private; State; Easements.	50 (80.5)	−8 mi (12.8 km)	Unit 9: TR2
Unit 12. TR3—Fishing Creek Subbasin	Private; State; Easements.	85 (136.8)	None	Unit 10: TR3
Unit 13. TR4—Lower Tar River	Private; State; Easements.	30 (48.3)	None	Unit 11: TR4
Unit 14. NR1—Upper Neuse River Subbasin	Private; Federal; State; Easements.	60 (95)	None	Unit 12: NR1
Unit 15. NR2—Middle Neuse River Subbasin	Private; State; County; Easements.	61 (98.2)	None	Unit 13: NR2
Unit 16. CF1—New Hope Creek	Private; Easements	4 (6.4)	−2 mi (3.3 km)	Unit 14: CF1
Unit 17. CF2—Deep River Subbasin	Private	10 (16.1)	None	Unit 15: CF2
Unit 18. YR1– Little River Subbasin	Private; Easements	40 (64.4)	None	Unit 16: YR1
Total		566 (910)	+24 mi (38 km).	

Note: Distances may not sum due to rounding.

The revised proposed critical habitat designation is defined by the map or maps, as modified by any accompanying regulatory text, presented at the end of this document under Proposed Regulation Promulgation. For units where there is no change from the October 11, 2018, proposed rule, please refer to information at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2018–0046. We include more detailed information on the boundaries of the revised proposed critical habitat designation in the discussion of new and revised proposed individual units below.

Unit 4: CR1—Sappony Creek

This is a new unit. Unit 4 consists of 4 river miles (6.6 river km) of Sappony Creek in Dinwiddie County, Virginia. The proposed designated area begins just upstream of the Seaboard Railroad crossing and ends just downstream of the Shippings Road (SR 709) crossing. The riparian areas on either side of the river are privately owned. The unit currently supports all breeding, feeding, and sheltering needs for the species.

Special management considerations or protection may be required to address excess sediment and pollutants that enter the creek and serve as indicators of other forms of pollution such as bacteria and toxins, reducing water quality for the species. Sources of these types of pollution are likely agricultural and silvicultural runoff.

Unit 5: CR2—Nottoway River Subbasin

Revised Unit 5 (previously Unit 4) consists of 64 river miles (103 river km) of the Nottoway River and a portion of Sturgeon Creek in Nottoway, Lunenburg, Brunswick, Dinwiddie, Greensville, and Sussex Counties, Virginia. The proposed designation begins downstream of the Nottoway River's confluence with Dickerson Creek and ends at Little Mill Road, and includes Sturgeon Creek downstream of Old Stage Road. We propose to revise this unit to add 3.5 river miles (5.6 km) of Sturgeon Creek based on a 2015 observation of Atlantic pigtoe not included in the October 11, 2018, proposed rule, and 10.3 river miles (16.6 km) of Nottoway River based on accidental omission of data in that proposed rule. Land bordering the river is primarily privately owned, except for some land (14 miles) that is part of the Fort Pickett National Guard Installation

and therefore is owned by the United States. The unit currently supports all breeding, feeding, and sheltering needs of the species.

Special management considerations or protection may be required within this unit to address a variety of threats. In the past decade, the Nottoway River suffered from several seasonal drought events, which not only caused very low dissolved oxygen conditions but also decreased food delivery because of minimal flows. In addition, these conditions led to increased predation rates on potential host fishes that were concentrated into low-flow refugia (*e.g.,* pools). Urban stormwater and nonpoint source pollution have been identified as contributing to water quality issues in this unit; therefore, special management considerations for riparian buffer restoration, reduced surface and groundwater withdrawals, and stormwater retrofits will benefit the habitat in this unit. Additional threats to this system include oil and gas pipeline projects that propose to cross streams at locations where the species occurs. Additional special management considerations or protection may be required within this unit to address low water levels as a result of water withdrawals and drought, as well as recommendation of alternate routes for oil and gas pipelines, or directional bore for those projects.

Unit 7: RR1—Dan River

Revised Unit 7 (previously Unit 6) consists of 14 river miles (22.5 river km) of the Dan River along the border of Virginia and North Carolina from NC Highway 700 near Eden, North Carolina, into Pittsylvania County, Virginia, and downstream to the confluence with Williamson Creek in Rockingham County, North Carolina. We propose to revise this unit to add 7 miles (11.3 km) in Rockingham County, North Carolina, based on a 2017 observation of Atlantic pigtoe. The land on either side of the proposed critical habitat unit is privately owned. The unit currently supports all breeding, feeding, and sheltering needs for the species.

Special management considerations or protection may be required within this unit to address threats. For example, a Duke Energy coal ash spill occurred upstream of this unit in February 2014; subsequent actions related to mitigating the effects of the spill will ultimately benefit the habitat in this unit, potentially allowing species restoration efforts.

Unit 9: RR3—Little Grassy Creek

This is a new unit. Unit 9 consists of 3 river miles (4.8 river km) of Little Grassy Creek in Granville County, North Carolina. The proposed designated area begins at the Davis Chapel Road crossing and ends at the confluence with Grassy Creek. The riparian areas on either side of the river are privately owned. The unit currently supports all breeding, feeding, and sheltering needs for the species.

Special management considerations or protection may be required to address excess sediment and pollutants that enter the creek and serve as indicators of other forms of pollution such as bacteria and toxins, reducing water quality for the species. Sources of these types of pollution are likely agricultural and silvicultural runoff.

Unit 10: TR1—Upper/Middle Tar River Subbasin

This revised unit (previously Unit 8) consists of 91 miles (146.5 km) of the mainstem of the upper and middle Tar River as well as several tributaries (Bear Swamp Creek, Fox Creek, Crooked Creek, Cub Creek, and Shelton Creek), in Granville, Vance, Franklin, and Nash Counties, North Carolina. The portion of Cub Creek starts near Hobgood Road and continues to the confluence with the Tar River; the Tar River portion starts just upstream of the NC 158 bridge and goes downstream to the NC 581 crossing; the Shelton Creek portion starts upstream of NC 158 downstream to the confluence with the Tar River; the Bear Swamp Creek portion begins upstream of Dyking Road downstream to the confluence with the Tar River (and includes an unnamed tributary upstream of Beasley Road); the Fox Creek portion begins downstream of NC 561 to the confluence with the Tar River; and the Crooked Creek portion begins upstream of NC 98 crossing downstream to confluence with Tar River. We propose revisions to remove two portions from this unit (3.4 miles (5.5 km) from unnamed tributary to Bear Swamp Creek and 0.35 miles (0.6 km) from unnamed tributary to Cub Creek) based on Natural Heritage Element Occurrence data, and to add 10 miles (16.1 km) to the Tar River in Nash County, North Carolina, based on a 2016 observation of Atlantic pigtoe. Land bordering the river and creeks is mostly (79 mi (119 km)) privately owned, except for some areas (12 mi (17 km)) in public ownership or easements. The unit currently supports all breeding, feeding, and sheltering needs for the species.

Special management considerations or protection may be required within this unit to address a variety of threats. Excessive amounts of nitrogen and phosphorus run off the land or are discharged into the waters, causing too much growth of microscopic or macroscopic vegetation and leading to extremely low levels of dissolved oxygen. As a result, there are six ''impaired'' stream reaches (as identified on the State's Clean Water Act section 303d list) totaling approximately 32 miles in the unit. Expansion or addition of new wastewater discharges are also a threat to habitat in this unit. Special management focused on agricultural BMPs, implementing highest levels of treatment of wastewater practicable, maintenance of forested buffers, and connection of protected riparian corridors will benefit habitat for the species in this unit.

Unit 11: TR2—Sandy/Swift Creek

This revised unit (previously Unit 9) consists of a 50-mile (80.5-km) segment of Sandy/Swift Creek beginning at Southerland Mill Road downstream to NC 301 in Granville, Vance, Franklin, and Nash Counties, North Carolina. We propose to revise this unit to remove 8 miles (12.9 km) from the upstream limit of Sandy Creek based on Natural Heritage Element Occurrence data in response to comments from the NCWRC. Land bordering the river and creeks is mostly (50 mi (80 km)) privately owned, with some areas (8 mi (13 km)) covered by protective easements held by a local land trust and the North Carolina Division of Mitigation Services. The unit currently supports all breeding, feeding, and sheltering needs for the species.

Special management considerations or protection may be required within this unit to address a variety of threats. Excessive amounts of nitrogen and phosphorus run off the land or are discharged into the waters, causing excessive growth of microscopic or macroscopic vegetation and leading to extremely low levels of dissolved oxygen; there is one ''impaired'' stream reach totaling approximately 5 miles (8 km) in this unit. Special management focused on agricultural BMPs, maintenance of forested buffers, and connection of protected riparian corridors will benefit habitat for the species in this unit.

References Cited

A complete list of references cited in this document is available on the internet at *http://www.regulations.gov* and upon request from the Raleigh Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this document are the staff members of the U.S. Fish

and Wildlife Service Species Assessment Team and Raleigh Ecological Services Field Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to further amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as proposed to be amended at 83 FR 51570 (October 11, 2018) as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Add § 17.45 to read as set forth below:

§ 17.45 Special rules—snails and clams.

(a) Atlantic pigtoe (*Fusconaia masoni*).

(1) *Prohibitions.* Except as noted in paragraph (a)(2) of this section and § 17.4, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or cause to be committed, any of the following acts in regard to this species:

(i) Import or export, as set forth at § 17.21(b) for endangered wildlife.

(ii) Take, as set forth at § 17.21(c)(1) for endangered wildlife.

(iii) Possession and other acts with unlawfully taken specimens, as set forth at § 17.21(d)(1) for endangered wildlife.

(iv) Interstate or foreign commerce in the course of commercial activity, as set forth at § 17.21(e) for endangered wildlife.

(v) Sale or offer for sale, as set forth at § 17.21(f) for endangered wildlife.

(2) *Exceptions from prohibitions.* In regard to this species, you may:

(i) Conduct activities as authorized by a permit under § 17.32.

(ii) Take as set forth at § 17.21(c)(3) and (c)(4) for endangered wildlife.

(iii) Take as set forth at § 17.31(b).

(iv) Possess and engage in other acts, as set forth at § 17.21(d)(2) for endangered wildlife.

(v) Take incidental to the following activities:

(A) Species restoration efforts by State wildlife agencies, including collection of broodstock, tissue collection for genetic analysis, captive propagation, and subsequent stocking into currently occupied and unoccupied areas within the historical range of the species.

(B) Channel restoration projects that create natural, physically stable, ecologically functioning streams (or stream and wetland systems) that are reconnected with their groundwater aquifers. These projects can be accomplished using a variety of methods, but the desired outcome is a natural channel with low shear stress (force of water moving against the channel); bank heights that enable reconnection to the floodplain; a reconnection of surface and groundwater systems, resulting in perennial flows in the channel; riffles and pools comprised of existing soil, rock, and wood instead of large imported materials; low compaction of soils within adjacent riparian areas; and inclusion of riparian wetlands. Prior to restoration action, surveys to determine presence of Atlantic pigtoe must be performed, and if located, mussels must be relocated prior to project implementation.

(C) Bank stabilization projects that use bioengineering methods to replace pre-existing, bare, eroding stream banks with vegetated, stable stream banks, thereby reducing bank erosion and instream sedimentation and improving habitat conditions for the species. Following these bioengineering methods, stream banks may be stabilized using native species live stakes (live, vegetative cuttings inserted or tamped into the ground in a manner that allows the stake to take root and grow), native species live fascines (live branch cuttings, usually willows, bound together into long, cigar shaped bundles), or native species brush layering (cuttings or branches of easily rooted tree species layered between successive lifts of soil fill). Native vegetation includes woody species appropriate for the region and habitat conditions. These methods must not include the sole use of quarried rock (rip-rap) or the use of rock baskets or gabion structures.

(D) Silviculture practices and forest management activities that implement State-approved best management practices for sensitive areas, including a two-zoned streamside management zone (SMZ) (Zone 1 width is a 50-foot minimum with no harvest allowed; Zone 2 width is variable depending on slope and includes selective harvest) established and maintained along each side of the margins of intermittent streams, perennial streams, and perennial waterbodies. The SMZ is measured from the top of the stream bank, and will confine visible sediment resulting from accelerated erosion. Access roads and skid trails that cross an intermittent stream, a perennial stream, or a perennial waterbody must be installed using properly designed and constructed structures installed at right angles to the stream, must not impede fish passage or stream flow, and must minimize the amount of visible sediment that enters that stream or waterbody. The number of crossings must be minimized, stable sites for crossings must be chosen, and access roads and skid trails must be located outside of SMZs unless no other alternative exists.

(b) [Reserved]

■ 3. Amend § 17.95(f), the entry proposed at 83 FR 51570 for ''Atlantic Pigtoe (*Fusconaia masoni*)'', by revising paragraphs (5) through (21) and by adding paragraphs (22) and (23), to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(f) *Clams and Snails.*

* * * * *

Atlantic Pigtoe (Fusconaia masoni)

* * * * *

(5) *Note:* Index map follows:

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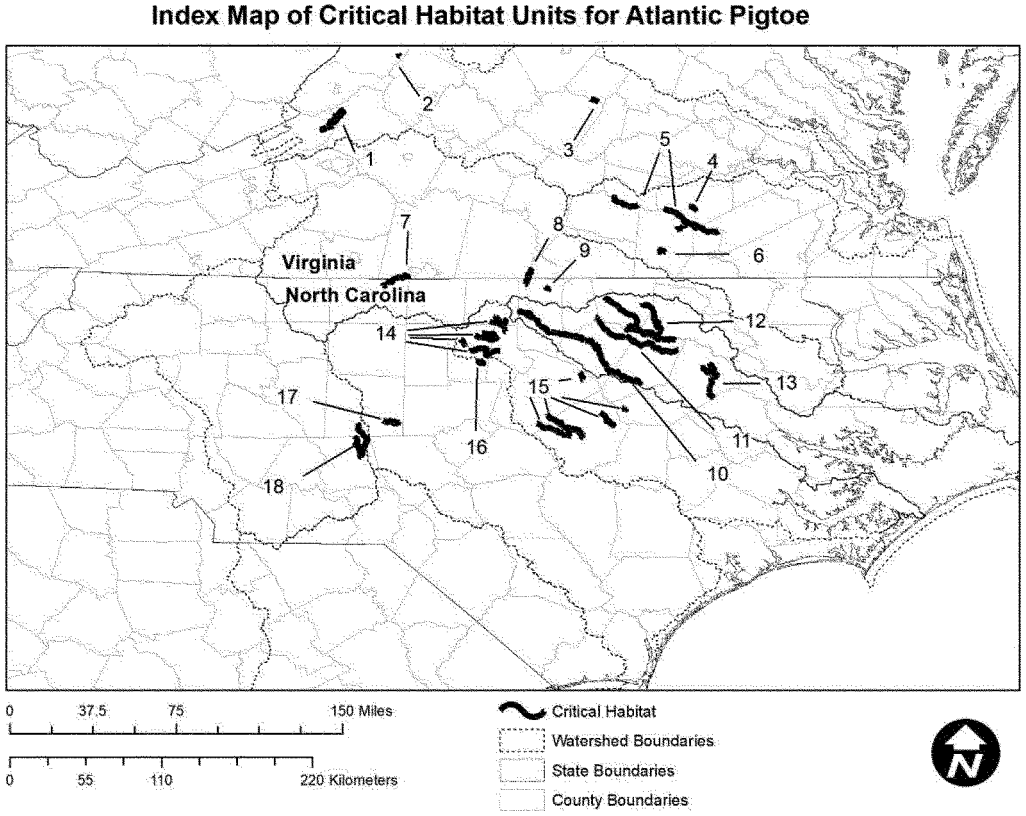
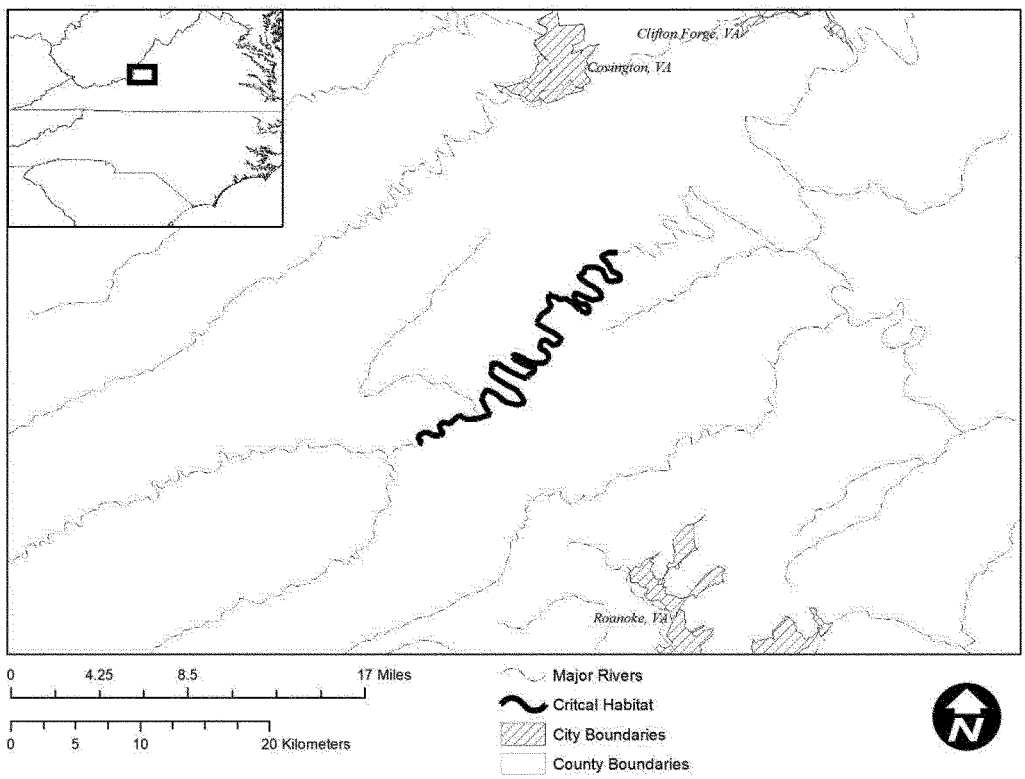


(6) Unit 1: JR1—Craig Creek, Craig and Botetourt Counties, Virginia.

(i) This unit consists of 29 river miles (46.7 river kilometers) of Craig Creek near VA Route 616 west of New Castle downstream to just below VA Route 817 crossing.

(ii) Map of Unit 1 (Craig Creek) follows:

Map of Unit 1 - JR1 Craig Creek Critical Habitat Unit for Atlantic Pigtoe

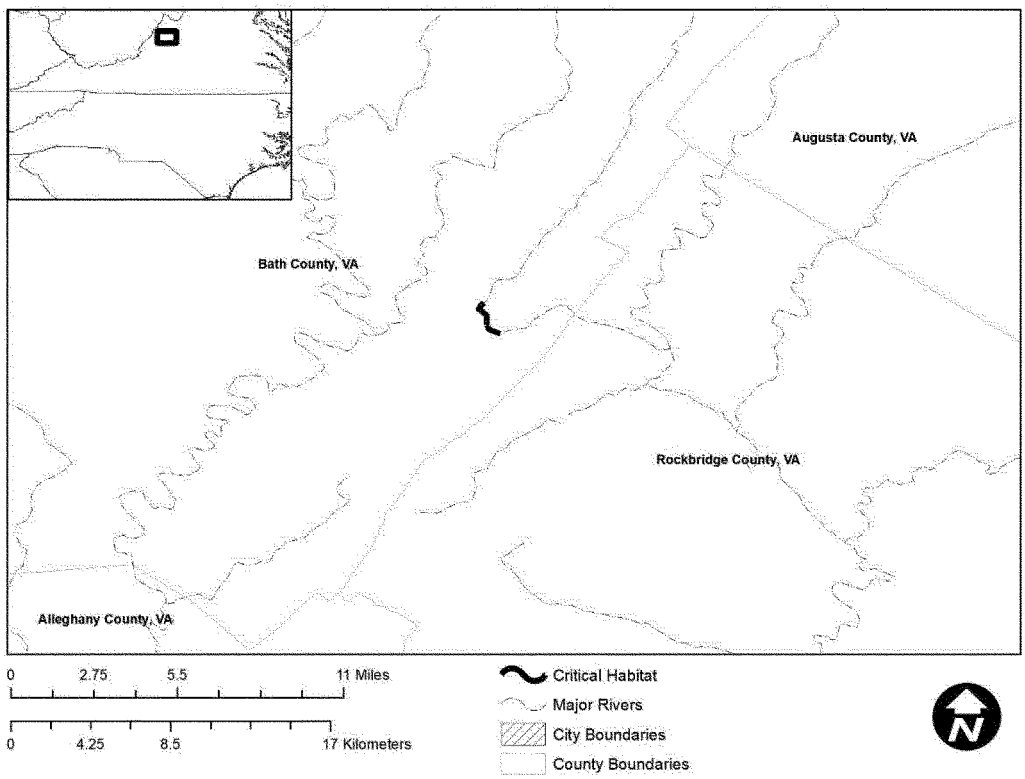


(7) Unit 2: JR2—Mill Creek, Bath County, Virginia.

(i) This unit consists of a 1-mile (1.6-kilometer) segment of Mill Creek at the VA 39 (Mountain Valley Road) crossing.

(ii) Map of Unit 2 (Mill Creek) follows:

Map of Unit 2 - JR2 - Mill Creek Critical Habitat Unit for Atlantic Pigtoe

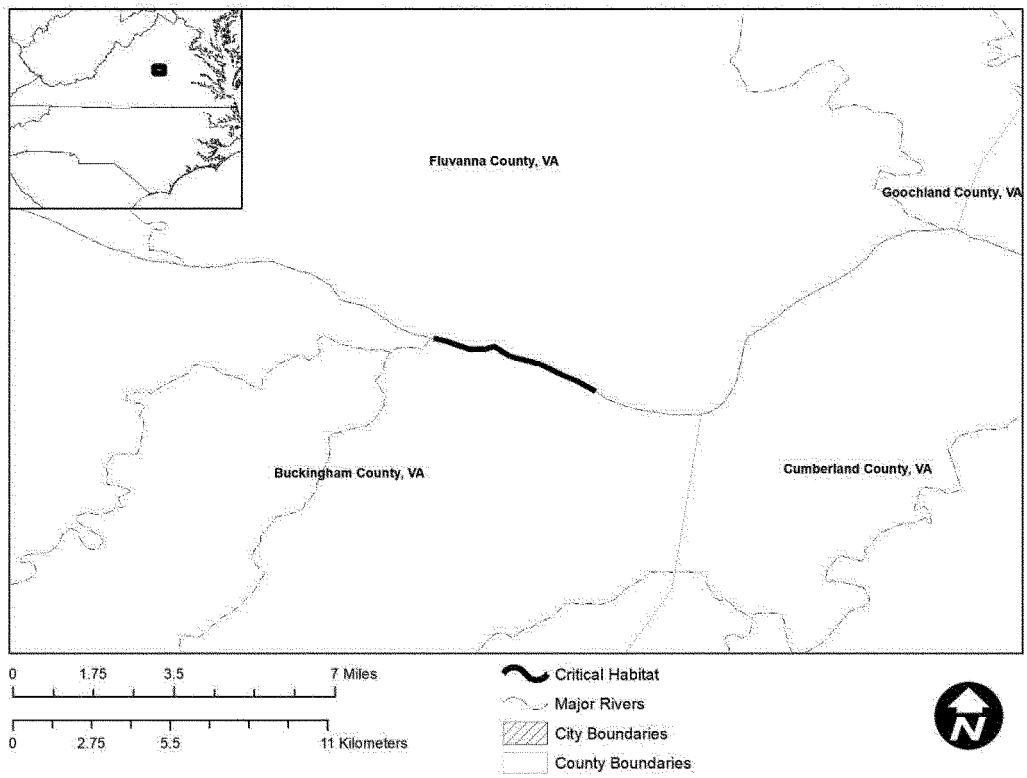


(8) Unit 3: JR3—Middle James River, Fluvanna and Buckingham Counties, Virginia.

(i) This unit consists of a 3-mile (4.8-kilometer) segment of the Middle James River downstream of its confluence with the Slate River, under the crossing of VA Hwy 15 (James Madison Highway) along the boundary of Fluvanna and Buckingham Counties, Virginia.

(ii) Map of Unit 3 (Middle James River) follows:

Map of Unit 3 - JR3 - Middle James River Critical Habitat Unit for Atlantic Pigtoe

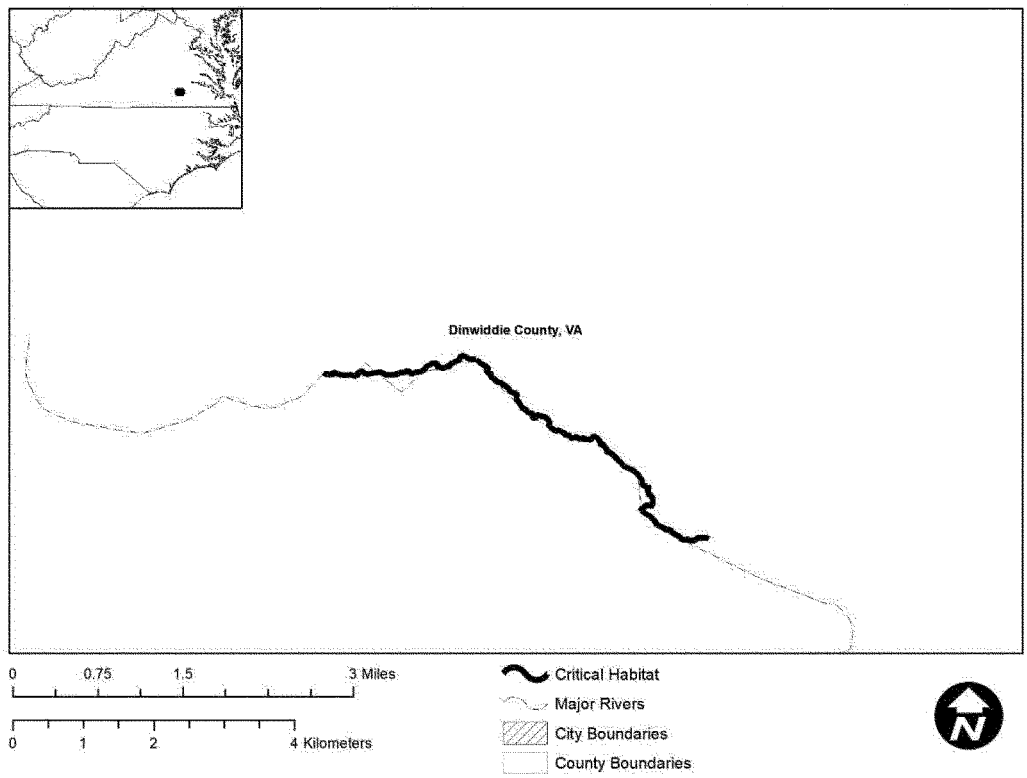


(9) Unit 4: CR1—Sappony Creek, Dinwiddie County, Virginia.

(i) This unit consists of 4 river miles (6.6 river kilometers) of Sappony Creek in Dinwiddie County, Virginia. The designated area begins just upstream of the Seaboard Railroad crossing and ends just downstream of the Shippings Road (SR 709) crossing.

(ii) Map of Unit 4 (Sappony Creek) follows:

Map of Unit 4 - CR1 - Sappony Creek Critical Habitat Unit for Atlantic Pigtoe

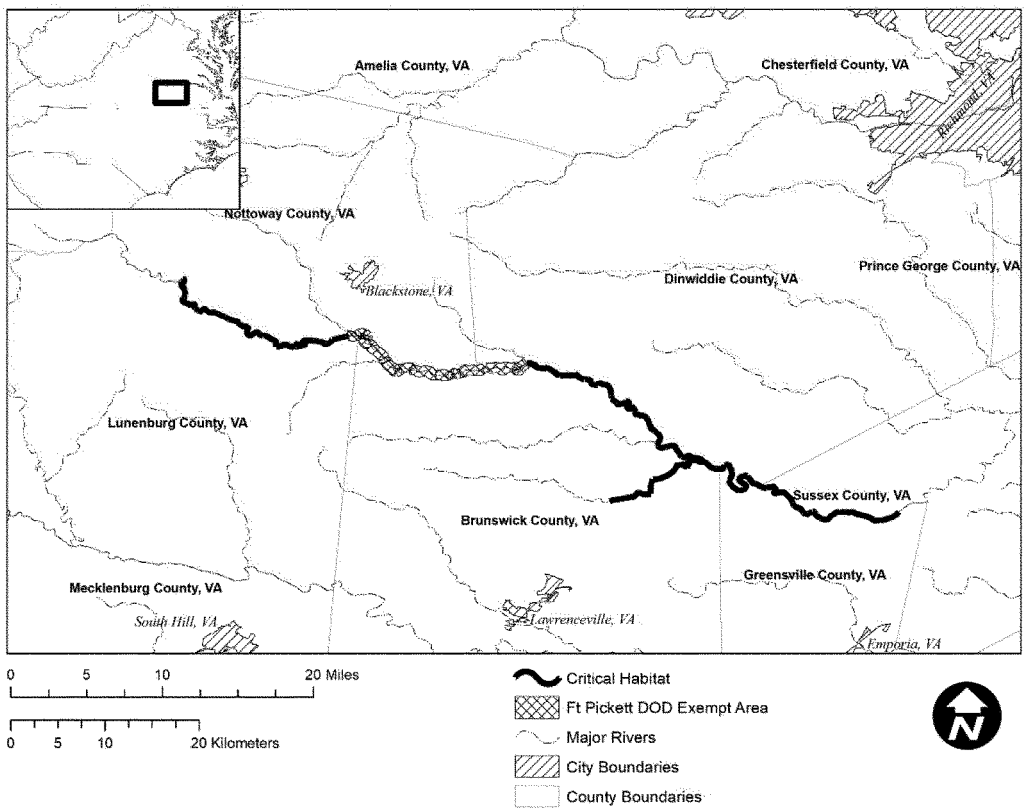


(10) Unit 5: CR2—Nottoway River Subbasin, Nottoway, Lunenburg, Brunswick, Dinwiddie, Greensville, and Sussex Counties, Virginia.

(i) This unit consists of 64 river miles (103 river kilometers) of the Nottoway River, and a portion of Sturgeon Creek. The designation begins downstream of the Nottoway River's confluence with Dickerson Creek and ends at Little Mill Road, and includes Sturgeon Creek downstream of Old Stage Road.

(ii) Map of Unit 5 (Nottoway River Subbasin) follows:

Map of Unit 5 - CR2 - Nottaway River Subbasin Critical Habitat Unit for Atlantic Pigtoe

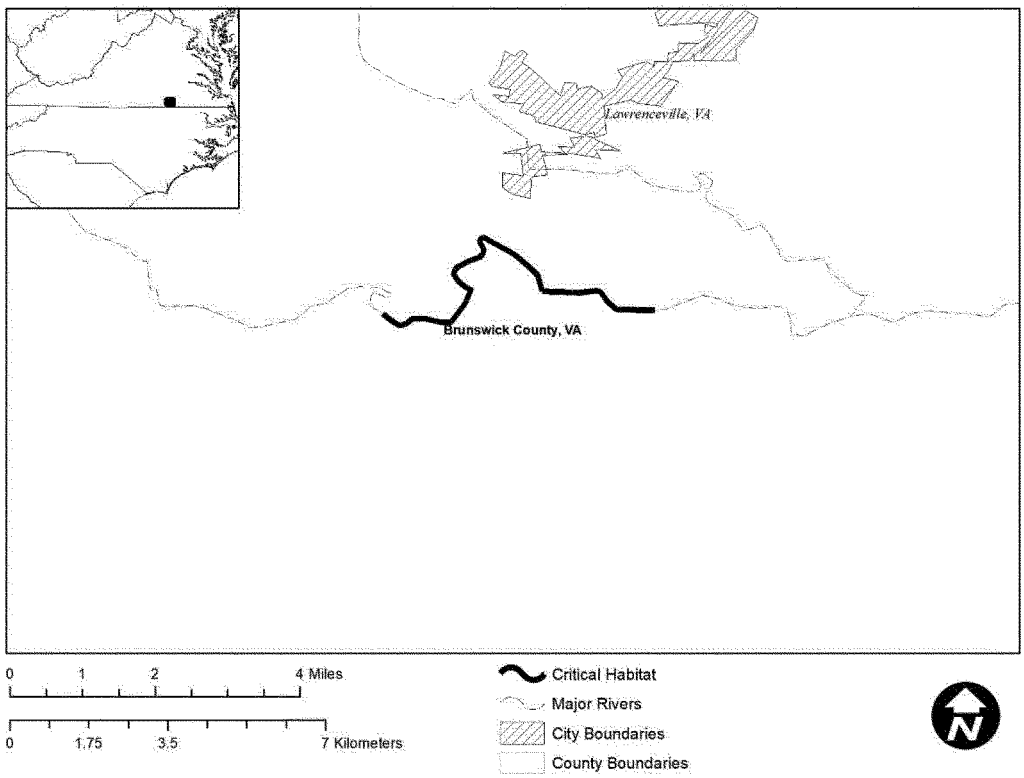


(11) Unit 6: CR3—Meherrin River, Brunswick County, Virginia.

(i) This unit consists of 5 miles (8 kilometers) of the Meherrin River from approximately 1.5 river miles below the confluence with Saddletree Creek under VA Hwy 46 (Christana Highway) to VA 715 (Iron Bridge Road).

(ii) Map of Unit 6 (Meherrin River) follows:

Map of Unit 6 - CR4 - Meherrin River Critical Habitat Unit for Atlantic Pigtoe

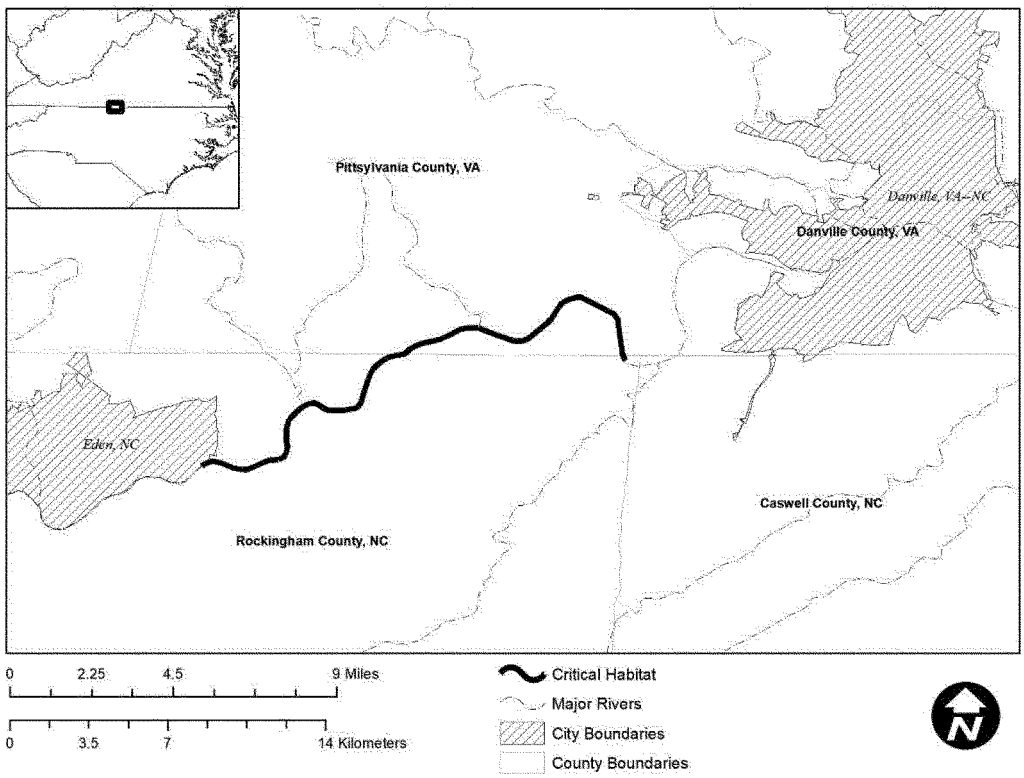


(12) Unit 7: RR1—Dan River, Pittsylvania County, Virginia, and Rockingham County, North Carolina.

(i) This unit consists of 14 river miles (22.5 river kilometers) of the Dan River along the border of Virginia and North Carolina from NC Highway 700 near Eden, North Carolina, into Pittsylvania County, Virginia, and downstream to the confluence with Williamson Creek in Rockingham County, North Carolina.

(ii) Map of Unit 7 (Dan River) follows:

Map of Unit 7 - RR1 - Dan River Critical Habitat Unit for Atlantic Pigtoe

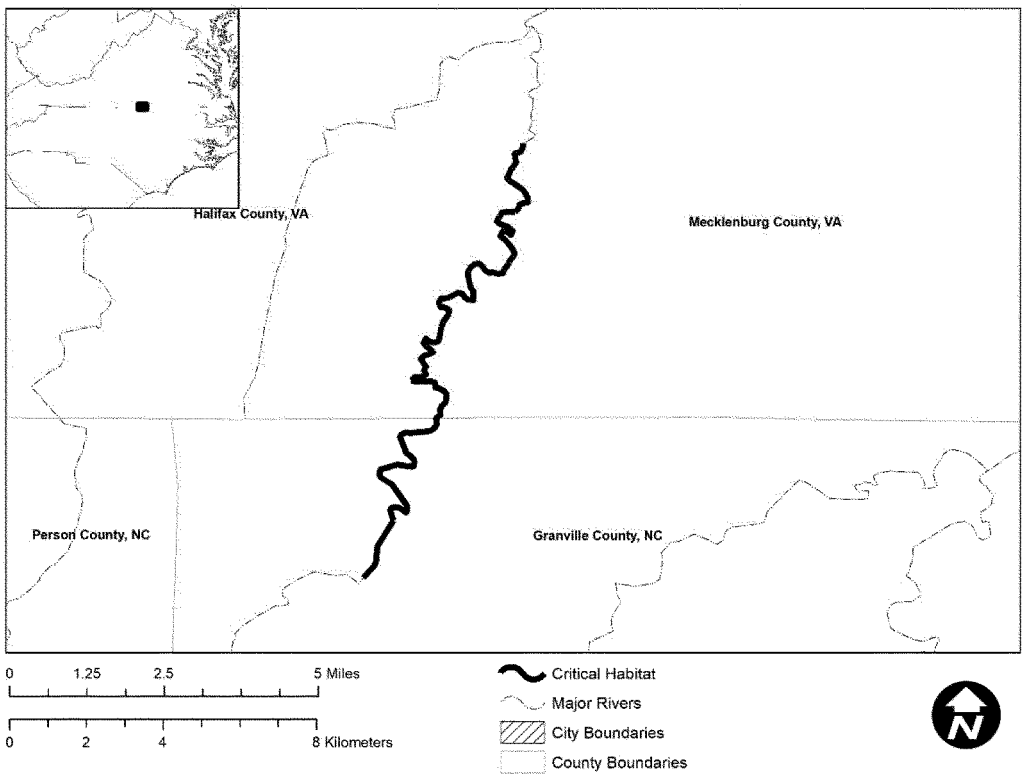


(13) Unit 8: RR2—Aarons Creek, Granville County, North Carolina, and Mecklenburg and Halifax Counties, Virginia.

(i) This unit consists of 12 miles (19.3 kilometers) of Aarons Creek, from NC 96 in Granville County, North Carolina, downstream across the North Carolina-Virginia border to VA 602 (White House Road) along the Mecklenburg County-Halifax County line in Virginia.

(ii) Map of Unit 8 (Aarons Creek) follows:

Map of Unit 8 - RR2 - Aarons Creek Critical Habitat Unit for Atlantic Pigtoe

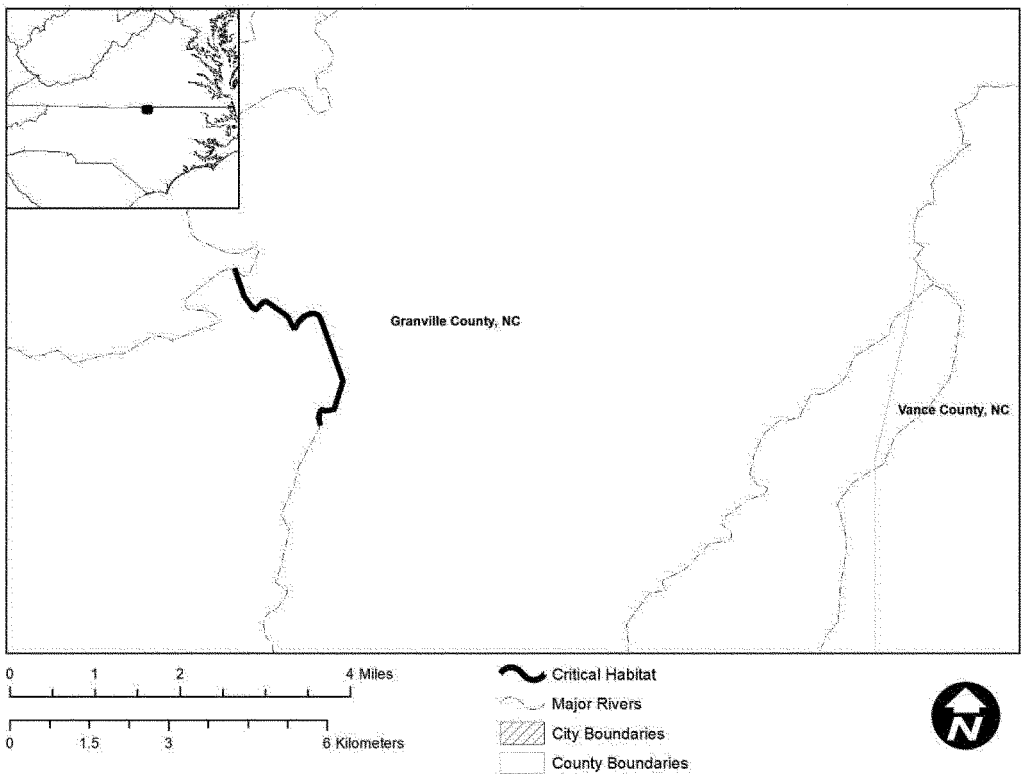


(14) Unit 9: RR3—Little Grassy Creek, Granville County, North Carolina.

(i) This unit consists of 3 river miles (4.8 river kilometers) of Little Grassy Creek in Granville County, North Carolina. The designated area begins at the Davis Chapel Road crossing and ends at the confluence with Grassy Creek.

(ii) Map of Unit 9 (Little Grassy Creek) follows:

Map of Unit 9 - RR3 - Little Grassy Creek Critical Habitat Unit for Atlantic Pigtoe

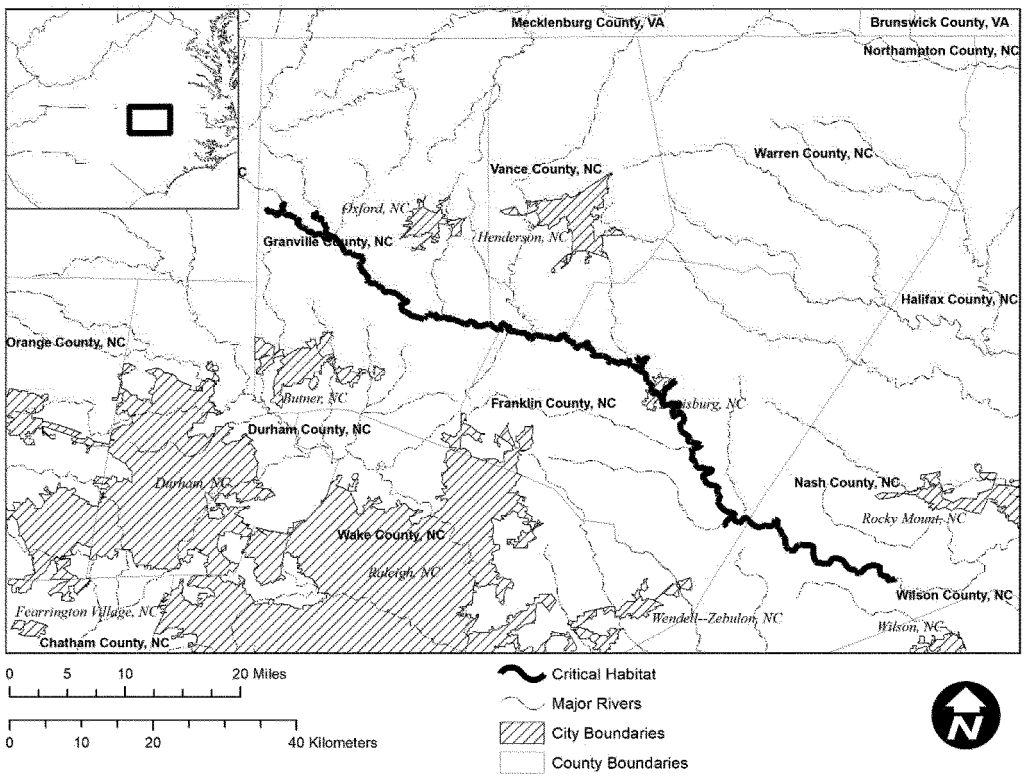


(15) Unit 10: TR1—Upper/Middle Tar River Subbasin, Granville, Vance, Franklin, and Nash Counties, North Carolina.

(i) This unit consists of 91 miles (146.5 kilometers) of the mainstem of the upper and middle Tar River as well as several tributaries (Bear Swamp Creek, Fox Creek, Crooked Creek, Cub Creek, and Shelton Creek), all in North Carolina. The portion of Cub Creek starts near Hobgood Road and continues to the confluence with the Tar River; the Tar River portion starts just upstream of the NC 158 bridge and goes downstream to the NC 581 crossing; the Shelton Creek portion starts upstream of NC 158 downstream to the confluence with the Tar River; the Bear Swamp Creek portion begins upstream of Dyking Road downstream to the confluence with the Tar River (and includes an unnamed tributary upstream of Beasley Road); the Fox Creek portion begins downstream of NC 561 to the confluence with the Tar River; and the Crooked Creek portion begins upstream of NC 98 crossing downstream to confluence with Tar River.

(ii) Map of Unit 10 (Upper/Middle Tar River Subbasin) follows:

Map of Unit 10 - TR1 -
Upper/Middle Tar River Subbasin Critical Habitat Unit for Atlantic Pigtoe

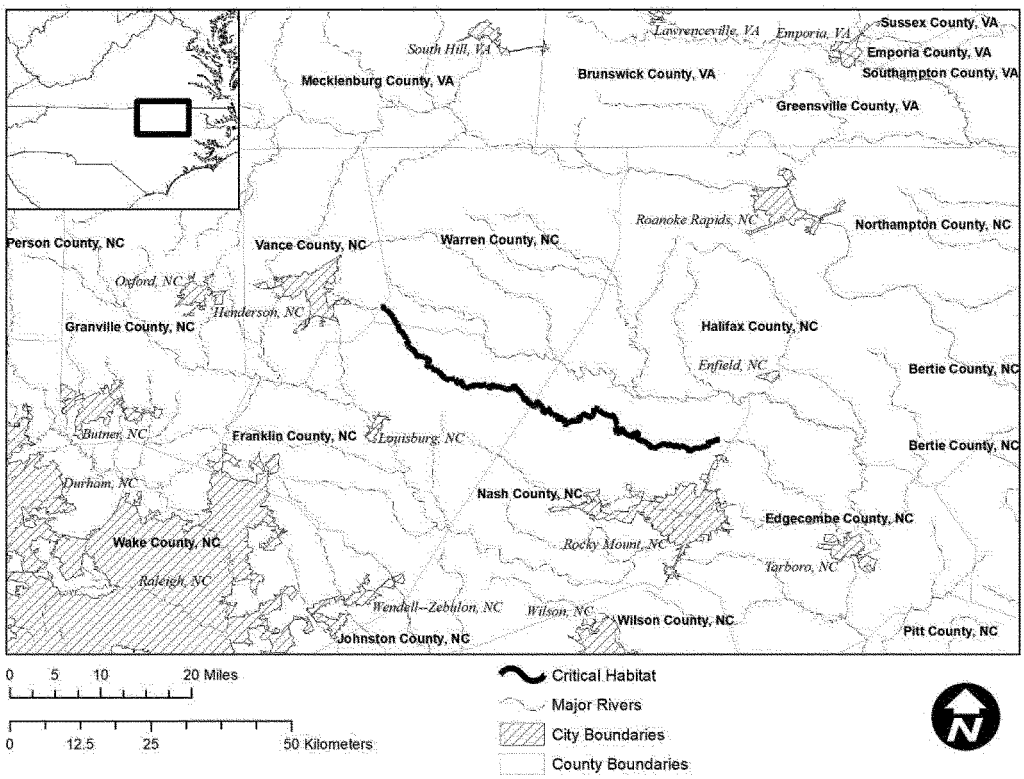


(16) Unit 11: TR2—Sandy/Swift Creek, Warren, Franklin, and Nash Counties, North Carolina.

(i) This unit consists of a 50-mile (80.5-kilometer) segment of Sandy/Swift Creek beginning at Vance/Warren county line downstream to NC 301 in Franklin County.

(ii) Map of Unit 11 (Sandy/Swift Creek) follows:

Map of Unit 11 - TR2 - Sandy/Swift Creek Critical Habitat Unit for Atlantic Pigtoe

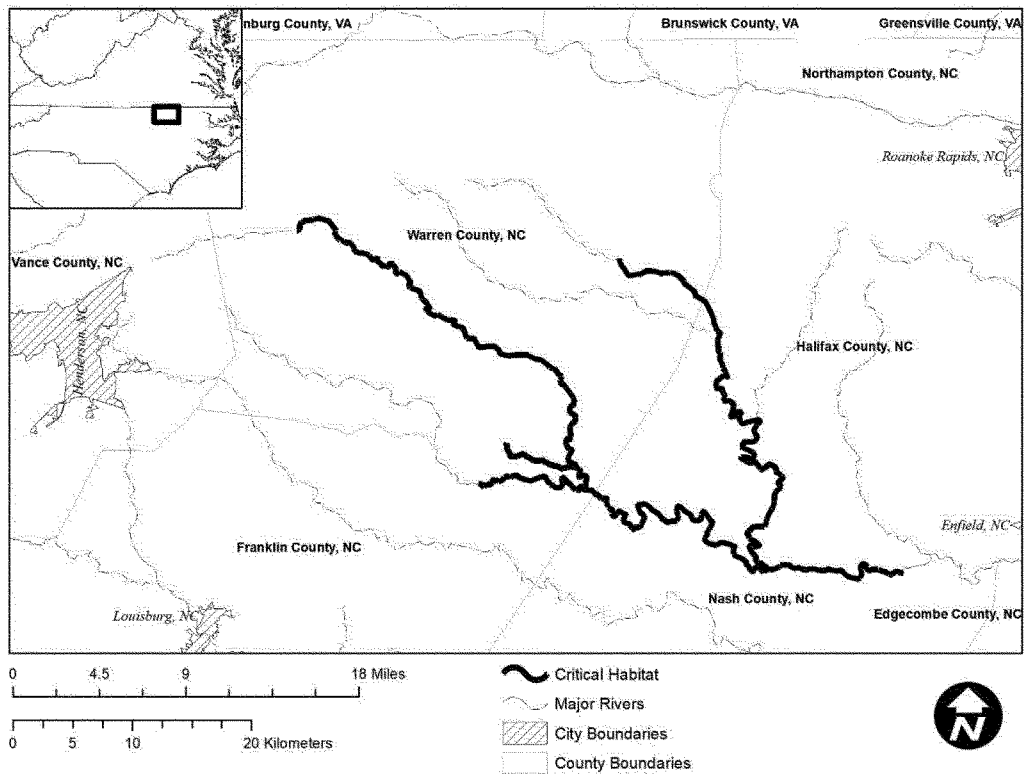


(17) Unit 12: TR3—Fishing Creek Subbasin, Warren, Halifax, Franklin, and Nash Counties, North Carolina.

(i) This unit consists of 85 miles (136.8 kilometers) in Fishing Creek, Little Fishing Creek, Shocco Creek, and Maple Branch. The Shocco Creek portion begins downstream of the NC 58 bridge and continues to the confluence with Fishing Creek; the entirety of Maple Branch is included, down to the confluence with Fishing Creek; Fishing Creek begins at Axtell Ridgeway Road (SR 1112) downstream to I–95; and Little Fishing Creek begins upstream of Briston Brown Road (SR 1532) downstream to the confluence with Fishing Creek.

(ii) Map of Unit 12 (Fishing Creek Subbasin) follows:

Map of Unit 12 - TR3 - Fishing Creek Subbasin Critical Habitat Unit for Atlantic Pigtoe

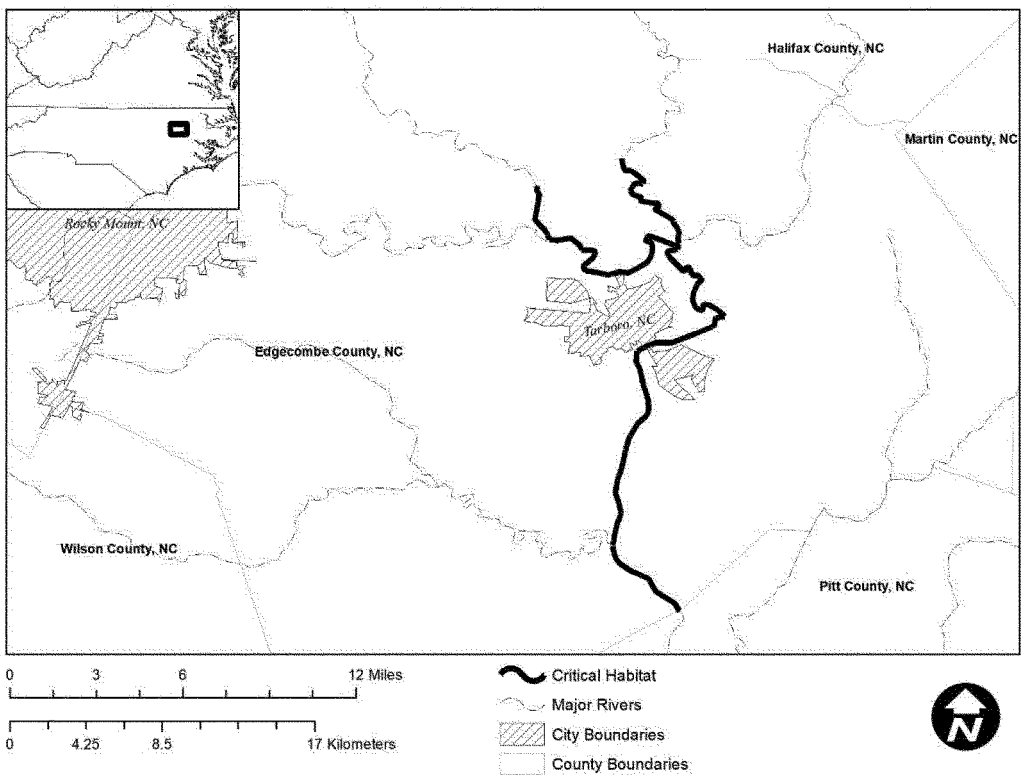


(18) Unit 13: TR4—Lower Tar River, Edgecombe and Pitt Counties, North Carolina.

(i) This unit consists of 30 miles (48.3 kilometers) of the Lower Tar River, lower Swift Creek, and Fishing Creek in Edgecombe County, North Carolina, from NC 97 near Leggett, North Carolina, to the Edgecombe-Pitt County line near NC 33.

(ii) Map of Unit 13 (Lower Tar River) follows:

Map of Unit 13 - TR4 - Lower Tar River Critical Habitat Unit for Atlantic Pigtoe

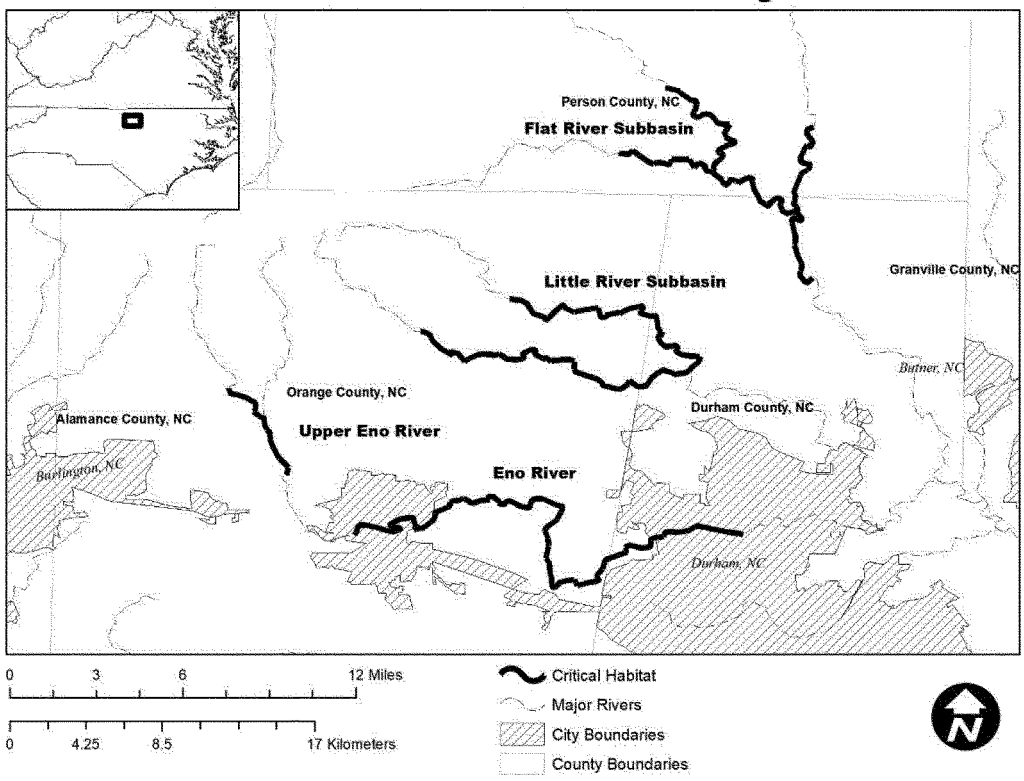


(19) Unit 14: NR1—Upper Neuse River Subbasin, Person, Durham, and Orange Counties, North Carolina.

(i) This unit consists of 60 river miles (95 river kilometers) in four reaches including Flat River, Little River, Eno River, and the Upper Eno River. The Flat River reach consists of 19 river miles (30.6 river kilometers) in the Flat River Subbasin in Person and Durham Counties, North Carolina, including the South Flat River downstream of Dick Coleman Road, the North Flat River near Parsonage Road, and Deep Creek near Helena-Moriah Road downstream where each river converges into the Flat River downstream of State Forest Road. The Little River Subbasin includes 18 river miles (29 river kilometers) of the North Fork and South Fork Little Rivers in Orange and Durham Counties, North Carolina. The Upper Eno River reach consists of 4 river miles (6.4 river kilometers) in Orange County, North Carolina, including the West Fork Eno River upstream of Cedar Grove Road to the confluence with McGowan Creek. The Eno River reach consists of 18 river miles (29 river kilometers) in Orange and Durham Counties, North Carolina, from below Eno Mountain Road to NC 15–501.

(ii) Map of Unit 14 (Upper Neuse River Subbasin) follows:

Map of Unit 14 - NR1 - Upper Neuse River Subbasin Critical Habitat Unit for Atlantic Pigtoe

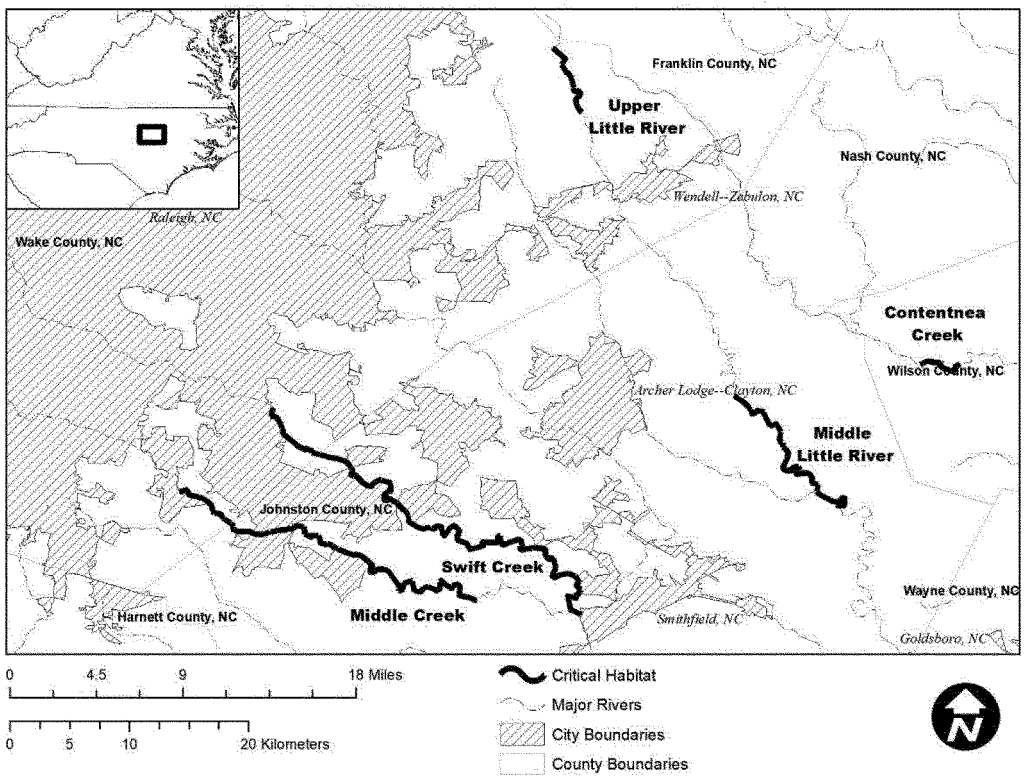


(20) Unit 15: NR2—Middle Neuse River Subbasin, Wake, Johnston, and Wilson Counties, North Carolina.

(i) This unit consists of 61 river miles (98.2 river kilometers) in five reaches including Swift Creek, Middle Creek, Upper Little River, Middle Little River, and Contentnea Creek, all in North Carolina. The Middle Creek reach is 19 river miles (30.6 river kilometers) below Old Stage Road downstream to below Crantock Road, and the Swift Creek reach is 25 river miles (40.2 river kilometers) from Lake Benson downstream to confluence with the Neuse, both in Wake and Johnston Counties. The Upper Little River reach includes 4 miles (6.4 kilometers) of the Upper Little River from the confluence with Perry Creek to Fowler Road in Wake County, North Carolina. The Middle Little River reach includes 11 river miles (17.7 river kilometers) from Atkinsons Mill downstream to NC 301 in Johnston County, North Carolina. The Contentnea Creek reach consists of 2 river miles (3.2 river kilometers) below Buckhorn Reservoir to just below Sadie Road near NC 581 in Wilson County, North Carolina.

(ii) Map of Unit 15 (Middle Neuse River Subbasin) follows:

Map of Unit 15 - NR2 - Middle Neuse River Subbasin Critical Habitat Unit for Atlantic Pigtoe

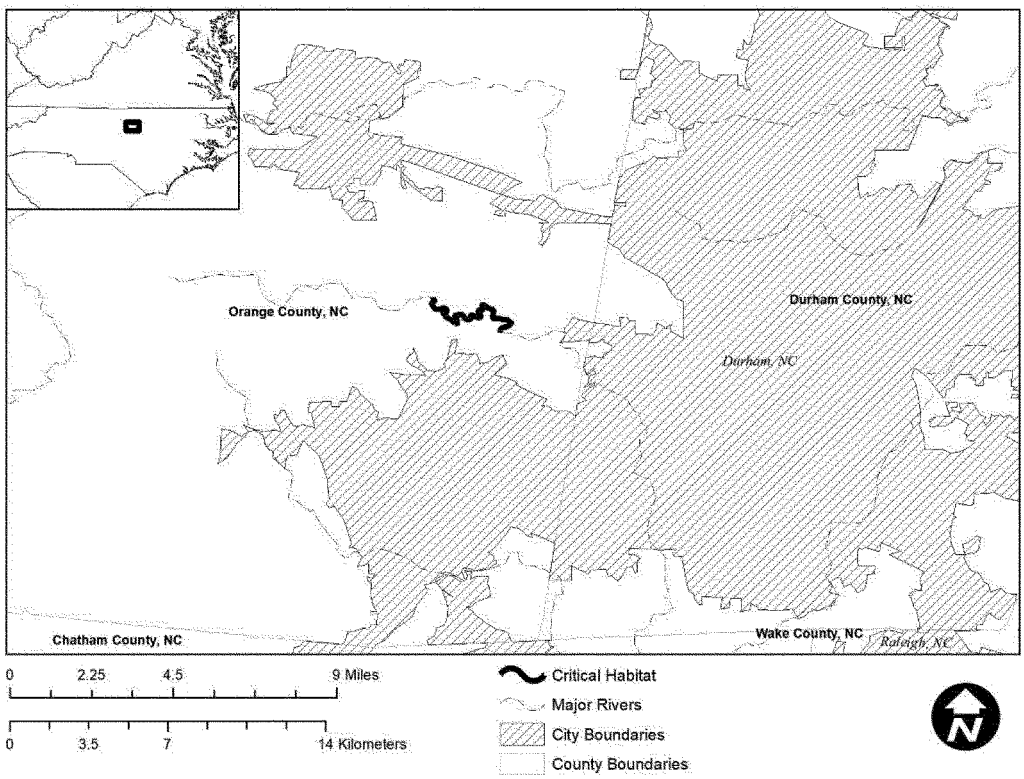


(21) Unit 16: CF1—New Hope Creek, Orange County, North Carolina.

(i) This unit consists of 4 mi (6.4 km) of habitat in the New Hope Creek from NC 86 to Mimosa Road.

(ii) Map of Unit 16 (New Hope Creek) follows:

Map of Unit 16 - CF1 - New Hope Creek Critical Habitat Unit for Atlantic Pigtoe

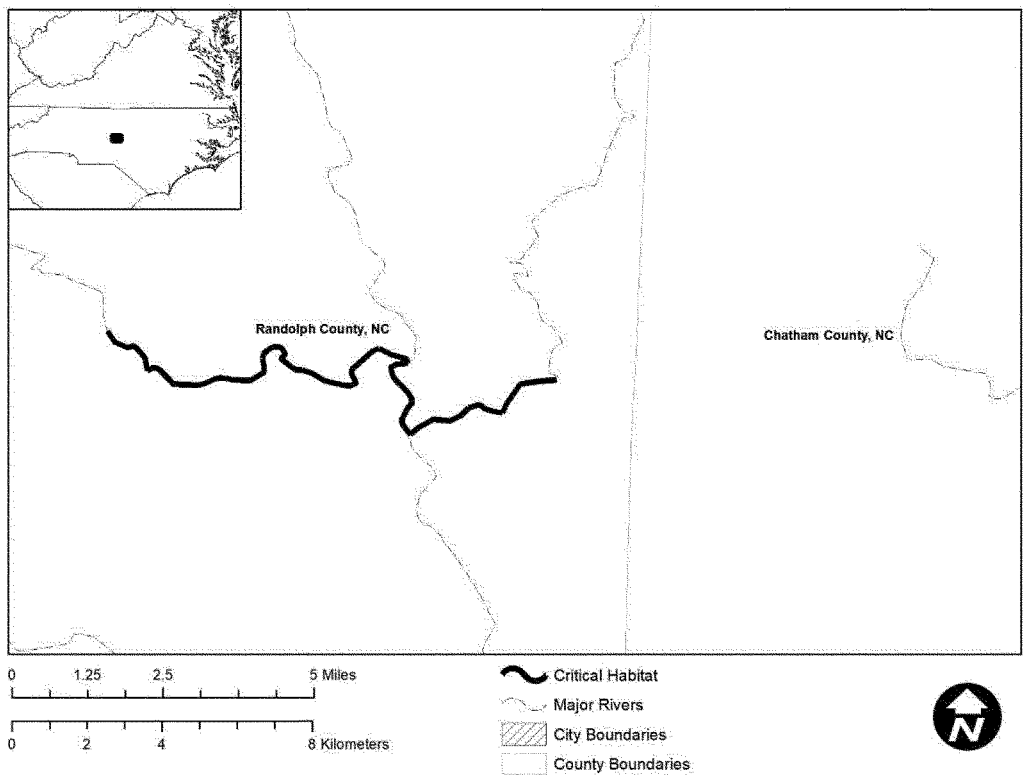


(22) Unit 17: CF2—Deep River Subbasin, Randolph County, North Carolina.

(i) The Deep River Subbasin unit consists of 10 river miles (16.1 river kilometers), including the mainstem between Richland and Brush Creeks as well as Richland Creek from Little Beane Store Road to the confluence with the Deep River and Brush Creek from Brush Creek Road to the confluence with the Deep River.

(ii) Map of Unit 17 (Deep River Subbasin) follows:

Map of Unit 17 - CF2 - Deep River Subbasin Critical Habitat Unit for Atlantic Pigtoe

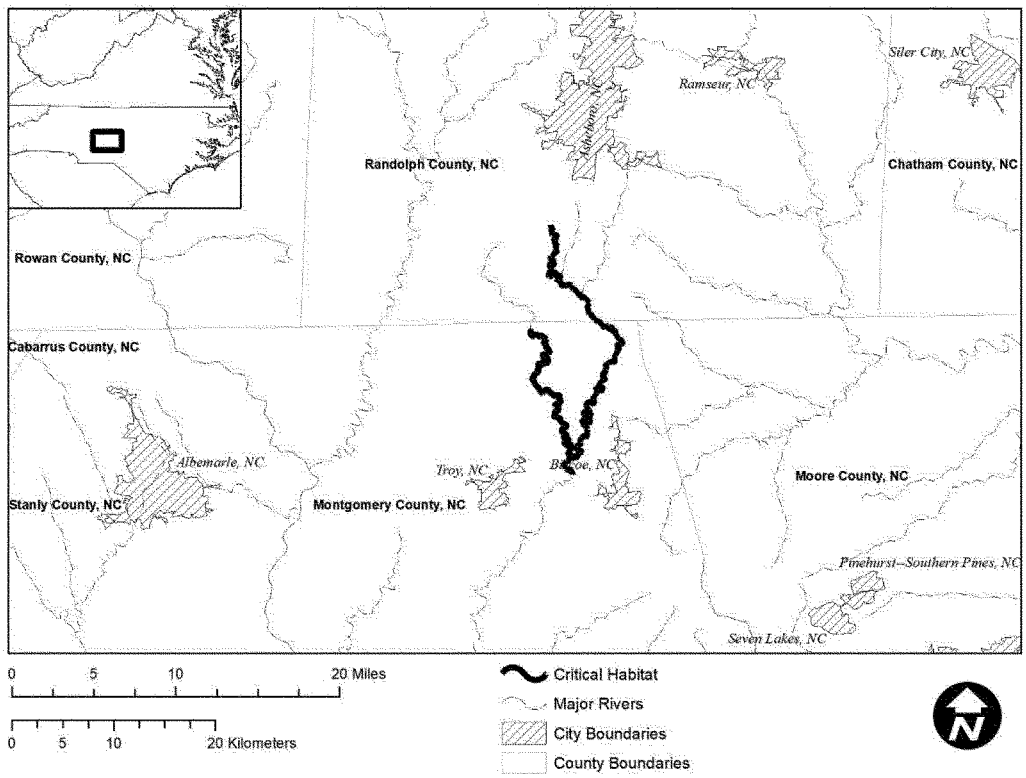


(23) Unit 18: YR1—Little River Subbasin, Randolph and Montgomery Counties, North Carolina.

(i) This unit consists of 40 miles (64.4 kilometers) of Little River from SR 1114 downstream to Okeewemee Star Road, including the West Fork Little River from NC 134 to the confluence with the Little River.

(ii) Map of Unit 18 (Little River Subbasin) follows:

Map of Unit 18 - YR1 - Little River Subbasin Critical Habitat Unit for Atlantic Pigtoe



* * * * *

Aurelia Skipwith,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2020–19095 Filed 9–21–20; 8:45 am]

BILLING CODE 4333–15–C

Notices

Federal Register
Vol. 85, No. 184
Tuesday, September 22, 2020

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

September 17, 2020.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology Comments regarding these information collections are best assured of having their full effect if received by October 22, 2020. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Agricultural Marketing Service

Title: Laboratory Approval Programs.

OMB Control Number: 0581–0251.

Summary of Collection: The Agricultural Marketing Act (AMA) of 1946, as amended, provides analytical testing services that facilitate marketing and allow products to obtain grade designations or meet marketing or quality standards. Pursuant to this authority, AMS develops and maintains laboratory certification verification and approval programs as needed by the agricultural industry, to support domestic and international marketing of U.S. products. To ensure that a laboratory is capable of accurately performing the specified analyses, it must adhere to certain good laboratory practice and show technical proficiency in the required areas.

Need and Use of the Information: Checklist and forms have been developed that ask the laboratory for information concerning procedures, the physical facility, employees, and their training. The laboratory must also provide Standard Operating Procedures for the analyses and quality assurance. The laboratory certification and approval programs are voluntary, fee for service, and for admission into one of these programs a laboratory must have a client who requires the specific testing. It is necessary to collect and require the laboratory to attest to the performance elements necessary to determine the credibility of the laboratory. To do less would be a disservice to the agricultural community.

Description of Respondents: Business or other for-profit; Farms.

Number of Respondents: 60.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 1,204.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2020–20901 Filed 9–21–20; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

September 17, 2020.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by October 22, 2020 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Business-Cooperative Service

Title: Voluntary Labeling Program for Biobased Products.

OMB Control Number: 0570–0071.

Summary of Collection: Section 9002(h) of the Farm Security and Rural Investment Act (FSRIA) of 2002, as amended by the Food, Conservation,

and Energy Act (FCEA) of 2008 and the Agricultural Act of 2014, and the Agricultural Improvement Act of 2018, requires the Secretary of Agriculture to implement a voluntary labeling program that would enable qualifying biobased products to be certified with a ''USDA Certified Biobased Product'' label. The voluntary labeling program is one of the two main initiatives of the BioPreferred Program, which is currently implemented by USDA's Rural Business-Cooperative Service (RBCS). The voluntary labeling program is required to be consistent, where possible, with the guidelines implementing the preferred procurement of biobased products by Federal agencies, which is the second main initiative of the BioPreferred Program. The procurement initiative is also authorized under section 9002 of FSRIA and referred to hereafter as the Federal preferred procurement program. Under the preferred procurement program, Federal agencies are required to purchase with certain exceptions, biobased products that are identified, by rulemaking, for preferred procurement.

Need and Use of the Information: Under the voluntary labeling program, manufacturers and vendors must complete an application for each stand-alone biobased product or biobased product family for which they wish to use the label. The application process is electronic and is accessible through the BioPreferred Program website. In addition, manufacturers and vendors whose applications have been conditionally approved must provide certain information for RBCS to post on the BioPreferred Program website. For each product approved by the Agency for use of the label, the manufacturer or vendor must keep that information for each certified product up to date. The information requested for inclusion in the application are: (1) Contact information (of the manufacturer or vendor and preparer of application) and (2) product identification information, including brand name(s), the applicable designated item category or categories or equivalent, and the biobased content of the product.

Description of Respondents: Business or other for-profit.

Number of Respondents: 200.

Frequency of Responses: Recordkeeping; Reporting: Other (once).

Total Burden Hours: 1,800.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2020–20898 Filed 9–21–20; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Request Revision and Extension of a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, Agriculture (USDA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 this notice announces the intention of the National Agricultural Statistics Service (NASS) to seek approval to conduct a new information collection to gather data related to water usage for North Carolina agricultural operations that likely use between 10,000 and 1,000,000 gallons per day.

DATES: Comments on this notice must be received by November 23, 2020 to be assured of consideration.

ADDRESSES: You may submit comments, identified by docket number 0535–0262, by any of the following methods:

- *Email: ombofficer@nass.usda.gov.* Include docket number above in the subject line of the message.
- *E-fax:* (855) 838–6382.
- *Mail:* Mail any paper, disk, or CD–ROM submissions to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.
- *Hand Delivery/Courier:* Hand deliver to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.

FOR FURTHER INFORMATION CONTACT: Kevin Barnes, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202)720–4333. Copies of this information collection and related instructions can be obtained without charge from David Hancock, NASS—OMB Clearance Officer, at (202)690–2388 or at *ombofficer@nass.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Water Use Survey.

OMB Control Number: 0535–0262.

Type of Request: Intent to seek approval to revise and extend an information collection for a period of three years.

Abstract: The primary objective of the National Agricultural Statistics Service (NASS) is to collect, prepare and issue State and national estimates of crop and livestock production, prices, and disposition; as well as economic statistics, environmental statistics related to agriculture and also to conduct the Census of Agriculture.

The Water Use survey program will collect information on water usage for North Carolina agricultural operations that likely use between 10,000 and 1,000,000 gallons per day. Agricultural operations who use over 1,000,000 gallons in any one day are required to report their water usage directly to North Carolina Department of Environmental Quality (NCDEQ) and are not included in this survey. The program will help the North Carolina Department of Agriculture and Consumer Services (NCDACS) and NCDEQ fulfill the requirements of North Carolina state legislation enacted in 2008 (SL2008–0143). All questionnaires included in this information collection will be voluntary. This project is conducted as a cooperative effort with the North Carolina Department of Agriculture and Consumer Services. Funding for this survey is being provided by NCDACS.

Authority: These data will be collected under authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985 as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–113, 44 U.S.C. 3501, *et seq.*) and Office of Management and Budget regulations at 5 CFR part 1320.

NASS also complies with OMB Implementation Guidance, ''Implementation Guidance for Title V of the E-Government Act, Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA),'' **Federal Register**, Vol. 72, No. 115, June 15, 2007, p. 33362.

Estimate of Burden: Public reporting burden for this information collection is based on similar surveys with expected response time of 30 minutes. The estimated sample size will be approximately 3,300. The frequency of data collection for the different surveys is annual. Estimated number of responses per respondent is 1. Publicity materials and instruction sheets will account for approximately 5 minutes of additional burden per respondent. Respondents who refuse to complete a survey will be allotted 2 minutes of burden per attempt to collect the data.

Respondents: North Carolina agricultural operations that likely use between 10,000 and 1,000,000 gallons annually.

Estimated Number of Respondents: 3,300.

Estimated Total Annual Burden on Respondents: 1,582 hours.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) 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; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, through the use of appropriate automated, electronic, mechanical, technological, or other forms of information technology collection methods.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, September 15, 2020.

Kevin Barnes,

Associate Administrator.

[FR Doc. 2020–20814 Filed 9–21–20; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Office of Partnerships and Public Engagement

Advisory Committee on Minority Farmers; Meeting

AGENCY: Office of Partnerships and Public Engagement, USDA.

ACTION: Notice of conference call meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the Department of Agriculture and the Federal Advisory Committee Act (FACA), that a public teleconference of the Advisory Committee on Minority Farmers (ACMF) will be held to discuss USDA outreach, technical assistance, and capacity building for and with minority farmers; the implementation of the Socially Disadvantaged and Veteran Farmer and Rancher Grant Program (2501 Program); and methods of maximizing the participation of minority farmers and ranchers in the U.S. Department of Agriculture; and to plan mechanisms for best providing advice to the Secretary on the issues outlined above.

DATES: The conference call will be held Wednesday, October 7, 2020 at 1:00 p.m.–5:30 p.m. Central Standard Time (CST).

Public Call-in Information: Conference call-in number: Dial-in 888–251–2949 or 215–861–0694 Participant Access Code: 4711144#. Please be advised that before placing them into the conference call, the operator will ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the USDA will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free conference call-in number.

Public Comments: Written comments for the Committee's consideration may be submitted to email: *ACMF@usda.gov.* Written comments must be received by October 6, 2020.

Availability of Materials for the Meeting: General information about the ACMF as well as any updates concerning the meeting announced in this notice, may be found on the ACMF website at *https://www.usda.gov/partnerships/advisory-committee-on-minority-farmers.*

Accessibility: USDA is committed to ensuring that all persons are included in our programs and events. If you are a person with a disability and require reasonable accommodations to participate in this meeting please contact Eston Williams at *Eston.Williams@usda.gov* or (202) 596–0226.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: General information about the committee can also be found at *https://www.usda.gov/partnerships/advisory-committee-on-minority-farmers.* Any member of the public wishing to obtain information concerning this public meeting may contact Eston Williams, Designated Federal Officer (DFO), at *Eston.Williams@usda.gov* or at (202) 596–0226.

SUPPLEMENTARY INFORMATION: *Background:* The Committee was established in the U.S. Department of Agriculture pursuant to section 14008 of the Food Conservation and Energy Act of 2008, Public Law 110–246, 122 Stat. 1651, 2008 (7 U.S.C. 2279).

The Committee works in the interest of the public to ensure socially disadvantaged farmers have equal access to USDA programs. The Committee advises the Secretary on the implementation of section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990; methods of maximizing the participation of minority farmers and ranchers in U.S. Department of Agriculture programs; and civil rights activities within the Department, as such activities relate to participants in such programs.

Dated: September 16, 2020.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2020–20819 Filed 9–21–20; 8:45 am]

BILLING CODE 3412–88–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Arizona Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that a teleconference meeting of the Arizona Advisory Committee (Committee) to the Commission will be held at 12:00 p.m. (Arizona Time) Tuesday, September 29, 2020. The purpose of the meeting is for the Committee to discuss their next project topic.

DATES: The meeting will be held on Tuesday, September 29, 2020 at 12:00 p.m. Arizona Time.

Public Call Information:
Dial: 800–367–2403.
Conference ID: 6120013.

FOR FURTHER INFORMATION CONTACT: Brooke Peery, Designated Federal Officer, (DFO) at *bpeery@usccr.gov* or by phone at (202) 701–1376.

SUPPLEMENTARY INFORMATION: This meeting is available to the public through the following toll-free call-in number: 800–367–2403, conference ID number: 6120013. 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.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meetings at *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzl2AAA*.

Please click on the ''Committee Meetings'' tab. Records generated from these meetings may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meetings. Persons interested in the work of this Committee are directed to the Commission's website, *https://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Welcome & Introductions
II. Approval of Minutes
III. Discuss Project Topic
IV. Public Comment
V. Adjournment

Exceptional Circumstance: Pursuant to 41 CFR 102–3.150, the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstances of the COVID crisis and DFO availability.

Dated: September 16, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–20820 Filed 9–21–20; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Arizona Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that a teleconference meeting of the Arizona Advisory Committee (Committee) to the Commission will be held at 12:00 p.m. (Arizona Time) Tuesday, October 20, 2020. The purpose of the meeting is for the Committee to discuss their next project topic.

DATES: The meeting will be held on Tuesday, October 20, 2020 at 12:00 p.m. Arizona Time.

Public Call Information:
Dial: 800–367–2403.
Conference ID: 6120013.

FOR FURTHER INFORMATION CONTACT: Brooke Peery, Designated Federal Officer, (DFO) at *bpeery@usccr.gov* or by phone at (202) 701–1376.

SUPPLEMENTARY INFORMATION: This meeting is available to the public through the following toll-free call-in number: 800–367–2403, conference ID number: 6120013. 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.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meetings at *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzl2AAA*.

Please click on the ''Committee Meetings'' tab. Records generated from these meetings may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meetings. Persons interested in the work of this Committee are directed to the Commission's website, *https://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Welcome & Introductions
II. Approval of Minutes
III. Discuss Project Topic
IV. Public Comment
V. Adjournment

Dated: September 16, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–20821 Filed 9–21–20; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Alaska Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that a teleconference meeting of the Alaska Advisory Committee (Committee) to the Commission will be held at 11:00 a.m. Alaska Time (AKT) on Monday, September 28, 2020. The purpose of the meeting is to review their statement on Alaska Native concerns.

DATES: The meeting will be held on Monday, September 28, 2020 at 11:00 a.m. AKT.

Public Call Information:
Dial: 800–367–2403.
Conference ID: 7981070.

FOR FURTHER INFORMATION CONTACT: Ana Victoria Fortes (DFO) at *afortes@usccr.gov* or by phone at (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: 7981070. 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/FACAPublicViewCommitteeDetails?id=a10t0000001gzljAAA* Please click on the ''Meeting Details'' and ''Documents'' links. 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, *https://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Welcome
II. Review Statement on Alaska Native Concerns
III. Public Comment
VI. Adjournment

Exceptional Circumstance: Pursuant to 41 CFR 102–3.150, the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstances of the COVID crisis and DFO availability.

Dated: September 16, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–20830 Filed 9–21–20; 8:45 am]

BILLING CODE P

COMMODITY FUTURES TRADING COMMISSION

Renewal of the Technology Advisory Committee

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of technology advisory committee renewal.

SUMMARY: The Commodity Futures Trading Commission (Commission) is publishing this notice to announce the renewal of the Technology Advisory Committee (TAC). The Commission has determined that the renewal of the TAC is necessary and in the public's interest, and the Commission has consulted with the General Services Administration's Committee Management Secretariat regarding the TAC's renewal.

FOR FURTHER INFORMATION CONTACT: Meghan Tente, TAC Designated Federal Officer, at 202–418–5785 or *mtente@cftc.gov.*

SUPPLEMENTARY INFORMATION: The TAC's objectives and scope of activities shall be to conduct public meetings, to submit reports and recommendations to the Commission, and to otherwise assist the Commission in identifying and understanding the impact and implications of technological innovation in the financial services and commodity markets. The TAC will provide advice on the application and utilization of new technologies in financial services and commodity markets, as well as by market professionals and market users. The TAC may further provide advice to the Commission on the appropriate level of investment in technology at the Commission to meet its surveillance and enforcement responsibilities, and advise the Commission on the need for strategies to implement rules and regulations to support the Commission's mission of ensuring the integrity of the markets.

The TAC will operate for two years from the date of renewal unless the Commission directs that the TAC terminate on an earlier date. A copy of the TAC renewal charter has been filed with the Commission; the Senate Committee on Agriculture, Nutrition and Forestry; the House Committee on Agriculture; the Library of Congress; and the General Services Administration's Committee Management Secretariat. A copy of the renewal charter will be posted on the Commission's website at *https://www.cftc.gov.*

Dated: September 17, 2020.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2020–20903 Filed 9–21–20; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2020–SCC–0155]

Agency Information Collection Activities; Comment Request; Early Childhood Longitudinal Study, Kindergarten Class of 2022–23 (ECLS–K:2023) Kindergarten and First-Grade Field Test Data Collection, National Sampling, and National Recruitment

AGENCY: National Center for Education Statistics (NCES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved information collection.

DATES: Interested persons are invited to submit comments on or before November 23, 2020.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2020–SCC–0155. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208B, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Carrie Clarady, 202–245–6347.

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: Early Childhood Longitudinal Study, Kindergarten Class of 2022–23 (ECLS–K:2023) Kindergarten and First-Grade Field Test Data Collection, National Sampling, and National Recruitment.

OMB Control Number: 1850–0750.

Type of Review: A revision of a currently approved information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 20,895.

Total Estimated Number of Annual Burden Hours: 15,510.

Abstract: The Early Childhood Longitudinal Study (ECLS) program, conducted by the National Center for Education Statistics (NCES) within the Institute of Education Sciences (IES) of the U.S. Department of Education (ED), draws together information from multiple sources to provide rich, descriptive data on child development, early learning, and school progress. The ECLS program studies deliver national data on children's status at birth and at various points thereafter; children's transitions to nonparental care, early care and education programs, and school; and children's experiences and growth through the elementary grades. The Early Childhood Longitudinal Study, Kindergarten Class of 2022–23 (ECLS–K:2023) is the fourth cohort in the series of early childhood longitudinal studies. The study will advance research in child development and early learning by providing a detailed and comprehensive source of current information on children's early learning and development, transitions into kindergarten and beyond, and progress through school. The ECLS–K:2023 will provide data about the population of children who will be kindergartners in the 2022–23 school year, and will go beyond its predecessor kindergarten cohort studies by adding a round of data collection in the spring prior to children's kindergarten year, known as the ''preschool round.'' Collecting parent data beginning in preschool will enable the study to measure influences on children's development before entry into formal schooling, including children's home environments and access to early care and education. The ECLS–K:2023 will focus on children's early school experiences continuing through the fifth grade, and will include collection of data from parents, teachers, and school administrators, as well as direct child assessments. A previous request to conduct a field test of the ECLS–K:2023 preschool data collection activities from January through October 2020, to field test the preschool data collection materials and procedures, was approved in November 2019, with updates in January and July 2020. This ECLS–K:2023 preschool field test will be followed by the kindergarten-first grade field test (planned for August–December 2021), the spring preschool national data collection (January–June 2022), and the fall (August–December 2022) and spring (March–July 2023) kindergarten national data collections. In this package, burden is requested for several new parts of the project, including K–1 Field Test Recruitment, K–1 Field Test Data Collection, and the beginning of the National Study Recruitment.

Dated: September 17, 2020.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2020–20895 Filed 9–21–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2020–SCC–0156]

Agency Information Collection Activities; Comment Request; Generic Application Package for Departmental Generic Grant Programs

AGENCY: Office of Finance and Operations (OFO), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of a currently approved information collection.

DATES: Interested persons are invited to submit comments on or before November 23, 2020.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2020–SCC–0156. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208B, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Alfreida Pettiford, 202–245–6115.

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: Generic Application Package for Departmental Generic Grant Programs.

OMB Control Number: 1894–0006.

Type of Review: An extension of a currently approved information collection.

Respondents/Affected Public: State, Local and Tribal Organizations.

Total Estimated Number of Annual Responses: 9,861.

Total Estimated Number of Annual Burden Hours: 447,089.

Abstract: The Department is requesting an extension of the approval for the Generic Application Package that numerous ED discretionary grant programs use to provide to applicants the forms and information needed to apply for new grants under those grant program competitions. The Department will use this Generic Application package for discretionary grant programs that: (1) Use the standard ED or Federal-wide grant applications forms that have been cleared separately through OMB under the terms of this generic clearance as approved by OMB and (2) use selection criteria from the Education Department General Administrative Regulations (EDGAR); selection criteria that reflect statutory or regulatory provisions that have been developed under 34 CFR 75.209, 75.210, or a combination of EDGAR, statutory or ''approved'' regulatory criteria or other provisions, as authorized under 34 CFR 75.200, 75.209 and 75.210. The use of the standard ED grant application forms and the use of EDGAR and/or criteria developed under §§ 75.200 and 75.209, and 75.210 promotes the standardization and streamlining of ED discretionary grant application packages.

Dated: September 17, 2020.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2020–20897 Filed 9–21–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Extension of Comment Period, Draft Waste Incidental to Reprocessing Evaluation for Vitrified Low-Activity Waste Disposed Onsite at the Hanford Site, Washington

AGENCY: Department of Energy.

ACTION: Extension of comment period.

SUMMARY: On May 26, 2020, the U.S. Department of Energy (''DOE'') published in the **Federal Register** a Notice of Availability of the *Draft Waste Incidental to Reprocessing Evaluation for Vitrified Low-Activity Waste Disposed Onsite at the Hanford Site, Washington* (Draft WIR Evaluation). The original comment period began on May 26, 2020 and ended on September 26, 2020. This notice announces an extension of the comment period on the Draft WIR Evaluation until November 27, 2020; any comments received after that date will be considered to the extent practical.

DATES: The comment period in the Notice of Availability, published on May 26, 2020 (85 FR 31479), is extended until November 27, 2020. Any comments received after that date will be considered to the extent practical.

ADDRESSES: Comments may be submitted by email to *ILAWDraftWIR@rl.gov.* Alternately, written comments may also be sent by mail to: Jennifer Colburn, U.S. Department of Energy, P.O. Box 450, MSIN H6–60, Richland, WA 99354. The Draft WIR Evaluation is available on the internet at *https://www.hanford.gov/page.cfm/VitrifiedLowActivityWaste* and will be publicly available for review at the following locations once these facilities re-open following resolution of public health concerns associated with the coronavirus: U.S. DOE Public Reading Room, 1000 Independence Avenue SW, Washington, DC 20585, phone: (202) 586–5955, or fax: (202) 586–0575; and U.S. DOE Public Reading Room located at 2770 University Drive, Consolidated Information Center (CIC), Room 101L, Richland, WA 99354, phone: (509) 372–7303.

FOR FURTHER INFORMATION CONTACT: Mr. Gary L. Pyles by email at *gary.pyles@rl.doe.gov,* by mail at U.S. Department of Energy, Richland Operations Office, 2420 Stevens Center Place H520, Richland, WA 99354, or by phone at (509) 376–2670.

SUPPLEMENTARY INFORMATION: On May 26, 2020, DOE published in the **Federal Register** a notice of availability of the Draft WIR Evaluation for comment by States, Tribal Nations, stakeholders and the public (85 FR 31479). The original comment period began on May 26, 2020 and ended on September 26, 2020.

In response to requests to extend the comment period, DOE is extending the comment period by 60 days, until November 27, 2020. DOE will consider comments received after that date to the extent practical.

After carefully considering comments received, consulting with the Nuclear Regulatory Commission, and performing any necessary revisions of analyses and technical documents, DOE plans to issue a final WIR Evaluation. Based on the final WIR Evaluation, DOE may determine, in a future WIR Determination, whether the VLAW is incidental to reprocessing, is non-HLW, and may be managed (disposed of onsite at the Integrated Disposal Facility) as low-level radioactive waste.

Signing Authority

This document of the Department of Energy was signed on September 15, 2020, by Elizabeth A. Connell, Associate Principal Deputy Assistant Secretary for Regulatory and Policy Affairs, 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 September 17, 2020.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2020–20910 Filed 9–21–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Extension

AGENCY: U.S. Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Notice and request for comments.

SUMMARY: EIA invites public comment on the proposed three-year extension, with changes, to the Uranium Data Program (UDP) as required under the Paperwork Reduction Act of 1995. The UDP consists of three surveys: Form EIA–851A *Domestic Uranium Production Report (Annual),* which collects annual data from the U.S. uranium industry on uranium milling and processing, uranium feed sources, uranium mining, employment, drilling, expenditures, and uranium reserves; Form EIA–851Q *Domestic Uranium Production Report (Quarterly),* which collects monthly data that is reported on a quarterly basis, on uranium production on a quarterly basis; and Form EIA–858 *Uranium Marketing Annual Survey,* which collects annual

data from the U.S. uranium market on uranium contracts and deliveries, inventories, enrichment services purchased, uranium in fuel assemblies, feed deliveries to enrichers, and unfilled market requirements for the current year and the following ten years.

DATES: EIA must receive all comments on this proposed information collection no later than November 23, 2020. If you anticipate any difficulties in submitting your comments by the deadline, contact the person listed in **ADDRESSES** section of this notice as soon as possible.

ADDRESSES: Send comments to Tim Shear by email to *Uranium2021@eia.gov.*

FOR FURTHER INFORMATION CONTACT: Tim Shear, U.S. Energy Information Administration, telephone (202) 586–0403, email *Tim.Shear@eia.gov.* The draft forms and instructions are available at *https://www.eia.gov/survey/changes/uranium/2020/.*

SUPPLEMENTARY INFORMATION: This information collection request contains:

(1) *OMB No.:* 1905–0160;

(2) *Information Collection Request Title:* Uranium Data Program;

(3) *Type of Request:* Three-year extension with changes;

(4) *Purpose:* Uranium Data Program collects data on domestic uranium supply and demand activities, including production, exploration and development, trade, purchases and sales available to the U.S. The users of these data include Congress, Executive Branch agencies, the nuclear and uranium industry, electric power industry, and the public. Form EIA–851A data is published in EIA's *Domestic Uranium Production Report—Annual,* at *http://www.eia.gov/uranium/production/annual/.* Form EIA–851Q data is published in EIA's *Domestic Uranium Production Report—Quarterly* at *http://www.eia.gov/uranium/production/quarterly/.* Form EIA–858 data is published in EIA's *Uranium Marketing Annual Report* at *http://www.eia.gov/uranium/marketing/* and *Domestic Uranium Production Report—Annual* at *http://www.eia.gov/uranium/production/annual/;*

(4a) Proposed change to information collection: EIA will no longer protect information reported on Form EIA–851A and EIA–851Q under the Confidential Information Protection and Statistical Efficiency Act of 2018 (CIPSEA). Information reported on Form EIA–858 will continue to be protected under CIPSEA.

EIA proposes to apply exemptions under the Freedom of Information Act (FOIA) to protect information reported on Forms EIA–851A and EIA–851Q except for production data. Production data will be considered public and may be publicly released in an identifiable form. For the past six years, the items ''Respondent and Contact Identification'', ''Company Name'', and all of ''Item 1: Facility Information'' on Forms EIA–851Q and EIA–851A are considered public information and are publicly released in company or individually identifiable form on EIA's website. Data protection methods will continue to be applied to the statistical information reported on Forms EIA–851A and EIA–851Q, except for production data.

The data protection statement in the instructions to Forms EIA–851A and EIA–851Q will state:

> The 'Respondent and Contact Identification' (Company Name), 'Item 1: Facility Information', and production data reported on Form EIA–851Q/A are considered public information and may be released in company identifiable form. Additional information reported on this form may be protected and may not be disclosed to the public to the extent that it satisfies the criteria for exemption under the Freedom of Information Act (FOIA), 5 U.S.C. 552, the Department of Energy (DOE) regulations, 10 CFR 1004, implementing the FOIA, and the Trade Secrets Act, 18 U.S.C. 1905.
>
> The Federal Energy Administration Act requires EIA to provide company-specific data to other Federal agencies when requested for official use. The information reported on this form may also be made available, upon request, to another component of the Department of Energy (DOE); to any Committee of Congress, the Government Accountability Office, or other Federal agencies authorized by law to receive such information. A court of competent jurisdiction may obtain this information in response to an order. The information may be used for any non-statistical purposes such as administrative, regulatory, law enforcement, or adjudicatory purposes.
>
> Data protection methods are applied to the statistical information reported on Forms EIA–851A and EIA–851Q, except for production data.

The reason EIA is proposing this change in the data protection for Forms EIA–851A and EIA–851Q is due to a material change in circumstances that occurred over the past 15 years in the domestic uranium production markets that was unforeseen when EIA initially placed these surveys under CIPSEA protection in 2004. Domestic uranium production has significantly decreased from a recent high of 4,891 thousand pounds U3O8 in 2014 to 174 thousand pounds U3O8 in 2019. Over 90% of the uranium purchased by owners and operators of U.S. civilian nuclear power reactors in 2018 and 2019 was from uranium imports of foreign origin. The number of respondents reporting domestic production has steadily declined over the past 15 years as imports of uranium dominate U.S. uranium markets and domestic firms either cease operations or merge with other companies. As fewer respondents contribute to the published aggregates, EIA needs to withhold from publication all of the data at the state and regional level. The practical utility of the information collected is undermined by EIA withholding most of the data it collects on these survey forms. Cognitive research showed that the majority of the respondents to Forms EIA–851A and EIA–851Q are not concerned if informed users infer reported values from published statistical aggregates in data tables. The main reason survey respondents provided was that the information reported on Forms EIA–851A and EIA–851Q is already publicly available. In addition, since 2016, the current instructions to Forms EIA–851A and EIA–851Q have stated the name and address of the respondent are considered public information.

(5) *Annual Estimated Number of Respondents:* 102;

(6) *Annual Estimated Number of Total Responses:* 135;

(7) *Annual Estimated Number of Burden* Hours: 1098;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* EIA estimates that there are no capital and start-up costs associated with this data collection. The information is maintained during the normal course of business. The cost of the burden hours is estimated to be $87,993.72 (1,098 burden hours times $80.14 per hour). Other than the cost of burden hours, EIA estimates that there are no additional costs for generating, maintaining, and providing this information.

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

Statutory Authority: Section 13(b) of the Federal Energy Administration Act of 1974, Pub. L. 93–275, codified as 15 U.S.C. 772(b) and the DOE Organization Act of 1977, Pub. L. 95–91, codified at 42 U.S.C. 7101.

Signed in Washington, DC, on September 16, 2020.

Thomas Leckey,

Assistant Administrator for Energy Statistics, U.S. Energy Information Administration.

[FR Doc. 2020–20870 Filed 9–21–20; 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: EC20–102–000.

Applicants: Terra-Gen Power Holdings II, LLC, Golden NA Power Holdings LLC, Energy Capital Partners III, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act, et al. of Terra-Gen Power Holdings II, LLC, et al.

Filed Date: 9/15/20.

Accession Number: 20200915–5141.

Comments Due: 5 p.m. ET 10/6/20.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG20–245–000.

Applicants: Townsite Solar, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Townsite Solar, LLC.

Filed Date: 9/15/20.

Accession Number: 20200915–5041.

Comments Due: 5 p.m. ET 10/6/20.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–2154–011.

Applicants: Twin Eagle Resource Management, LLC.

Description: Second Amendment to March 30, 2020 and April 2, 2020 Notice of Change in Status of Twin Eagle Resource Management, LLC.

Filed Date: 8/20/20.

Accession Number: 20200820–5149.

Comments Due: 5 p.m. ET 9/28/20.

Docket Numbers: ER17–104–006; ER17–105–006.

Applicants: Broadview Energy JN, LLC, Broadview Energy KW, LLC.

Description: Notice of Change in Status of Broadview Energy JN, LLC, et al.

Filed Date: 9/15/20.

Accession Number: 20200915–5119.

Comments Due: 5 p.m. ET 10/6/20.

Docket Numbers: ER18–1247–001.

Applicants: Entergy Arkansas, Inc.

Description: Report Filing: EAL Refund Report (ER18–1247–001) to be effective N/A.

Filed Date: 9/16/20.

Accession Number: 20200916–5056.

Comments Due: 5 p.m. ET 10/7/20.

Docket Numbers: ER18–1639–007.

Applicants: Constellation Mystic Power, LLC.

Description: Compliance filing: Revised Mystic Agreement Compliance Filing to be effective 6/1/2022.

Filed Date: 9/15/20.

Accession Number: 20200915–5070.

Comments Due: 5 p.m. ET 10/6/20.

Docket Numbers: ER20–1958–001.

Applicants: Puget Sound Energy, Inc.

Description: Compliance filing: Order 864 Amended Compliance Filing to be effective 1/27/2020.

Filed Date: 9/15/20.

Accession Number: 20200915–5064.

Comments Due: 5 p.m. ET 10/6/20.

Docket Numbers: ER20–2005–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Tariff Amendment: 2020–09–16_Deficiency Response to Intermittent Resource Deliverability Filing to be effective 8/19/2020.

Filed Date: 9/16/20.

Accession Number: 20200916–5083.

Comments Due: 5 p.m. ET 10/7/20.

Docket Numbers: ER20–2878–001.

Applicants: Pacific Gas and Electric Company.

Description: Tariff Amendment: First Amendment to Wholesale Distribution Tariff Rate Case 2020 (WDT3), CCSF to be effective 11/15/2020.

Filed Date: 9/16/20.

Accession Number: 20200916–5057.

Comments Due: 5 p.m. ET 10/7/20.

Docket Numbers: ER20–2878–002.

Applicants: Pacific Gas and Electric Company.

Description: Tariff Amendment: Second Amendment to Wholesale Distribution Tariff Rate Case 2020 (WDT3), Port to be effective 11/15/2020.

Filed Date: 9/16/20.

Accession Number: 20200916–5069.

Comments Due: 5 p.m. ET 10/7/20.

Docket Numbers: ER20–2887–000.

Applicants: New York Independent System Operator, Inc., Niagara Mohawk Power Corporation.

Description: § 205(d) Rate Filing: Joint NYISO & NMPC 205 filing re: SGIA SA2544 Pattersonville Solar Facility, LLC to be effective 9/3/2020.

Filed Date: 9/16/20.

Accession Number: 20200916–5010.

Comments Due: 5 p.m. ET 10/7/20.

Docket Numbers: ER20–2888–000.

Applicants: Townsite Solar, LLC.

Description: Baseline eTariff Filing: Townsite Solar, LLC MBR Tariff to be effective 9/17/2020.

Filed Date: 9/16/20.

Accession Number: 20200916–5043.

Comments Due: 5 p.m. ET 10/7/20.

Docket Numbers: ER20–2889–000.

Applicants: Alabama Power Company.

Description: § 205(d) Rate Filing: Swallowtail Solar LGIA Filing to be effective 9/1/2020.

Filed Date: 9/16/20.

Accession Number: 20200916–5044.

Comments Due: 5 p.m. ET 10/7/20.

Docket Numbers: ER20–2890–000.

Applicants: California Independent System Operator Corporation.

Description: § 205(d) Rate Filing: 2020–09–16 Hybrid Resources to be effective 12/1/2020.

Filed Date: 9/16/20.

Accession Number: 20200916–5055.

Comments Due: 5 p.m. ET 10/7/20.

Docket Numbers: ER20–2891–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original WMPA, Service Agreement No. 5759; Queue No. AF2–277 to be effective 8/18/2020.

Filed Date: 9/16/20.

Accession Number: 20200916–5070.

Comments Due: 5 p.m. ET 10/7/20.

Docket Numbers: ER20–2892–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2020–09–16_SA 2974 Termination of Missouri Basin-Marshall Cogen GIA (J391) to be effective 4/19/2020.

Filed Date: 9/16/20.

Accession Number: 20200916–5073.

Comments Due: 5 p.m. ET 10/7/20.

Docket Numbers: ER20–2893–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original WMPA, Service Agreement No. 5760; Queue No. AF2–278 to be effective 8/18/2020.

Filed Date: 9/16/20.

Accession Number: 20200916–5076.

Comments Due: 5 p.m. ET 10/7/20.

Docket Numbers: ER20–2894–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original WMPA, Service Agreement No. 5761; Queue No. AF2–279 to be effective 8/18/2020.

Filed Date: 9/16/20.

Accession Number: 20200916–5081.

Comments Due: 5 p.m. ET 10/7/20.

Docket Numbers: ER20–2896–000.

Applicants: New England Power Company.

Description: Notice of Cancellation of Large Generator Interconnection Agreement (First Revised Service

Agreement No. IA–NEP–5), et al. of New England Power Company.

Filed Date: 9/16/20.

Accession Number: 20200916–5095.

Comments Due: 5 p.m. ET 10/7/20.

Docket Numbers: ER20–2897–000.

Applicants: New England Power Company.

Description: Notice of Cancellation of Large Generator Interconnection Agreement (First Revised Service Agreement No. IA–NEP–6), et al. of New England Power Company.

Filed Date: 9/16/20.

Accession Number: 20200916–5101.

Comments Due: 5 p.m. ET 10/7/20.

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: September 16, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–20913 Filed 9–21–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e) (1) (v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202)502–8659.

Docket No.	File date	Presenter or requester
Prohibited:		
ER20–1718–001	9–11–2020	FERC Staff.[1]
Exempt:		
1. CP16–22–000	9–9–2020	U.S. Representative Bob Gibbs.
2. RP20–859–000	9–9–2020	U.S. Representative Kelly Armstrong.
3. CP16–10–000	9–9–2020	U.S. Senate.[2]
4. CP17–458–000	9–10–2020	U.S. Representative Markwayne Mullin.
5. RP20–859–000	9–11–2020	U.S. Senate.[3]

[1] Email communication on 9/11/2020 from Gord McCuaig to Commissioner Glick.
[2] U.S. Senators Mark Warner and Tim Kaine.
[3] U.S. Senators John Hoeven and Kevin Cramer.

Dated: September 16, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–20917 Filed 9–21–20; 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: RP20–1189–000.

Applicants: Portland Natural Gas Transmission System.

Description: Compliance filing PXP Phase III Compliance Filing to be effective 11/1/2020.

Filed Date: 9/15/20.

Accession Number: 20200915–5010.

Comments Due: 5 p.m. ET 9/28/20.

Docket Numbers: RP20–1190–000.

Applicants: Empire Pipeline, Inc.

Description: § 4(d) Rate Filing: New Map Link 2020 (Empire) to be effective 10/1/2020.

Filed Date: 9/15/20.

Accession Number: 20200915–5032.

Comments Due: 5 p.m. ET 9/28/20.

Docket Numbers: RP20–1191–000.

Applicants: National Fuel Gas Supply Corporation.

Description: § 4(d) Rate Filing: New Map Links 2020 (Supply) to be effective 10/1/2020.

Filed Date: 9/15/20.

Accession Number: 20200915–5034.

Comments Due: 5 p.m. ET 9/28/20.

Docket Numbers: RP20–1192–000.

Applicants: Midship Pipeline Company, LLC.

Description: § 4(d) Rate Filing: Request for Service/Execution of Service Agmts to be effective 10/15/2020.

Filed Date: 9/15/20.

Accession Number: 20200915–5066.

Comments Due: 5 p.m. ET 9/28/20.

Docket Numbers: RP20–1193–000.

Applicants: Paiute Pipeline Company.

Description: § 4(d) Rate Filing: Non-Conforming TSA Removals and Restatements of TSA Nos. F29, F32, F34, F51 to be effective 9/15/2020.

Filed Date: 9/15/20.

Accession Number: 20200915–5076.

Comments Due: 5 p.m. ET 9/28/20.

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: September 16, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–20912 Filed 9–21–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2307–083]

Alaska Electric Light & Power Company; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License.

b. *Project No:* P–2307–083.

c. *Date Filed:* July 1, 2020.

d. *Applicant:* Alaska Electric Light & Power Company (licensee).

e. *Name of Project:* Annex Creek and Salmon Creek Hydroelectric Project.

f. *Location:* The project is located on Annex and Salmon Creeks in the City and Borough of Juneau, Alaska. The project occupies federal land within the Tongass National Forest, administered by the U.S. Forest Service.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Christy Yearous, Generation Engineer, Alaska Electric Light & Power Company, 5601 Tonsgard Court, Juneau, AK 99801; telephone: (907) 463–6387.

i. *FERC Contact:* Marybeth Gay, (202) 502–6125, *Marybeth.Gay@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* October 16, 2020.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–2307–083. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* The licensee proposes to replace the 105-year-old riveted steel Annex Creek penstock, which runs from the valvehouse to the powerhouse. The licensee states that the penstock must be replaced to ensure safe and reliable operation of the project for the remainder of the project license. As proposed, the licensee would remove the existing penstock and penstock bridge installed in 1915 and replace them with a new welded steel penstock and steel bridge in the existing alignment. The valvehouse would also be expanded to include an automated valve and controls located immediately downstream of the originally manually operated gate valve.

l. *Locations of the Application:* This filing may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those

who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: September 16, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–20916 Filed 9–21–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14308–011]

Carbon Zero, LLC; North Bennington Hydroelectric LLC; Notice of Application for Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

On August 31, 2020, Carbon Zero, LLC (transferor) and North Bennington Hydroelectric LLC (transferee) filed jointly an application for the transfer of license of the Vermont Tissue Mill Dam Hydroelectric Project No. 14308. The project is located on the Walloomsac River, Bennington County, Vermont.

The applicants seek Commission approval to transfer the license for the Vermont Tissue Mill Dam Hydroelectric Project from the transferor to the transferee.

Applicants Contact: For transferor: Maria Scully, Carbon Zero, LLC, P.O. Box 338, North Bennington, VT 05257, Phone: (802) 688–5175, Email: *mscully@outlook.com.*

For transferee: Arion Thiboumery, North Bennington Hydroelectric LLC, 4304 East Hill Rd., Plainfield, VT 05667, Phone: (415) 260–6890, Email: *arion@ar-ion.net.*

FERC Contact: Anumzziatta Purchiaroni, (202) 502–6191, *Anumzziatta.purchiaroni@ferc.gov.*

Deadline for filing comments, motions to intervene, and protests: 30 days from the date that the Commission issues this notice. The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Submissions sent via any other carrier must be addressed to Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–14308–011. Comments emailed to Commission staff are not considered part of the Commission record.

Dated: September 16, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–20914 Filed 9–21–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–2881–000]

Harts Mill 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 Harts Mill 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 October 6, 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: September 16, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–20915 Filed 9–21–20; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10014–92–OA]

Notification of a Public Meeting of the Chartered Science Advisory Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public meeting of the Chartered SAB. The Chartered SAB will meet to conduct quality reviews of two draft SAB reports: (1) *SAB Peer Review of EPA's Revised Guidelines for Preparing Economic Analyses,* and (2) *Review of EPA's Reduced Form Tools Evaluation.*

DATES: The public meeting of the Chartered Science Advisory Board will be held on Thursday, November 12, 2020, from 1 p.m. to 5 p.m. (Eastern Time).

ADDRESSES: The public meeting will be conducted remotely via webcast and telephone. Please refer to the SAB website at *http://www.epa.gov/sab* for information on how to access the meeting.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wants further information concerning the public meeting may contact Dr. Thomas Armitage, Designated Federal Officer (DFO), U.S. EPA Science Advisory Board, via telephone/voice mail (202) 564–2155, or email at *armitage.thomas@epa.gov.* General information concerning the SAB can be found on the EPA website at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION:

Background: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDDAA), codified at 42 U.S.C. 4365, to provide independent scientific and technical advice to the Administrator on the scientific and technical basis for agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies. Pursuant to FACA and EPA policy, notice is hereby given that the Chartered SAB will hold a public meeting to discuss and deliberate on the topics below.

The Chartered SAB will conduct a quality review of the SAB Economic Guidelines Review Panel report titled *SAB Peer Review of EPA's Revised Guidelines for Preparing Economic Analyses.* Background information about this activity is available on the SAB website at: *https://yosemite.epa.gov/sab/sabproduct.nsf/0/30D5E59E8DC91C2285258403006EEE00?OpenDocument.* The SAB will also conduct a quality review of the SAB Reduced- Form Tools Review Panel report titled *Review of EPA's Reduced Form Tools Evaluation.* Background information about this activity is available on the SAB website at: *https://yosemite.epa.gov/sab/sabproduct.nsf//0/46C3F741097CD634852585500048F4BA?OpenDocument.* The SAB quality review process ensures that all draft reports developed by SAB panels, committees or workgroups are reviewed and approved by the Chartered SAB before being finalized and transmitted to the EPA Administrator. These reviews are conducted in a public meeting as required by FACA.

Technical Contacts: Any technical questions concerning EPA's document titled *Guidelines for Preparing Economic Analyses* should be directed to Dr. Al McGartland *mcgartland.al@epa.gov* and Dr. *simon.nathalie@epa.gov* Simon. Any technical questions concerning EPA's document titled *Evaluating Reduced-Form Tools for Estimating Air Quality Benefits* should be directed to Dr. Erika Sasser (*sasser.erika@epa.gov*).

Availability of Meeting Materials: Prior to the meeting, an agenda and other meeting materials will be placed on the SAB website at *http://epa.gov/sab.*

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to the EPA. Members of the public can submit relevant comments pertaining to the committee's charge or meeting materials. Input from the public to the SAB will have the most impact if it provides specific scientific or technical information or analysis for the SAB to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should contact the DFO directly.

Oral Statements: In general, individuals or groups requesting an oral presentation at a public teleconference will be limited to three minutes. Persons interested in providing oral statements should contact Dr. Thomas Armitage, DFO, in writing via email) at the contact information noted above by November 5, 2020, to be placed on the list of registered speakers.

Written Statements: Written statements will be accepted throughout the advisory process; however, for timely consideration by SAB members, statements should be received in the SAB Staff Office by November 5, 2020, with original signature. Submitters are requested to provide a signed and unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its websites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB website. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Armitage at the phone number or email address noted above, preferably at least ten days prior to the meeting, to give the EPA as much time as possible to process your request.

V. Khanna Johnston,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2020–20883 Filed 9–21–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[CERCLA 02–2020–2013; FRL–10014–16–Region 2]

Proposed CERCLA Cost Recovery Settlement for Operable Unit Two of the Diamond Alkali Superfund Site, In or About Essex and Hudson Counties, New Jersey

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), notice is hereby given by the U.S. Environmental Protection Agency (''EPA''), Region 2, of a proposed cost recovery settlement agreement pursuant to CERCLA, between the EPA and six

settling parties (''Settling Parties'') regarding Operable Unit Two of the Diamond Alkali Superfund Site (''Site''), located in or about Essex and Hudson Counties, New Jersey. Pursuant to the proposed cost recovery settlement agreement, each Settling Party shall pay to EPA $280,600.00 for each facility listed for the Settling Party in Appendix A of the proposed settlement agreement to resolve the Settling Party's civil liability under CERCLA, related to Operable Unit Two of the Site for the facility.

DATES: Comments must be submitted on or before October 22, 2020.

ADDRESSES: The proposed settlement agreement is available for public inspection at *https://semspub.epa.gov/src/document/02/591178.*

FOR FURTHER INFORMATION CONTACT:

Juan M. Fajardo, Assistant Regional Counsel, Office of Regional Counsel, U.S. Environmental Protection Agency. Email: *fajardo.juan@epa.gov* Telephone: 212–637–3132.

SUPPLEMENTARY INFORMATION: The proposed cost recovery settlement agreement is subject to a thirty (30) day public comment period. Following the date of publication of this notice, EPA will receive written comments concerning the proposed cost recovery settlement agreement. Comments to the proposed settlement agreement should reference Operable Unit Two of the Diamond Alkali Superfund Site, Index No. CERCLA–02–2020–2013. EPA will consider all comments received during the 30-day public comment period and may modify or withdraw its consent to the settlement agreement if comments received disclose facts or considerations that indicate that the proposed settlement agreement is inappropriate, improper, or inadequate. EPA's response to comments will be available for public inspection online and/or at EPA's Region 2 offices located at 290 Broadway, New York, NY 10007–1866.

Date: September 14, 2020.

Pasquale Evangelista,

Director, Superfund and Emergency Management Division, U.S. Environmental Protection Agency, Region 2.

[FR Doc. 2020–20811 Filed 9–21–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[CERCLA–02–2017–2008; FRL–10013–40–Region 2]

Proposed CERCLA Sections 104, 106, 107 and 122 Modification to Settlement Agreement and Order on Consent for Removal Action by Bona Fide Prospective Purchaser for the Alfred Heller Heat Treating Superfund Site, City of Clifton, Passaic County, New Jersey

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA'') of 1980, as amended, notice is hereby given by the U.S. Environmental Protection Agency (''EPA''), Region 2, of a proposed modification to a bona fide prospective purchaser settlement agreement, with 356 Getty Avenue, LLC for the Alfred Heller Heat Treating Superfund Site (''Site''), located in the City of Clifton, Passaic County, New Jersey.

DATES: Comments must be submitted on or before October 7, 2020.

ADDRESSES: Comments can be sent via email to Deborah Schwenk at *schwenk.deborah@epa.gov.* Comments should reference the Alfred Heller Heat Treating Superfund Site, City of Clifton, Passaic County, New Jersey, Index No. II–CERCLA–02–2017–2008. The proposed settlement is available for public inspection at this weblink: *https://semspub.epa.gov/src/document/02/598770.*

FOR FURTHER INFORMATION CONTACT: Deborah Schwenk, Assistant Regional Counsel, Office of Regional Counsel, U.S. Environmental Protection Agency. Email: *schwenk.deborah@epa.gov.* Telephone: 212–637–3149.

SUPPLEMENTARY INFORMATION: Under the proposed modification, 356 Getty Avenue, LLC agrees to perform certain response actions at the Site in addition to those already required by the bona fide prospective purchaser agreement. The terms and conditions of the bona fide prospective purchaser agreement are neither altered nor affected by the proposed modification except as expressly provided in the proposed modification. For fourteen (14) days following the date of publication of this document, EPA will receive written comments relating to the proposed modification. EPA will consider all comments received and may modify or withdraw its consent to the proposed modification if comments received disclose facts or considerations that indicate that the proposed modification is inappropriate, improper, or inadequate. EPA's response to any comments received will be available for public inspection online and/or at EPA Region 2, 290 Broadway, New York, New York 10007–1866.

Dated: September 14, 2020.

Pasquale Evangelista,

Director, Superfund and Emergency Management Division, U.S. Environmental Protection Agency, Region 2.

[FR Doc. 2020–20809 Filed 9–21–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2017–0751; FRL–10014–69]

Pesticide Registration Review; Interim Decisions for the Triazines; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's interim registration review decisions for the triazines (atrazine, propazine, and simazine).

FOR FURTHER INFORMATION CONTACT:

For pesticide specific information, contact: The Chemical Review Manager for the pesticide of interest identified in the Table in Unit IV.

For general information on the registration review program, contact: Melanie Biscoe, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 305–7106; email address: *biscoe.melanie@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the pesticide specific contact person listed

under **FOR FURTHER INFORMATION CONTACT** section.

II. Background

Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. As part of the registration review process, the Agency has completed interim decisions for all pesticides listed in the Table in Unit IV. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

III. Authority

EPA is conducting its registration review of the chemicals listed in the Table in Unit IV pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

IV. What action is the Agency taking?

Pursuant to 40 CFR 155.58, this notice announces the availability of EPA's interim registration review decisions for the pesticides shown in the following table. The interim registration review decisions are supported by rationales included in the docket established for each chemical.

REGISTRATION REVIEW INTERIM DECISIONS BEING ISSUED

Registration review case name and No.	Docket ID No.	Chemical review manager and contact information
Atrazine, Case Number 0062	EPA–HQ–OPP–2013–0266	Alexander Hazlehurst, *hazlehurst.alexander@epa.gov,* (703) 347–0221.
Propazine, Case Number 0230	EPA–HQ–OPP–2013–0250	Carolyn Smith, *smith.carolyn@epa.gov,* (703) 347–8325.
Simazine, Case Number 0070	EPA–HQ–OPP–2013–0251	Christian Bongard, *bongard.christian@epa.gov,* (703) 347–0337.

The proposed interim registration review decisions for the chemicals in the table above were posted to the docket and the public was invited to submit any comments or new information. EPA addressed the comments or information received during the 60-day comment period for the proposed interim decisions in the discussion for each pesticide listed in the table. Comments from the 60-day comment period that were received may or may not have affected the Agency's interim decision. Pursuant to 40 CFR 155.58(c), the registration review case docket for the chemicals listed in the Table will remain open until all actions required in the interim decision have been completed.

Background on the registration review program is provided at: *http://www.epa.gov/pesticide-reevaluation.*

Authority: 7 U.S.C. 136 *et seq.*

Dated: September 9, 2020.

Mary Reaves,

Acting Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2020–20879 Filed 9–18–20; 12:00 pm]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[CERCLA–02–2019–2008; FRL–10014–05-Region 2]

Proposed Administrative Settlement Agreement and Order on Consent for Removal Action for the Pure Earth Recycling Superfund Site, City of Vineland, Cumberland County, New Jersey

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), notice is hereby given that the U.S. Environmental Protection Agency (''EPA''), Region 2, has entered into a proposed settlement, embodied in an Administrative Settlement Agreement and Order on Consent for Removal Action (''Settlement Agreement''), with Consolidated Edison Company of New York, Inc.; Exxon Mobil Corporation and ExxonMobil Oil Corp.; Hess Corporation; International-Matex Tank Terminals LLC; Infineum USA L.P.; Lorco Petroleum Services; National Grid USA; Patrick J. Kelly Drums, Inc.; Philadelphia Gas Works, by the Philadelphia Facilities Management Corporation; Public Service Electric and Gas Company (''PSE&G'') (and its affiliate, PSEG Fossil, LLC); Sasol North America Inc. and Sasol Chemicals (USA) LLC; and Superfund Management Operations, a series of Evergreen Resources Group, LLC on behalf of itself and ETC Sunoco Holdings LLC f/k/a Sunoco, Inc. (collectively ''Respondents'').

DATES: Comments must be submitted on or before October 22, 2020.

ADDRESSES: Comments can be sent via email to Clay Monroe at *monroe.clay@epa.gov.* Comments should reference the Pure Earth Recycling Superfund Site, City of Vineland, New Jersey, Administrative Settlement Agreement and Order on Consent for Removal Action, Index No. CERCLA–02–2019–2008.

The proposed Settlement Agreement is available for public inspection at this weblink: *https://semspub.epa.gov/src/document/02/*615528.

FOR FURTHER INFORMATION CONTACT: Clay Monroe, Attorney, Office of Regional Counsel, New Jersey Superfund Branch, U.S. Environmental Protection Agency. Email: *monroe.clay@epa.gov.* Telephone: 212–637–3142.

SUPPLEMENTARY INFORMATION: Under the Settlement Agreement, the Respondents agree to carry out a removal action to remove sludge from an above-ground storage tank at the Pure Earth Recycling Superfund Site (''Site''). In addition, the Respondents agree to pay a portion of

the past costs incurred by EPA at the Site (''Past Response Costs'') and certain future response costs to be incurred by EPA during the removal action (''Future Response Costs'').

Notice of this proposed administrative settlement is made in accordance with section 122(i) of CERCLA. The Settlement Agreement concerns a removal action to be performed at the Site by the Respondents. The performance of this work by the Respondents will be approved and monitored by EPA. Under the Settlement Agreement EPA will also receive from the Respondents a payment of $750,000.00 in partial reimbursement for Past Response Costs incurred by EPA with respect to the Site. This represents a compromise payment for Past Response Costs. The Settlement Agreement provides, in exchange for the work and above payment, a covenant not to sue by EPA or to take administrative action against the Respondents pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a), with regard to Work, Past Response Costs, or Future Response Costs.

For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the Settlement Agreement. EPA will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations that indicate that the proposed settlement is inappropriate, improper, or inadequate. EPA's response to any comments received will be available for public inspection online and/or at EPA Region 2, 290 Broadway, New York, NY 10007–1866.

Dated: September 16, 2020.

Pasquale Evangelista,

Director, Superfund & Emergency Management Division, U.S. Environmental Protection Agency, Region 2.

[FR Doc. 2020–20813 Filed 9–21–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2020–0052; FRL–10014–76]

Pesticide Product Registration; Receipt of Applications for New Uses (August 2020)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before October 22, 2020.

ADDRESSES: Submit your comments, identified by the docket identification (ID) number and the File Symbol of the EPA registration Number of interest as shown in the body of this document, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *https://www.epa.gov/dockets/where-send-comments-epa-dockets.*

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Marietta Echeverria, Registration Division (7505P), main telephone number: (703) 305–7090, email address: *RDFRNotices@epa.gov.* The mailing address is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

B. What should I consider as I Prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/commenting-epa-dockets.*

II. Registration Applications

EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications.

A. Notice of Receipts—New Uses

1. *EPA Registration Numbers:* 62719–437, 62719–442. *Docket ID number:* EPA–HQ–OPP–2020–0336. *Applicant:* Dow AgroSciences LLC, 9330 Zionsville Road, Indianapolis, IN, 46268. *Active ingredient:* Methoxyfenozide. *Product type:* Insecticide. *Proposed uses:* Vegetable, leafy, group 4–16; vegetable, brassica, head and stem, group 5–16; celtuce; fennel, Florence, fresh leaves and stalk; kohlrabi; leaf petiole vegetable subgroup 22B; tropical and subtropical, palm fruit, edible peel, subgroup 23C; tropical and subtropical, small fruit, inedible peel, subgroup 24A; cottonseed subgroup 20C; French bean, edible podded; garden bean, edible podded; green bean, edible podded; scarlet runner bean, edible podded;

snap bean, edible podded; kidney bean, edible podded; navy bean, edible podded; wax bean, edible podded; asparagus bean, edible podded; catjang bean, edible podded; Chinese longbean, edible podded; cowpea, edible podded; moth bean, edible podded; mung bean, edible podded; rice bean, edible podded; urd bean, edible podded; yardlong bean, edible podded; goa bean, edible podded; guar bean, edible podded; jackbean, edible podded; lablab bean, edible podded; vegetable soybean, edible podded; sword bean, edible podded; winged pea, edible podded; velvet bean, edible podded; dwarf pea, edible podded; edible podded pea, edible podded; green pea, edible podded; snap pea, edible podded; snow pea, edible podded; sugar snap pea, edible podded; grass-pea, edible podded; lentil, edible podded; pigeon pea, edible podded; chickpea, edible podded; Lima bean, succulent shelled; scarlet runner bean, succulent shelled; wax bean, succulent shelled; blackeyed pea, succulent shelled; moth bean, succulent shelled; catjang bean, succulent shelled; cowpea, succulent shelled; crowder pea, succulent shelled; southern pea, succulent shelled; Andean lupin, succulent shelled; blue lupin, succulent shelled; grain lupin, succulent shelled; sweet lupin, succulent shelled; white lupin, succulent shelled; white sweet lupin, succulent shelled; yellow lupin, succulent shelled; broad bean, succulent shelled; jackbean, succulent shelled; goa bean, succulent shelled; lablab bean, succulent shelled; vegetable soybean, succulent shelled; velvet bean, succulent shelled; chickpea, succulent shelled; English pea, succulent shelled; garden pea, succulent shelled; green pea, succulent shelled; pigeon pea, succulent shelled; lentil, succulent shelled; African yam-bean, dry seed; American potato bean, dry seed; Andean lupin bean, dry seed; blue lupin bean, dry seed; grain lupin bean, dry seed; sweet lupin bean, dry seed; white lupin bean, dry seed; white sweet lupin bean, dry seed; yellow lupin bean, dry seed; black bean, dry seed; cranberry bean, dry seed; dry bean, dry seed; field bean, dry seed; French bean, dry seed; garden bean, dry seed; great northern bean, dry seed; green bean, dry seed; kidney bean, dry seed; Lima bean, dry seed; navy bean, dry seed; pink bean, dry seed; pinto bean, dry seed; red bean, dry seed; scarlet runner bean, dry seed; tepary bean, dry seed; yellow bean, dry seed; adzuki bean, dry seed; asparagus bean, dry seed; catjang bean, dry seed; Chinese longbean, dry seed; cowpea, dry seed; crowder pea, dry seed; mung bean, dry seed; moth bean, dry seed; rice bean, dry seed; urd bean, dry seed; yardlong bean, dry seed; broad bean, dry seed; guar bean, dry seed; goa bean, dry seed; horse gram, dry seed; jackbean, dry seed; lablab bean, dry seed; morama bean, dry seed; sword bean, dry seed; winged pea, dry seed; velvet bean, seed, dry seed; vegetable soybean, dry seed; field pea, dry seed; dry pea, dry seed; green pea, dry seed; garden pea, dry seed; chickpea, dry seed; lentil, dry seed; grass-pea, dry seed; pigeon pea, dry seed; rice. *Contact:* RD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: September 10, 2020.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2020–20884 Filed 9–21–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[CERCLA–02–2020–2012; FRL 10014–52–Region 2]

Proposed CERCLA Cost Recovery Settlement for the Charlestown Mall Site, Utica and Frankfort, Oneida and Herkimer Counties, New York

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), notice is hereby given by the U.S. Environmental Protection Agency (''EPA''), Region 2, of a proposed cost recovery settlement agreement pursuant to CERCLA with Charlestown Mall of Utica, LLC (the ''Settling Party'') for the Charlestown Mall Site, consisting of two adjacent parcels, one in the City of Utica, Oneida County, New York, the other in the Town of Frankfort, Herkimer County, New York.

DATES: Comments must be submitted on or before October 22, 2020.

ADDRESSES: The proposed settlement is available for public inspection at EPA Region 2 offices at 290 Broadway, New York, New York 10007–1866. Comments should reference the Charlestown Mall Site, located in Utica and Frankfort, Oneida and Herkimer Counties, New York, Index No. CERCLA–02–2020–2012. To request a copy of the proposed settlement agreement, please contact the EPA employee identified below.

FOR FURTHER INFORMATION CONTACT: Henry Guzman, Attorney, Office of Regional Counsel, New York/Caribbean Superfund Branch, U.S. Environmental Protection Agency, 290 Broadway, 17th Floor, New York, NY 10007–1866. Email: *guzman.henry@epa.gov,* Telephone: 212–637–3166.

SUPPLEMENTARY INFORMATION: The Settling Party will pay $30,000 to the EPA Hazardous Substance Superfund in reimbursement of EPA's past response costs paid at or in connection with the Site, and it also agrees to market and sell those portions of the Site property owned by the Settling Party (''Site Property'') and pay to EPA the net proceeds from the sale of the Site Property.

The settlement includes a covenant by EPA not to sue or to take administrative action against the Settling Party pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a), with regard to the response costs related to the work performed at the Site by EPA as enumerated in the settlement agreement. For thirty (30) days following the date of publication of this notice of the proposed settlement, EPA will receive written comments relating to the settlement. EPA will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations that indicate that the proposed settlement is inappropriate, improper, or inadequate. EPA's response to any comments received will be available for public inspection at EPA Region 2, 290 Broadway, New York, New York 10007–1866.

Dated: September 14, 2020.

Pasquale Evangelista,

Director, Superfund & Emergency Management Division, U.S. Environmental Protection Agency, Region 2.

[FR Doc. 2020–20812 Filed 9–21–20; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 20–1066; FRS 17073]

Disability Advisory Committee; Announcement of Fourth Meeting

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Commission announces and provides an agenda for the fourth meeting of the third term of its Disability Advisory Committee (DAC or Committee).

DATES: Wednesday, October 14, 2020. The meeting will come to order at 1:30 p.m. Eastern Time.

ADDRESSES: The DAC meeting will be held remotely, with video and audio coverage at *www.fcc.gov/live.*

FOR FURTHER INFORMATION CONTACT: Will Schell, Designated Federal Officer (DFO), at (202) 418–0767 or *DAC@fcc.gov;* or Debra Patkin, Deputy DFO, at (202) 870–5226.

SUPPLEMENTARY INFORMATION: This meeting is open to members of the general public. The meeting will be webcast with American Sign Language interpreters and open captioning at: *www.fcc.gov/*live. In addition, a reserved amount of time will be available on the agenda for comments and inquiries from the public. Members of the public may comment or ask questions of presenters via the email address *livequestions@fcc.gov.*

Requests for other reasonable accommodations or for materials in accessible formats for people with disabilities should be submitted via email to: *fcc504@fcc.gov* or by calling the Consumer and Governmental Affairs Bureau at (202) 418–0530. Such requests should include a detailed description of the accommodation needed and a way for the FCC to contact the requester if more information is needed to fill the request. Requests should be made as early as possible; last minute requests will be accepted but may not be possible to accommodate.

Proposed Agenda: At this meeting, the DAC is expected to receive and consider reports and recommendations from its subcommittees. The DAC may also receive briefings from Commission staff on issues of interest to the Committee and may discuss topics of interest to the committee, including, but not limited to, matters concerning communications transitions, telecommunications relay services, emergency access, and video programming accessibility.

Federal Communications Commission.

Suzanne Singleton,

Chief, Disability Rights Office, Consumer and Governmental Affairs Bureau.

[FR Doc. 2020–20857 Filed 9–21–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551–0001, not later than October 7, 2020.

A. Federal Reserve Bank of Boston (Prabal Chakrabarti, Senior Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02210–2204. Comments can also be sent electronically to *BOS.SRC.Applications.Comments@bos.frb.org*:

1. *James S. Wilson Family Trust, James S. Wilson, as trustee, both of Lexington, Massachusetts;* to acquire voting shares of Patriot Community Bank, Woburn, Massachusetts.

B. Federal Reserve Bank of Minneapolis (Chris P. Wangen, Assistant Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *The Vanguard Group, Inc., Malvern, Pennsylvania; on behalf of itself, its subsidiaries and affiliates, including investment companies registered under the Investment Company Act of 1940, other pooled investment vehicles, and institutional accounts that are sponsored, managed, or advised by Vanguard;* to acquire more than 15 percent of the voting shares of Ameriprise Financial, Inc., and thereby indirectly acquire voting shares of Ameriprise Bank, FSB, both of Minneapolis, Minnesota.

Board of Governors of the Federal Reserve System, September 17, 2020.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2020–20889 Filed 9–21–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[OMB #0970–0446]

Proposed Information Collection Activity; TANF Expenditure Report, ACF–196R

AGENCY: Office of Family Assistance, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF) is requesting a 3-year extension of the Temporary Assistance for Needy Families (TANF) Expenditure Report, Form ACF–196R (OMB #0970–0446, expiration 2/28/2021). ACF is reporting a change to remove certain guidance that was associated with an earlier ACF–196 report in order to devote the instructions to the singular ACF–196R report. In addition, ACF has clarified instructions where states have previously expressed confusion and has reorganized the format and chronology of section headers to better reflect the flow of the TANF reporting process.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: Copies of the proposed collection of information can be obtained and comments may be forwarded by emailing *infocollection@acf.hhs.gov.* Alternatively, copies can also be obtained by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation (OPRE), 330 C Street SW, Washington, DC 20201, Attn: ACF Reports Clearance Officer. All requests, emailed or written, should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: Grantees of the TANF program are required by statute to report financial data on a quarterly basis. Form ACF–196R is used by states administering the TANF program to report these quarterly expenditure data and to request quarterly grant funds. Failure to collect the data would seriously compromise the Office of Family Assistance and ACF's ability to monitor TANF expenditures and compliance with statutory requirements. These data are also needed to estimate

outlays and to prepare reports and budget submissions for Congress.

Respondents: State agencies administering the TANF program (50 States and the District of Columbia).

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
TANF Expenditure Report, Form ACF–196R	51	4	14	2,856	952

Estimated Total Annual Burden Hours: 952.

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: Social Security Act, Section 409; 45 CFR 265.3–265.9.

John M. Sweet Jr.,

ACF/OPRE Certifying Officer.

[FR Doc. 2020–20900 Filed 9–21–20; 8:45 am]

BILLING CODE 4184–36–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Reimbursement of Travel and Subsistence Expenses Toward Living Organ Donation Program Eligibility Guidelines

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Final notice; response to solicitation of comments and publication of final program eligibility guidelines

SUMMARY: A notice was published in the **Federal Register** on March 31, 2020, to solicit comments on the eligibility criteria that were proposed by HRSA concerning the Living Organ Donation Reimbursement Program (formerly Reimbursement of Travel and Subsistence Expenses toward Living Organ Donation Program). This final notice responds to comments, describes the revision to the eligibility criteria to incorporate the reimbursable categories of qualifying expenses added by an HHS final rule published elsewhere in the issue of the **Federal Register**, and finalizes the Program Eligibility Guidelines.

FOR FURTHER INFORMATION CONTACT: Frank Holloman, Director, Division of Transplantation, Healthcare Systems Bureau, HRSA, 5600 Fishers Lane, Room 08W53A, Rockville, Maryland 20857; telephone (301) 443–7577; or email *donation@hrsa.gov.*

SUPPLEMENTARY INFORMATION: Congress has provided specific authority under section 377 of the Public Health Service (PHS) Act, as amended, 42 U.S.C. 274f, for providing reimbursement of qualifying expenses incurred toward living organ donation with preference for those for whom paying such expenses would create a financial hardship. In August 2019, HRSA awarded a 5-year, $16,250,000 cooperative agreement to the University of Kansas Medical Center Research Institute, Inc. to administer this Program.

Congress requires that the Secretary in carrying out this Program give preference to those individuals the Secretary determines are more likely to be unable to pay for the qualifying expenses associated with the donation process. In addition, Congress requires that funds from the Program not be used to reimburse qualifying expenses associated with being a living organ donor, if the donor has received any payments or is expected to receive any payments related to these expenses from:

(1) Any State compensation program, an insurance policy, or a Federal or State health benefits program;

(2) an entity that provides health services on a prepaid basis; or

(3) the recipient of the organ.

In addition, the authorizing statute requires the Secretary to give preference to living organ donors who are ''more likely to be otherwise unable to meet such expenses.''

Summary of Comments and HRSA Responses

On March 31, 2020 (85 FR 17894), HRSA published a notice in the **Federal Register** requesting comments on the proposed eligibility criteria for the Program. HRSA requested public comment concerning proposed changes to the guidelines to: Increase the household income eligibility threshold to 350 percent of the HHS Poverty Guidelines (from the current threshold of 300 percent) for living organ donors and organ recipients, clarify the use of the existing preference categories in relation to the proposed household income eligibility threshold, and clarify that travel and subsistence expenses incurred by non-directed living organ donors [1] qualify as reimbursable expenses under the Program. HRSA also proposed revision of the Program eligibility guidelines' background section to ensure that the information aligns with the Program's legislative authority. These proposed guidelines would apply to the Program regardless of the recipient of the cooperative agreement that administers the Program.

HRSA received a total of seventy-seven comments from the public. Comments were received from individuals, including prior living donors, and professional and patient stakeholder organizations. None of the commenters opposed HRSA's efforts to expand eligibility under the Program, although two commenters expressed concern about the effectiveness of the Program, and most commenters expressed interest in further expanding the program. Sixty-eight of the commenters proposed that HRSA increase the income eligibility threshold for the recipient and the donor of the organ beyond the proposed 350 percent of the HHS Poverty Guidelines. HRSA assumes that recipients whose income

[1] Living organ donations can be either ''directed'' (the organ is intended for an individual named or specified by the living organ donor), or ''non-directed'' (the organ is intended for an individual neither named nor specified by the donor) as defined at *https://optn.transplant.hrsa.gov/resources/ethics/living-non-directed-organ-donation/.*

exceeds this level will have the ability to reimburse the living organ donor for the qualified expenses incurred toward living organ donation. HRSA also assumes that donors whose income is below this threshold are ''more likely to be otherwise unable to meet such expenses.'' Fifty-one of these commenters specified that the threshold should be at least 500 percent of the HHS Poverty Guidelines. Forty-four commenters suggested that eligibility should not be linked to the recipient's income. Four commenters remarked that reimbursement should be available to all living organ donors without conditions. Finally, three commenters expressed concern that the eligibility criteria do not adequately consider the financial burdens that may occur when both the living organ donor and the transplant recipient reside in the same household.

HRSA wishes to thank the respondents for the quality and thoroughness of their comments. HRSA's response to the comments received and final decisions are discussed below.

I. Response to Comment To Increase the Income Threshold to 500 Percent of the HHS Poverty Guidelines

Sixty-eight of the commenters proposed that HRSA increase the threshold beyond the proposed 350 percent of the HHS Poverty Guidelines, with many of these commenters specifying that the threshold should be at least 500 percent of the HHS Poverty Guidelines consistent with a recommendation of the HHS Advisory Committee on Organ Transplantation.

HRSA notes that the authorizing statute requires the Program to give preference to individuals who are ''more likely to be otherwise unable to meet such expenses.'' The authorizing statute also requires that the Program not provide reimbursement for donor expenses that have been paid, or can reasonably be expected to be paid by other existing programs or by the recipient of the organ. Based on these requirements, and in an effort to provide for a transparent and administratively manageable mechanism to assess an individual's ability to pay for covered expenses, HRSA believes that an income threshold based on the recipient's income in relation to the HHS Poverty Guidelines provides a reasonable mechanism for evaluating this standard. HRSA also notes the importance of maintaining a mechanism for applicants to the Program to demonstrate financial hardship not adequately reflected by the recipient's income, which would indicate undue hardship if the recipient were to reimburse the donor's expenses.

HRSA will closely monitor the Program's ability to adequately address the reimbursement needs of applicants meeting any of the four preference categories based on the 350 percent income threshold defined in the eligibility criteria, including those applicants who meet the financial hardship criteria. This is especially important to monitor in relation to HRSA's recent regulatory action permitting reimbursement of lost wages and child-care and elder-care expenses through the Program. This expansion of eligible expenses is expected to further remove financial disincentives to living organ donation and expand participation in the Program. However, the full impact of the expansion of eligible expenses and the increased income eligibility threshold on participation in the Program is not yet fully known. HRSA will monitor and analyze the impact of this change to inform future program operations

II. Response To Comment That Recipient Income Should Not Be Considered in Determining Eligibility

Forty-four commenters suggested that eligibility should not be linked to the recipient's income. As stated previously, the authorizing statute requires that HRSA consider the recipient's ability to reimburse the donor's expenses and prohibits the Program from reimbursing expenses that can reasonably be expected to be covered by the transplant recipient. HRSA specifically sought input from the public regarding whether an organ recipient's reasonable ability to pay for a donor's expenses should remain tied to the Program's income eligibility threshold and whether or not the proposed threshold is appropriate and/or justified. Some respondents suggested that the Program require a certification from donors that they do not expect to be reimbursed by the recipient. Similarly, some commenters suggested that such a certification and means testing are not necessary because in practice donors' expenses are not being regularly reimbursed by recipients. However, these suggestions do not meet the statutory requirement that HRSA prohibit payment for expenses that ''can reasonably be expected to be made'' by the recipient of the organ. HRSA acknowledges that recipient income is not a full measure of whether recipients can reasonably be expected to reimburse their donor for qualified expenses. However, HRSA is prohibited by statute from reimbursing donor expenses that can reasonably be expected to be reimbursed by the recipient of the organ. Therefore, HRSA expects the recipient of the cooperative agreement to provide education and clarity on the process for demonstrating financial hardship. HRSA acknowledges that determining recipients' financial hardship may be administratively burdensome and is committed to working with the recipient of the cooperative agreement to develop procedures to minimize burden while meeting the statutory requirements. Therefore, HRSA has decided to maintain consideration of recipient income in the preference categories at this time.

III. Response to Comment That Reimbursement Should Be Provided to All Living Donors Without Regard to the Financial Situation of the Donor or Recipient

Four respondents commented that reimbursement should be available to all living organ donors regardless of their financial situation. The authorizing statute prohibits HRSA from providing reimbursement to living organ donors if it is reasonable to expect the donor will receive reimbursement for these expenses from other sources, including the recipient of the organ. Thus, HRSA is required to establish criteria to assess the donor's ability to be reimbursed from these sources. Therefore, HRSA is maintaining these criteria with regard to donors eligible for reimbursement.

IV. Response to Concern That Financial Burden Is Not Adequately Addressed for Situations Where Donor and Recipient Reside in Same Household

Three commenters suggested that the Program does not adequately address the financial hardship often experienced when the donor and recipient reside in the same household and incur expenses and potential loss of income as a result of their surgeries. HRSA acknowledges the importance of ensuring that the Program consider the financial hardship that some households may experience as a result of living organ donation. HRSA is open to working with the recipient of the cooperative agreement to ensure that the Program's process for requesting consideration of financial hardship is sufficient to meet the needs of these donor and recipient household pairs; however, HRSA does not believe that revision of the preference categories or eligibility criteria is warranted to address this concern.

V. Response to Comments That Program Is Insufficient and Should Be Restructured

Two commenters argued that the Program is ineffective at providing the necessary protections for living organ donors and is inferior to the efforts of another existing program. Further, these commenters suggest that HRSA consider restructuring the reimbursement activity to collaborate with the other existing effort, which, in the commenters' description, provides a broader array of support. HRSA appreciates the feedback and will continue to consider other models for possible future actions to support living organ donors. HRSA is open to considering innovative approaches to this Program consistent with the provisions of the authorizing statute. To that end, HRSA notes that other entities, including the current recipient of the cooperative agreement referenced above, are eligible to compete for future cooperative agreements for the operation of the Program. Those entities are encouraged to submit proposals when the opportunity becomes available.

VI. Other Issues

No commenters expressed concern about HRSA's proposed revisions to the eligibility criteria to clarify that travel and subsistence expenses incurred by non-directed living organ donors qualify as reimbursable expenses under the Program. Nor did HRSA receive comments expressing concern about revisions to the background section to ensure that the information aligns with the Program's legislative authority and that the guidelines would apply to the Program regardless of the recipient of the cooperative agreement that administers the Program. These changes to the guidelines will be finalized as proposed.

Inclusion of Additional Qualifying Expenses

Elsewhere in this issue of the **Federal Register**, HHS is publishing a final rule that expands the scope of reimbursable expenses incurred by living organ donors to include lost wages and child-care and elder-care expenses. This is the first time the Secretary determined that certain categories of ''incidental non-medical expenses'' incurred toward living organ donation are appropriate for reimbursement under this Program. In the notice of proposed rulemaking proposing to amend the Organ Procurement and Transplantation Network (OPTN) Final Rule to permit these expenses as ''incidental non-medical expenses,'' HHS clarified that reimbursement for such expenses is not ''valuable consideration'' for purposes of section 301 of NOTA 84 FR 70139 (Dec. 17, 2019). Thus, such payments do not violate the criminal prohibition against the exchange of valuable consideration for organs for use in transplantation.

This notice also revises the Program Eligibility Guidelines to incorporate these new qualifying expenses finalized through the OPTN Final Rule. Among other clarifying updates, a section has been added to the Guidelines to provide that qualifying expenses also include lost wages, child-care expenses, and elder-care expenses incurred by the donor and/or his/her accompanying or assisting person(s) as part of:

1. Donor evaluation and/or
2. Hospitalization for the living donor surgical procedure, and/or
3. Non-hospital post-surgery recovery time, and/or
4. Medical or surgical follow-up, clinic visits, or hospitalization within 2 calendar years following the living donation procedure (or beyond the 2-year period if exceptional circumstances exist).

Conclusion

HRSA has reviewed and considered all comments in response to the March 31, 2020, notice and has determined that no additional modifications of the eligibility criteria proposed in that notice are warranted at this time. HRSA is also incorporating changes to the Guidelines to include lost wages, child-care expenses, and elder-care expenses as qualifying expenses under the Program, in accordance with the final rule published elsewhere in this issue of the **Federal Register**.

HRSA will continually monitor the effectiveness of the Program and the availability of funds for the Program. The final eligibility criteria are included in this document.

Living Organ Donation Reimbursement Program Eligibility Guidelines as Amended

Section 3 of the Organ Donation and Recovery Improvement Act, 42 U.S.C. 274f, establishes the authority and legislative parameters to provide qualifying expenses incurred towards living organ donation. HRSA provides this support to living organ donors through the Living Organ Donation Reimbursement Program (formerly Reimbursement of Travel and Subsistence Expenses toward Living Organ Donation Program) herein referred to as the Program, administered through a cooperative agreement. As provided for in the statutory authorization, the Program is authorized to provide reimbursement only in those circumstances when payment cannot reasonably be covered by other specified sources of reimbursement.

The recipient of the cooperative agreement, under Federal law, cannot provide reimbursement to any living organ donor for listed qualifying expenses if the donor can receive reimbursement for these expenses from any of the following sources:

(1) Any State compensation program, an insurance policy, or any Federal or State health benefits program;

(2) an entity that provides health services on a prepaid basis; or

(3) the recipient of the organ.

In 2007, in response to public solicitation of comments, a threshold of income eligibility for the recipient and the donor of the organ was set at 300 percent of the HHS Poverty Guidelines in effect at the time of the eligibility determination. Pursuant to section 8 of Executive Order 13879, ''Advancing American Kidney Health'' (July 10, 2019) and feedback from the organ donation and transplantation community, HRSA revised the threshold of income eligibility for the recipient and the donor of the organ to 350 percent of the HHS Poverty Guidelines, in effect at the time of the eligibility determination. HRSA assumes that recipients whose income exceeds this level will have the ability to reimburse the living organ donor for the travel, subsistence, and other incidental non-medical expenses authorized by the Secretary of HHS.

HRSA provides an exception to this rule for financial hardships. A transplant social worker or appropriate transplant center representative, based on a complete recipient evaluation, can provide an official statement, notwithstanding the recipient's income level, that the recipient of the organ would face significant financial hardship if required to pay for the qualifying living organ donor expenses. A recipient's financial hardship is defined as circumstances in which the recipient's income exceeds 350 percent of the HHS Poverty Guidelines in effect at the time of the eligibility determination, but the individual will have difficulty paying the donor's expenses due to other significant expenses. Determination of hardship in a particular case requires a fact-specific analysis; examples of significant expenses include circumstances such as paying for medical expenses not covered by insurance or providing significant financial support for a family member not living in the household (*e.g.,* elderly parent). Waiver requests by

the transplant center, on behalf of the donor, shall be made in writing and shall clearly describe the circumstances for the waiver request. The recipient of the cooperative agreement will review waiver requests and make a recommendation to HRSA to either approve or deny the request. HRSA will make the final determination and communicate its final determination to the recipient of the cooperative agreement. HRSA's determination will not be subject to appeal.

All persons who wish to become living organ donors are eligible to receive reimbursement for their qualifying expenses if they cannot receive reimbursement from the sources outlined above and if all the requirements outlined in the *Criteria for Donor Reimbursement Section* are satisfied. However, because reimbursement is subject to the availability of funds, prospective living organ donors who are most likely not able to cover these expenses will receive priority. The ability to cover these expenses is determined based on an evaluation of (1) the donor and recipient's income, in relation to the HHS Poverty Guidelines and (2) financial hardship. As a general matter, income refers to the donor or recipient's total household income.

A donor may also be able to demonstrate financial hardship, even if the donor's income exceeds 350 percent of the HHS Poverty Guidelines if the donor will have difficulty paying the qualifying expenses due to other significant expenses. Although all requests will be reviewed on a case-by-case basis, examples of significant expenses include circumstances such as providing significant financial support for a family member not living in the household (*e.g.,* elderly parent), and loss of income due to donation process. Waiver requests by the transplant center, on behalf of the donor, shall be made in writing and shall clearly describe the circumstances for the waiver request. The recipient of the cooperative agreement will review waiver requests and make a recommendation to HRSA to either approve or deny the request. HRSA will make the final determination and communicate its final determination to the recipient of the cooperative agreement. HRSA's determination is not subject to appeal.

Donors meeting the criteria for reimbursement will be given preference in the following order of priority, with non-directed donors placed in a category based solely on the donor's income:

Preference Category 1: The donor's income and the recipient's income are each 350 percent or less of the HHS Poverty Guidelines in effect at the time of the eligibility determination in their respective states of primary residence.

Preference Category 2: Although the donor's income exceeds 350 percent of the HHS Poverty Guidelines in effect in the State of primary residence at the time of the eligibility determination, the donor demonstrates financial hardship. The recipient's income is at or below 350 percent of the HHS Poverty Guidelines in effect in the State of primary residence at the time of the eligibility determination.

Preference Category 3: Any living organ donor, regardless of income or financial hardship, if the recipient's income is at or below 350 percent of the HHS Poverty Guidelines in effect in the recipient's State of primary residence at the time of the eligibility determination.

Preference Category 4: Any living organ donor, regardless of income or financial hardship, if the recipient (with income above 350 percent of the HHS Poverty Guidelines in effect in the State of primary residence at the time of the eligibility determination) demonstrates financial hardship.

The recipient of the cooperative agreement will accept and process applications beginning with Preference Category 1. The recipient of the cooperative agreement will inform participating transplant programs directly and the public via its website whenever funding levels allow it to accept and/or process applications under additional preference categories.

The HHS Poverty Guidelines for 2020 are located at 85 FR 3060 (January 14, 2020).

Criteria for Donor Reimbursement

1. Any individual who in good faith incurs travel and other qualifying expenses toward the intended donation of an organ.

2. Donor and recipient of the organ are U.S. citizens or lawfully present in the U.S.

3. Donor and recipient have primary residences in the U.S. or its territories.

4. Travel is originating from the donor's primary residence.

5. Donor and recipient certify that they understand and are in compliance with Section 301 of NOTA (42 U.S.C. 274e) which states in part that it shall be unlawful for any person to knowingly acquire, receive, or otherwise transfer any human organ for valuable consideration for use in human transplantation if the transfer affects interstate commerce.

6. The transplant center where the donation procedure occurs certifies to its status of good standing with the OPTN.

Qualifying Expenses

For the purposes of the Reimbursement of Travel and Subsistence Expenses toward Living Organ Donation Program, *qualifying expenses* include

I. Travel, lodging, meals and incidental expenses incurred by the donor and/or his/her accompanying person(s) as part of:

(1) Donor evaluation and/or

(2) Hospitalization for the living donor surgical procedure, and/or

(3) Medical or surgical follow-up, clinic visits, or hospitalization within 2 calendar years following the living donation procedure (or beyond the 2-year period if exceptional circumstances exist).

II. Lost wages, child-care expenses, and elder-care expenses incurred by the donor and/or his/her accompanying or assisting person(s) as part of:

(1) Donor evaluation and/or

(2) Hospitalization for the living donor surgical procedure, and/or

(3) Non-hospital post-surgery recovery time, and/or

(4) Medical or surgical follow-up, clinic visits, or hospitalization within 2 calendar years following the living donation procedure (or beyond the 2-year period if exceptional circumstances exist).

The recipient of the cooperative agreement will pay for a total of up to five trips; three for the donor and two for accompanying persons. However, in cases in which the transplant center requests the donor to return to the transplant center for additional visits as a result of donor complications or other health related issues, the recipient of the cooperative agreement may provide reimbursement for the additional visit(s) for the donor and an accompanying person. The accompanying persons need not be the same in each trip.

Reimbursement for travel, lodging, meals, and incidental expenses, as appropriate, shall be provided at the Federal per diem rate, except for hotel accommodation, which shall be reimbursed at no more than 150 percent of the Federal per diem rate.

Donors may receive up to four weeks of reimbursement for lost wages, child-care expenses, and elder-care expenses associated with the surgery and recovery time. In addition, donors may receive reimbursement for up to two additional weeks for lost wages, child-care expenses, and elder-care expenses if the donor requires follow-up visits

and hospitalization as a result of donor complications or other health related issues.

Reimbursement for lost wages is based on the donor providing appropriate documentation, such as pay stubs, to the program. Reimbursement of lost wages is not limited to traditional wage rate income. Donors may receive reimbursement for non-traditional or irregular income through the program if they provide sufficient documentation of the expected lost wages.

In order to qualify for reimbursement of child-care expenses and elder-care expenses, a donor shall have caretaker responsibilities for:

(1) A minor child and/or

(2) An elder who requires caretaker assistance.

Caretaker responsibilities are not limited to familial relationships between the donor and/or the accompanying or assisting person(s), and the aforementioned individuals.

In considering requests for reimbursement for child-care expenses and elder-care expenses, the recipient of the cooperative agreement is encouraged to adopt a consistent application of ''child'' and ''elder.'' The recipient of the cooperative agreement may consider applicable laws within the jurisdiction in which the caretaker resides in reviewing requests for reimbursement for expenses for care of a ''child,'' and, in reviewing requests for reimbursement for elder-care expenses, may consider ''elder'' to refer to an individual age 60 and older, consistent with the Older Americans Act, 42 U.S.C. 3002(40).

Requests for reimbursement for the expenses of persons accompanying or assisting the donor for travel, housing, meals, and incidental expenses are considered under the preference categories and processed for reimbursement at the same time as requests for reimbursement for expenses incurred by the donor. Requests for reimbursement for the expenses of persons accompanying or assisting the donor for lost wages, child-care expenses, and elder-care expenses are considered under the preference categories and will be processed separately. Requests for these expenses will be processed after all requests for expenses incurred by the donor, and expenses for persons accompanying or assisting the donor for qualifying expenses for travel, housing, meals, and incidental expenses, have been processed under all four preference categories.

The total Federal reimbursement for all qualifying expenses during the donation process shall not exceed $6,000.

For donor and recipient pairs participating in a paired exchange program, the applicable eligibility criteria for the originally intended recipient shall be considered for the purpose of reimbursement of qualifying donor expenses even though the final recipient of the donated organ may not be the recipient identified in the original donor-recipient pair.

Given that non-directed donors have served as catalysts in transplant chains of multiple recipients, they are considered donating individuals eligible to receive reimbursement for qualifying expenses, if all other relevant program requirements are satisfied. In applying the preference categories to non-directed donors, the recipient of the cooperative agreement will review the household income of the non-directed donor against the current income threshold in effect at the time of the eligibility determination.

Maximum Number of Prospective Donors per Recipient

- *Kidney:* One donor at a time with a maximum of three donors
- *Liver:* One donor at a time with a maximum of five donors
- *Lung:* Two donors at a time with a maximum of six donors

Special Provisions

Many factors may prevent the intended and willing donor from proceeding with the donation. Circumstances that would prevent the transplant or donation from proceeding include: Present health status of the intended donor or recipient, perceived long-term risks to the intended donor, justified circumstances such as acts of God (*e.g.,* major storms or hurricanes), or a circumstance when an intended donor proceeds toward donation in good faith, subject to a case-by-case evaluation by the recipient of the cooperative agreement, but then elects not to pursue donation. In such cases, the intended donor and accompanying persons may receive reimbursement for qualifying expenses incurred as if the donation had been completed. The recipient of the cooperative agreement will file a form with the Internal Revenue Service reporting funds disbursed as income for expenses not incurred.

Dated: September 15, 2020.

Thomas J. Engels,

Administrator.

[FR Doc. 2020–20805 Filed 9–18–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of a Maternal and Child Health Bureau-Initiated Supplemental Award to the Immune Deficiency Foundation for the Severe Combined Immunodeficiency Screening and Education Program

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice of a supplemental award.

SUMMARY: HRSA announces the award of a supplement of approximately $3,000,000 to the Immune Deficiency Foundation (IDF) for the Severe Combined Immunodeficiency (SCID) Screening and Education program for fiscal year (FY) 2020. The supplement will add another year of funding to the current recipient, during the period of 08/01/2020–07/31/2021, to allow the recipient to provide increased implementation, education, and awareness of newborn screening for SCID.

FOR FURTHER INFORMATION CONTACT: Debi Sarkar, Division of Children with Special Health Needs, Maternal and Child Health Bureau, HRSA, 5600 Fishers Lane, Room 18W65, Rockville, MD 20857 Email: *DSarkar@hrsa.gov* or Phone: (301) 443–0959

SUPPLEMENTARY INFORMATION:

Intended Recipient of Award: Immune Deficiency Foundation.

Amount of Non-Competitive Award: Approximately $3,000,000 for fiscal year FY 2020.

Period of Supplemental Funding: 08/01/2020- 07/31/2021.

CFDA Number: 93.110.

Authority: Public Health Service Act, § 1109 (42 U.S.C. 300b–8).

Justification: The Explanatory Statement accompanying the Further Consolidated Appropriations Act, 2020 indicated that: ''Within the total for the Heritable Disorders Program, the agreement includes no less than $3,000,000 for the third year of a grant to support implementation, education, and awareness of newborn screening for Severe Combined Immunodeficiency and related disorders.'' Therefore, following an objective review, HRSA awarded $3,000,000 to the Immune Deficiency Foundation and extended the 2-year period of performance to a third year, so that IDF can provide increased implementation, education, and awareness of newborn screening for SCID

Although all 50 states have legislation to screen for SCID, access to pediatric immunology and infectious disease specialists for SCID diagnosis and treatment is mostly found in urban areas, posing access challenges for families in rural and other medically underserved areas. SCID education and awareness resources that are linguistically and culturally sensitive are critical for diverse and medically underserved families. In addition, long-term follow-up of infants identified through SCID newborn screening is critical to obtain clinical outcomes data and inform future treatment options. Furthermore, many infants detected through newborn screening do not have classical SCID but have one of a number of other immune deficiency disorders, so information is needed for families and providers on other detected conditions.

Within the scope of the Notice of Opportunity (HRSA 18–188), proposed activities include:

- Develop and implement a plan to engage families and treatment centers to obtain follow-up information;
- Develop and disseminate linguistically and culturally appropriate education and awareness materials about SCID and other immune deficiencies that are identified when screening for SCID;
- Connect families with SCID to pediatric immunology and infectious disease specialists, and pediatricians in urban areas;
- Implement telehealth/telemedicine outreach to families residing in rural and medically underserved areas; and
- Support an annual SCID meeting that includes state newborn screening staff, pediatricians, immunology and infectious diseases specialists, and families.

Grantee/organization name	Grant No.	State	FY 2020 funding
Immune Deficiency Foundation	SC1MC31881	MD	$3,000,000

Thomas J. Engels,

Administrator.

[FR Doc. 2020–20856 Filed 9–21–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HRSA is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (the Program) as required, by the Public Health Service (PHS) Act, as amended. While the Secretary of HHS is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program in general, contact Lisa L. Reyes, Clerk of Court, United States Court of Federal Claims, 717 Madison Place NW, Washington, DC 20005, (202) 357–6400. For information on HRSA's role in the Program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 08N146B, Rockville, Maryland 20857; (301) 443–6593, or visit our website at: *http://www.hrsa.gov/vaccinecompensation/index.html.*

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of Title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.,* provides that those seeking compensation are to file a petition with the United States Court of Federal Claims and to serve a copy of the petition to the Secretary of HHS, who is named as the respondent in each proceeding. The Secretary has delegated this responsibility under the Program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at 42 CFR 100.3. This Table lists for each covered childhood vaccine the conditions that may lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested outside the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that ''[w]ithin 30 days after the Secretary receives service of any petition filed under section 2111 the Secretary shall publish notice of such petition in the **Federal Register**.'' Set forth below is a list of petitions received by HRSA on August 1, 2020, through August 31, 2020. This list provides the name of petitioner, city and state of vaccination (if unknown then city and state of person or attorney filing claim), and case number. In cases where the Court has redacted the name of a petitioner and/or the case number, the list reflects such redaction.

Section 2112(b)(2) also provides that the special master ''shall afford all interested persons an opportunity to submit relevant, written information'' relating to the following:

1. The existence of evidence ''that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition,'' and

2. Any allegation in a petition that the petitioner either:

a. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table but which was caused by'' one of the vaccines referred to in the Table, or

b. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine'' referred to in the Table.

In accordance with Section 2112(b)(2), all interested persons may submit written information relevant to the issues described above in the case of

the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the United States Court of Federal Claims at the address listed above (under the heading **FOR FURTHER INFORMATION CONTACT**), with a copy to HRSA addressed to Director, Division of Injury Compensation Programs, Healthcare Systems Bureau, 5600 Fishers Lane, 08N146B, Rockville, Maryland 20857.

The Court's caption (Petitioner's Name v. Secretary of HHS) and the docket number assigned to the petition should be used as the caption for the written submission. Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

Thomas J. Engels,

Administrator.

List of Petitions Filed

1. Wendy M. Meichtry, Peoria, Illinois, Court of Federal Claims No: 20–0950V
2. Marilyn Sue Schmid, Orem, Utah, Court of Federal Claims No: 20–0951V
3. Dawn Allison, Canton, Ohio, Court of Federal Claims No: 20–0953V
4. Hannah Baker, Camden, South Carolina, Court of Federal Claims No: 20–0956V
5. Samuel Sterling, Davenport, Florida, Court of Federal Claims No: 20–0957V
6. Crystal Cervantez-Tkac, Denver, Colorado, Court of Federal Claims No: 20–0958V
7. Marla Miller, Palm Coast, Florida, Court of Federal Claims No: 20–0959V
8. Tracy Sprinkle, Kernersville, North Carolina, Court of Federal Claims No: 20–0960V
9. Pamela Flowers on behalf of A. R., Los Angeles, California, Court of Federal Claims No: 20–0961V
10. Sharon Sirkis, Palm City, Florida, Court of Federal Claims No: 20–0962V
11. Dennis Cashel, Arnold, Missouri, Court of Federal Claims No: 20–0963V
12. Joanne Garston, Boston, Massachusetts, Court of Federal Claims No: 20–0964V
13. Richard Knippschild, Sacramento, California, Court of Federal Claims No: 20–0965V
14. Gina Driscoll, Orlando, Florida, Court of Federal Claims No: 20–0966V
15. Regina Saliot on behalf of Richard Saliot, Honolulu, Hawaii, Court of Federal Claims No: 20–0967V
16. Reginald Reese on behalf of The Estate of Rodney Reese, Deceased, Atlanta, Georgia, Court of Federal Claims No: 20–0968V
17. Antoni Baluta, New York, New York, Court of Federal Claims No: 20–0970V
18. Tiffani Cuyler, Bedford, Texas, Court of Federal Claims No: 20–0971V
19. Eleanor Casebolt, Pinellas Park, Florida, Court of Federal Claims No: 20–0974V
20. Lynda Smith, Calhoun, Georgia, Court of Federal Claims No: 20–0976V
21. Carla Amor, Provo, Utah, Court of Federal Claims No: 20–0978V
22. Jeanette Lingafelt, Middletown, Delaware, Court of Federal Claims No: 20–0979V
23. Leila M. Hubbard on behalf of J. B. B., Seneca, South Carolina, Court of Federal Claims No: 20–0981V
24. Kathryn Martinez and Arthur Martinez on behalf of C. M., Austin, Texas, Court of Federal Claims No: 20–0982V
25. Abbie Dover, Atlanta, Georgia, Court of Federal Claims No: 20–0983V
26. Randy Richards, Gig Harbor, Washington, Court of Federal Claims No: 20–0984V
27. Amy Goode, Overland Park, Kansas, Court of Federal Claims No: 20–0985V
28. Lyndsay Randle, Forrest City, Arkansas, Court of Federal Claims No: 20–0986V
29. Dave Scruggs, Flower Mound, Texas, Court of Federal Claims No: 20–0988V
30. Gabrielle Natale, Weymouth, Massachusetts, Court of Federal Claims No: 20–0989V
31. Mark Alcantara, Carlsbad, California, Court of Federal Claims No: 20–0990V
32. Muhammad Jafary, Beckley, West Virginia, Court of Federal Claims No: 20–0991V
33. Phil E. Mullins, Evanston, Illinois, Court of Federal Claims No: 20–0992V
34. Tammy Davis, Rochester, New York, Court of Federal Claims No: 20–0994V
35. Scott Smith, Dallas, Texas, Court of Federal Claims No: 20–0995V
36. Ammar Halloum, Phoenix, Arizona, Court of Federal Claims No: 20–0997V
37. Jennifer Bolz, Oak Lawn, Illinois, Court of Federal Claims No: 20–0998V
38. Fetlework Yohannes Norvell, Wellesley Hills, Massachusetts, Court of Federal Claims No: 20–1001V
39. Carlos Diaz, Enfield, Connecticut, Court of Federal Claims No: 20–1003V
40. Edward Espinosa, San Diego, California, Court of Federal Claims No: 20–1004V
41. Benzion Zimmer, Brooklyn, New York, Court of Federal Claims No: 20–1005V
42. Alva Moffit, Philadelphia, Pennsylvania, Court of Federal Claims No: 20–1006V
43. Debbie Myers, Egg Harbor Township, New Jersey, Court of Federal Claims No: 20–1007V
44. Victor Johnson, Woodhaven, Michigan, Court of Federal Claims No: 20–1008V
45. Brenda Whipkey, Parma, Ohio, Court of Federal Claims No: 20–1015V
46. Gregory Yates, Colonial Heights, Virginia, Court of Federal Claims No: 20–1016V
47. Andrew Finneran, New York, New York, Court of Federal Claims No: 20–1017V
48. Donna Warren, Florence, Alabama, Court of Federal Claims No: 20–1018V
49. George Luhrmann, Boston, Massachusetts, Court of Federal Claims No: 20–1019V
50. Max Mayhew, New York, New York, Court of Federal Claims No: 20–1020V
51. Heidi Seiken, Centennial, Colorado, Court of Federal Claims No: 20–1021V
52. Demetra Dicembrino, Weston, Florida, Court of Federal Claims No: 20–1022V
53. Julie Dahlgard, Weston, Florida, Court of Federal Claims No: 20–1024V
54. Sharla Doucette, Pocatello, Idaho, Court of Federal Claims No: 20–1026V
55. Victor Haughton, Delafield, Wisconsin, Court of Federal Claims No: 20–1027V
56. Jeffrey Hoddick, Honolulu, Hawaii, Court of Federal Claims No: 20–1028V
57. Helena Johnson, Tell City, Indiana, Court of Federal Claims No: 20–1030V
58. Zuleika Aponte, Lacey, Washington, Court of Federal Claims No: 20–1031V
59. John Roper on behalf of J. R., Croton on the Hudson, New York, Court of Federal Claims No: 20–1032V
60. Stephanie Eckert, Springdale, Ohio, Court of Federal Claims No: 20–1035V
61. Thelma Andras, Raceland, Louisiana, Court of Federal Claims No: 20–1036V

62. Jennifer Arnold, Redding, California, Court of Federal Claims No: 20–1038V
63. Madeleine Kates, Williamsville, New York, Court of Federal Claims No: 20–1039V
64. Kendra Owen, Nashville, Tennessee, Court of Federal Claims No: 20–1041V
65. Michael W. Gladish, La Quinta, California, Court of Federal Claims No: 20–1042V
66. John Tisdel, Carmel, New York, Court of Federal Claims No: 20–1044V
67. Jodie Barrette, Green Bay, Wisconsin, Court of Federal Claims No: 20–1046V
68. Claudius Williams, Louisville, Kentucky, Court of Federal Claims No: 20–1048V
69. Hansaben Anand, Glenn Oaks, New York, Court of Federal Claims No: 20–1053V
70. Barbara J. Giddens, Fayetteville, North Carolina, Court of Federal Claims No: 20–1056V
71. Tracy Dawn McKay, Seattle, Washington, Court of Federal Claims No: 20–1057V
72. Linda Brantley-Karasinski, Clinton Charter Township, Michigan, Court of Federal Claims No: 20–1058V
73. Heather Calhoun on behalf of Z. C., Boston, Massachusetts, Court of Federal Claims No: 20–1059V
74. Diana Hopkins, Gaylord, Michigan, Court of Federal Claims No: 20–1060V
75. Monique Maccarone, Austin, Texas, Court of Federal Claims No: 20–1062V
76. Renae Fitzgerald, South Holland, Illinois, Court of Federal Claims No: 20–1064V
77. Peter Blaiwas, Boston, Massachusetts, Court of Federal Claims No: 20–1065V
78. Leigh Anne Hall, Memphis, Tennessee, Court of Federal Claims No: 20–1066V
79. Kristen Coons, Rochester, Minnesota, Court of Federal Claims No: 20–1067V
80. Taimur Shaikh, Champaign, Illinois, Court of Federal Claims No: 20–1069V
81. Vicki Hollingsworth, High Point, North Carolina, Court of Federal Claims No: 20–1070V
82. Nicole Arney, Boston, Massachusetts, Court of Federal Claims No: 20–1072V
83. Susan Sullivan, Boston, Massachusetts, Court of Federal Claims No: 20–1076V
84. Linda Schweder, Shelby Township, Michigan, Court of Federal Claims No: 20–1077V
85. Diane Bushemi, Chicago, Illinois, Court of Federal Claims No: 20–1083V
86. Stacy Nicole Willis, Southaven, Mississippi, Court of Federal Claims No: 20–1085V
87. Laura Papa, St. Charles, Illinois, Court of Federal Claims No: 20–1086V
88. Jennie Fields, Boston, Massachusetts, Court of Federal Claims No: 20–1087V
89. Kimberleigh Peet, Olathe, Kansas, Court of Federal Claims No: 20–1088V
90. Amy Bandolik, Vails Gate, New York, Court of Federal Claims No: 20–1090V
91. Sharon Miller, Chicago Heights, Illinois, Court of Federal Claims No: 20–1091V
92. Paula Johnson, San Antonio, Texas, Court of Federal Claims No: 20–1092V
93. Sylvia Rowe, Rochester, New York, Court of Federal Claims No: 20–1093V
94. Renee Clark Pierson on behalf of The Estate of David Pierson, Deceased, Metairie, Louisiana, Court of Federal Claims No: 20–1094V
95. Claudia Mercado, El Centro, California, Court of Federal Claims No: 20–1095V
96. Lori Kaiser, Boston, Massachusetts, Court of Federal Claims No: 20–1096V
97. Elenora Plavnik, Langhorne, Pennsylvania, Court of Federal Claims No: 20–1097V
98. Katelynn McGuire, Stafford, Texas, Court of Federal Claims No: 20–1098V
99. Stephen Peka, St. Cloud, Minnesota, Court of Federal Claims No: 20–1099V
100. John Banks, San Antonio, Texas, Court of Federal Claims No: 20–1100V
101. Maureena Walker, Blue Ash, Ohio, Court of Federal Claims No: 20–1101V
102. Kimberly Wirtz, Olympia, Washington, Court of Federal Claims No: 20–1103V
103. Nakia Copeland, Boston, Massachusetts, Court of Federal Claims No: 20–1104V
104. Stephanie Scott, New York, New York, Court of Federal Claims No: 20–1105V
105. Mario Castillo, Rich Creek, Virginia, Court of Federal Claims No: 20–1106V
106. Ashley Gibson Long, Dublin, Georgia, Court of Federal Claims No: 20–1107V
107. Crystal Smith, Aiken, South Carolina, Court of Federal Claims No: 20–1109V
108. Evan Hirsch, Waupaca, Wisconsin, Court of Federal Claims No: 20–1110V

[FR Doc. 2020–20850 Filed 9–21–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0990–xxxx]

Agency Information Collection Request. 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before November 23, 2020.

ADDRESSES: Submit your comments to *Sherrette.Funn@hhs.gov* or by calling (202) 795–7714.

FOR FURTHER INFORMATION CONTACT: When submitting comments or requesting information, please include the document identifier 0990–New–60D, and project title for reference, to Sherrette Funn, the Reports Clearance Officer, *Sherrette.funn@hhs.gov,* or call 202–795–7714.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: Incident Report Form.

Type of Collection: 0990–NEW/Office of the Assistant Secretary for Health, Office for Human Research Protections.

Abstract: The Office of the Assistant Secretary for Health, Office for Human Research Protections is requesting approval for three years of a new information collection on the OHRP Incident Report Form. This form will facilitate prompt reporting of specific human subject protection incidents to

OHRP by organizations and institutions conducting or reviewing human subject research, and will provide a simplified standardized format for the reports. The information collected on the form will help OHRP to ensure the safety of human research subjects involved in non-exempt HHS-conducted or—supported research and to ensure that the research is conducted in accordance with the HHS Protection of Human Subjects regulations at 45 CFR part 46.

Likely Respondents: Institutions or organizations conducting non-exempt HHS-conducted or—supported human subjects research.

ANNUALIZED BURDEN HOUR TABLE

Forms	Respondents	Responses per respondent	Number of responses	Hours per response	Total burden hours
Incident Report Form	500	1	500	0.5	250
Incident Report Form	200	2	400	0.5	200
Incident Report Form	100	3	300	0.5	150
Total					600

Dated: September 16, 2020.

Sherrette A. Funn,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 2020–20832 Filed 9–21–20; 8:45 am]

BILLING CODE 4150–36–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; 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: Heart, Lung, and Blood Initial Review Group; NHLBI Mentored Patient-Oriented Research Review Committee.

Date: October 29–30, 2020.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20814 (Virtual Meeting).

Contact Person: Stephanie Johnson Webb, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 208–V, Bethesda, MD 20892, (301) 827–7992, *stephanie.webb@nih.gov.*

(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: September 16, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–20822 Filed 9–21–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; 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: National Institute of Neurological Disorders and Stroke Initial Review Group; Neurological Sciences and Disorders A.

Date: October 19–20, 2020.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, NSC Building, 6001 Executive Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Natalia Strunnikova, Ph.D., Scientific Review Officer, Scientific Review Branch Division of Extramural Research, NINDS/NIH/DHHS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892, (301) 402–0288, *natalia.strunnikova@nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel (TBI CWOW) Review Meeting.

Date: November 12–13, 2020.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, NSC Building, 6001 Executive Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Natalia Strunnikova, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892, (301) 402–0288 *natalia.strunnikova@nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; NINDS Research Program Award (R35 Clinical Trial Optional).

Date: November 12–13, 2020.

Time: 9:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, NSC Building, 6001 Executive Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Marilyn Moore-Hoon, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, National Institute of Neurological Disorders and Stroke, Bethesda, MD 20892, 301 827–9087, *mooremar@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: September 16, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–20864 Filed 9–21–20; 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 Topics in Aging and Adult Psychopathology.
Date: October 16, 2020.
Time: 12:00 p.m. to 1:00 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: Maribeth Champoux, Ph.D., BA, MS, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7848, Bethesda, MD 20892, (301) 594–3163, *champoum@csr.nih.gov*.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Auditory System Study Section.
Date: October 21–22, 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: Brian H Scott, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–7490, *brianscott@mail.nih.gov*.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Genomics, Computational Biology and Technology Study Section.
Date: October 21–22, 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: Baishali Maskeri, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–2864, *maskerib@mail.nih.gov*.

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Modeling and Analysis of Biological Systems Study Section.
Date: October 21–22, 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: Craig Giroux, Ph.D., Scientific Review Officer, BST IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5150, Bethesda, MD 20892, 301–435–2204, *girouxcn@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel RFA Panel: Research Training in the Biology of the Inner Ear.
Date: October 21–22, 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: Brian H Scott, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–7490, *brianscott@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Bioengineering Sciences and Technologies.
Date: October 21–22, 2020.
Time: 9:30 a.m. to 6:30 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: Nitsa Rosenzweig, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4152, MSC 7760, Bethesda, MD 20892, (301) 404–7419, *rosenzweign@csr.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: September 16, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–20823 Filed 9–21–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; 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: National Institute on Drug Abuse Special Emphasis Panel Device-Based Treatments for Substance Use Disorders (UG3/UH3) (Clinical Trial Optional).
Date: October 19, 2020.
Time: 1:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet, Avenue Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Ivan K. Navarro, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, Division of Extramural Research, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, 3 WFN 9th Floor, MSC 6021, Bethesda, MD 20892, (301) 827–5833, *ivan.navarro@nih.gov*.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel NIDA Translational Avant-Garde Award for Development of Medication to Treat Substance Use Disorders (UG3/UH3, Clinical Trial Optional).
Date: October 26, 2020.
Time: 1:00 p.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Ivan K. Navarro, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, Division of Extramural Research, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, 3 WFN 9th Floor, MSC 6021, Bethesda, MD 20892, (301) 827–5833, *ivan.navarro@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: September 16, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–20863 Filed 9–21–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy And Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel NIAID Investigator Initiated Program Project Applications (P01).

Date: October 21, 2020.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G42B, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Louis A. Rosenthal, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G42B, Bethesda, MD 20892–9834, (240) 669–5070, *rosenthalla@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 16, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–20862 Filed 9–21–20; 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; Arthritis and Connective Tissue.

Date: October 1, 2020.

Time: 4:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Robert Gersch, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817, 301–867–5309, *robert.gersch@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Collaborative Applications: Clinical Studies of Mental Illness.

Date: October 16, 2020.

Time: 11:00 a.m. to 12:00 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: Benjamin G. Shapero, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, Bethesda, MD 20892, (301) 402–4786, *shaperobg@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Topics: Vision Imaging, Bioengineering and Low Vision Technology Development.

Date: October 20–21, 2020.

Time: 8:00 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: 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: Cell Biology Integrated Review Group; Membrane Biology and Protein Processing Study Section.

Date: October 20, 2020.

Time: 10:00 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: Kevin Czaplinski, Ph.D., Scientific Review Officer, Center for Scientific Review, 6901 Rockledge Drive, Bethesda, MD 20892, 301–435–0000, *czaplinskik2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; The Blood-Brain Barrier, Neurovascular System and CNS Therapeutics.

Date: October 20, 2020.

Time: 10:00 a.m. to 4:00 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: Linda MacArthur, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4187, Bethesda, MD 20892, 301–537–9986, *macarthurlh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 20–153: NIH Science Education Partnership Award (SEPA) (R25—Clinical Trial Not Allowed).

Date: October 20–21, 2020.

Time: 10:00 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: Jonathan Arias, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7840, Bethesda, MD 20892, 301–435–2406, *ariasj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Exploration of Antimicrobial Therapeutics and Resistance.

Date: October 20, 2020.

Time: 2:00 p.m. to 4:00 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: Guangyong Ji, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3211, MSC 7808, Bethesda, MD 20892, 301–435–1146, *jig@csr.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Macromolecular Structure and Function B Study Section.

Date: October 21–22, 2020.

Time: 8:00 a.m. to 5:00 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: C–L Albert Wang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146,

MSC 7806, Bethesda, MD 20892, 301–435–1016, *wangca@csr.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: September 16, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–20825 Filed 9–21–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Allergy, Immunology, and Transplantation Research Committee.

Date: October 15–16, 2020.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G31B, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: James T. Snyder, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G31B, Bethesda, MD 20892–9834 (240) 669–5060, *james.snyder@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 16, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–20861 Filed 9–21–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; 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 Center for Advancing Translational Sciences Special Emphasis Panel NTU.

Date: October 14, 2020.

Time: 1:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Center for Advancing Translational Sciences, National Institutes of Health, 6701 Democracy Boulevard, Room 1078, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Rahat (Rani) Khan, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Advancing Translational Sciences, National Institutes of Health, 6701 Democracy Boulevard, Room 1078, Bethesda, MD 20892, 301–594–7319, *khanr2@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: September 16, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–20824 Filed 9–21–20; 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 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: National Heart, Lung, and Blood Institute Special Emphasis Panel; STIMULATE–2: T4 Implementation Research for HLBS Diseases and Disorders (R61/R33).

Date: October 22, 2020.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20814 (Virtual Meeting).

Contact Person: Susan Wohler Sunnarborg, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National, Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 208–Z, Bethesda, MD 20892, (301) 827–7987, *susan.sunnarborg@nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Technologies For Independent Living.

Date: October 23, 2020.

Time: 10:00 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20814 (Virtual Meeting).

Contact Person: Michael P. Reilly, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 208–Z, Bethesda, MD 20892, (301) 827–7975, *reillymp@nhlbi.nih.gov.*

(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: September 16, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–20860 Filed 9–21–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0073]

Agency Information Collection Activities: Notice of Detention

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection 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 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and must be submitted (no later than November 23, 2020) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0073 in the subject line and the agency name. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Email:* Submit comments to: *CBP_PRA@cbp.dhs.gov.*

(2) *Mail:* Submit written comments to CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE, 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Notice of Detention.

OMB Number: 1651–0073.

Form number: None.

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Abstract: Customs and Border Protection (CBP) may detain merchandise when it has reasonable suspicion that the subject merchandise may be inadmissible but requires more information to make a positive determination. If CBP decides to detain merchandise, a Notice of Detention is sent to the importer or to the importer's broker/agent no later than 5 business days from the date of examination. The Notice must state that merchandise has been detained, the reason for the detention, the anticipated length of the detention, the nature of the tests or inquires to be conducted, and the nature of any information that could be supplied to CBP and possibly accelerate the disposition of the detention. The recipient of this notice may respond by providing information to CBP in order to facilitate the determination for admissibility or may ask for an extension of time to bring the merchandise into compliance. Notice of Detention is authorized by 19 U.S.C. 1499 and provided for in 19 CFR 151.16, 133.21, 133.25, and 133.43.

Estimated Number of Respondents: 1,350.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 1,350.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 2,700.

Dated: September 17, 2020.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2020–20896 Filed 9–21–20; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1169]

Certain Fish-Handling Pliers and Packaging Thereof Issuance of a Corrected General Exclusion Order

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to issue a corrected general exclusion order (''GEO'') in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–5468. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on July 29, 2019, based on a complaint filed by complainant United Plastic

Molders, Inc. of Jackson, Mississippi (''UPM''). 84 FR 36620–21 (July 29, 2019). The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain fish-handling pliers and packaging thereof by reason of infringement of claims 1–11 of U.S. Patent No. 6,256,923 and U.S. Trademark Registration Nos. 4,980,923 (''the '923 mark'') and 5,435,944 (''the '944 mark''). *Id.* The complaint further alleged that a domestic industry exists. *Id.* The Commission's notice of investigation named as respondents Yixing Five Union Industry & Trade Co., Ltd. of Yixing City, China; NOEBY Fishing Tackle Co., Ltd. of Weihai, China (''NOEBY''); Weihai iLure Fishing Tackle Co., Ltd. of Weihai, China; SamsFX of Yangzhou City, China (''SamsFX''); and Weihai Lotus Outdoor Co., Ltd. of Weihai, China. *Id.* The Office of Unfair Import Investigations is participating in the investigation. *Id.*

On August 10, 2020, the Commission determined that UPM has shown a violation of section 337(a)(1)(C), 19 U.S.C. 1337(a)(1)(C), by NOEBY and SamsFX with respect to the '923 and '944 marks, and determined to issue a GEO with respect to those trademarks. That GEO, however, inadvertently contained language referring to the duration of a patent. The Commission has determined to issue a corrected GEO that removes that language.

The Commission vote for these determinations took place on September 16, 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).

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 Complainant(s) 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).

By order of the Commission.

Issued: September 17, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–20886 Filed 9–21–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1465 (Final)]

4th Tier Cigarettes From Korea; Revised Schedule of the Final Phase of Antidumping Duty Investigation

AGENCY: United States International Trade Commission.

ACTION: Notice.

DATES: August 19, 2020.

FOR FURTHER INFORMATION CONTACT: Nitin Joshi ((202) 708–1669), 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 this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: On July 15, 2020, the Commission established a schedule for the conduct of the final phase of the antidumping investigation (85 FR 46718, August 3, 2020). Subsequently, the Department of Commerce (''Commerce'') postponed the deadline for issuing the final determination to December 4, 2020 (85 FR 51011, August 19, 2020). The Commission, therefore, is revising its schedule to conform with Commerce's new schedule.

The Commission's revised dates in the schedule are as follows: The prehearing staff report will be placed in the nonpublic record on November 16, 2020; the deadline for filing prehearing briefs is November 23, 2020; requests to appear at the hearing should be filed on or before November 25, 2020; a prehearing conference is on December 1, 2020, if deemed necessary; the hearing is on Thursday, December 3, 2020 at 9:30 a.m.; the deadline for filing posthearing briefs and for written statements from any person who has not entered an appearance as a party is December 10, 2020; final release of information is on December 29, 2020; and final party comments are due on December 31, 2020.

For further information concerning the conduct of this phase of the investigation, 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).

Authority: This investigation is 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: September 16, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–20833 Filed 9–21–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1082 (Modification)]

Certain Gas Spring Nailer Products and Components Thereof; Institution of a Modification Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to institute a modification proceeding in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–2310. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on November 20, 2017, based on a complaint filed on behalf of Kyocera

Senco Brands Inc.[1] (''Kyocera'' or ''Requester'') of Cincinnati, Ohio. 82 *FR* 55118–19 (Nov. 20, 2017). The complaint, as amended and supplemented, alleged 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 gas spring nailer products and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 8,387,718 (''the '718 patent''); 8,011,547 (''the '547 patent''); 8,267,296 (''the '296 patent''); 8,27,297 (''the '297 patent''); 8,286,722 (''the '722 patent''); and 8,602,282 (''the '282 patent'').[2] The complaint further alleged the existence of a domestic industry. The Commission's notice of investigation named as a respondent Hitachi Koki U.S.A., Ltd.[3] (''Koki'') of Braselton, Georgia. The Office of Unfair Import Investigations did not participate in the investigation. The '547 patent was terminated from the investigation and, prior to the evidentiary hearing, the parties stipulated that the '718 patent is the only patent at issue since no violation could be shown as to the '296, '297, '722, and '282 patents. *See* Order No. 28 (Oct. 24, 2018); *see also* Joint Stipulation Regarding Order No. 28 (Oct. 26, 2018).

On March 5, 2020, the Commission issued its final determination finding a violation of section 337 based on infringement, satisfaction of the domestic industry requirement, and non-invalidity with respect to the '718 patent. 85 *FR* 14244–46 (Mar. 11, 2020). The Commission issued a limited exclusion order (''LEO'') directed against Koki's infringing products, and a cease and desist order (''CDO'') directed against Koki. *Id.* On July 1, 2020, Koki filed an appeal to the U.S. Court of Appeals for the Federal Circuit which is currently pending (Appeal No. 20–2050).

On June 30, 2020, U.S. Customs and Border Protection issued a ruling, pursuant to 19 CFR part 177, that a redesign of Koki's is outside of the scope of the LEO issued in the investigation. In response, on August 17, 2020, Kyocera petitioned for institution of a modification proceeding, requesting the Commission to determine if the redesign is outside of the scope of the LEO and CDO and to modify the orders to specify the status of the redesigns. On August 27, 2020, Koki filed an opposition to the petition.

The Commission has determined that Requester's petition complies with the requirements for institution of a modification proceeding under Commission Rule 210.76(a)(1) (19 CFR 210.76(a)(1)) to determine whether Koki's redesigned, accused products infringe claims 1, 10, or 16 of the '718 patent and whether the order should be modified to specify that. Accordingly, the Commission has determined to institute a modification proceeding and refer Requester's petition to the Chief Administrative Law Judge as detailed in the accompanying Order. The assigned ALJ will make findings, may request briefing, and will issue a recommended determination (''RD'') to the Commission at the earliest practicable time after the date of publication of this notice in the **Federal Register**. The Commission will issue a modification opinion within 60 days of receipt of the ALJ's RD unless the Commission otherwise orders. The following entities are named as parties to the proceeding: (1) Kyocera and (2) Koki.

The Commission vote for this determination took place on September 16, 2020.

The authority for the Commission's determination is contained in sections 335 and 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1335, 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: September 16, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–20842 Filed 9–21–20; 8:45 am]

BILLING CODE 7020–02–P

[1] During the investigation, Kyocera Senco Brands Inc. changed its name to Kyocera Senco Industrial Tools, Inc. *See* Final Initial Determination at 3 n.3 (citing Kyocera's Initial Post-Hearing Br. at 4 n.3).

[2] The Commission terminated the '547 patent from the investigation in June 2018. *See* Order No. 13 (June 4, 2018), unreviewed by Comm'n Notice (June 22, 2018).

[3] During the investigation, Hitachi Koki U.S.A., Ltd. changed its name to Koki Holdings America Ltd. *See* Hitachi's Initial Post-Hearing Br. at 3.

INTERNATIONAL TRADE COMMISSION

Submission for OMB Review; Comment Request; Notice of Request for Extension of Previously Approved Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: United States International Trade Commission.

ACTION: 60-Day notice and request for comments.

SUMMARY: This notice announces the intention of the U.S. International Trade Commission (Commission) to request a three-year extension, under the Paperwork Reduction Act of 1995 (the Act), of the current generic clearance for the Collection of Qualitative Feedback on Agency Service Delivery that the Office of Management and Budget (OMB) previously approved. This collection was developed as part of a Federal Government-wide effort to streamline the process for seeking feedback from the public on service delivery. The current generic survey clearance is assigned OMB Control No. 3117–0222; it will expire on November 30, 2020. The Commission requests comments concerning the proposed information collections under section 3506(c)(2)(A) of the Act; this notice describes such comments in greater detail in the **SUPPLEMENTARY INFORMATION** section.

DATES: To assure that the Commission will consider your comments, it must receive them no later than 60 days after publication of this notice in the **Federal Register**.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW, Washington, DC. All written comments should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436 and filed electronically on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: You may obtain copies of supporting documents from Zachary Coughlin (*zachary.coughlin@usitc.gov* or 202–205–3435). Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. You may also obtain general information concerning the Commission by accessing its website (*https://www.usitc.gov*).

SUPPLEMENTARY INFORMATION:

Written Comments

You may submit comments, identified by docket number MISC–034. All submissions should be addressed to the Secretary and must conform to the provisions of section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8). Section 201.8 and the Commission's Handbook on Filing Procedures require that interested parties file documents electronically on or before the filing deadline. Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://*

edis.usitc.gov). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Request for Comments

The Commission solicits comments as to: (1) Whether the proposed information collection is necessary for the proper performance of the Commission's functions, including whether the information will have practical utility; (2) the accuracy of the Commission's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used; (3) the quality, utility, clarity, and design of the information to be collected; and (4) minimization of the burden of the proposed information collection on those who are to respond (including through the use of appropriate automated, electronic, mechanical, or other technological forms of information technology (*e.g.,* permitting electronic submission of responses)). To the extent appropriate, please cite to specific experiences that your firm has had with other governmental surveys and data collections.

Summary of the Proposed Information Collections

(1) Need for the Proposed Information Collections

The proposed information collection activity provides a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner. This qualitative feedback provides useful insights on perceptions and opinions of customers and stakeholders. The feedback helps the Commission gain understanding into customer or stakeholder experiences and expectations and provides an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections allow for ongoing, collaborative and actionable communications between the Commission and its customers and stakeholders and contribute directly to the improvement of program management.

(2) Description of the Information To Be Collected

The solicitation of feedback will target areas such as: 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. Feedback collected under this generic clearance provides useful information, but it does not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential nonresponse bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. As a general matter, information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature.

The Agency will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are noncontroversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered will be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency;
- Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

(3) Estimated Burden of the Proposed Information Collection

The Commission estimates that information collections issued under the requested generic clearance will impose an average annual burden of 300 hours on 600 respondents.

No record keeping burden is known to result from the proposed collection of information.

By order of the Commission.

Issued: September 17, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–20873 Filed 9–21–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1014 and 1016 (Third Review)]

Polyvinyl Alcohol From China and Japan; Scheduling of Full Five-Year Reviews

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the antidumping duty orders on polyvinyl alcohol from China and Japan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

DATES: September 17, 2020.

FOR FURTHER INFORMATION CONTACT: Alejandro Orozco (202–205–3177), 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 reviews may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On July 6, 2020, the Commission determined that responses to its notice of institution of the subject

five-year reviews were such that full reviews should proceed (85 FR 42005, July 13, 2020); accordingly, full reviews are being scheduled pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's website.

Participation in the reviews 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 these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of these reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

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.

For further information concerning the conduct of these reviews 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, D, E, and F (19 CFR part 207).

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews 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 reviews will be placed in the nonpublic record on January 14, 2021, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the reviews beginning at 9:30 a.m. on February 2, 2021. 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 January 26, 2021. 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 February 1, 2021, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 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 to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is January 25, 2021. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is February 10, 2021. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before February 10, 2021. On March 4, 2021, 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 March 8, 2021, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 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 section 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 sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (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 reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: September 17, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–20919 Filed 9–21–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Shingled Solar Modules, Components Thereof, and Methods for Manufacturing the Same, DN 3491;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the

Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.*

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of The Solaria Corporation on September 15, 2020. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain shingled solar modules, components thereof, and methods for manufacturing the same. The complaint names as respondents: Canadian Solar Inc. of Canada; and Canadian Solar (USA) Inc. of Walnut Creek, CA. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond to prevent further injury to the domestic industry of Complainant relating to the Asserted Patents during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3491'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: September 16, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–20834 Filed 9–21–20; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–415 and 731–TA–933–934 (Third Review)]

Polyethylene Terephthalate (PET) Film, Sheet, and Strip From India and Taiwan

Determination

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the antidumping duty and countervailing duty orders on polyethylene terephthalate film, sheet, and strip from India and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2]

Background

The Commission instituted these reviews on July 1, 2019 (84 FR 31343) and determined on October 4, 2019 that it would conduct full reviews (84 FR 67960, December 12, 2019). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on March 25, 2020 (85 FR 16957). Subsequently, the Commission cancelled its previously scheduled hearing following a request on behalf of the domestic interested parties (85 FR 43602, July 17, 2020).

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). The Commission determined that these reviews were extraordinarily complicated and extended the review period by up to 90 days. It completed and filed its determinations in these reviews on September 17, 2020. The views of the Commission are contained in USITC Publication 5117 (September 2020), entitled *Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India and Taiwan: Investigation Nos. 701–TA–415 and 731–TA–933–934 (Third Review).*

By order of the Commission.

Issued: September 17, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–20918 Filed 9–21–20; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Chair Jason E. Kearns not participating.

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1155]

Certain Luxury Vinyl Tile and Components Thereof; Issuance of a General Exclusion Order and Cease and Desist Orders; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has affirmed a summary determination of violation of section 337 with respect to certain defaulting respondents and has determined to issue a general exclusion order (''GEO'') denying entry of certain infringing luxury vinyl tile and components thereof as well as cease and desist orders (''CDOs'') against certain of the defaulting respondents. The investigation is terminated.

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 16, 2019, the Commission instituted this investigation based on a complaint filed by Mohawk Industries, Inc. of Calhoun, Georgia; Flooring Industries Ltd. Sarl of Bertrange, Luxembourg; and IVC US Inc. of Dalton, Georgia (collectively, ''Complainants''). 84 FR 22161 (May 16, 2019). The complaint, as supplemented, alleges a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337'') in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain luxury vinyl tiles by reason of infringement of certain claims of U.S. Patent Nos. 9,200,460 (''the '460 patent''); 10,208,490 (''the '490 patent''); and 10,233,655 (''the '655 patent'') (collectively, ''the Asserted Patents''). *Id.* The complaint further alleges that a domestic industry exists. *Id.* The Commission's notice of investigation names forty-five respondents, including: ABK Trading Corp. of Katy, Texas (''ABK''); Aurora Flooring LLC of Kennesaw, Georgia (''Aurora''); Changzhou Runchang Wood Co., Ltd. of Jiangsu, China (''Runchang''); Go-Higher Trading (Jiangsu) Co., Ltd. of Jiangsu, China (''Go-Higher''); Jiangsu Divine Building Technology Development Co. Ltd. Jiangsu, China (''Divine''); Jiangsu Lejia Plastic Co. Ltd. of Jiangsu, China (''Lejia''); JiangSu Licheer Wood Co., Ltd. of Jiangsu, China (''Licheer''); Maxwell Flooring Distribution LLC of Houston, Texas (''Maxwell Flooring''); Mr. Hardwood Inc. of Acworth, Georgia (''Mr. Hardwood''); and Sam Houston Hardwood Inc. of Houston, Texas (''Sam Houston'') (collectively, ''Defaulting Respondents''). *Id.* The Office of Unfair Import Investigations (''OUII'') is also participating in the investigation. *Id.*

The Commission previously terminated the investigation as to thirty-five respondents based on settlement, consent order, or partial withdrawal of the complaint. *See* Order No. 14 (Sept. 26, 2019), *unreviewed by,* Notice (Oct. 17, 2019); Order Nos. 15–21 (Sept. 27, 2019 for all), *unreviewed by,* Notice (Oct. 17, 2019); Order Nos. 23–25 (Oct. 2, 2019 for all), *unreviewed by,* Notice (Oct. 23, 2019); Order No. 27 (Oct. 9, 2019), *unreviewed by,* Notice (Nov. 6, 2019); Order No. 26 (Oct. 9, 2019)), *unreviewed by,* Notice (Nov. 8, 2019); Order No. 30 (Oct. 25, 2019), *unreviewed by,* Notice (Nov. 21, 2019); Order No. 34 (Nov. 7, 2019), *unreviewed by,* Notice (Dec. 11, 2019); Order No. 35 (Jan. 24, 2020), *unreviewed by,* Notice (Feb. 25, 2020).

On November 21, 2019, the Commission found respondent Go-Higher in default. *See* Order No. 31 (Oct. 25, 2019), *unreviewed by,* Notice (Nov. 21, 2019). On November 22, 2019, the Commission found an additional eight respondents in default: ABK; Aurora; Divine; Lejia; Licheer; Maxwell Flooring; Mr. Hardwood; and Sam Houston. *See* Order No. 32 (Oct. 30, 2019), *unreviewed by,* Notice (Nov. 22, 2019). On November 25, 2019, the Commission found respondent Runchang in default. *See* Order No. 33 (Oct. 30, 2019), *unreviewed by,* Notice (Nov. 25, 2019).

On January 15, 2020, Complainants filed a motion for summary determination that Complainants have satisfied the domestic industry requirement and of a violation of section 337 by the Defaulting Respondents. Complainants filed supplements to their summary determination motion on January 23, 2020, February 11, 2020, and February 19, 2020. On February 12, 2020, OUII filed a response to Complainants' motion. On May 14, 2020, OUII filed a supplemental response.

On May 15, 2020, the ALJ issued Order No. 36 granting the motion for summary determination and finding a violation of section 337 by the Defaulting Respondents. The ALJ recommended that the Commission issue a GEO prohibiting entry of luxury vinyl tiles that infringe the asserted claims of the Asserted Patents and CDOs against the five domestic Defaulting Respondents: ABK, Aurora, Maxwell Flooring, Mr. Hardwood, and Sam Houston. The ALJ also recommended setting a bond of $0.08 per square foot of luxury vinyl tile product and components thereof imported during the period of Presidential review. *Id.* No party petitioned for review of the ID.

On June 30, 2020, the Commission determined to review the ID in part. 85 FR 40683 (July 7, 2020). On review, the Commission affirmed the finding of violation of section 337 by the Defaulting Respondents' importation of luxury vinyl tile and components thereof that infringe one or more claims of the Asserted Patents. *Id.* Further, the Commission determined to review and, on review, to take no position on the ID's findings regarding the economic prong of the domestic industry requirement under subsection 337(a)(3)(B) (19 U.S.C. 1337(a)(3)(B)) with respect to the '460 patent. *Id.* The Commission also determined to review the ID's findings regarding a domestic industry for the '490 and '655 patents, and on review, to clarify that the Commission did not intend to imply that the investments already made with respect to those patents are not significant or could not be used to show the existence of a domestic industry under section 337(a)(3). *Id.* The Commission further determined to review the ID's findings as to two products from non-parties, *i.e.,* the Quickstyle and Uniflor Aqua products. *Id.* The Notice also requested written submissions on remedy, public interest, and bonding. *See id.*

On July 15, 2020, Complainants and OUII submitted briefs on remedy, public interest, and bonding supporting the ALJ's recommendations. On July 22, 2020, OUII submitted a reply to Complainants' response. No other submissions were filed in response to the Notice.

As noted above, the Commission affirms the ID's finding that there is a violation of section 337 with respect to Defaulting Respondents. Moreover, the Commission finds that the statutory requirements for issuance of a GEO under section 337(d)(2) are met with respect to the Defaulting Respondents. *See* 19 U.S.C. 1337(d)(2). The Commission also finds that issuance of CDOs against the five domestic Defaulting Respondents is appropriate under 337(f)(1). *See* 19 U.S.C. 1337(f)(1). In addition, the Commission finds that the public interest factors do not preclude issuance of the requested relief. *See* 19 U.S.C. 1337(d)(1), (f)(1).

The Commission therefore has determined that the appropriate remedy in this investigation is: (1) A GEO prohibiting the unlicensed entry of certain luxury vinyl tile and components thereof that infringe one or more of claims 7–8, 13, 15–17, 20–23, and 30 of the '460 patent, claims 1–6, 8, 10–11, 13–16, and 18 of the '490 patent, and claims 1–4, 6–16, 18, and 20–26 of the '655 patent; and (2) CDOs against ABK, Aurora, Maxwell Flooring, Mr. Hardwood, and Sam Houston. The Commission has also determined that the bond during the period of Presidential review shall be in the amount of $0.08 per square foot of imported luxury vinyl tile and components thereof that are subject to the GEO and CDOs. *See* 19 U.S.C. 1337(j). The Commission has further determined to vacate the findings under review to the extent the ID adjudicates infringement of the Asserted Patents as to non-respondents.

The Commission's orders were delivered to the President and to the United States Trade Representative on the day of their issuance. The investigation is 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 Complainant complete service for any party 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 September 16, 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: September 16, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–20843 Filed 9–21–20; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

[OMB Number 1125–0005]

Agency Information Collection Activities; Proposed Collection; Comments Requested; Notice of Entry of Appearance as Attorney or Representative Before the Board of Immigration Appeals

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Executive Office for Immigration Review (EOIR), 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 an additional days until October 22, 2020.

FOR FURTHER INFORMATION CONTACT: 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.

If you need a copy of the proposed information collection instrument with instructions or additional information, please contact Lauren Alder Reid, Assistant Director, Office of Policy, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2500, Falls Church, VA 22041, telephone: (703) 305–0289.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning

the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and/or
—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:* Revision and extension of a currently approved collection.

(2) *The Title of the Form/Collection:* Notice of Entry of Appearance as Attorney or Representative Before the Board of Immigration Appeals.

(3) *The agency form number:* EOIR–27 (OMB #1125–0005).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Attorneys or representatives notifying the Board of Immigration Appeals (Board) that they are representing a party in proceedings before the Board. Other: None. Abstract: This information collection is necessary to allow an attorney or representative to notify the Board that he or she is representing a party before the Board.

(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 36,299 respondents will complete each form within approximately 6 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 3,630 annual burden hours.

If additional information is required contact: Melody D. Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405B, Washington, DC 20530.

Dated: September 16, 2020.

Melody D. Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2020–20818 Filed 9–21–20; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[OMB Number 1110–0005]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension Without Change, of a Currently Approved Collection; Age, Sex, Race, and Ethnicity of Persons Arrested Under 18 Years of Age; Age, Sex Race, and Ethnicity of Persons Arrested 18 Years of Age and Over

AGENCY: Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division, will be submitting the following information collection request to the Office of Management and Budget for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 30 days until November 23, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Federal Bureau of Investigation, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *The Title of the Form/Collection:* Age, Sex, Race, and Ethnicity of Persons Arrested Under 18 Years of Age; and Age, Sex, Race, and Ethnicity of Persons Arrested 18 Years of Age and Over.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is 1–708 and 1–708a. The applicable component within the Department of Justice is the Criminal Justice Information Services Division, in the Federal Bureau of Investigation.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Federal, state, county, city, and tribal law enforcement agencies. Abstract: Under the Uniform Federal Crime Reporting Act, 34 U.S.C. 41303; the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, 34 U.S.C. 41309 ; and 28 CFR 0.85(f), FBI, General Functions, this collection requests the number of arrests from federal, state, county, city, and tribal law enforcement agencies in order for the Federal Bureau of Investigation Uniform Crime Reporting Program to obtain ASRE data in furtherance of serving as the national clearinghouse for the collection and dissemination of criminal statistics and to publish this data in *Crime in the United States.*

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 8,054 law enforcement agency respondents that submit monthly for a total of 88,637 responses; calculated estimates indicate 12 minutes per response for form 1–708a and 15 minutes per response for form 1–708.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are approximately 39,886 hours, annual burden, associated with this information collection.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: September 16, 2020.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2020–20816 Filed 9–21–20; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[OMB Number 1110–0008]

Agency Information Collection Activities; Proposed Collection Comments Requested; Extension Without Change, of a Currently Approved Collection; Monthly Return of Arson Offenses Known to Law Enforcement

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division, will be submitting the following information collection request to the Office of Management and Budget for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 30 days until October 22, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Federal Bureau of Investigation, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *The Title of the Form/Collection:* Monthly Return of Arson Offenses Known to Law Enforcement.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is 1–725. The applicable component within the Department of Justice is the Criminal Justice Information Services Division, in the Federal Bureau of Investigation.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Federal, state, county, city, and tribal law enforcement agencies. Abstract: Under 34 U.S.C. 41303, Uniform Federal Crime Reporting Act; the Anti-Arson Act of 1982; and Federal Bureau of Investigation, General Functions, 28 CFR 0.85(f), this collection requests the number of reported arson offenses from federal, state, county, city, and tribal law enforcement agencies in order for the Federal Bureau of Investigation Uniform Crime Reporting Program to serve as the national clearinghouse for the collection and dissemination of arson data and to publish these statistics in the Preliminary report and *Crime in the United States.*

5 *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 8,054 law enforcement agency respondents that submit monthly for a total of 88,637 responses with an estimated response time of nine minutes per response.

6 *An estimate of the total public burden (in hours) associated with the collection.* There are approximately 13,296 hours, annual burden, associated with this information collection.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: September 16, 2020.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2020–20817 Filed 9–21–20; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On September 14, 2020, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of Columbia in *United States* v. *Daimler AG and Mercedes-Benz USA, LLC,* Civil Action No. 1:20–cv–2564.

The United States filed a complaint under Clean Air Act Sections 204 and 205, 42 U.S.C. 7523 and 7524, and regulations promulgated under Clean Air Act Section 202, 42 U.S.C. 7521, and codified at 40 CFR part 86, seeking injunctive relief and civil penalties for the Defendants' sale of over 250,000 diesel vans and passenger cars that the United States contends contain undisclosed auxiliary emission control devices and ''defeat devices'' installed in the vehicles' complex emission control systems to circumvent emissions testing. The United States simultaneously lodged a consent decree that would settle these claims and claims in a separate civil complaint filed by the California Resources Board (CARB) on the same day.

Under the proposed decree, the Defendants will have to (1) recall and repair, at no cost to consumers, at least 85 percent of the affected vans and at least 85 percent of the affected passenger cars to remove the defeat devices and bring the vehicles into compliance with applicable emissions standards; (2) perform a project to mitigate excess nitrogen oxides emitted from the affected vehicles in all states except the State of California; (3) pay $110,000 to CARB to fund mitigation projects in California; (4) reform corporate compliance measures to try to prevent future emissions cheating; and (5) pay an $875 million civil penalty. Of this amount, the Defendants must pay $743,750,000 to the United States and $131,250,000 to CARB.

The publication of this notice opens a period for public comment on the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Daimler AG and Mercedes-Benz USA, LLC,* D.J. Ref. No. 90–5–2–1–11788. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed consent decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the proposed consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $37.00 (25 cents per page reproduction cost, excluding appendices) payable to the United States Treasury.

Lori Jonas,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2020–20866 Filed 9–21–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

On September 15, 2020, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Western District of Tennessee in the lawsuit entitled *United States and State of Tennessee* v. *Security Signals, Inc.,* Civil Action No. 2:20–cv–02689–JMP.

The Consent Decree resolves the United States and State of Tennessee's claims set forth in the Complaint against Security Signals, Inc. (''Defendant'') for injunctive relief and cost recovery under Sections 106 and 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'') and injunctive relief under Tenn. Code Ann §§ 68–212–206 and 68–212–227 relating to the release or threatened release of hazardous substances into the environment at Operable Unit Two (''OU2'') of the National Fireworks Superfund Alternative Site (the ''Site''), located in Cordova, Shelby County, Tennessee. Under the terms of the proposed Consent Decree, Defendant will reimburse $677,715 of the costs incurred by the United State Environmental Protection Agency (''EPA'') and Defendant will reimburse $3,827.26 of the costs incurred by the State of Tennessee (the ''State'') in connection with response actions at OU2 of the Site. Defendant also will reimburse EPA and the State for their future responses at OU2 and will perform the work set forth in the interim Record of Decision issued by EPA on September 30, 2014. The United States Department of Defense (''DOD'') is a settling federal agency. Under the terms of the Consent Decree, DOD will pay Defendant $1,304,985 towards a percentage of Defendant's past and future costs at OU2 and in contribution towards the payments that the Defendant is making for EPA's and the State's response costs.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and State of Tennessee* v. *Security Signals, Inc.,* D.J. Ref. No. 90–11–3–11315. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $12.25 (25 cents per page reproduction cost) payable to the United States Treasury. The document does not contain the exhibits and signature pages.

Lori Jonas,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2020–20908 Filed 9–21–20; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On September 15, 2020 the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Southern District of Iowa in the lawsuit entitled *United States* v. *Dico, Inc. and Titan Tire Corporation,* Civil Action No. 4:10–cv–00503–RP–RAW.

The United States filed this lawsuit under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''). The United States' complaint sought civil penalties and punitive damages against Dico, Inc. for violations of an EPA order at the Des Moines TCE Superfund Site and the recovery of the United States' past and future response costs at the Southern Iowa Mechanical (''SIM'') Site against Dico, Inc. and Titan Tire Corporation jointly and severally. The United States obtained judgments against Dico, Inc. for $1.62 million in civil penalties and $5.45 million in punitive damages, and against Dico, Inc. and Titan Tire Corporation jointly and severally for past response costs of $5.45 million and all future response costs at the SIM Site. The Consent Decree requires the Defendants and their ultimate parent company, Titan Tire International, Inc., jointly and severally, to pay $11.5 million to satisfy these judgments and a separate judgment obtained by the United States on March 29, 2000 in Case No. 4–95–cv–10289 (S.D. Iowa) against Dico, Inc. for $4.12 million in past response costs at the Des Moines TCE Site. The Consent Decree also requires Dico, Inc. to donate or convey the Dico Property to the City of Des Moines (the ''City'') for no more than $10.00. Under the Consent Decree, the City will undertake certain response actions at the Dico Property, including ongoing

operation and maintenance of the groundwater treatment remedy. EPA will also undertake certain response actions at the Site under the Consent Decree, including demolition of the remaining contaminated buildings, a removal action at the South Pond, and an upgrade to the groundwater treatment system. In exchange for these commitments, the United States agrees not to sue the Defendants, Titan International, Inc., and the City under CERCLA Sections 106 and 107.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Dico, Inc. and Titan Tire Corporation,* D.J. Ref. No. 90–11–3–09925. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, D.C. 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $34.50 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the appendices and signature pages, the cost is $9.50.

Susan M. Akers,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2020–20835 Filed 9–21–20; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Advisory Council on Employee Welfare and Pension Benefit Plans; Nominations for Vacancies

Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 88 Stat. 895, 29 U.S.C. 1142, provides for the establishment of an Advisory Council on Employee Welfare and Pension Benefit Plans (the Council), consisting of 15 members appointed by the Secretary of Labor (the Secretary) as follows:

- Three representatives of employee organizations (at least one of whom shall be a representative of an organization whose members are participants in a multiemployer plan);
- three representatives of employers (at least one of whom shall be a representative of employers maintaining or contributing to multiemployer plans);
- three representatives from the general public (one of whom shall be a person representing those receiving benefits from a pension plan); and
- one representative each from the fields of insurance, corporate trust, actuarial counseling, investment counseling, investment management, and accounting.

No more than eight members of the Council shall be members of the same political party.

Council members must be qualified to appraise the programs instituted under ERISA. Appointments are for three-year terms. The Council's prescribed duties are to advise the Secretary with respect to carrying out his functions under ERISA, and to submit to the Secretary, or his designee, related recommendations. The Council will meet at least four times each year.

The terms of five Council members expire at the end of this year. The groups or fields they represent are as follows:

(1) Employee organizations;
(2) employers;
(3) the general public;
(4) corporate trust; and
(5) investment management.

The Department of Labor is committed to equal opportunity in the workplace and seeks a broad-based and diverse Council.

If you or your organization wants to nominate one or more people for appointment to the Council to represent one of the groups or fields specified above, submit nominations to Christine Donahue, Council Executive Secretary, as email attachments to *donahue.christine@dol.gov* or by mail to U.S. Department of Labor, 200 Constitution Ave. NW, Suite N–5700, Washington, DC 20210. Nominations must be received on or before November 6, 2020. The Department will not consider nominations received after November 6, 2020. If sending electronically, please use an attachment in rich text, Word, or pdf format. Please allow three weeks for regular mail delivery to the Department of Labor. Nominations may be in the form of a letter, resolution, or petition signed by the person making the nomination or, in the case of a nomination by an organization, by an authorized representative of the organization. The Department of Labor encourages you to include additional supporting letters of nomination. The Department of Labor will not consider self-nominees who have no supporting letters.

Nominations, including supporting letters, should:

- State the person's qualifications to serve on the Council (including any particular specialized knowledge or experience relevant to the nominee's proposed Council position);
- state that the candidate will accept appointment to the Council if offered;
- include which of the five positions (representing groups or fields) you are nominating the candidate to fill;
- include the nominee's full name, work affiliation, mailing address, phone number, and email address;
- include the nominator's full name, work affiliation, mailing address, phone number, and email address;
- include the nominator's signature, whether sent by email or otherwise.

Please do not include any information that you do not want publicly disclosed.

The Department of Labor will contact nominees for information on their political affiliation and their status as registered lobbyists. Anyone currently subject to federal registration requirements as a lobbyist is not eligible for appointment. Nominees should be aware of the time commitment for attending meetings and actively participating in the work of the Council. Historically, this has meant a commitment of at least 20 days per year. The Department of Labor has a process for vetting nominees under consideration for appointment.

Signed at Washington, DC, this 16th day of September, 2020.

Jeanne Klinefelter Wilson,

Acting Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. 2020–20875 Filed 9–21–20; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0083]

Applied Research Laboratories of South Florida LLC. Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of Applied Research Laboratories of South Florida LLC., for expansion of recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before October 7, 2020.

ADDRESSES: Submit comments by any of the following methods:

Electronically: You may submit comments and attachments electronically at *https://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2007–0083, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693–2350. OSHA's TTY number is (877) 889–5627. Please note: While OSHA's docket office is continuing to accept and process submissions by regular mail, due to the COVID–19 pandemic, the Docket Office is closed to the public and not able to receive submissions to the rulemaking record by express delivery, hand delivery, and messenger service.

Instructions: All submissions must include the agency name and OSHA docket number (OSHA–2007–0083). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

Docket: To read or download comments or other material in the docket, go to *https://www.regulations.gov* or the OSHA Docket Office at the above address. All documents in the docket (including this **Federal Register** notice) are listed in the *https://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office.

Extension of comment period: Submit requests for an extension of the comment period on or before October 7, 2020 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

OSHA is providing notice that Applied Research Laboratories of South Florida LLC. (ARL), is applying for expansion of recognition as a NRTL. ARL requests the addition of two test standards to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides the final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including ARL, which details the NRTL's scope of recognition. These pages are available from the OSHA website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

ARL currently has one facility (site) recognized by OSHA for product testing and certification, with headquarters located at: Applied Research Laboratories of South Florida LLC, 5371 NW 161st Street, Miami, Florida 33014. A complete list of ARL's scope of recognition is available at *https://www.osha.gov/dts/otpca/nrtl/arl.html.*

II. General Background on the Application

ARL submitted an application, dated June 13, 2019 (OSHA–2007–0083–0055), to expand recognition to include two additional test standards. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

Table 1 lists the appropriate test standard found in ARL's application to expand for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN ARL'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
ANSI/UL 399 ..	Standard for Drinking-Water Coolers.
ANSI/UL 471 ..	Standard for Commercial Refrigerators and Freezers.

III. Preliminary Findings on the Application

ARL submitted an acceptable application for expansion of recognition. OSHA's review of the application file, and pertinent documentation, indicates ARL can meet the requirements prescribed by 29 CFR 1910.7 for expanding recognition to include the addition of these two test standards for NRTL testing and certification listed above. This preliminary finding does not constitute an interim or temporary approval of ARL's application.

OSHA welcomes public comment as to whether ARL meets the requirements of 29 CFR 1910.7 for expansion of recognition as a NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if the request is not adequately justified. To obtain or review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office at the above address. These materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2007–0083.

OSHA staff will review all comments to the docket submitted in a timely manner. After addressing the issues raised by these comments, the agency will make a recommendation to the Assistant Secretary for Occupational Safety and Health whether to grant ARL's application for expansion of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of the final decision in the **Federal Register**.

IV. Authority and Signature

Loren Sweatt, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on September 15, 2020.

Loren Sweatt,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2020–20872 Filed 9–21–20; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2019–0009]

DEKRA Certification Inc.: Grant of Recognition and Modification to the NRTL Program's List of Appropriate Test Standards

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the final decision to grant recognition to DEKRA Certification, Inc., as a Nationally Recognized Testing Laboratory (NRTL). Additionally, OSHA announces the final decision to add two additional test standards to the NRTL Program's List of Appropriate Test Standards.

DATES: Recognition as a NRTL becomes effective on September 22, 2020.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, phone: (202) 693–2110; email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Many of OSHA's workplace standards require that a NRTL test and certify certain types of equipment as safe for use in the workplace. NRTLs are independent laboratories that meet OSHA's requirements for performing safety testing and certification of products used in the workplace. To obtain and retain OSHA recognition, the NRTLs must meet the requirements in the NRTL Program regulations at 29 CFR 1910.7. More specifically, to be recognized by OSHA, an organization must: (1) Have the appropriate capability to test, evaluate, and approve products to assure their safe use in the workplace; (2) be completely independent of employers subject to the tested equipment requirements, and manufacturers and vendors of products for which OSHA requires certification; (3) have internal programs that ensure proper control of the testing and certification process; and (4) have effective reporting and complaint handling procedures. Recognition is an acknowledgement by OSHA that the NRTL has the capabilities to perform independent safety testing and certification of the specific products covered within the NRTL's scope of recognition and is not a delegation or grant of government authority. Recognition of a NRTL by OSHA also allows employers to use products certified by that NRTL to meet those OSHA standards that require product testing and certification.

The agency processes applications for initial recognition following requirements in Appendix A of 29 CFR 1910.7. This appendix requires OSHA to publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application, provides the preliminary finding, and solicits comments on the preliminary findings. In the second notice, the agency provides the final decision on the application. These notices set forth the NRTL's scope of recognition.

II. Notice of Final Decision

OSHA hereby gives notice of the agency's decision to grant recognition to DEKRA Certification, Inc., (DEKRA) as a NRTL. According to the public information (see *https://www.dekra-product-safety.com/en/about-dekra*), DEKRA states that it is an internationally accredited testing laboratory. In the application, DEKRA lists the current address of the headquarters as: DEKRA Certification, Inc., 405 Glenn Drive, Suite 12, Sterling, Virginia 20164.

Each NRTL's scope of recognition has two elements: (1) The type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s)

that have the technical capability to perform the product-testing and product-certification activities for the applicable test standards within the NRTL's scope of recognition. DEKRA applied on December 8, 2016, for one recognized site (OSHA–2019–0009–0002). This application was amended on October 4, 2018, to add a new site as the company headquarters and requesting five supplemental programs within the scope of recognition (OSHA–2019–0009–0003). This application was amended again on October 8, 2019, to request thirty-four test standards be included within the scope of recognition. On October 1, 2019, OSHA published an update to the NRTL Program Policies, Procedures and Guidelines Directive, CPL–01–004, which eliminates supplemental programs from the NRTL Program. With this update, OSHA will no longer recognize NRTL applicants for supplemental programs. OSHA published the preliminary notice announcing DEKRA's application for recognition in the **Federal Register** on March 24, 2020 (85 FR 16673). The agency requested comments by April 23, 2020, but it received no comments in response to this notice. OSHA now is proceeding with this final notice to grant recognition to DEKRA as a NRTL.

To obtain or review copies of all public documents pertaining to DEKRA's application, go to *www.regulations.gov* or contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3647, Washington, DC 20210. Docket No. OSHA–2019–0009 contains all materials in the record concerning DEKRA's recognition.

III. Final Decision and Order

OSHA staff performed a detailed analysis of DEKRA's application packet and reviewed other pertinent information. OSHA staff also performed comprehensive on-site assessments of DEKRA's testing facilities, at DEKRA Arnhem, Netherlands on July 11–13, 2018, and DEKRA Sterling, Virginia on October 30, 2018. Based on the review of this evidence, OSHA finds that DEKRA meets the requirements of 29 CFR 1910.7 for recognition as a NRTL, subject to the limitations and conditions listed below. OSHA, therefore is proceeding with this final notice to grant recognition to DEKRA as a NRTL. The following sections set forth the scope of recognition included in DEKRA's grant of recognition.

A. Standards Requested for Recognition

OSHA limits DEKRA's scope of recognition to testing and certification of products for demonstration of conformance to the test standards listed in Table 1.

TABLE 1—APPROPRIATE TEST STANDARDS FOR INCLUSION IN DEKRA'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
AAMI 60601–1	Medical Electrical Equipment—Part 1: General Requirements for Basic Safety and Essential Performance.
UL 1012	Standard for Power Units Other Than Class 2.
UL 1059	Standard for Terminal Blocks.
UL 1203	Standard for Explosion-Proof and Dust-Ignition-Proof Electrical Equipment for Use in Hazardous (Classified) Locations.
UL 121201	Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations.
UL 1310	Standard for Class 2 Power Units.
UL 153	Standard for Portable Electric Luminaires.
UL 1598	Luminaires.
UL 1778	Uninterruptible Power Systems.
UL 2157	Electric Clothes Washing Machines and Extractors.
UL 50	Enclosures for Electrical Equipment, Non-Environmental Considerations.
UL 508A	Standard for Industrial Control Panels.
UL 60065	Standard for Audio, Video and Similar Electronic Apparatus—Safety Requirements.
UL 60079–0	Standard for Explosive Atmospheres—Part 0: Equipment—General Requirements.
UL 60079–1	Standard for Explosive Atmospheres—Part 1: Equipment Protection by Flameproof Enclosures ''d''.
UL 60079–2	Standard for Explosive Atmospheres—Part 2: Equipment Protection by Pressurized Enclosure 'p'.
UL 60079–7	Standard for Explosive Atmospheres—Part 7: Equipment Protection by Increased Safety 'e'.
UL 60079–11	Explosive Atmospheres—Part 11: Equipment Protection by Intrinsic Safety ''i''.
UL 60079–15	Explosive Atmospheres—Part 15: Equipment Protection by Type of Protection 'n'.
UL 60079–18	Standard for Explosive Atmospheres—Part 18: Equipment Protection by Encapsulation 'm'.
UL 60079–26	Standard for Explosive Atmospheres—Part 26: Equipment with Equipment Protection Level (EPL) Gas.
UL 60079–30–1	Standard for Explosive Atmospheres—Part 30–1: Electrical Resistance Trace Heating—General and Testing Requirements.
UL 60079–31	Explosive Atmospheres—Part 31: Equipment Dust Ignition Protection by Enclosure 't'.
UL 60730–1	Automatic Electrical Controls—Part 1: General Requirements.
UL 60730–2–9	Standard for Automatic Electrical Controls—Part 2–9: Particular Requirements for Temperature Sensing Controls.
UL 60950–1	Information Technology Equipment—Safety—Part 1: General Requirements.
UL 60950–22	Information Technology Equipment—Safety—Part 22: Equipment to be Installed Outdoors.
UL 61010–1	Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 1: General Requirements.
UL 61058–1	Switches for Appliances—Part 1: General Requirement.
UL 62368–1	Audio/video, Information and Communication Technology Equipment—Part 1: Safety Requirements.
UL 858	Standard for Household Electric Ranges.
UL 858A	Safety-Related Solid-State Controls For Electric Ranges.
UL 8750	Standard for Light Emitting Diode (LED) Equipment for Use in Lighting Products.
UL 913	Standard for Intrinsically Safe Apparatus and Associated Apparatus for Use in Class I, II, III, Division 1, Hazardous (Classified) Locations.

B. Sites Requested for Recognition

OSHA limits DEKRA's scope of recognition to include the two sites listed below:

1. DEKRA Certification, Inc., 405 Glenn Drive, Suite 12, Sterling, Virginia 20164; and

2. DEKRA Certification B.V. Arnhem Meander 1051, 6825 MJ Arnhem, Gelderland, Netherlands.

OSHA's recognition of these sites limits DEKRA to performing product testing and certifications only to the test standards for which the site has the proper capability and programs, and for the test standards in DEKRA's scope of recognition. This limitation is consistent with the recognition that OSHA grants to other NRTLs that operate multiple sites.

C. Conditions

In addition to those conditions already required by 29 CFR 1910.7, DEKRA also must abide by the following conditions of the recognition:

1. DEKRA must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in the operations as a NRTL, and provide details of the change(s);

2. DEKRA must meet all the terms of the recognition and comply with all OSHA policies pertaining to this recognition; and

3. DEKRA must continue to meet the requirements for recognition, including all previously published conditions on DEKRA's scope of recognition, in all areas for which it has recognition.

IV. Final Decision To Add New Test Standards to the NRTL Program's List of Appropriate Test Standards

In this notice, OSHA also announces the addition of two new test standards to the NRTL Program's List of Appropriate Test Standards. Table 2, below, lists the test standards that are new to the NRTL Program. OSHA has determined that these test standards are appropriate test standards and will include them in the NRTL Program's List of Appropriate Test Standards.

TABLE 2—TEST STANDARDS OSHA IS PROPOSING TO ADD TO THE NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS

Test standard	Test standard title
UL 60079–30–1	Standard for Explosive Atmospheres—Part 30–1: Electrical Resistance Trace Heating—General and Testing Requirements.
UL 60730–1	Automatic Electrical Controls—Part 1: General Requirements.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby grants recognition to DEKRA as a NRTL, subject to these limitations and conditions specified above.

V. Authority and Signature

Loren Sweatt, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on September 16, 2020.

Loren Sweatt,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2020–20877 Filed 9–21–20; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2013–0017]

QAI Laboratories, Ltd. Applications for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the applications of QAI Laboratories, Ltd., for expansion of recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency's preliminary finding to grant the applications.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before October 7, 2020.

ADDRESSES: Submit comments by any of the following methods:

Electronically: You may submit comments and attachments electronically at *https://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2013–0017, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693–2350. OSHA's TTY number is (877) 889–5627. Please note: While OSHA's docket office is continuing to accept and process submissions by regular mail, due to the COVID–19 pandemic, the docket office is closed to the public and not able to receive submissions to the rulemaking record by express delivery, hand delivery, and messenger service.

Instructions: All submissions must include the agency name and OSHA docket number (OSHA–2013–0017). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

Docket: To read or download comments or other material in the docket, go to *https://www.regulations.gov* or the OSHA Docket Office at the above address. All documents in the docket (including this **Federal Register** notice) are listed in the *https://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office.

Extension of comment period: Submit requests for an extension of the

comment period on or before October 7, 2020 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Applications for Expansion

OSHA is providing notice that QAI Laboratories, Ltd. (QAI), is applying for expansion of recognition as a NRTL. QAI requests the addition of one test standard to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides the final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including QAI, which details the NRTL's scope of recognition. These pages are available from the OSHA website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

QAI currently has two facilities (sites) recognized by OSHA for product testing and certification, with headquarters located at: QAI Laboratories, Ltd., 3980 North Fraser Way, Burnaby, BC, Canada, V5J 5K5. A complete list of QAI's scope of recognition is available at *https://www.osha.gov/dts/otpca/nrtl/qai.html.*

II. General Background on the Applications

QAI submitted three applications, one dated October 16, 2017 (OSHA–2013–0017–0015), to expand recognition to include seventeen additional test standards. This application was amended on June 12, 2019 (OSHA–2013–0017–0016) to remove some standards from the original request and add others. This revised application was amended again on February 11, 2020 (OSHA–2013–0017–0017) to request twenty-one additional standards to be added to QAI's NRTL scope of recognition. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

Table 1 lists the appropriate test standard found in QAI's application to expand for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN QAI'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 1740	Standard for Robots and Robotic Equipment.
UL 22	Standard for Amusement and Gaming Machines.
UL 73	Standard for Motor-Operated Appliances.
UL 499	Standard for Electric Heating Machines.
UL 506	Standard for Specialty Transformers.
UL 676	Standard for Underwater Luminaires and Submersible Junction Boxes.
UL 1838	Standard for Low Voltage Landscape Lighting Systems.
UL 2202	Standard for Electric Vehicle (EV) Charging System Equipment.
UL 2388	Standard for Flexible Lighting Products.
UL 5085–1	Low Voltage Transformers—Part 1: General Requirements.
UL 5085–2	Low Voltage Transformers—Part 2: General Purpose Transformers.
UL 5085–3	Low Voltage Transformers—Part 3: Class 2 and Class 3 Transformers.
UL 8752	Organic Light Emitting Diode (OLED) Panels.
UL 60950–22	Information Technology Equipment—Safety—Part 22: Equipment to be Installed Outdoors.
UL 61010–2–010	Electrical Equipment Measurement, Control and Laboratory Use—Part 2–010: Particular Requirements for Laboratory Equipment for the Heating of Materials.
UL 61010–2–020	Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–020: Particular Requirements for Laboratory Equipment for Laboratory Centrifuges.
UL 61010–2–081	Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–081: Particular Requirements for Laboratory Equipment for Automatic and Semi-Automatic Equipment for Analysis and Other Purposes.
UL 61010–2–091	Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–091: Particular Requirements for Laboratory Equipment for Cabinet X-Ray Systems.
UL 61010–2–101	Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–101: Particular Requirements for In Vitro Diagnostic (IVD) Medical Equipment.
UL 62368–1	Audio/Video, Information and Communication Technology Equipment—Part 1: Safety Requirements.
ASME A17.5–2014	Elevator and Escalator Electrical Equipment.

III. Preliminary Findings on the Applications

QAI submitted acceptable applications for expansion of recognition. OSHA's review of the application file, and pertinent documentation, indicates QAI can meet the requirements prescribed by 29 CFR 1910.7 for expanding recognition to include the addition of these twenty-one test standards for NRTL testing and certification listed above. This preliminary finding does not constitute an interim or temporary approval of QAI's applications.

OSHA welcomes public comment as to whether QAI meets the requirements of 29 CFR 1910.7 for expansion of recognition as a NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if the request is not adequately justified. To obtain or review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office at the above address. These materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2013–0017.

OSHA staff will review all comments to the docket submitted in a timely manner. After addressing the issues raised by these comments, the agency will make a recommendation to the Assistant Secretary for Occupational Safety and Health whether to grant QAI's applications for expansion of recognition. The Assistant Secretary will make the final decision on granting the applications. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of the final decision in the **Federal Register**.

IV. Authority and Signature

Loren Sweatt, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on September 15, 2020.

Loren Sweatt,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2020–20876 Filed 9–21–20; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

National Council on the Arts 201st Meeting

AGENCY: National Endowment for the Arts.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, as amended, notice is hereby given that a meeting of the National Council on the Arts will be held open to the public by teleconference or videoconference.

DATES: See the **SUPPLEMENTARY INFORMATION** section for meeting time and date. The meeting is Eastern time and the ending time is approximate.

ADDRESSES: The National Endowment for the Arts, Constitution Center, 400 Seventh Street SW, Washington, DC 20560. This meeting will be held by teleconference or videoconference. Please see *arts.gov* for the most up-to-date information.

FOR FURTHER INFORMATION CONTACT: Victoria Hutter, Office of Public Affairs, National Endowment for the Arts, Washington, DC 20506, at 202/682–5570.

SUPPLEMENTARY INFORMATION: If, in the course of the open session discussion, it becomes necessary for the Council to discuss non-public commercial or financial information of intrinsic value, the Council will go into closed session pursuant to subsection (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b, and in accordance with the September 10, 2019 determination of the Chairman. Additionally, discussion concerning purely personal information about individuals, such as personal biographical and salary data or medical information, may be conducted by the Council in closed session in accordance with subsection (c) (6) of 5 U.S.C. 552b.

Any interested persons may attend, as observers, to Council discussions and reviews that are open to the public. If you need special accommodations due to a disability, please contact Beth Bienvenu, Office of Accessibility, National Endowment for the Arts, Constitution Center, 400 7th St. SW, Washington, DC 20506, 202/682–5733, Voice/T.T.Y. 202/682–5496, at least seven (7) days prior to the meeting.

The upcoming meeting is:

National Council on the Arts 201st Meeting

This meeting will be held by teleconference or videoconference.

Date and time: October 29, 2020; 2:00 p.m. to 2:30 p.m.

There will be opening remarks and voting on recommendations for grant funding and rejection, followed by updates from the NEA Chairman.

Dated: September 17, 2020.

Sherry Hale,

Staff Assistant, National Endowment for the Arts.

[FR Doc. 2020–20868 Filed 9–21–20; 8:45 am]

BILLING CODE 7537–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2020–0216]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to section 189.a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration (NSHC), notwithstanding the pendency before the Commission of a request for a hearing from any person. This biweekly notice includes all amendments issued, or proposed to be issued, from August 25, 2020, to September 7, 2020. The last biweekly notice was published on September 8, 2020.

DATES: Comments must be filed by October 22, 2020. A request for a hearing or petitions for leave to intervene must be filed by November 23, 2020.

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–2020–0216. Address questions about NRC Docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing 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: Lynn Ronewicz, Office of Nuclear Reactor Regulation, telephone: 301–415–1927, email: *lynn.ronewicz@nrc.gov,* 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–2020–0216, facility name, unit number(s), docket number(s), application date, and subject 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–2020–0216.

• *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/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room 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.

B. Submitting Comments

Please include Docket ID NRC–2020–0216, facility name, unit number(s), docket number(s), application date, and subject 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. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

For the facility-specific amendment requests shown below, the Commission finds that the licensee's analyses provided, consistent with title 10 of the *Code of Federal Regulations* (10 CFR) section 50.91, is sufficient to support the proposed determination that these amendment requests involve NSHC. Under the Commission's regulations in 10 CFR 50.92, operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves NSHC. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final NSHC determination, any hearing will take place after issuance. The Commission expects that the need to take action on an amendment before 60 days have elapsed will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *https://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its

position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *https://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system

may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff.

Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The table below provides the plant name, docket number, date of application, ADAMS accession number, and location in the application of the licensee's proposed NSHC determination. For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

TABLE 1—LICENSE AMENDMENT REQUESTS

Energy Harbor Nuclear Corp. and Energy Harbor Nuclear Generation LLC; Beaver Valley Power Station, Units 1 and 2; Beaver County, PA, Energy Harbor Nuclear Corp. and Energy Harbor Nuclear Generation LLC; Davis-Besse Nuclear Power Station, Unit No. 1; Ottawa County, OH	
Docket No(s)	50–334, 50–346, 50–412.
Application Date	July 27, 2020.
ADAMS Accession No	ML20209A540.
Location in Application of NSHC	Pages 6–8 of the Enclosure.
Brief Description of Amendment(s)	The proposed amendments would change the Beaver Valley Power Station, Unit Nos. 1 and 2, and the Davis-Besse Nuclear Power Station, Unit No. 1, Technical Specification 5.2, ''Unit Staff,'' subpart 2.e, to align with the standard technical specifications (STS) for each type of facility. Additionally, a title listed in the STS would be revised to reflect a more generic title. These changes would not alter any technical requirements and are administrative in nature.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Rick Giannantonio, General Counsel, Energy Harbor Corp., 168 E Market Street, Akron, OH 44308–2014.
NRC Project Manager, Telephone Number	Bhalchandra Vaidya, 301–415–3308.
Entergy Operations, Inc.; Waterford Steam Electric Station, Unit 3; St. Charles Parish, LA	
Docket No(s)	50–382.
Application Date	June 1, 2020.
ADAMS Accession No	ML20153A457.
Location in Application of NSHC	Pages 6–7 of the Enclosure.
Brief Description of Amendment(s)	The amendment would revise the emergency plan for the Waterford Steam Electric Station, Unit 3, to adopt (with deviations and differences) the Nuclear Energy Institute's (NEI's) revised emergency action level scheme described in NEI 99–01, Revision 6, ''Development of Emergency Action Levels for Non-Passive Reactors'' (ADAMS Accession No. ML12326A805).
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Anna Vinson Jones, Senior Counsel, Entergy Services, Inc., 101 Constitution Avenue NW, Suite 200 East, Washington, DC 20001.
NRC Project Manager, Telephone Number	Audrey Klett, 301–415–0489.
NextEra Energy Point Beach, LLC; Point Beach Nuclear Plant, Units 1 and 2; Manitowoc County, WI	
Docket No(s)	50–266, 50–301.
Application Date	July 30, 2020.
ADAMS Accession No	ML20216A243.
Location in Application of NSHC	Pages 10–11 of the Enclosure.
Brief Description of Amendment(s)	The proposed amendments would modify the technical specifications for Point Beach Nuclear Plant, Units 1 and 2, to resolve nonconservative surveillance requirements by implementing selected improvements in the surveillance formulations and required actions for nuclear transient heat flux hot channel factor, $F_Q^w(Z)$, proposed in Topical Report, WCAP–17661–P–A, Revision 1, ''Improved RAOC and CAOC FQ Surveillance Technical Specifications'' (ADAMS Accession No. ML18298A314 (non-publicly available)).
Proposed Determination	NSHC.

TABLE 1—LICENSE AMENDMENT REQUESTS—Continued

Name of Attorney for Licensee, Mailing Address	Debbie Hendell, Managing Attorney—Nuclear, Florida Power & Light Company, 700 Universe Blvd., MS LAW/JB, Juno Beach, FL 33408–0420.
NRC Project Manager, Telephone Number	Booma Venkataraman, 301–415–2934.
PSEG Nuclear LLC; Hope Creek Generating Station; Salem County, NJ	
Docket No(s)	50–354.
Application Date	August 19, 2020.
ADAMS Accession No	ML20232D120.
Location in Application of NSHC	Page 3 of Attachment 1.
Brief Description of Amendment(s)	The proposed amendment would modify the Hope Creek Technical Specification (TS) requirements for unavailable barriers by adding Limiting Condition for Operation 3.0.9. This change is consistent with NRC-approved Industry Technical Specifications Task Force Change Traveler, TSTF–427, Revision 2, ''Allowance for Non-Technical Specification Barrier Degradation on Supported System OPERABILITY.'' The availability of this TS improvement was published in the FEDERAL REGISTER on November 21, 2007, as part of the Consolidated Line Item Improvement Process (CLIIP) (72 FR 65610).
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Jodi Varon, PSEG Services Corporation, 80 Park Plaza, T–5, Newark, NJ 07101.
NRC Project Manager, Telephone Number	James Kim, 301–415–4125.
Southern Nuclear Operating Company, Inc.; Joseph M. Farley Nuclear Plant, Units 1 and 2; Edwin I. Hatch Nuclear Plant, Units 1 and 2; Vogtle Electric Generating Plant, Units 1 and 2; and Vogtle Electric Generating Plant, Units 3 and 4; Burke County, GA	
Docket No(s)	50–321, 50–348, 50–424, 52–025, 50–366, 50–364, 50–425, 52–026.
Application Date	June 30, 2020, as supplemented August 11, 2020.
ADAMS Accession No	ML20192A140, ML20224A464.
Location in Application of NSHC	Pages E1–9 to E1–11 of the Enclosure.
Brief Description of Amendment(s)	The proposed amendments would revise the Southern Nuclear Operating Company Standard Emergency Plan, including the Site Annexes, to change the emergency response organization staffing composition and extend staff augmentation times from 75 to 90 minutes.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Millicent Ronnlund, Vice President and General Counsel, Southern Nuclear Operating Co., Inc., P.O. Box 1295, Birmingham, AL 35201–1295.
NRC Project Manager, Telephone Number	John Lamb, 301–415–3100.
Susquehanna Nuclear, LLC and Allegheny Electric Cooperative, Inc.; Susquehanna Steam Electric Station, Units 1 and 2; Susquehanna County, PA	
Docket No(s)	50–387, 50–388.
Application Date	June 25, 2020.
ADAMS Accession No	ML20177A534.
Location in Application of NSHC	Pages 2–3 of Enclosure 1.
Brief Description of Amendment(s)	The proposed amendments would adopt Technical Specifications Task Force Traveler, TSTF-529, ''Clarify Use and Application Rules.'' The proposed changes would revise Section 1.3, ''Completion Times,'' and Section 3.0, ''Limiting Condition for Operation (LCO) Applicability,'' of the Technical Specifications (TS) to clarify the use and application of the TS usage rules.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Damon D. Obie, Esq, 835 Hamilton St., Suite 150, Allentown, PA 18101.
NRC Project Manager, Telephone Number	Sujata Goetz, 301–415–8004.
Vistra Operations Company LLC; Comanche Peak Nuclear Power Plant, Unit Nos. 1 and 2; Somervell County, TX	
Docket No(s)	50–445, 50–446.
Application Date	July 2, 2020, as supplemented August 17, 2020.
ADAMS Accession No	ML20184A064, ML20230A345.
Location in Application of NSHC	Pages 1–3 of the Enclosure.
Brief Description of Amendment(s)	The proposed amendments would adopt TSTF–569, ''Revise Response Time Testing Definition.'' The amendments would revise the technical specification definitions for engineered safety feature response time and reactor trip system response time.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Timothy P. Matthews, Esq., Morgan, Lewis and Bockius, 1111 Pennsylvania Avenue NW, Washington, DC 20004.
NRC Project Manager, Telephone Number	Dennis Galvin, 301–415–6256.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed NSHC determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action, see (1) the application for amendment; (2) the amendment; and (3) the Commission's related letter, Safety

Evaluation, and/or Environmental Assessment as indicated. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

TABLE 2—LICENSE AMENDMENT ISSUANCES

Entergy Operations, Inc.; Waterford Steam Electric Station, Unit 3; St. Charles Parish, LA	
Docket No(s)	50–382.
Amendment Date	August 25, 2020.
ADAMS Accession No	ML20205L574.
Amendment No(s)	257.
Brief Description of Amendment(s)	The amendment revised the Waterford Steam Electric Station, Unit 3, control room emergency air filtration system Technical Specification Surveillance Requirements 4.7.6.1.d.2 and 4.7.6.1.d.4 by adding an exception for dampers and valves that are locked or sealed.
Indiana Michigan Power Company; Donald C. Cook Nuclear Plant, Unit 1; Berrien County, MI	
Docket No(s)	50–315.
Amendment Date	September 3, 2020.
ADAMS Accession No	ML20213C704.
Amendment No(s)	353.
Brief Description of Amendment(s)	The amendment revised Technical Specification 5.5.14, ''Containment Leakage Rate Testing Program,'' to extend the frequency of the primary containment integrated leak rate test, or Type A test, at Cook Nuclear Plant, Unit 1. Specifically, the amendment allows for a one-time extension of the integrated leak-rate test frequency from 15 years to no later than the plant restart after the Cook Nuclear Plant, Unit 1, Spring 2022 refueling outage (i.e., approximately 15 years and 5 months).
Vistra Operations Company LLC; Comanche Peak Nuclear Power Plant, Unit Nos. 1 and 2; Somervell County, TX	
Docket No(s)	50–445, 50–446.
Amendment Date	August 31, 2020.
ADAMS Accession No	ML20223A349.
Amendment No(s)	175, 175.
Brief Description of Amendment(s)	The amendments revised Comanche Peak, Unit Nos. 1 and 2, Technical Specification (TS) 3.7.19, ''Safety Chilled Water,'' to extend the completion time for one safety chilled water train inoperable from 72 hours to 7 days on a one-time basis to allow the replacement of Unit No. 2 Safety Chiller 2–06 (Train B) compressor during Unit No. 2 Cycle 19. Revised TS 3.7.19 includes a regulatory commitment that identifies compensatory measures to be implemented during the extended completion time.
Wolf Creek Nuclear Operating Corporation; Wolf Creek Generating Station, Unit 1; Coffey County, KS	
Docket No(s)	50–482.
Amendment Date	August 25, 2020.
ADAMS Accession No	ML20205L304.
Amendment No(s)	225.
Brief Description of Amendment(s)	The amendment added additional conditions to the limiting conditions for operation for Technical Specification 3.7.5, ''Auxiliary Feedwater (AFW) System,'' such that one supply of essential service water to the turbine-driven AFW pump can be inoperable up to 72 hours while still considering the turbine-driven AFW pump train operable.

IV. Previously Published Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, including the applicable notice period, see the individual notice in the **Federal Register** on the day and page cited.

TABLE 3—LICENSE AMENDMENT ISSUANCE—REPEAT OF INDIVIDUAL **Federal Register** NOTICE

Pacific Gas and Electric Company; Diablo Canyon Nuclear Power Plant, Units 1 and 2; San Luis Obispo County, California	
Docket No(s)	50–275, 50–323.
Amendment Date	August 31, 2020.
ADAMS Accession No	ML20235R635.
Brief Description of Amendment(s)	The amendments provide a new Technical Specification (TS) 3.7.5, ''Auxiliary Feedwater (AFW) System,'' action and continued operation of Unit 1 during Cycle 22 with the AFW system aligned in a manner for which current TS 3.7.5 would require a shutdown.
Date & Cite of **Federal Register** Individual Notice	September 9, 2020; 85 FR 55700–55703.
Expiration Date for Hearing Requests	November 9, 2020.

Dated: September 15, 2020.

For the Nuclear Regulatory Commission.

Caroline L. Carusone,

Deputy Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2020–20720 Filed 9–21–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–289 and 50–320; NRC–2020–0211]

Exelon Generation Company, LLC; Three Mile Island Nuclear Station, Units 1 and 2

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental assessment and finding of no significant impact; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of exemptions that would permit the licensee to reduce its emergency planning (EP) activities at Three Mile Island Nuclear Station, Unit 1 (TMI–1) and Unit 2 (TMI–2). Specifically, the licensee is seeking exemptions that would eliminate the requirements for the licensee to maintain offsite radiological emergency plans and reduce some of the onsite EP activities based on the reduced risks at TMI–1, which is permanently shut down and defueled, and at TMl–2, which has a possession-only license. However, requirements for certain onsite capabilities to communicate and coordinate with offsite response authorities would be retained. In addition, offsite EP provisions would still exist through State and local government use of a comprehensive emergency management plan process, in accordance with the Federal Emergency Management Agency's (FEMA's) Comprehensive Preparedness Guide (CPG) 101, ''Developing and Maintaining Emergency Operations Plans.'' The NRC staff is issuing a final Environmental Assessment (EA) and final Finding of No Significant Impact (FONSI) associated with the proposed exemptions.

DATES: The EA and FONSI referenced in this document are available on September 22, 2020.

ADDRESSES: Please refer to Docket ID NRC–2020–0211 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0211. Address questions about Docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *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/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the AVAILABILITY OF DOCUMENTS section of this document.

FOR FURTHER INFORMATION CONTACT: Theodore Smith, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6721; email: *Theodore.Smith@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

By letter dated June 20, 2017 (ADAMS Accession No. ML17171A151), pursuant to paragraph 50.82(a)(1)(i) of title 10 of the *Code of Federal Regulations* (10 CFR), Exelon Generation Company, LLC (Exelon) certified to the NRC that it planned to permanently cease power operations at TMI–1 on or about September 30, 2019. TMI–1 subsequently permanently ceased power operations on September 20, 2019. By letter dated September 26, 2019 (ADAMS Accession No. ML19269E480), pursuant to 10 CFR 50.82(a)(1)(ii), Exelon certified to the NRC that all fuel had been permanently removed from the TMI–1 reactor vessel and placed in the spent fuel pool (SFP) as of September 26, 2019. Accordingly, pursuant to 10 CFR 50.82(a)(2), the TMI–1 renewed facility operating license no longer authorizes operation of the reactor or emplacement or retention of fuel in the reactor vessel. The facility is still authorized to possess and store irradiated (*i.e.,* spent) nuclear fuel. Spent fuel is currently stored onsite at the TMI–1 facility in the SFP. A dry cask independent spent fuel storage installation (ISFSI) is under construction onsite to store the TMI–1 spent fuel.

TMI–2 has a possession-only license and is currently maintained in accordance with the NRC-approved SAFSTOR condition (method in which a nuclear facility is placed and maintained in a condition that allows it to be safely stored and subsequently decontaminated) known as post-defueling monitored storage. Spent fuel for TMI–2 has already been removed from the site, though residual contamination and radiological materials exist. Therefore, TMI–2 is also permanently shut down and defueled. Exelon maintains the EP responsibilities for TMI–2, which is owned by First Energy Corporation, through a service agreement.

By letter dated July 1, 2019 (ADAMS Accession No. ML19182A104), as supplemented by letters dated October 9, 2019, and December 10, 2019 (ADAMS Accession Nos. ML19282C285 and ML19344C115, respectively), Exelon requested exemptions from certain EP requirements in 10 CFR part 50 for TMI–1 and TMI–2.

The NRC regulations concerning EP do not recognize the reduced risks after a reactor is permanently shut down and defueled. As such, a permanently shut down and defueled reactor must continue to maintain the same EP requirements as an operating power reactor under the existing regulatory requirements. To establish a level of EP commensurate with the reduced risks of a permanently shut down and defueled reactor, the licensee requires exemptions from certain EP regulatory requirements before it can change its emergency plans.

The NRC is considering issuing to the licensee exemptions from portions of 10 CFR 50.47, ''Emergency plans,'' and appendix E to 10 CFR part 50, ''Emergency Planning and Preparedness for Production and Utilization Facilities,'' which would eliminate the requirements for the licensee to maintain offsite radiological emergency plans in accordance with 44 CFR, ''Emergency Management and Assistance,'' part 350, ''Review and Approval of State and Local Radiological Emergency Plans and Preparedness,'' and reduce some of the onsite EP activities based on the reduced risks 488 days (approximately 16 months) after TMI–1 has permanently ceased power operations.

Consistent with 10 CFR 51.21, the NRC has determined that an EA is the appropriate form of environmental review for the requested action. Based on the results of the EA, which is

provided in Section II of this document, the NRC has determined not to prepare an environmental impact statement for the proposed action, and is issuing a FONSI.

II. Environmental Assessment

Description of the Proposed Action

The proposed action would exempt the licensee from (1) certain standards as set forth in 10 CFR 50.47(b) regarding onsite and offsite emergency response plans for nuclear power reactors; (2) requirements in 10 CFR 50.47(c)(2) to establish plume exposure and ingestion pathway emergency planning zones (EPZs) for nuclear power reactors; and (3) certain requirements in 10 CFR part 50, appendix E, section IV, which establishes the elements that make up the content of emergency plans. The proposed action of granting these exemptions would eliminate the requirements for the licensee to maintain offsite radiological emergency plans in accordance with 44 CFR part 350 and reduce some of the onsite EP activities at TMI–1 and TMI–2, based on the reduced risks once the TMI–1 reactor has been permanently shut down for a period of 488 days. However, requirements for certain onsite capabilities to communicate and coordinate with offsite response authorities would be retained to an extent consistent with the approved exemptions. Additionally, if necessary, offsite protective actions could still be implemented using a comprehensive emergency management plan (CEMP) process. A CEMP in this context, also referred to as an emergency operations plan (EOP), is addressed in FEMA's CPG 101, ''Developing and Maintaining Emergency Operations Plans.'' The CPG 101 is the foundation for State, territorial, tribal, and local EP in the United States under the National Preparedness System. It promotes a common understanding of the fundamentals of risk-informed planning and decision making, and assists planners at all levels of government in their efforts to develop and maintain viable, all-hazards, all-threats emergency plans. An EOP is flexible enough for use in all emergencies. It describes how people and property will be protected; details who is responsible for carrying out specific actions; identifies the personnel, equipment, facilities, supplies, and other resources available; and outlines how all actions will be coordinated. A CEMP is often referred to as a synonym for ''all-hazards'' planning. The proposed action is in accordance with the licensee's application dated July 1, 2019, as supplemented by letters dated October 9, 2019, and December 10, 2019.

Need for the Proposed Action

The proposed action is needed for the licensee to revise the TMI–1 and TMI–2 Emergency Plan once the TMI–1 reactor has been permanently shutdown for a period of 488 days. The EP requirements currently applicable to TMI–1 and TMI–2 are for an operating power reactor. Since the certifications for permanent cessation of operations and permanent removal of fuel from the reactor vessel have been docketed for TMI–1, pursuant to 10 CFR 50.82(a)(2), the TMI–1 license no longer authorizes use of the facility for power operation or emplacement or retention of fuel into the reactor vessel and, therefore, the occurrence of postulated accidents associated with TMI–1 reactor operation is no longer credible. Since the TMI–2 license had already been modified to allow possession but not operation before the effective date of the rule requiring these certifications, pursuant to 10 CFR 50.82(a)(2), the certifications have been deemed submitted for TMI–2 as well and, therefore, the occurrence of postulated accidents associated with TMI–2 reactor operation is no longer credible. However, there are no explicit regulatory provisions distinguishing EP requirements for a power reactor that has been permanently shut down and defueled from those for an operating power reactor.

In its exemption request, the licensee identified four possible radiological accidents at TMI–1 and TMI–2 in their permanently shutdown and defueled condition. These are: (1) A fuel-handling accident; (2) fire in the TMI–2 reactor building with the reactor building purge system in operation; (3) a loss of SFP normal cooling (*i.e.,* boil off); and (4) an adiabatic heat up of the hottest fuel assembly. The NRC staff evaluated these possible radiological accidents in the Commission Paper (SECY) 20–0041, ''Request by Exelon Generation Company, LLC for Exemptions from Certain Emergency Planning Requirements for the Three Mile Island Nuclear Station,'' dated May 5, 2020 (ADAMS Package Accession No. ML19311C762). In SECY–20–0041, the NRC staff verified that the licensee's analyses and calculations provided reasonable assurance that if the requested exemptions were granted, then: (1) For a design-basis accident (DBA), an offsite radiological release will not exceed the early phase protective action guides (PAGs) at the site boundary, as detailed in Table 1–1 to the U.S. Environmental Protection Agency's (EPA's), ''PAG Manual: Protective Action Guides and Planning Guidance for Radiological Incidents,'' EPA–400/R–17/001, dated January 2017, and (2) in the highly unlikely event of a beyond DBA resulting in a loss of all SFP cooling, there is sufficient time to initiate appropriate mitigating actions, and in the event a radiological release has or is projected to occur, there would be sufficient time for offsite agencies to take protective actions using a CEMP to protect the health and safety of the public if offsite governmental officials determine that such action is warranted. The Commission approved the NRC staff's recommendation to grant the exemptions based on this evaluation in its Staff Requirements Memorandum (SRM) to SECY–20–0041, dated July 27, 2020 (ADAMS Accession No. ML20209A439).

Based on these analyses, the licensee states that complete application of the EP rule to TMI–1 and TMI–2 488 days after TMI–1's permanent cessation of power operations would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule. The licensee also states that it would incur undue costs in the application of operating plant EP requirements for the maintenance of an emergency response organization in excess of that actually needed to respond to the diminished scope of credible accidents for TMI–1 and TMI–2 488 days after TMI–1's permanent cessation of power operations.

Environmental Impacts of the Proposed Action

The NRC staff has completed its evaluation of the environmental impacts of the proposed action.

The proposed action consists mainly of changes related to the elimination of requirements for the licensee to maintain offsite radiological emergency plans in accordance with 44 CFR part 350 and reduce some of the onsite EP activities at TMI–1 and TMI–2, based on the reduced risks once the TMI–1 reactor has been permanently shutdown for a period of 488 days. However, requirements for certain onsite capabilities to communicate and coordinate with offsite response authorities will be retained and offsite EP provisions to protect public health and safety will still exist through State and local government use of a CEMP.

With regard to potential nonradiological environmental impacts, the proposed action would have no direct impacts on land use or water resources, including terrestrial and aquatic biota, as it involves no new construction or modification of plant operational systems. There would be no

changes to the quality or quantity of nonradiological effluents and no changes to the plants' National Pollutant Discharge Elimination System permits would be needed. In addition, there would be no noticeable effect on socioeconomic conditions in the region, no environment justice impacts, no air quality impacts, and no impacts to historic and cultural resources from the proposed action. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

With regard to potential radiological environmental impacts, as stated above, the proposed action would not increase the probability or consequences of radiological accidents. Additionally, the NRC staff has concluded that the proposed action would have no direct radiological environmental impacts. There would be no change to the types or amounts of radioactive effluents that may be released and, therefore, no change in occupational or public radiation exposure from the proposed action. Moreover, no changes would be made to plant buildings or the site property from the proposed action. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the NRC staff considered the denial of the proposed action (*i.e.,* the ''no-action'' alternative). The denial of the application would result in no change in current environmental impacts. Therefore, the environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

There are no unresolved conflicts concerning alternative uses of available resources under the proposed action.

Agencies or Persons Consulted

No additional agencies or persons were consulted regarding the environmental impact of the proposed action. On August 24, 2020, the Commonwealth of Pennsylvania representative was notified of this EA and FONSI.

III. Finding of No Significant Impact

The licensee has proposed exemptions from: (1) Certain standards in 10 CFR 50.47(b) regarding onsite and offsite emergency response plans for nuclear power reactors; (2) the requirement in 10 CFR 50.47(c)(2) to establish plume exposure and ingestion pathway EPZs for nuclear power reactors; and (3) certain requirements in 10 CFR part 50, appendix E, section IV, which establishes the elements that make up the content of emergency plans. The proposed action of granting these exemptions would eliminate the requirements for the licensee to maintain offsite radiological emergency plans in accordance with 44 CFR part 350 and reduce some of the onsite EP activities at TMI–1 and TMI–2, based on the reduced risks once the TMI–1 reactor has been permanently shutdown for a period of 488 days. However, requirements for certain onsite capabilities to communicate and coordinate with offsite response authorities will be retained and offsite EP provisions to protect public health and safety will still exist through State and local government use of a CEMP.

The NRC is considering issuing the exemptions. The proposed action would not significantly affect plant safety, would not have a significant adverse effect on the probability of an accident occurring, and would not have any significant radiological or nonradiological impacts. This FONSI incorporates by reference the EA in Section II of this document. Therefore, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

The related environmental document is the ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants: Regarding Three Mile Island Nuclear Station, Unit 1,'' NUREG–1437, Supplement 37, and ''Environmental Impact Statement Related to Decontamination and Disposal of Radioactive Wastes Resulting from March 28, 1979 Accident Three Mile Island Nuclear Station, Unit 2,'' NUREG–0683 (Vol. I, and Vol. II), which provide the latest environmental review of current operations and description of environmental conditions at TMI–1 and TMI–2.

IV. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS Accession No./Web link
Federal Emergency Management Agency, Developing and Maintaining Emergency Operations Plans, Comprehensive Preparedness Guide (CPG) 101, Version 2.0, November 2010.	*https://www.fema.gov/sites/default/files/2020-05/CPG_101_V2_30NOV2010_FINAL_508.pdf.*
Gallagher, Michael P., Exelon Generation Company, LLC, ''Request for Exemptions from Portions of 10 CFR 50.47 and 10 CFR part 50, appendix E,'' July 1, 2019.	ML19182A104.
Gallagher, Michael P., Exelon Generation Company, LLC, ''Supplement to Request for Exemptions from Portions of 10 CFR 50.47 and 10 CFR part 50, appendix E and License Amendment Request for Proposed Changes to the Three Mile Island Emergency Plan for Permanently Defueled Emergency Plan and Emergency Action Level Scheme,'' October 9, 2019.	ML19282C285.
Gallagher, Michael P., Exelon Generation Company, LLC, ''Response to Request for Additional Information (RAI) Regarding Request for Exemptions from Portions of 10 CFR 50.47 and 10 CFR part 50, appendix E,'' December 10, 2019.	ML19344C115.
Fewell, J. Bradley, Exelon Generation Company, LLC, ''Certification of Permanent Cessation of Power Operations for Three Mile Island Nuclear Station, Unit 1,'' June 20, 2017.	ML17171A151.
Gallagher, Michael P., Exelon Generation Company, LLC, ''Certification of Permanent Removal of Fuel from the Reactor Vessel for Three Mile Island Nuclear Station, Unit 1,'' September 26, 2019.	ML19269E480.
U.S. Environmental Protection Agency, PAG Manual: Protective Action Guides and Planning Guidance for Radiological Incidents, January 2017.	*https://www.epa.gov/sites/production/files/2017-01/documents/epa_pag_manual_final_revisions_01-11-2017_cover_disclaimer_8.pdf.*

Document	ADAMS Accession No./Web link
SECY–20–0041, ''Request by Exelon Generation Company, LLC for Exemptions from Certain Emergency Planning Requirements for the Three Mile Island Nuclear Station,'' May 5, 2020.	ML19311C762 (Package).
Staff Requirements Memorandum to SECY-20-0041, ''Request by Exelon Generation Company, LLC for Exemptions from Certain Emergency Planning Requirements for the Three Mile Island Nuclear Station,'' July 27, 2020.	ML20209A439.
NUREG–1437, Supplement 37, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants: Regarding Three Mile Island Nuclear Station, Unit 1,'' June 2009.	ML091751063.

Dated: September 17, 2020.

For the Nuclear Regulatory Commission.

Bruce Watson,

Chief, Reactor Decommissioning Branch, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2020–20858 Filed 9–21–20; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2020–246 and CP2020–276; MC2020–247 and CP2020–277]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* September 24, 2020.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2020–246 and CP2020–276; *Filing Title:* USPS Request to Add Priority Mail Contract 660 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 16, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* September 24, 2020.

2. *Docket No(s).:* MC2020–247 and CP2020–277; *Filing Title:* USPS Request to Add Priority Mail Express & Priority Mail Contract 117 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 16, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* September 24, 2020.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2020–20885 Filed 9–21–20; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89883; File No. SR–NYSEArca–2020–82]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To Establish Procedures for the Allocation of Cabinets to Its Co-Located Users

September 16, 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 September 2, 2020, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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 establish procedures for the allocation of cabinets to its co-located Users. The proposed change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to establish procedures for the allocation of cabinets to its co-located [4] Users.[5]

Background

Presently, Users have two options for cabinets with power: dedicated cabinets and partial cabinets. Both options use power and house Users' servers and other equipment. When a User purchases a new cabinet, whether dedicated or partial, the Exchange provides the cabinet with power, and the User pays an initial fee and a monthly fee based on the number of kilowatts (''kW'') contracted for the cabinet. The Exchange allocates cabinets on a first-come/first-serve basis.

The Exchange also offers a third cabinet option, cabinets for which power is not utilized (''PNU cabinets''). PNU cabinets are reserved cabinet space that can be converted to a dedicated cabinet when the User requests it.[6]

Proposed Cabinet Allocation Procedure

The Exchange believes that it would be prudent for it to put in place measures for the allocation of cabinets (the ''Cabinet Allocation'') that could be used if, in the future, a situation arises where the Exchange cannot satisfy all User demand for cabinets.[7] The proposed Cabinet Allocation is as follows:

1. *Cabinet Purchasing Limits:*

a. The Exchange would place the following limits on Users' ability to purchase new cabinets (''Purchasing Limits'') if the Exchange's unallocated cabinet inventory is at or below 40 cabinets (the ''Cabinet Threshold''):

i. A User with PNU cabinets would be required to either convert its PNU cabinets into dedicated cabinets or relinquish its PNU cabinets before being permitted to purchase new cabinets.[8]

ii. The Exchange would limit the purchase of new cabinets (dedicated and partial) to a maximum of four dedicated cabinets, each with a maximum of 8 kW, per User.[9]

iii. A User would have to wait 30 days from the date of its signed order form before purchasing new cabinets again.

b. If the Cabinet Threshold is reached, the Exchange would cease offering new PNU cabinets to all Users.

2. *Waitlist:*

a. The Exchange would create a waitlist if the available cabinet inventory is zero, or if a User requests, in writing, a number of cabinets that, if provided, would cause the available cabinet inventory to be below zero.

b. The Exchange would place Users seeking cabinets on a waitlist, as follows: [10]

i. A User with PNU cabinets would not be placed on the waitlist if the User could meet its new cabinet request by converting its PNU cabinets to dedicated cabinets. A User would only be placed on the waitlist for the portion of its new cabinet request that exceeds its existing PNU cabinets, subject to the Purchasing Limitations.

ii. A User would be placed on the waitlist based on the date its signed order is received. A User may only have one order for new cabinets on the waitlist at a time, and the order would be subject to the Purchasing Limits.

iii. As cabinets become available,[11] the Exchange would offer them to the User at the top of the waitlist. If the User's order is completed, it would be removed from the waitlist. If the User's order is not completed, it would remain at the top of the waitlist.

iv. A User would be removed from the waitlist (a) at the User's request or (b) if the User turns down an offer of a cabinet of the same size it requested in its order. If the Exchange offers the User a cabinet of a different size than the User requested in its order, the User may turn down the offer and remain at the top of the waitlist until its order is completed.

v. A User that is removed from the waitlist but subsequently submits a new written order for cabinets would be added to the bottom of the waitlist.

3. *Termination of Purchasing Limits and Waitlist:* When unallocated cabinet inventory is more than 10 cabinets, the Exchange would cease use of the waitlist. When unallocated cabinet inventory is more than 40 cabinets, the Exchange would discontinue the Purchasing Limits.

[4] The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission (''Commission'') in 2010. *See* Securities Exchange Act Release No. 63275 (November 8, 2010), 75 FR 70048 (November 16, 2010) (SR–NYSEArca–2010–100).

[5] For purposes of the Exchange's co-location services, a ''User'' means any market participant that requests to receive co-location services directly from the Exchange. *See* Securities Exchange Act Release No. 76010 (September 29, 2015), 80 FR 60197 (October 5, 2015) (SR–NYSEArca–2015–82). As specified in the NYSE Arca Equities Fees and Charges and the NYSE Arca Options Fees and Charges (together, the ''Fee Schedules''), a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates New York Stock Exchange LLC, NYSE American LLC, NYSE Chicago, Inc., and NYSE National, Inc. (together, the ''Affiliate SROs''). *See* Securities Exchange Act Release No. 70173 (August 13, 2013), 78 FR 50459 (August 19, 2013) (SR–NYSEArca–2013–80). Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2020–73, SR–NYSEAMER–2020–66, SR–NYSECHX–2020–26, and SR–NYSENAT–2020–28.

[6] *See* Securities Exchange Act Release No. 70916 (November 21, 2013), 78 FR 70989 (November 21, 2013) (SR–NYSEArca–2013–124) (''PNU Cabinet Filing'').

[7] The Exchange believes that the proposed procedures are consistent with the Nasdaq procedures for allocating cabinets if Nasdaq's inventory shrinks to zero. *See* Securities Exchange Act Release No. 62397 (June 28, 2010), 75 FR 38860 (July 6, 2010) (SR–NASDAQ–2010–019) (''Nasdaq Cabinet Waitlist Procedures'').

[8] *See* PNU Cabinet Filing, *supra* note 6.

[9] A User may opt to purchase a mixture of dedicated and partial cabinets. In such a case, it would still be subject to the maximum, whether expressed in dedicated cabinets, partial cabinets, or a mixture thereof. The maximum is the equivalent of eight partial cabinets, at 2 kW each. The Nasdaq procedures similarly limit the purchase of cabinets if available cabinet inventory falls to 40 cabinets or fewer. Nasdaq Cabinet Waitlist Procedures, *supra* note 7, at 38861 (''Should available cabinet inventory shrink to 40 cabinets or less, the Exchange will limit new cabinet orders to a maximum of 4 cabinets each, and all new cabinets will be limited to a maximum power level of 5kW.'').

[10] The waitlist provisions are based on the Nasdaq Cabinet Waitlist Procedures and the procedures in General Note 3 of the Fee Schedules. *See id.* at 38861; Securities Exchange Act Release No. 79729 (January 4, 2017), 82 FR 3061 (January 10, 2017) (SR–NYSEArca–2016–172).

[11] Cabinets may become available if, for example, a User vacates a dedicated or partial cabinet.

Proposed New General Notes

The Exchange proposes to add a new General Note 7 to the Exchange's Fee Schedules setting forth the proposed Purchasing Limits, as follows:

7. *Cabinet Purchasing Limits.* If unallocated cabinet inventory is at or below 40 cabinets (''Cabinet Threshold''), the following limits on the purchase of new cabinets (''Purchasing Limits'') will apply:

- A User with PNU cabinets will be required to either convert its PNU cabinets into dedicated cabinets or relinquish its PNU cabinets before being permitted to purchase new cabinets.
- The Exchange will limit a User's purchase of new cabinets (dedicated and partial) to a maximum of four dedicated cabinets, each with a maximum of 8 kw.
- A User will have to wait 30 days from the date of its signed order form before purchasing new cabinets again.
- If the Cabinet Threshold is reached, the Exchange will cease offering new PNU cabinets to all Users.
- When unallocated cabinet inventory is more than 40 cabinets, the Exchange will discontinue the Purchasing Limits.

The Exchange proposes to add a new General Note 8 to the Exchange's Fee Schedules setting forth the proposed Waitlist, as follows:

8. *Cabinet Waitlist.* The Exchange will create a waitlist if the available cabinet inventory is zero, or if a User requests, in writing, a number of cabinets that, if provided, would cause the available cabinet inventory to be zero. The Exchange will place Users seeking cabinets on a waitlist, as follows:

- A User with PNU cabinets will not be placed on the waitlist if the User could meet its new cabinet request by converting its PNU cabinets to dedicated cabinets. A User will only be placed on the waitlist for the portion of its new cabinet request that exceeds its existing PNU cabinets, subject to the Purchasing Limitations.
- A User will be placed on the waitlist based on the date its signed order is received. A User may only have one order for new cabinets on the waitlist at a time, and the order is subject to the Purchasing Limits.
- As cabinets become available, the Exchange will offer them to the User at the top of the waitlist. If the User's order is completed, it will be removed from the waitlist. If the User's order is not completed, it will remain at the top of the waitlist.
- A User will be removed from the waitlist (a) at the User's request or (b) if the User turns down an offer of a cabinet of the same size it requested in its order. If the Exchange offers the User a cabinet of a different size than the User requested in its order, the User may turn down the offer and remain at the top of the waitlist until its order is completed.
- A User that is removed from the waitlist but subsequently submits a new written order for cabinets will be added back to the bottom of the waitlist.
- When unallocated cabinet inventory is more than 10 cabinets, the Exchange will cease use of the waitlist.

The proposed change would apply the same way to all types and sizes of market participants. As is currently the case, the purchase of any colocation service is completely voluntary and the Fee Schedules is applied uniformly to all Users. The proposed change is not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users 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,[12] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[13] 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. In addition, it is designed 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 mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Proposed Rule Change Is Reasonable and Equitable

The Exchange believes that the proposed rule change is reasonable and equitable for the following reasons.

The Exchange believes that User demand for cabinets will continue. In this context, the Exchange believes that it would be reasonable for it to put in place the proposed Cabinet Allocation to establish the allocation of cabinets on an equitable basis. The Cabinet Allocation would establish a rational, objective procedure that would be applied uniformly by the Exchange to all Users that requested new cabinets.

The Exchange believes that the Cabinet Allocation's two-tier structure of establishing, first, a purchasing limitation on order size, and second, a waitlist, would be a reasonable method to respond to increasing demand for cabinets in the future, and would be consistent with the Nasdaq procedures for allocating cabinets if Nasdaq's cabinet inventory shrinks to zero.[14]

The Exchange believes that the proposed Cabinet Threshold is reasonable and equitable. Based on experience, the Exchange believes that the Cabinet Threshold is sufficiently low that it would not be triggered easily.

The Exchange believes that the proposed Purchasing Limits are reasonable and equitable. Based on its experience with co-location and purchasing trends over the last few years, the Exchange believes that in most cases the number of cabinets that a User would be allowed to buy under the proposed Purchasing Limits would be sufficient to allow the User to use its system to access the markets while leaving a margin for potential growth.

Further, the Exchange believes that, by establishing a waitlist on the basis of the date it receives signed orders, limiting the size and number of orders a User may have on the waitlist at any one time, and removing a User from the waitlist if it turns down a cabinet that is the size that it requested, the Cabinet Allocation is reasonably designed to prevent Users from utilizing the waitlist as a method to obtain a greater portion of the cabinets available, thereby facilitating a more equitable distribution of cabinets. Similarly, the Exchange believes that by requiring a 30-day delay before a User subject to the Purchasing Limits could purchase cabinets again, the Cabinet Allocation is reasonably designed to prevent a User from obtaining a greater portion of the cabinets available.

The Exchange believes that the proposed change is reasonable and equitable because the Exchange would only place limits on Users' ability to purchase new cabinets if cabinet inventory fell to specific thresholds. Similarly, the Exchange believes that the proposed change is reasonable and equitable because the waitlist would only be created if unallocated cabinet inventory fell to zero, and because there

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4) and (5).

[14] *See* Nasdaq Cabinet Waitlist Procedures, *supra* note 7.

would be an established threshold for cessation of the waitlist.

The Proposed Rule Change Would Protect Investors and the Public Interest

The Exchange believes that the proposed rule change would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest for the following reasons.

The Exchange believes that User demand for cabinets will continue. In this context, the proposed rule change would allow the Exchange to protect investors and the public interest, first, by setting limits on Users' ability to purchase cabinets, and second, by using a waitlist to allocate any unallocated cabinets on a first come-first served rolling basis.

Based on experience, the Exchange believes that the Cabinet Threshold is sufficiently low that it would not be triggered easily, which would protect investors and the public interest. Similarly, the Exchange believes that in most cases the number of cabinets that a User would be allowed to buy under the proposed Purchasing Limits would be sufficient to allow the User to use its system to access the markets while leaving a margin for potential growth, which would protect investors and the public interest.

In addition, the proposed Cabinet Allocation would protect investors and the public interest in that it is designed to prevent Users from utilizing the Purchasing Limit and waitlist procedures to obtain a greater portion of the cabinets available, thereby facilitating a more equitable distribution.

The proposed rule change would protect investors and the public interest because the proposed new General Notes would articulate rational, objective procedures and would serve to reduce any potential for confusion on how cabinets would be allocated if a shortage in unallocated cabinets were to arise in the future, and would thereby make the Fee Schedules more transparent and reduce any potential ambiguity.

The Proposed Change Is Not Unfairly Discriminatory

The Exchange believes that the proposed change is not unfairly discriminatory for the following reasons.

The proposed change would apply equally to all types and sizes of market participants. If the Cabinet Allocation were in place, all Users would be able to identify the permitted cabinet options and the procedures that would apply to them in the event that unallocated cabinet supply runs low in the future. The Cabinet Allocation would assist the Exchange in accommodating demand for co-location services, and cabinets in particular, on an equitable basis.

For the reasons above, the proposed changes do not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

For these 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,[15] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The Exchange does not believe that the proposed change would place any burden on intramarket competition that is not necessary or appropriate. The proposed change would not apply differently to distinct types or sizes of market participants. Rather, it would apply to all Users equally.

The Exchange believes that, if triggered, the imposition of the Cabinet Allocation would not impose a burden on a User's ability to compete that is not necessary or appropriate. The Exchange believes that User demand for cabinets will continue in the future. In this context, the Exchange believes that it would be reasonable for it to put in place the proposed Cabinet Allocation to establish a method for allocating cabinets on an equitable basis. The Exchange would only follow the Cabinet Allocation and place limits on Users' ability to purchase new cabinets if unallocated cabinet inventory fell to the proposed Cabinet Threshold. Similarly, the Exchange would only create the waitlist if unallocated cabinet inventory fell to zero. Based on its experience with co-location and purchasing trends over the last few years, the Exchange believes that in most cases the number of cabinets that a User would be allowed to buy under the proposed Purchasing Limits would be sufficient to allow the User to use its system to access the markets while leaving a margin for potential growth.

The Exchange believes that the proposed new General Notes would articulate rational, objective procedures and would serve to reduce any potential for confusion on how cabinets would be allocated if a shortage in unallocated cabinets were to arise in the future, and would thereby make the Fee Schedules more transparent and reduce any potential ambiguity.

Use of any co-location service is completely voluntary, and each market participant is able to determine whether to use co-location services based on the requirements of its business operations.

Intermarket Competition

The Exchange does not believe that the proposed change would impose any burden on intermarket competition that is not necessary or appropriate.

The Exchange operates in a highly competitive market in which exchanges and other vendors (*i.e.,* Hosting Users) offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of, and other business from, such market participants.

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.'' [16]

The proposed rule change would protect investors and the public interest because the proposed new General Notes would articulate rational, objective procedures and would serve to reduce any potential for confusion on how cabinets would be treated in the case of a shortage in unallocated cabinets, and would thereby make the Fee Schedules more transparent and reduce any potential ambiguity.

For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

[15] 15 U.S.C. 78f(b)(8).

[16] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

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

Within 45 days of the date of publication of this notice in the **Federal Register** or *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 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–2020–82 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–2020–82. 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–2020–82, and should be submitted on or before October 13, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–20836 Filed 9–21–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89898; File No. SR–NYSEArca–2020–46]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Amend NYSE Arca Rule 5.2–E(j)(6) Relating to Options-Linked Securities

September 16, 2020.

On June 10, 2020, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NYSE Arca Rule 5.2–E(j)(6) to accommodate Exchange listing and trading of Options-Linked Securities. The proposed rule change was published for comment in the **Federal Register** on June 22, 2020.[3]

On July 28, 2020, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] The Commission has received no comment letters on the proposed rule change.

The Commission is issuing this order to institute proceedings pursuant to Section 19(b)(2)(B) of the Act[6] to determine whether to approve or disapprove the proposed rule change.

I. Description of the Proposal

Exchange Rule 5.2–E(j)(6) provides for Exchange listing and trading of Equity Index-Linked Securities, Commodity-Linked Securities, Currency-Linked Securities, Fixed Income Index-Linked Securities, Futures-Linked Securities, and Multifactor Index-Linked Securities (collectively, ''Index-Linked Securities''). The Exchange proposes to amend Rule 5.2–E(j)(6) to add Options-Linked Securities to the type of Index-Linked Securities set forth in Rule 5.2–E(j)(6) permitted to list and trade on the Exchange.

The proposal would also add a new paragraph (vii) to Rule 5.2–E(j)(6) to provide that the payment at maturity with respect to Options-Linked Securities is based on the performance of U.S. exchange-traded options on any one or combination of the following: (a) Investment Company Units; (b) Exchange-Traded Fund Shares; (c) Index-Linked Securities; (d) securities defined in Section 2 of Rule 8–E; (e) the S&P 100 Index, the S&P 500 Index, the Nasdaq 100 Index, the Dow Jones Industrial Average, the MSCI EAFE Index, the MSCI Emerging Markets Index, the NYSE FANG Index, or the Russell 2000 Index; or (f) a basket or index of any of the foregoing (''Options Reference Asset''). To the extent that the Options Reference Asset consists of options based on Investment Company Units, Exchange-Traded Fund Shares, Index-Linked Securities, or securities defined in Section 2 of Rule 8–E, such Investment Company Units, Exchange-Traded Fund Shares, Index-Linked Securities, or securities defined in Section 2 of Rule 8–E shall not seek to provide investment results, before fees and expenses, that correspond to the inverse, a specific multiple, or a specific inverse multiple of the percentage performance on a given day of a particular index or combination of indexes.

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 89073 (June 16, 2020), 85 FR 37488 (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 89412, 85 FR 46744 (August 3, 2020). The Commission designated September 20, 2020 as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

The Exchange proposes that Options-Linked Securities [7] must meet one of the following two initial listing standards:

(A) The Options Reference Asset to which the security is linked shall have been reviewed and approved for the trading of Options-Linked Securities or options or other derivatives by the Commission under Section 19(b)(2) of the Exchange Act and rules thereunder and the conditions set forth in the Commission's approval order, including with respect to comprehensive surveillance sharing agreements, continue to be satisfied; or

(B) the pricing information for components of the Options Reference Asset must be derived from a market that is an Intermarket Surveillance Group (''ISG'') member or affiliate or with which the Exchange has a comprehensive surveillance sharing agreement.

In addition, the Exchange also proposes that Options-Linked Securities must meet both of the following initial listing criteria: (1) The value of the Options Reference Asset must be calculated and widely disseminated by one or more major market data vendors on at least a 15-second basis during the Exchange's Core Trading Session; [8] and (2) in the case of Options-Linked Securities that are periodically redeemable, the indicative value of the subject Options-Linked Securities must be calculated and widely disseminated by the Exchange or one or more major market data vendors on at least a 15-second basis during the Exchange's Core Trading Session.

The Exchange will consider the suspension of trading in, and will initiate delisting proceedings pursuant to NYSE Arca Rule 5.5–E(m) if any of the initial listing criteria described above are not continuously maintained. The Exchange may also halt trading in Options-Linked Securities, and will initiate delisting proceedings pursuant to NYSE Arca Rule 5.5–E(m) under any of the following circumstances:

(A) If the aggregate market value or the principal amount of the Options-Linked Securities publicly held is less than $400,000;

(B) if the value of the Options Reference Asset is no longer calculated or available and a new Options Reference Asset is substituted, unless the new Options Reference Asset meets the requirements of Rule 5.2–E(j)(6); or

(C) if such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.[9]

According to the Exchange, the proposed standards would continue to ensure transparency surrounding the listing process for Index-Linked Securities. The Exchange also believes that the standards for listing and trading Options-Linked Securities are reasonably designed to promote a fair and orderly market for such securities. The proposed addition of Options Reference Assets, as described above, would also work in conjunction with the initial and continued listing criteria related to surveillance procedures and trading guidelines for Index-Linked Securities. The Exchange further believes that its surveillance procedures are adequate to properly monitor the trading of Options-Linked Securities in all trading sessions and to deter and detect violations of Exchange rules.

II. Proceedings To Determine Whether To Approve or Disapprove SR–NYSEArca–2020–46 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act [10] to determine whether the proposed rule change should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[11] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ''designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, . . . to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.'' [12]

III. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change is consistent with Section 6(b)(5) or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[13]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change should be approved or disapproved by October 13, 2020. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by October 27, 2020.

The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in the Notice,[14] and any other issues raised by the proposed rule change under the Act. As discussed above, the Exchange proposes to adopt generic listing standards for Options-Linked Securities. The Exchange takes the position that the proposed Options-Linked Securities generic listing standards would continue to ensure transparency surrounding the listing process for Index-Linked Securities. The Exchange

[7] The proposal would set forth the Options-Linked Securities listing standards in Rule 5.2–E(j)(6)(B)(VII). The Exchange also proposes to amend Commentary .01(a) and (b) to Rule 5.2–E(j)(6), which relate to specified requirements and obligations of an Equity Trading Permit (ETP) Holder acting as a registered Market Maker, to include Options Linked Securities and options to the financial instruments covered by Commentary .01 to Rule 5.2–E(j)(6).

[8] As that term is defined in NYSE Arca Rule 7.34–E.

[9] According to the Exchange, the proposed continued listing criteria for Options-Linked Securities are substantially identical to continued listing criteria in Rule 5.2–E(j)(6) applicable to other Index-Linked Securities. The proposal would also add Options Reference Assets to the permitted types of Multifactor Reference Assets.

[10] 15 U.S.C. 78s(b)(2)(B).

[11] *Id.*

[12] 15 U.S.C. 78f(b)(5).

[13] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[14] *See supra* note 3.

also states that the standards for listing and trading Options-Linked Securities are reasonably designed to promote a fair and orderly market for such securities.

The Commission seeks commenters' views regarding whether the proposal is designed to protect investors and the public interest, and, in particular, whether there is adequate transparency and disclosure related to the options to which Options-Linked Securities or Multifactor Index-Linked Securities are proposed to be linked. In addition, the Commission seeks comment regarding whether additional requirements, either qualitative or quantitative, relating to either the generic listing standards for Options-Linked Securities or the definition of Options Reference Assets, would help to ensure that the proposal is designed to prevent fraudulent and manipulative acts and practices.

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–2020–46 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–2020–46. 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–2020–46 and should be submitted on or before October 13, 2020. Rebuttal comments should be submitted by October 27, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–20840 Filed 9–21–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89897; File No. SR–NASDAQ–2020–062]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change To Amend Listing Rules Applicable to Special Purpose Acquisition Companies Whose Business Plan Is To Complete One or More Business Combinations

September 16, 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 September 3, 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, 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

The Exchange proposes to amend listing rules applicable to companies whose business plan is to complete one or more business combinations.

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

In 2009, Nasdaq adopted additional listing requirements for a company whose business plan is to complete an initial public offering and engage in a merger or acquisition with one or more unidentified companies within a specific period of time (''Acquisition Companies'').[3] Such a company is required to keep at least 90% of the proceeds from its initial public offering in an escrow account and, until the company has completed one or more business combinations having an aggregate fair market value of at least 80% of the value of the escrow account, must meet the requirements for initial listing following each business combination.[4] If a shareholder vote on the business combination is held, public shareholders voting against a business combination must have the right to convert their shares of common stock into a pro rata share of the aggregate amount then in the escrow account (net of taxes payable and amounts distributed to management for working capital purposes) if the business combination is approved and consummated.[5] If the combined company does not meet the initial listing requirements following a business combination, Nasdaq Staff will

[15] 17 CFR 200.30–3(a)(57).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 58228 (July 25, 2008), 73 FR 44794 (July 31, 2008) (adopting the predecessor to IM–5101–2).

[4] *See* Nasdaq Rule IM–5101–2(d) and (e) [sic].

[5] *See* Nasdaq Rule IM–5101–2(d). If a shareholder vote on the business combination is not held, the company must provide all shareholders with the opportunity to redeem their shares for cash equal to their pro rata share of the aggregate amount then in the deposit account (net of taxes payable and amounts distributed to management for working capital purposes). Nasdaq Rule IM–5101–2(e).

issue a Staff Delisting Determination under Nasdaq Rule 5810.

Under the existing rules, ''following each business combination'' with an Acquisition Company, the resulting company must satisfy all initial listing requirements. The rule does not provide a timetable for the company to demonstrate that it satisfies those requirements, however. Accordingly, Nasdaq proposes to modify the rule to specify if the Acquisition Company demonstrates that it will satisfy all requirements except the applicable round lot shareholder requirement, then the company will receive 15 calendar days following the closing to demonstrate that it satisfied the applicable round lot shareholder requirement immediately following the transaction's closing.

Ordinarily, in determining compliance with the round lot shareholder requirement at the time of a business combination, Nasdaq will review a company's public disclosures and information provided by the company about the transaction. For example, the merger agreement may result in the Acquisition Company issuing a round lot of shares to more than 300 holders of the target of the business combination at closing. If public information is not available that enables Nasdaq to determine compliance, Nasdaq will typically request that the company provide additional information such as registered shareholder lists from the company's transfer agent, data from Cede & Co. about shares held in street name, or data from broker-dealers and from third parties that distribute information such as proxy materials for the broker-dealers.[6] If the company can provide information demonstrating compliance before the business combination closes, no further information would be required.

However, Nasdaq has observed that in some cases it can be difficult for a company to obtain evidence demonstrating the number of shareholders that it has or will have following a business combination. As noted above, shareholders of an Acquisition Company may redeem or tender their shares until just before the time of the business combination, and the company may not know how many shareholders will choose to redeem until very close to the consummation of the business combination. In cases where the number of round lot shareholders is close to the applicable requirement, this could affect the ability for Nasdaq to determine compliance before the business combination closes. Accordingly, for a company that has demonstrated that it will satisfy all initial listing requirements except for the round lot shareholder requirement before consummating the business combination, Nasdaq will allow the company 15 calendar days after the closing of the business combination, if necessary, to demonstrate that it also complied with the round lot requirement at the time of the business combination. To be clear, the company must still demonstrate that it satisfied the round lot shareholder requirement immediately following the business combination; the proposal is merely giving the company 15 calendars days to provide evidence that it did.

Nasdaq believes that this proposal balances the burden placed on the Acquisition Company to obtain accurate shareholder information for the new entity and the need to ensure that a company that does not satisfy the initial listing requirements following a business combination enters the delisting process promptly. If the company does not evidence compliance within the proposed time period, Nasdaq staff would issue a delisting determination, which the company could appeal to an independent Hearings Panel as described in the 5800 Series of the Nasdaq Rules.

Finally, Nasdaq proposes a non-substantive change to eliminate a duplicate paragraph in paragraphs (d) and (e) of IM–5101–2 and to add a new paragraph designation.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to 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, by imposing a specific timeline for Acquisition Companies to demonstrate that they will comply with the initial listing requirements following a business combination and allowing a reasonable period of time for the company to provide evidence that it complied with the round lot shareholder requirement at the time of the business combination.

The proposed rule would specify the time when an Acquisition Company must demonstrate compliance with the initial listing standards following the completion of a business combination, thereby enhancing investor protection. Specifically, it would require an Acquisition Company to provide evidence *before* completing the business combination that it will satisfy all requirements for initial listing, except for the round lot shareholder requirement. While the proposed rule would allow Acquisition Companies 15 calendar days, if needed, to provide evidence that they also complied with the round lot shareholder requirement at the time of the business combination, that additional time is a reasonable accommodation given both the difficulty companies face in identifying their shareholders and the ability for the Acquisition Company's shareholders to redeem their shares when the business combination is consummated. In that regard, Acquisition Companies are unlike other newly listing companies, which do not face redemptions and are not already listed and trading at the time they must demonstrate compliance. Importantly, the company must still demonstrate that it satisfied the round lot shareholder requirement immediately following the business combination. As such, Nasdaq believes that the proposed rule change appropriately balances the protection of prospective investors with the protection of shareholders of the Acquisition Company, the latter of whom would be harmed if Nasdaq issued a delisting determination at a time when the company did, in fact, satisfy all initial listing requirements but could not yet provide proof.

The proposed rule change is also consistent with Section 6(b)(7) of the Act in that it provides a fair procedure for the prohibition or limitation by the Exchange of any person with respect to access to services offered. The proposed rule change accounts for the particular difficulties encountered by Acquisition Companies when attempting to determine their total number of shareholders due to the ability of shareholders to redeem their shares. Acquisition Companies will still be required to demonstrate compliance with all initial listing standards immediately following the business combination, which is the initial listing of the combined company. This is no different from the requirements imposed on other newly listing companies.

The non-substantive changes to eliminate a duplicate paragraph in

[6] Companies must seek this information from third parties because many accounts are held in street name and shareholders may object to being identified to the company.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

paragraphs (d) and (e) of IM–5101–2 and to add a new paragraph designation will improve the rule's readability and thereby remove an impediment to a free and open market and a national market system and help to better protect investors, which Nasdaq believes is consistent with the requirements of Section 6(b)(5) of the Act.[9]

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 would clarify that a company listing in connection with a merger with an Acquisition Company must provide evidence before completing the business combination that it will satisfy all requirements for initial listing, although a reasonable accommodation would be made to allow the company to demonstrate compliance with the round lot shareholder requirement before issuing a delisting letter if that is the only requirement that the company cannot demonstrate compliance with before completing the business combination. This change is not expected to have any impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2020–062 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–2020–062. 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–2020–062, and should be submitted on or before October 13, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–20839 Filed 9–21–20; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78f(b)(5).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89884; File No. SR–NYSENAT–2020–28]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing of Proposed Rule Change To Establish Procedures for the Allocation of Cabinets to Its Co-Located Users

September 16, 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 September 2, 2020, NYSE National, Inc. (''NYSE National'' 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 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 establish procedures for the allocation of cabinets to its co-located Users. 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to establish procedures for the allocation of cabinets to its co-located [4] Users.[5]

Background

Presently, Users have two options for cabinets with power: dedicated cabinets and partial cabinets. Both options use power and house Users' servers and other equipment. When a User purchases a new cabinet, whether dedicated or partial, the Exchange provides the cabinet with power, and the User pays an initial fee and a monthly fee based on the number of kilowatts (''kW'') contracted for the cabinet. The Exchange allocates cabinets on a first-come/first-serve basis.

The Exchange also offers a third cabinet option, cabinets for which power is not utilized (''PNU cabinets''). PNU cabinets are reserved cabinet space that can be converted to a dedicated cabinet when the User requests it.[6]

Proposed Cabinet Allocation Procedure

The Exchange believes that it would be prudent for it to put in place measures for the allocation of cabinets (the ''Cabinet Allocation'') that could be used if, in the future, a situation arises where the Exchange cannot satisfy all User demand for cabinets.[7] The proposed Cabinet Allocation is as follows:

1. *Cabinet Purchasing Limits:*

a. The Exchange would place the following limits on Users' ability to purchase new cabinets (''Purchasing Limits'') if the Exchange's unallocated cabinet inventory is at or below 40 cabinets (the ''Cabinet Threshold''):

i. A User with PNU cabinets would be required to either convert its PNU cabinets into dedicated cabinets or relinquish its PNU cabinets before being permitted to purchase new cabinets.[8]

ii. The Exchange would limit the purchase of new cabinets (dedicated and partial) to a maximum of four dedicated cabinets, each with a maximum of 8 kW, per User.[9]

iii. A User would have to wait 30 days from the date of its signed order form before purchasing new cabinets again.

b. If the Cabinet Threshold is reached, the Exchange would cease offering new PNU cabinets to all Users.

2. *Waitlist:*

a. The Exchange would create a waitlist if the available cabinet inventory is zero, or if a User requests, in writing, a number of cabinets that, if provided, would cause the available cabinet inventory to be below zero.

b. The Exchange would place Users seeking cabinets on a waitlist, as follows: [10]

i. A User with PNU cabinets would not be placed on the waitlist if the User could meet its new cabinet request by converting its PNU cabinets to dedicated cabinets. A User would only be placed on the waitlist for the portion of its new cabinet request that exceeds its existing PNU cabinets, subject to the Purchasing Limitations.

ii. A User would be placed on the waitlist based on the date its signed order is received. A User may only have one order for new cabinets on the waitlist at a time, and the order would be subject to the Purchasing Limits.

iii. As cabinets become available,[11] the Exchange would offer them to the User at the top of the waitlist. If the User's order is completed, it would be removed from the waitlist. If the User's order is not completed, it would remain at the top of the waitlist.

iv. A User would be removed from the waitlist (a) at the User's request or (b) if the User turns down an offer of a cabinet of the same size it requested in its order. If the Exchange offers the User a cabinet of a different size than the User requested in its order, the User may turn down the offer and remain at the top of the waitlist until its order is completed.

v. A User that is removed from the waitlist but subsequently submits a new written order for cabinets would be added to the bottom of the waitlist.

3. *Termination of Purchasing Limits and Waitlist:* When unallocated cabinet inventory is more than 10 cabinets, the Exchange would cease use of the waitlist. When unallocated cabinet inventory is more than 40 cabinets, the Exchange would discontinue the Purchasing Limits.

Proposed New General Notes

The Exchange proposes to add a new General Note 7 to the Exchange's Fee Schedule setting forth the proposed Purchasing Limits, as follows:

7. *Cabinet Purchasing Limits.* If unallocated cabinet inventory is at or below 40 cabinets (''Cabinet Threshold''), the following limits on the purchase of new cabinets (''Purchasing Limits'') will apply:

- A User with PNU cabinets will be required to either convert its PNU cabinets into dedicated cabinets or relinquish its PNU cabinets before being permitted to purchase new cabinets.
- The Exchange will limit a User's purchase of new cabinets (dedicated and partial) to a maximum of four dedicated cabinets, each with a maximum of 8 kw.
- A User will have to wait 30 days from the date of its signed order form before purchasing new cabinets again.
- If the Cabinet Threshold is reached, the Exchange will cease offering new PNU cabinets to all Users.
- When unallocated cabinet inventory is more than 40 cabinets, the Exchange will discontinue the Purchasing Limits.

The Exchange proposes to add a new General Note 8 to the Exchange's Fee Schedule setting forth the proposed Waitlist, as follows:

8. *Cabinet Waitlist.* The Exchange will create a waitlist if the available cabinet

[4] The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission (''Commission'') in 2018. See Securities Exchange Act Release No. 83351 (May 31, 2018), 83 FR 26314 (June 6, 2018) (SR–NYSENAT–2018–07) (''NYSE National Co-location Notice'').

[5] For purposes of the Exchange's co-location services, a ''User'' means any market participant that requests to receive co-location services directly from the Exchange. *See id., supra* note 4, at 26314 n.9. As specified in the NYSE National, Inc. Schedule of Fees and Rebates (''Fee Schedule''), a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates New York Stock Exchange, LLC, NYSE American LLC, NYSE Arca, Inc., and NYSE Chicago, Inc. (together, the ''Affiliate SROs''). *See id.* at 26314 n.11. Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2020–73, SR–NYSEAMER–2020–66, SR–NYSEArca–2020–82, and SR–NYSECHX–2020–26.

[6] *See* NYSE National Co-location Notice, *supra* note 4, at 26316.

[7] The Exchange believes that the proposed procedures are consistent with the Nasdaq procedures for allocating cabinets if Nasdaq's inventory shrinks to zero. *See* Securities Exchange Act Release No. 62397 (June 28, 2010), 75 FR 38860 (July 6, 2010) (SR–NASDAQ–2010–019) (''Nasdaq Cabinet Waitlist Procedures'').

[8] *See* NYSE National Co-location Notice, *supra* note 4, at 26316.

[9] A User may opt to purchase a mixture of dedicated and partial cabinets. In such a case, it would still be subject to the maximum, whether expressed in dedicated cabinets, partial cabinets, or a mixture thereof. The maximum is the equivalent of eight partial cabinets, at 2 kW each. The Nasdaq procedures similarly limit the purchase of cabinets if available cabinet inventory falls to 40 cabinets or fewer. Nasdaq Cabinet Waitlist Procedures, *supra* note 7, at 38861 (''Should available cabinet inventory shrink to 40 cabinets or less, the Exchange will limit new cabinet orders to a maximum of 4 cabinets each, and all new cabinets will be limited to a maximum power level of 5kW.'').

[10] The waitlist provisions are based on the Nasdaq Cabinet Waitlist Procedures and the procedures in General Note 3 of the Fee Schedule. *See id.* at 38861; NYSE National Co-location Notice, *supra* note 7, at 26315.

[11] Cabinets may become available if, for example, a User vacates a dedicated or partial cabinet.

inventory is zero, or if a User requests, in writing, a number of cabinets that, if provided, would cause the available cabinet inventory to be zero. The Exchange will place Users seeking cabinets on a waitlist, as follows:

- A User with PNU cabinets will not be placed on the waitlist if the User could meet its new cabinet request by converting its PNU cabinets to dedicated cabinets. A User will only be placed on the waitlist for the portion of its new cabinet request that exceeds its existing PNU cabinets, subject to the Purchasing Limitations.
- A User will be placed on the waitlist based on the date its signed order is received. A User may only have one order for new cabinets on the waitlist at a time, and the order is subject to the Purchasing Limits.
- As cabinets become available, the Exchange will offer them to the User at the top of the waitlist. If the User's order is completed, it will be removed from the waitlist. If the User's order is not completed, it will remain at the top of the waitlist.
- A User will be removed from the waitlist (a) at the User's request or (b) if the User turns down an offer of a cabinet of the same size it requested in its order. If the Exchange offers the User a cabinet of a different size than the User requested in its order, the User may turn down the offer and remain at the top of the waitlist until its order is completed.
- A User that is removed from the waitlist but subsequently submits a new written order for cabinets will be added back to the bottom of the waitlist.
- When unallocated cabinet inventory is more than 10 cabinets, the Exchange will cease use of the waitlist.

The proposed change would apply the same way to all types and sizes of market participants. As is currently the case, the purchase of any colocation service is completely voluntary and the Fee Schedule is applied uniformly to all Users. The proposed change is not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users 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,[12] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[13] 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. In addition, it is designed 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 mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Proposed Rule Change Is Reasonable and Equitable

The Exchange believes that the proposed rule change is reasonable and equitable for the following reasons.

The Exchange believes that User demand for cabinets will continue. In this context, the Exchange believes that it would be reasonable for it to put in place the proposed Cabinet Allocation to establish the allocation of cabinets on an equitable basis. The Cabinet Allocation would establish a rational, objective procedure that would be applied uniformly by the Exchange to all Users that requested new cabinets.

The Exchange believes that the Cabinet Allocation's two-tier structure of establishing, first, a purchasing limitation on order size, and second, a waitlist, would be a reasonable method to respond to increasing demand for cabinets in the future, and would be consistent with the Nasdaq procedures for allocating cabinets if Nasdaq's cabinet inventory shrinks to zero.[14]

The Exchange believes that the proposed Cabinet Threshold is reasonable and equitable. Based on experience, the Exchange believes that the Cabinet Threshold is sufficiently low that it would not be triggered easily.

The Exchange believes that the proposed Purchasing Limits are reasonable and equitable. Based on its experience with co-location and purchasing trends over the last few years, the Exchange believes that in most cases the number of cabinets that a User would be allowed to buy under the proposed Purchasing Limits would be sufficient to allow the User to use its system to access the markets while leaving a margin for potential growth.

Further, the Exchange believes that, by establishing a waitlist on the basis of the date it receives signed orders, limiting the size and number of orders a User may have on the waitlist at any one time, and removing a User from the waitlist if it turns down a cabinet that is the size that it requested, the Cabinet Allocation is reasonably designed to prevent Users from utilizing the waitlist as a method to obtain a greater portion of the cabinets available, thereby facilitating a more equitable distribution of cabinets. Similarly, the Exchange believes that by requiring a 30-day delay before a User subject to the Purchasing Limits could purchase cabinets again, the Cabinet Allocation is reasonably designed to prevent a User from obtaining a greater portion of the cabinets available.

The Exchange believes that the proposed change is reasonable and equitable because the Exchange would only place limits on Users' ability to purchase new cabinets if cabinet inventory fell to specific thresholds. Similarly, the Exchange believes that the proposed change is reasonable and equitable because the waitlist would only be created if unallocated cabinet inventory fell to zero, and because there would be an established threshold for cessation of the waitlist.

The Proposed Rule Change Would Protect Investors and the Public Interest

The Exchange believes that the proposed rule change would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest for the following reasons.

The Exchange believes that User demand for cabinets will continue. In this context, the proposed rule change would allow the Exchange to protect investors and the public interest, first, by setting limits on Users' ability to purchase cabinets, and second, by using a waitlist to allocate any unallocated cabinets on a first come-first served rolling basis.

Based on experience, the Exchange believes that the Cabinet Threshold is sufficiently low that it would not be triggered easily, which would protect investors and the public interest. Similarly, the Exchange believes that in most cases the number of cabinets that a User would be allowed to buy under the proposed Purchasing Limits would be sufficient to allow the User to use its system to access the markets while leaving a margin for potential growth, which would protect investors and the public interest.

In addition, the proposed Cabinet Allocation would protect investors and the public interest in that it is designed to prevent Users from utilizing the

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4) and (5).

[14] *See* Nasdaq Cabinet Waitlist Procedures, *supra* note 7.

Purchasing Limit and waitlist procedures to obtain a greater portion of the cabinets available, thereby facilitating a more equitable distribution.

The proposed rule change would protect investors and the public interest because the proposed new General Notes would articulate rational, objective procedures and would serve to reduce any potential for confusion on how cabinets would be allocated if a shortage in unallocated cabinets were to arise in the future, and would thereby make the Fee Schedule more transparent and reduce any potential ambiguity.

The Proposed Change Is Not Unfairly Discriminatory

The Exchange believes that the proposed change is not unfairly discriminatory for the following reasons.

The proposed change would apply equally to all types and sizes of market participants. If the Cabinet Allocation were in place, all Users would be able to identify the permitted cabinet options and the procedures that would apply to them in the event that unallocated cabinet supply runs low in the future. The Cabinet Allocation would assist the Exchange in accommodating demand for co-location services, and cabinets in particular, on an equitable basis.

For the reasons above, the proposed changes do not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

For these 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,[15] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The Exchange does not believe that the proposed change would place any burden on intramarket competition that is not necessary or appropriate. The proposed change would not apply differently to distinct types or sizes of market participants. Rather, it would apply to all Users equally.

The Exchange believes that, if triggered, the imposition of the Cabinet Allocation would not impose a burden on a User's ability to compete that is not necessary or appropriate. The Exchange believes that User demand for cabinets will continue in the future. In this context, the Exchange believes that it would be reasonable for it to put in place the proposed Cabinet Allocation to establish a method for allocating cabinets on an equitable basis. The Exchange would only follow the Cabinet Allocation and place limits on Users' ability to purchase new cabinets if unallocated cabinet inventory fell to the proposed Cabinet Threshold. Similarly, the Exchange would only create the waitlist if unallocated cabinet inventory fell to zero. Based on its experience with co-location and purchasing trends over the last few years, the Exchange believes that in most cases the number of cabinets that a User would be allowed to buy under the proposed Purchasing Limits would be sufficient to allow the User to use its system to access the markets while leaving a margin for potential growth.

The Exchange believes that the proposed new General Notes would articulate rational, objective procedures and would serve to reduce any potential for confusion on how cabinets would be allocated if a shortage in unallocated cabinets were to arise in the future, and would thereby make the Fee Schedule more transparent and reduce any potential ambiguity.

Use of any co-location service is completely voluntary, and each market participant is able to determine whether to use co-location services based on the requirements of its business operations.

Intermarket Competition

The Exchange does not believe that the proposed change would impose any burden on intermarket competition that is not necessary or appropriate.

The Exchange operates in a highly competitive market in which exchanges and other vendors (*i.e.,* Hosting Users) offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of, and other business from, such market participants.

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.'' [16]

The proposed rule change would protect investors and the public interest because the proposed new General Notes would articulate rational, objective procedures and would serve to reduce any potential for confusion on how cabinets would be treated in the case of a shortage in unallocated cabinets, and would thereby make the Fee Schedule more transparent and reduce any potential ambiguity.

For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or 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 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–NYSENAT–2020–28 on the subject line.

[15] 15 U.S.C. 78f(b)(8).

[16] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

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–NYSENAT–2020–28. 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–NYSENAT–2020–28, and should be submitted on or before October 13, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–20837 Filed 9–21–20; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89899; File No. SR–MEMX–2020–07]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Manner in Which the Exchange Will Designate Members To Participate in Its Mandatory Disaster Recovery Testing for Calendar Year 2020

September 16, 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 September 4, 2020, MEMX LLC (''MEMX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposed rule change to proposed rule change to amend the manner in which the Exchange will designate certain Members to participate in its mandatory disaster recovery testing, pursuant to Regulation SCI and MEMX Rule 2.4 for calendar year 2020. The text of the proposed rule change is provided in Exhibit 5.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend MEMX Rule 2.4, Mandatory Participation in Testing of Backup Systems, so as to revise how the Exchange will designate certain Members to participate in mandatory disaster recovery pursuant to Regulation SCI and MEMX Rule 2.4 for calendar year 2020. Regulation SCI requires MEMX, as an SCI entity, to maintain business continuity and disaster recovery plans that provide for resilient and geographically diverse backup and recovery capabilities that are reasonably designed to achieve two-hour resumption of critical SCI systems and next business day resumption of other SCI systems following a wide-scale disruption.[5]

Regulation SCI and MEMX Rule 2.4 also require MEMX to designate certain Members[6] to participate in business continuity and disaster recovery testing in a manner specified by MEMX and at a frequency of not less than once every 12 months.[7] Such testing is part of an industry-wide test, which is next scheduled for October 24, 2020.

MEMX Rule 2.4 governs mandatory participation in testing of the Exchange's backup systems, and states that the Exchange will designate Members that account for a specified percentage of executed volume on MEMX as required to connect to the Exchange's backup systems and participate in functional and performance testing of such system.[8] MEMX is not currently operational and is not expecting to have sufficient trading data on which to base its Member designation prior to the October 24, 2020 test. Thus, as currently written, Rule 2.4 would not permit the Exchange to designate any Members to participate in the industry-wide test for 2020 because no Members will have

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] Securities Exchange Act Release No. 73639 (November 19, 2014), 79 FR 72252 (December 5, 2014).

[6] The term ''Member'' refers to any registered broker or dealer that has been admitted to membership in the Exchange. A Member will have the status of a member of the Exchange as that term is defined in Section 3(a)(3) of the Act. Membership may be granted to a sole proprietor, corporation, limited liability company or other organization which is a registered broker or dealer pursuant to Section 15 of the Act, and which has been approved by the Exchange. *See* MEMX Rule 1.5(p).

[7] MEMX Rule 2.4(a) and (b).

[8] *Id.*

sufficient trading volume on MEMX upon which a designation can be based.

To address the unique circumstances for disaster recovery testing in 2020, the year in which MEMX will become operational, the Exchange proposes to add new paragraph (c). Proposed paragraph (c) would provide that for calendar year 2020, notwithstanding paragraph (b) which assigns the Exchange responsibility of ''identifying Members that account for a meaningful percentage of the Exchange's overall volume,'' the Exchange will instead designate at least three Members who have a meaningful percentage of trading volumes in NMS Stocks on other equity exchanges. This would allow the Exchange to identify Members for industry-wide disaster recovery testing in the absence of metrics that will be used in ordinary course to designate such firms.

MEMX believes that designating at least three Members who are likely already to be participating in the industry-wide test by virtue of their trading activities on other exchanges is likely to reduce the burdens associated with being designated for disaster recovery testing by MEMX in absence of significant trading volumes on the Exchange. Moreover, to reduce the burdens on designated Members the Exchange proposes, where possible, to designate firms that have already established connections to its backup systems. This is intended to address the ''notice'' requirements in the existing Rule 2.4.[9] The Exchange believes that designating three or more such firms is reasonably designed to provide the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of such plans. The Exchange notes that the Long-Term Stock Exchange, Inc. (''LTSE'') has adopted a similar rule for 2020 given its recent launch and the same inability to follow its normal designation procedures.[10]

MEMX intends to notify Members of their designation for disaster recovery testing no later than September 10, 2020. With respect to industry-wide disaster recovery testing in 2021 and beyond, the Exchange will issue one or more regulatory circulars establishing the standards to be used for determining which Members contribute a meaningful percentage of the Exchange's overall volume and thus are required to participate in functional and performance testing. Such standards will be informed by the Exchange's actual market and trading data, in accordance with MEMX Rule 2.4(b).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] in particular, in that it is designed to prevent fraudulent and manipulative 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.

MEMX believes that, in the absence of sufficient trading data on the Exchange, its proposed methodology of designating Members who have meaningful levels of trading activity on other exchanges and who have established connectivity to the Exchange's backup systems is consistent with the protection of investors and the public interest. The Exchange further believes that the proposed rule change will ensure that the Members necessary to ensure the maintenance of fair and orderly markets in the event of the activation of the Exchange's disaster recovery plans have been designated consistent with MEMX Rule 2.4 and Rule 1004 of Regulation SCI. Specifically, the proposal will address the unique circumstances of industry-wide testing taking place within a short time of when the Exchange commences operations. The Exchange believes that the proposed rule change balances the objectives of having Members participate in industry-wide disaster recovery testing, including MEMX's backup systems, and the burdens on such Members who, at the time of designation, will not have traded on MEMX.

As set forth in the SCI Adopting Release, ''SROs have the authority, and legal responsibility, under Section 6 of the Exchange Act, to adopt and enforce rules (including rules to comply with Regulation SCI's requirements relating to BC/DR testing) applicable to their members or participants that are designed to, among other things, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.'' [13] The Exchange believes that this proposal is consistent with such authority and legal responsibility.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes its proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that the proposed rule change promotes fair competition among brokers and dealers and exchanges by ensuring the Exchange can designate Members to participate in mandatory disaster recovery testing pursuant to Regulation SCI for calendar year 2020. The Exchange believes that designating three or more such firms is reasonably designed to provide the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of such plans, thereby promoting intermarket competition between exchanges in furtherance of the principles of Section 11(a)(1) of the Act.[14] The Exchange notes that the LTSE has adopted a similar rule for 2020.[15]

With respect to intramarket competition, the proposed rule change seeks to reduce the burdens on Members by only designating Members who are likely already participating in the industry-wide test by virtue of their trading activities on other exchanges. Under the proposed rule change, the Exchange will designate firms that have already established connections to the Exchange's backup systems. Consequently, MEMX does not believe that the proposed rule change would impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the 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.

[9] Pursuant to Rule 2.4(b), after 2020, the Exchange will provide at least six months prior notice to a Member that is designated for mandatory testing. *See* MEMX Rule 2.4(b).

[10] *See* LTSE Rule 2.250(d).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] *See supra* note 5 at 72350.

[14] 15 U.S.C. 78k–1(a)(1).

[15] *See supra* note 10.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[16] and Rule 19b–4(f)(6) thereunder.[17]

A proposed rule change filed under Rule 19b–4(f)(6)[18] normally does not become operative for 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[19] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay to permit the Exchange to notify Members of their designation earlier than would be possible without a waiver of the operative delay. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it would provide designated members additional time to receive notice of their designation, and thus prepare for disaster recovery testing with the Exchange's backup systems. Accordingly, the Commission waives the 30-day operative delay and designates the proposal operative upon filing.[20]

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–MEMX–2020–07 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MEMX–2020–07. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MEMX–2020–07 and should be submitted on or before October 13, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–20841 Filed 9–21–20; 8:45 am]

BILLING CODE 8011–01–P

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 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.

[18] 17 CFR 240.19b–4(f)(6).

[19] 17 CFR 240.19b–4(f)(6)(iii).

[20] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89886; File No. SR–NYSECHX–2020–26]

Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing of Proposed Rule Change To Establish Procedures for the Allocation of Cabinets to Its Co-Located Users

September 16, 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 September 2, 2020, NYSE Chicago, Inc. (''NYSE Chicago'' 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 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 establish procedures for the allocation of cabinets to its co-located Users. The proposed 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to establish procedures for the allocation of cabinets to its co-located [4] Users.[5]

Background

Presently, Users have two options for cabinets with power: Dedicated cabinets and partial cabinets. Both options use power and house Users' servers and other equipment. When a User purchases a new cabinet, whether dedicated or partial, the Exchange provides the cabinet with power, and the User pays an initial fee and a monthly fee based on the number of kilowatts (''kW'') contracted for the cabinet. The Exchange allocates cabinets on a first-come/first-serve basis.

The Exchange also offers a third cabinet option, cabinets for which power is not utilized (''PNU cabinets''). PNU cabinets are reserved cabinet space that can be converted to a dedicated cabinet when the User requests it.[6]

Proposed Cabinet Allocation Procedure

The Exchange believes that it would be prudent for it to put in place measures for the allocation of cabinets (the ''Cabinet Allocation'') that could be used if, in the future, a situation arises where the Exchange cannot satisfy all User demand for cabinets.[7] The proposed Cabinet Allocation is as follows:

1. *Cabinet Purchasing Limits:*

a. The Exchange would place the following limits on Users' ability to purchase new cabinets (''Purchasing Limits'') if the Exchange's unallocated cabinet inventory is at or below 40 cabinets (the ''Cabinet Threshold''):

i. A User with PNU cabinets would be required to either convert its PNU cabinets into dedicated cabinets or relinquish its PNU cabinets before being permitted to purchase new cabinets.[8]

ii. The Exchange would limit the purchase of new cabinets (dedicated and partial) to a maximum of four dedicated cabinets, each with a maximum of 8 kW, per User.[9]

iii. A User would have to wait 30 days from the date of its signed order form before purchasing new cabinets again.

b. If the Cabinet Threshold is reached, the Exchange would cease offering new PNU cabinets to all Users.

2. *Waitlist:*

a. The Exchange would create a waitlist if the available cabinet inventory is zero, or if a User requests, in writing, a number of cabinets that, if provided, would cause the available cabinet inventory to be below zero.

b. The Exchange would place Users seeking cabinets on a waitlist, as follows: [10]

i. A User with PNU cabinets would not be placed on the waitlist if the User could meet its new cabinet request by converting its PNU cabinets to dedicated cabinets. A User would only be placed on the waitlist for the portion of its new cabinet request that exceeds its existing PNU cabinets, subject to the Purchasing Limitations.

ii. A User would be placed on the waitlist based on the date its signed order is received. A User may only have one order for new cabinets on the waitlist at a time, and the order would be subject to the Purchasing Limits.

iii. As cabinets become available,[11] the Exchange would offer them to the User at the top of the waitlist. If the User's order is completed, it would be removed from the waitlist. If the User's order is not completed, it would remain at the top of the waitlist.

iv. A User would be removed from the waitlist (a) at the User's request or (b) if the User turns down an offer of a cabinet of the same size it requested in its order. If the Exchange offers the User a cabinet of a different size than the User requested in its order, the User may turn down the offer and remain at the top of the waitlist until its order is completed.

v. A User that is removed from the waitlist but subsequently submits a new written order for cabinets would be added to the bottom of the waitlist.

3. *Termination of Purchasing Limits and Waitlist:* When unallocated cabinet inventory is more than 10 cabinets, the Exchange would cease use of the waitlist. When unallocated cabinet inventory is more than 40 cabinets, the Exchange would discontinue the Purchasing Limits.

Proposed New General Notes

The Exchange proposes to add a new General Note 7 to the Exchange's Fee Schedule setting forth the proposed Purchasing Limits, as follows:

7. *Cabinet Purchasing Limits.* If unallocated cabinet inventory is at or below 40 cabinets (''Cabinet Threshold''), the following limits on the purchase of new cabinets (''Purchasing Limits'') will apply:

- A User with PNU cabinets will be required to either convert its PNU cabinets into dedicated cabinets or relinquish its PNU cabinets before being permitted to purchase new cabinets.
- The Exchange will limit a User's purchase of new cabinets (dedicated and partial) to a maximum of four dedicated cabinets, each with a maximum of 8 kw.
- A User will have to wait 30 days from the date of its signed order form before purchasing new cabinets again.
- If the Cabinet Threshold is reached, the Exchange will cease offering new PNU cabinets to all Users.
- When unallocated cabinet inventory is more than 40 cabinets, the Exchange will discontinue the Purchasing Limits.

The Exchange proposes to add a new General Note 8 to the Exchange's Fee Schedule setting forth the proposed Waitlist, as follows:

8. *Cabinet Waitlist.* The Exchange will create a waitlist if the available cabinet

[4] The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission (''Commission'') in 2019. *See* Securities Exchange Act Release No. 87408 (October 28, 2019), 84 FR 58778 (November 1, 2019) (SR–NYSECHX–2019–12) (''NYSE Chicago Co-location Notice'').

[5] For purposes of the Exchange's co-location services, a ''User'' means any market participant that requests to receive co-location services directly from the Exchange. *See id., supra* note 4, at 58778 n.6. As specified in the Fee Schedule of NYSE Chicago, Inc. (the ''Fee Schedule''), a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates New York Stock Exchange LLC (''NYSE''), NYSE American LLC, NYSE Arca, Inc., and NYSE National, Inc. (together, the ''Affiliate SROs''). *See id.* at 58779. Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2020–73, SR–NYSEAMER–2020–66, SR–NYSEArca–2020–82, and SR–NYSENAT–2020–28.

[6] *See* NYSE Chicago Co-location Notice, *supra* note 4, at 58781.

[7] The Exchange believes that the proposed procedures are consistent with the Nasdaq procedures for allocating cabinets if Nasdaq's inventory shrinks to zero. *See* Securities Exchange Act Release No. 62397 (June 28, 2010), 75 FR 38860 (July 6, 2010) (SR–NASDAQ–2010–019) (''Nasdaq Cabinet Waitlist Procedures'').

[8] *See* NYSE Chicago Co-location Notice, *supra* note 4, at 58781.

[9] A User may opt to purchase a mixture of dedicated and partial cabinets. In such a case, it would still be subject to the maximum, whether expressed in dedicated cabinets, partial cabinets, or a mixture thereof. The maximum is the equivalent of eight partial cabinets, at 2 kW each. The Nasdaq procedures similarly limit the purchase of cabinets if available cabinet inventory falls to 40 cabinets or fewer. Nasdaq Cabinet Waitlist Procedures, *supra* note 7, at 38861 (''Should available cabinet inventory shrink to 40 cabinets or less, the Exchange will limit new cabinet orders to a maximum of 4 cabinets each, and all new cabinets will be limited to a maximum power level of 5kW.'').

[10] The waitlist provisions are based on the Nasdaq Cabinet Waitlist Procedures and the procedures in General Note 3 of the Fee Schedule. *See id.* at 38861; NYSE Chicago Co-location Notice, *supra* note 4, at 58780.

[11] Cabinets may become available if, for example, a User vacates a dedicated or partial cabinet.

inventory is zero, or if a User requests, in writing, a number of cabinets that, if provided, would cause the available cabinet inventory to be zero. The Exchange will place Users seeking cabinets on a waitlist, as follows:

- A User with PNU cabinets will not be placed on the waitlist if the User could meet its new cabinet request by converting its PNU cabinets to dedicated cabinets. A User will only be placed on the waitlist for the portion of its new cabinet request that exceeds its existing PNU cabinets, subject to the Purchasing Limitations.
- A User will be placed on the waitlist based on the date its signed order is received. A User may only have one order for new cabinets on the waitlist at a time, and the order is subject to the Purchasing Limits.
- As cabinets become available, the Exchange will offer them to the User at the top of the waitlist. If the User's order is completed, it will be removed from the waitlist. If the User's order is not completed, it will remain at the top of the waitlist.
- A User will be removed from the waitlist (a) at the User's request or (b) if the User turns down an offer of a cabinet of the same size it requested in its order. If the Exchange offers the User a cabinet of a different size than the User requested in its order, the User may turn down the offer and remain at the top of the waitlist until its order is completed.
- A User that is removed from the waitlist but subsequently submits a new written order for cabinets will be added back to the bottom of the waitlist.
- When unallocated cabinet inventory is more than 10 cabinets, the Exchange will cease use of the waitlist.

The proposed change would apply the same way to all types and sizes of market participants. As is currently the case, the purchase of any colocation service is completely voluntary and the Fee Schedule is applied uniformly to all Users. The proposed change is not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users 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,[12] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[13] 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. In addition, it is designed 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 mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Proposed Rule Change Is Reasonable and Equitable

The Exchange believes that the proposed rule change is reasonable and equitable for the following reasons.

The Exchange believes that User demand for cabinets will continue. In this context, the Exchange believes that it would be reasonable for it to put in place the proposed Cabinet Allocation to establish the allocation of cabinets on an equitable basis. The Cabinet Allocation would establish a rational, objective procedure that would be applied uniformly by the Exchange to all Users that requested new cabinets.

The Exchange believes that the Cabinet Allocation's two-tier structure of establishing, first, a purchasing limitation on order size, and second, a waitlist, would be a reasonable method to respond to increasing demand for cabinets in the future, and would be consistent with the Nasdaq procedures for allocating cabinets if Nasdaq's cabinet inventory shrinks to zero.[14]

The Exchange believes that the proposed Cabinet Threshold is reasonable and equitable. Based on experience, the Exchange believes that the Cabinet Threshold is sufficiently low that it would not be triggered easily.

The Exchange believes that the proposed Purchasing Limits are reasonable and equitable. Based on its experience with co-location and purchasing trends over the last few years, the Exchange believes that in most cases the number of cabinets that a User would be allowed to buy under the proposed Purchasing Limits would be sufficient to allow the User to use its system to access the markets while leaving a margin for potential growth.

Further, the Exchange believes that, by establishing a waitlist on the basis of the date it receives signed orders, limiting the size and number of orders a User may have on the waitlist at any one time, and removing a User from the waitlist if it turns down a cabinet that is the size that it requested, the Cabinet Allocation is reasonably designed to prevent Users from utilizing the waitlist as a method to obtain a greater portion of the cabinets available, thereby facilitating a more equitable distribution of cabinets. Similarly, the Exchange believes that by requiring a 30-day delay before a User subject to the Purchasing Limits could purchase cabinets again, the Cabinet Allocation is reasonably designed to prevent a User from obtaining a greater portion of the cabinets available.

The Exchange believes that the proposed change is reasonable and equitable because the Exchange would only place limits on Users' ability to purchase new cabinets if cabinet inventory fell to specific thresholds. Similarly, the Exchange believes that the proposed change is reasonable and equitable because the waitlist would only be created if unallocated cabinet inventory fell to zero, and because there would be an established threshold for cessation of the waitlist.

The Proposed Rule Change Would Protect Investors and the Public Interest

The Exchange believes that the proposed rule change would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest for the following reasons.

The Exchange believes that User demand for cabinets will continue. In this context, the proposed rule change would allow the Exchange to protect investors and the public interest, first, by setting limits on Users' ability to purchase cabinets, and second, by using a waitlist to allocate any unallocated cabinets on a first come-first served rolling basis.

Based on experience, the Exchange believes that the Cabinet Threshold is sufficiently low that it would not be triggered easily, which would protect investors and the public interest. Similarly, the Exchange believes that in most cases the number of cabinets that a User would be allowed to buy under the proposed Purchasing Limits would be sufficient to allow the User to use its system to access the markets while leaving a margin for potential growth, which would protect investors and the public interest.

In addition, the proposed Cabinet Allocation would protect investors and the public interest in that it is designed to prevent Users from utilizing the

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4) and (5).

[14] *See* Nasdaq Cabinet Waitlist Procedures, *supra* note 7.

Purchasing Limit and waitlist procedures to obtain a greater portion of the cabinets available, thereby facilitating a more equitable distribution.

The proposed rule change would protect investors and the public interest because the proposed new General Notes would articulate rational, objective procedures and would serve to reduce any potential for confusion on how cabinets would be allocated if a shortage in unallocated cabinets were to arise in the future, and would thereby make the Fee Schedule more transparent and reduce any potential ambiguity.

The Proposed Change Is Not Unfairly Discriminatory

The Exchange believes that the proposed change is not unfairly discriminatory for the following reasons.

The proposed change would apply equally to all types and sizes of market participants. If the Cabinet Allocation were in place, all Users would be able to identify the permitted cabinet options and the procedures that would apply to them in the event that unallocated cabinet supply runs low in the future. The Cabinet Allocation would assist the Exchange in accommodating demand for co-location services, and cabinets in particular, on an equitable basis.

For the reasons above, the proposed changes do not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

For these 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,[15] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The Exchange does not believe that the proposed change would place any burden on intramarket competition that is not necessary or appropriate. The proposed change would not apply differently to distinct types or sizes of market participants. Rather, it would apply to all Users equally.

The Exchange believes that, if triggered, the imposition of the Cabinet Allocation would not impose a burden on a User's ability to compete that is not necessary or appropriate. The Exchange believes that User demand for cabinets will continue in the future. In this context, the Exchange believes that it would be reasonable for it to put in place the proposed Cabinet Allocation to establish a method for allocating cabinets on an equitable basis. The Exchange would only follow the Cabinet Allocation and place limits on Users' ability to purchase new cabinets if unallocated cabinet inventory fell to the proposed Cabinet Threshold. Similarly, the Exchange would only create the waitlist if unallocated cabinet inventory fell to zero. Based on its experience with co-location and purchasing trends over the last few years, the Exchange believes that in most cases the number of cabinets that a User would be allowed to buy under the proposed Purchasing Limits would be sufficient to allow the User to use its system to access the markets while leaving a margin for potential growth.

The Exchange believes that the proposed new General Notes would articulate rational, objective procedures and would serve to reduce any potential for confusion on how cabinets would be allocated if a shortage in unallocated cabinets were to arise in the future, and would thereby make the Fee Schedule more transparent and reduce any potential ambiguity.

Use of any co-location service is completely voluntary, and each market participant is able to determine whether to use co-location services based on the requirements of its business operations.

Intermarket Competition

The Exchange does not believe that the proposed change would impose any burden on intermarket competition that is not necessary or appropriate.

The Exchange operates in a highly competitive market in which exchanges and other vendors (*i.e.,* Hosting Users) offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of, and other business from, such market participants.

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.'' [16]

The proposed rule change would protect investors and the public interest because the proposed new General Notes would articulate rational, objective procedures and would serve to reduce any potential for confusion on how cabinets would be treated in the case of a shortage in unallocated cabinets, and would thereby make the Fee Schedule more transparent and reduce any potential ambiguity.

For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or 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 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–NYSECHX–2020–26 on the subject line.

[15] 15 U.S.C. 78f(b)(8).

[16] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

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–NYSECHX–2020–26. 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–NYSECHX–2020–26, and should be submitted on or before October 13, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–20838 Filed 9–21–20; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16666; Washington Disaster Number WA–00088 Declaration of Economic Injury]

Administrative Declaration of an Economic Injury Disaster for the State of Washington

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the State of Washington, dated 09/16/2020.

Incident: Civil Unrest.

Incident Period: 05/26/2020 and continuing.

DATES: Issued on 09/16/2020.

Economic Injury (EIDL) Loan Application Deadline Date: 06/16/2021.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 7615

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's EIDL declaration, applications for economic injury disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: King.

Contiguous Counties:

Washington Chelan, Kitsap, Kittitas, Pierce, Snohomish, Yakima.

The Interest Rates are:

	Percent
Businesses And Small Agricultural Cooperatives Without Credit Available Elsewhere	3.000
Non-Profit Organizations without Credit Available Elsewhere	2.750

The number assigned to this disaster for economic injury is 166660

The States which received an EIDL Declaration # are WASHINGTON.

(Catalog of Federal Domestic Assistance Number 59008)

Jovita Carranza,

Administrator.

[FR Doc. 2020–20859 Filed 9–21–20; 8:45 am]

BILLING CODE 8026–03–P

DEPARTMENT OF STATE

[Public Notice: 11199]

Overseas Security Advisory Council (OSAC) Meeting Notice; Closed Meeting

The Department of State announces a date change to a meeting of the U.S. State Department's Overseas Security Advisory Council from November 17 to November 16, 2020. Pursuant to Section 10(d) of the Federal Advisory Committee Act (5 U.S.C. Appendix), 5 U.S.C. 552b(c)(4), and 5 U.S.C. 552b(c)(7)(E), it has been determined that the meeting will be closed to the public. The meeting will focus on an examination of corporate security policies and procedures and will involve extensive discussion of trade secrets and proprietary commercial information that is privileged and confidential, and will discuss law enforcement investigative techniques and procedures. The agendas will include updated committee reports, global threat overviews, and other matters relating to private sector security policies and protective programs and the protection of U.S. business information overseas.

For more information, contact Marsha Thurman, Overseas Security Advisory Council, U.S. Department of State, Washington, DC 20522–2008, phone: 571–345–2214.

Jason R. Kight,

Executive Director, Overseas Security Advisory Council, Department of State.

[FR Doc. 2020–20893 Filed 9–21–20; 8:45 am]

BILLING CODE 4710–43–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Fiscal Year 2020 Allocation of Additional Tariff-Rate Quota Volume for Raw Cane Sugar

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice of the allocations of additional Fiscal Year (FY) 2020 in-quota quantities of the tariff-rate quota (TRQ) for imported raw cane sugar as announced by the Secretary of Agriculture on September 10, 2020.

DATES: This notice is applicable on September 23, 2020.

FOR FURTHER INFORMATION CONTACT: Erin Nicholson, Office of Agricultural Affairs, at (202) 395–9419 or *Erin.H.Nicholson@ustr.eop.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Additional U.S. Note 5 to Chapter 17 of the Harmonized Tariff Schedule of the United States (HTSUS), the United States maintains TRQs for imports of raw cane and refined sugar. Section 404(d)(3) of the Uruguay Round Agreements Act (19 U.S.C. 3601(d)(3))

[17] 17 CFR 200.30–3(a)(12).

authorizes the President to allocate the in-quota quantity of a TRQ for any agricultural product among supplying countries or customs areas. The President delegated this authority to the U.S. Trade Representative under Presidential Proclamation 6763 (60 FR 1007, January 4, 1995).

On September 10, 2020, the Secretary of Agriculture announced an additional in-quota quantity of the TRQ for raw cane sugar for the remainder of FY2020 (ending September 30, 2020) in the amount of 90,718 metric tons raw value (MTRV) (conversion factor: 1 metric ton raw value = 1.10231125 short tons raw value). *See* 85 FR 55812. This quantity is in addition to the minimum amount to which the United States is committed under the World Trade Organization (WTO) Uruguay Round Agreements (1,117,195 MTRV) and in addition to the increase of 317,515 MTRV raw sugar on April 3, 2020. The Department of Agriculture also has determined that it will permit all sugar entering the United States under the FY2020 raw cane sugar TRQ to enter U.S. Customs territory through October 31, 2020, a month later than the usual last entry date. Of this additional quantity, USTR is allocating 10,718 MTRV to Australia and 80,000 MTRV to Brazil.

The allocations of the raw cane sugar TRQ to countries that are net importers of sugar are conditioned on receipt of the appropriate verifications of origin, and certificates for quota eligibility must accompany imports from any country for which an allocation has been provided.

Gregory Doud,

Chief Agricultural Negotiator, Office of the United States Trade Representative.

[FR Doc. 2020–20874 Filed 9–21–20; 8:45 am]

BILLING CODE 3290–F0–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Product Exclusion Extensions: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of product exclusion extensions.

SUMMARY: Effective July 6, 2018, the U.S. Trade Representative imposed additional duties on goods of China with an annual trade value of approximately $34 billion as part of the action in the Section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation. The U.S. Trade Representative initiated an exclusion process in July 2018 and has granted 10 sets of exclusions under the $34 billion action. The seventh set of exclusions was published in September 2019 and will expire in September 2020. On June 3, 2020, the U.S. Trade Representative established a process for the public to comment on whether to extend particular exclusions for up to 12 months. This notice announces the U.S. Trade Representative's determination to extend certain exclusions through December 31, 2020.

DATES: The product exclusion extensions announced in this notice apply as of September 20, 2020, and extend through December 31, 2020. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

FOR FURTHER INFORMATION CONTACT: For general questions about this notice, contact Associate General Counsel Philip Butler or Assistant General Counsel Benjamin Allen, or Director of Industrial Goods Justin Hoffmann at (202) 395–5725. For specific questions on customs classification or implementation of the product exclusions identified in the Annexes to this notice, contact *traderemedy@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

For background on the proceedings in this investigation, please see prior notices including: 82 FR 40213 (August 24, 2017), 83 FR 14906 (April 6, 2018), 83 FR 28710 (June 20, 2018), 83 FR 32181 (July 11, 2018), 83 FR 67463 (December 28, 2018), 84 FR 11152 (March 25, 2019), 84 FR 16310 (April 18, 2019), 84 FR 21389 (May 14, 2019), 84 FR 25895 (June 4, 2019), 84 FR 32821 (July 9, 2019), 84 FR 43304 (August 20, 2019), 84 FR 46212 (September 3, 2019), 84 FR 49564 (September 20, 2019), 84 FR 52567 (October 2, 2019), 84 FR 58427 (October 31, 2019), 84 FR 70616 (December 23, 2019), 84 FR 72102 (December 30, 2019), 85 FR 6687 (February 5, 2020), 85 FR 12373 (March 2, 2020), 85 FR 16181 (March 20, 2020), 85 FR 24081 (April 30, 2020), 85 FR 33775 (June 2, 2020), 85 FR 34274 (June 3, 2020), 85 FR 41267 (July 9, 2020), and 85 FR 46777 (August 3, 2020).

Effective July 6, 2018, the U.S. Trade Representative imposed additional 25 percent duties on goods of China classified in 818 eight-digit subheadings of the Harmonized Tariff Schedule of the United States (HTSUS), with an approximate annual trade value of $34 billion. *See* 83 FR 28710 (the $34 billion action). The U.S. Trade Representative's determination included a decision to establish a process by which U.S. stakeholders could request exclusion of particular products classified within an eight-digit HTSUS subheading covered by the $34 billion action from the additional duties. The U.S. Trade Representative issued a notice setting out the process for the product exclusions and opened a public docket. *See* 83 FR 32181 (the July 11 notice).

In September 2019, the U.S. Trade Representative granted a set of exclusion requests, which expire on September 20, 2020. *See* 84 FR 49564 (the September 20 notice). On June 3, 2020, the U.S. Trade Representative invited the public to comment on whether to extend for up to 12 months particular exclusions granted in the September 20 notice. *See* 85 FR 34274 (the June 3 notice).

Under the June 3 notice, commenters were asked to address whether the particular product and/or a comparable product is available from sources in the United States and/or in third countries; any changes in the global supply chain since July 2018 with respect to the particular product, or any other relevant industry developments; and efforts, if any, importers or U.S. purchasers have undertaken since July 2018 to source the product from the United States or third countries.

In addition, commenters who were importers and/or purchasers of the products covered by an exclusion were asked to provide information regarding their efforts since July 2018 to source the product from the United States or third countries; the value and quantity of the Chinese-origin product covered by the specific exclusion request purchased in 2018 and 2019, and whether these purchases are from a related company; whether Chinese suppliers have lowered their prices for products covered by the exclusion following the imposition of duties; the value and quantity of the product covered by the exclusion purchased from domestic and third country sources in 2018 and 2019; the commenter's gross revenue for 2018 and 2019; whether the Chinese-origin product of concern is sold as a final product or as an input; whether the imposition of duties on the products covered by the exclusion will result in severe economic harm to the commenter or other U.S. interests; and any additional information in support of or in opposition to extending the exclusion.

The June 3 notice required the submission of comments no later than July 7, 2020.

B. Determination To Extend Certain Exclusions

Based on an evaluation of the factors set out in the July 11 and June 3 notices, which are summarized above, pursuant to sections 301(b), 301(c), and 307(a) of the Trade Act of 1974, as amended, and in accordance with the advice of the interagency Section 301 Committee, the U.S. Trade Representative has determined to extend certain product exclusions covered by the September 20 notice, as set out in the Annexes to this notice.

The June 3 notice provided that the U.S. Trade Representative would consider extensions of up to 12 months. In light of the cumulative effect of current and possible future exclusions or extensions of exclusions on the effectiveness of the action taken in this investigation, the U.S. Trade Representative has determined to extend the exclusions in the Annexes to this notice for less than 12 months—through December 31, 2020. To date, the U.S. Trade Representative has granted more than 6,800 exclusion requests, has extended some of these exclusions, and may consider further extensions of exclusions.

The U.S. Trade Representative will take account of the cumulative effect of exclusions in considering the possible further extension of the exclusions covered by this notice, as well as possible extensions of exclusions of other products covered by the action in this investigation. The U.S. Trade Representative's determination also takes into account advice from advisory committees and any public comments concerning extension of the pertinent exclusion.

In accordance with the July 11 notice, the exclusions are available for any product that meets the description in the Annexes, regardless of whether the importer filed an exclusion request. Further, the scope of each exclusion is governed by the scope of the ten digit HTSUS headings and product descriptions in the Annexes to this notice, and not by the product descriptions set out in any particular request for exclusion.

Joseph Barloon,

General Counsel, Office of the United States Trade Representative.

BILLING CODE 3290–F0–P

ANNEX A

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 20, 2020 and before 11:59 p.m. eastern daylight time on December 31, 2020, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified:

1. by inserting the following new heading 9903.88.58 in numerical sequence, with the material in the new heading inserted in the columns of the HTSUS labeled "Heading/Subheading", "Article Description", and "Rates of Duty 1-General", respectively:

Heading/ Subheading	Article Description	Rates of Duty		
		1		2
		General	Special	
"9903.88.58	Effective with respect to entries on or after September 20, 2020, and through December 31, 2020, articles the product of China, as provided for in U.S. note 20(kkk) to this subchapter, each covered by an exclusion granted by the U.S. Trade Representative	The duty provided in the applicable subheading"		

2. by inserting the following new U.S. note 20(kkk) to subchapter III of chapter 99 in numerical sequence:

"(kkk) The U.S. Trade Representative determined to establish a process by which particular products classified in heading 9903.88.01 and provided for in U.S. notes 20(a) and 20(b) to this subchapter could be excluded from the additional duties imposed by heading 9903.88.01. See 83 Fed. Reg. 40823 (August 16, 2018) and 83 Fed. Reg. 47326 (September 18, 2018). Pursuant to the product exclusion process, the U.S. Trade Representative has determined that, as provided in heading 9903.88.58, the additional duties provided for in heading 9903.88.01 shall not apply to the following particular products, which are provided for in the enumerated statistical reporting numbers:

(1) Submersible centrifugal pumps (other than fuel, lubricating or cooling medium pumps for internal combustion piston engines; other than stock pumps imported for use with machines for making cellulosic pulp, paper or paperboard), not fitted or designed to be fitted with a measuring device, the foregoing capable of operating at 3,700 liters or more but not exceeding 41,000 liters per hour (described in statistical reporting number 8413.70.2004)

(2) Tabletop water fountains designed for indoor use, the essential character of which is imparted by submersible centrifugal pumps (described in statistical reporting number 8413.70.2004)

(3) Rotary compressors, each exceeding 746 W but not exceeding 2,238 W, with a cooling capacity ranging from 2.3 kW to 5.5 kW (described in statistical reporting number 8414.30.8060)

(4) Thermal roll laminators, each valued not over $450 (described in statistical reporting number 8420.10.9040)

(5) Cutting pads, platforms, base plates, pads, shims, trays, which function as guides for hand-operated table-top calendering machines of a width not exceeding 51 cm (described in statistical reporting number 8420.99.9000)

(6) Ionization filters valued over $35 but not over $45 each (described in statistical reporting number 8421.21.0000)

(7) Disposable plastic filters of a kind suitable for filtering and dehumidifying a patient's breath in a medical device such as a gas analyzer (described in statistical reporting number 8421.39.8090)

(8) Parts of swimming pool vacuum cleaners (described in statistical reporting number 8421.99.0040)

(9) 3-member slides with ball bearings, of stainless steel, for use in household dishwashers (described in statistical reporting number 8422.90.0640)

(10) Shovel loaders, each with a bucket capacity of 11.4 m^3 to 12 m^3, and an operating weight of 30,000 kg or more but not exceeding 36,000 kg (described in statistical reporting number 8429.51.1055)

(11) Animal feeding machinery (described in statistical reporting number 8436.80.0090)

(12) Parts of animal feeding machinery (described in statistical reporting number 8436.99.0090)

(13) Ink cartridges, each weighing more than 1 kg (described in statistical reporting number 8443.99.2010)

(14) Printer maintenance kits consisting of two or more replacement parts for printer units of subheading 8443.32.10 specified in additional U.S. note 2 to chapter 84 (described in statistical reporting number 8443.99.2050)

(15) Horizontal lathes for removing metal, electrically powered, not numerically controlled, each with mill head attachment mounted above the lathe headstock (described in statistical reporting number 8458.19.0020)

(16) New numerically-controlled milling machines capable of end beveling pipe of an outside diameter of 60 cm or more but not exceeding 305 cm (described in statistical reporting number 8459.61.0080)

(17) Press brakes, not numerically controlled, having a drive capacity rating of 3kW (described in statistical reporting number 8462.29.0030)

(18) New hydraulic shearing machines, not numerically controlled, with a power of 7.5 kW, valued at $3,025 or more each (described in statistical reporting number 8462.39.0050)

(19) Tool holders of a kind used to hold various types of metal working tools for use on milling machine spindles (described in statistical reporting number 8466.10.0175)

(20) Modularized plants for the manufacture of lithium hydroxide by functions involving mixing, kneading or stirring (described in statistical reporting number 8479.82.0040)

(21) Ball type angle cock valve bodies, of cast iron, for oleohydraulic or pneumatic transmissions (described in statistical reporting number 8481.90.9020)
(22) Valve bodies, of aluminum, of valves for oleohydraulic or pneumatic transmissions (described in statistical reporting number 8481.90.9020)
(23) Hydraulic valve parts, other than valve bodies, of valves for oleohydraulic or pneumatic transmissions, each valued not over $5 (described in statistical reporting number 8481.90.9040)
(24) Angular contact ball bearings, not for use with wheel hub bearing units, having an inner diameter of 25 mm or greater but not exceeding 55 mm, an outer diameter of 50 mm or greater but not exceeding 95 mm, a width of 20 mm or greater but not exceeding 35 mm, with single or double row of steel balls and a cage of steel or plastics (described in statistical reporting number 8482.10.5028)
(25) Angular contact ball bearings, not over 40 mm in width, other than wheel hub bearing units (described in statistical reporting number 8482.10.5028)
(26) Electric motors, AC, permanent split capacitor type, not exceeding 16 W (described in statistical reporting number 8501.10.4020)
(27) DC motors, of an output exceeding 37.5 W but not exceeding 74.6 W, valued over $2 but not over $30 each (described in statistical reporting number 8501.31.2000)
(28) AC motors, multi-phase, of rolled steel frame construction (described in statistical reporting number 8501.51.4040)
(29) AC motors, multi-phase, of an output of 186.5 kW or more but not exceeding 373 kW, having a cast iron frame construction (described in statistical reporting number 8501.53.8040)
(30) Dual layer printed circuit board assemblies, each valued over $30 but not over $35 (described in statistical reporting number 8504.90.7500)
(31) Transceivers, 10-meter, not hand-held, for operation in infrequencies of 28.000 to 29.700 MHz (described in statistical reporting number 8525.60.1050)
(32) Limit switches, for a voltage not exceeding 1,000 V, each valued over $19 but not over $32 (described in statistical reporting number 8536.50.9055)
(33) Modular light switches, for a voltage not exceeding 1,000 V, presented in polyethylene terephthalate (PET) housings, designed for use with a backplate (described in statistical reporting number 8536.50.9065)
(34) Switches designed for use in motor vehicles, driver or passenger activated (described in statistical reporting number 8536.50.9065)
(35) Coaxial connectors, for a voltage not exceeding 1,000 V, valued over $0.20 but not over $0.30 each (described in statistical reporting number 8536.69.4010)
(36) Butt splice connectors, for a voltage not exceeding 1,000 V, each valued not over $3 (described in statistical reporting number 8536.90.4000)
(37) Ring terminals, for a voltage not exceeding 1,000 V (described in statistical reporting number 8536.90.4000)
(38) Twist-on wire connectors, for a voltage not exceeding 1,000 V, each valued not over $0.03 (described in statistical reporting number 8536.90.4000)
(39) S-band and X-band linear accelerators designed for use in radiation surgery or radiation therapy equipment (described in statistical reporting number 8543.10.0000)
(40) Four-wheel off-road vehicles, with only spark-ignition internal combustion reciprocating piston engines, of a cylinder capacity not exceeding 1,000 cc, with

straddle seat and handlebar control, each with label indicating that vehicle is for operation only by persons at least 16 years of age, each valued not over $5000 (described in statistical reporting number 8703.21.0110)

(41) Works trucks, electrical, operator riding, each of a curb weight exceeding 8,500 kg but not exceeding 9,500 kg (described in statistical reporting number 8709.11.0030)

(42) Depth-sounding apparatus, each valued not over $50 (described in statistical reporting number 9014.80.2000)

(43) Disposable electrocardiograph (ECG) electrodes (described in statistical reporting number 9018.11.9000)

(44) Portable ultrasonic scanner consoles, each weighing less than 4 kg, presented with or without transducer (described in statistical reporting number 9018.12.0000)

(45) Digital peak flow meters suitable for use by medical professionals (described in statistical reporting number 9018.19.9550)

(46) Fingertip pulse oximeters suitable for use by medical professionals (described in statistical reporting number 9018.19.9550)

(47) Bismuth germanate crystals with set dimensional and surface finish requirements and used as a detection element in Positron Emission Tomography (PET) detectors (described in statistical reporting number 9018.19.9560)

(48) Magnetic resonance imaging ("MRI") patient enclosure devices, each incorporating radio frequency and gradient coils (described in statistical reporting number 9018.19.9560)

(49) Parts and accessories of capnography monitors (described in statistical reporting number 9018.19.9560)

(50) Otoscopes (described in statistical reporting number 9018.90.2000)

(51) Anesthesia masks (described in statistical reporting number 9018.90.3000)

(52) Electrosurgical cautery pencils with electrical connectors (described in statistical reporting number 9018.90.6000)

(53) Printed circuit board assemblies designed for use in displaying operational performance of medical infusion equipment (described in statistical reporting number 9018.90.7580)

(54) X-ray tables (described in statistical reporting number 9022.90.2500)

(55) X-ray tube housings and parts thereof (described in statistical reporting number 9022.90.4000)

(56) Parts and accessories, of metal, for mobile X-ray apparatus (described in statistical reporting number 9022.90.6000)

(57) Printed circuit board assemblies, of a kind designed for use in X-ray apparatus (described in statistical reporting number 9022.90.6000)

(58) Vertical stands specially designed to support, contain or adjust the movement of X-ray digital detectors, or the X-ray tube and collimator in complete X-ray diagnostic systems (described in statistical reporting number 9022.90.6000)

(59) Thermoplastic masks of polycaprolactone for the use of immobilizing patients, during the use of alpha, beta or gamma radiations, for radiography or radiotherapy (described in statistical reporting number 9022.90.9500)

(60) Automatic thermostats for heating, ventilation and air conditioning systems, containing temperature and humidity sensors, designed for wall mounting (described in statistical reporting number 9032.10.0030)

(61) Battery balancers designed for regulating voltage across batteries, other than for 6, 12 or 24 volt systems (described in statistical reporting number 9032.89.4000)
(62) Thermostat covers (described in statistical reporting number 9032.90.6120)"

3. by amending the last sentence of the first paragraph of U.S. note 20(a) to subchapter III of chapter 99 by:

    a. by deleting "or (10)" and by inserting "(10)" in lieu thereof; and

    b. by inserting "; or (11) heading 9903.88.58 and U.S. note 20(kkk) to subchapter III of chapter 99" after the phrase "U.S. note 20(eee) to subchapter III of chapter 99", where it appears at the end of the sentence.

4. by amending U.S. note 20(b) to subchapter III of chapter 99 by:

    a. by deleting "or (10)" and by inserting "(10)" in lieu thereof; and

    b. by inserting "; or (11) heading 9903.88.58 and U.S. note 20(kkk) to subchapter III of chapter 99" after the phrase "U.S. note 20(eee) to subchapter III of chapter 99", where it appears at the end of the sentence.

5. by amending the Article Description of heading 9903.88.01:

    a. by deleting "9903.88.50 or";

    b. by inserting in lieu thereof "9903.88.50,"; and

    c. by inserting "or 9903.88.58," after "9903.88.52,".

ANNEX B

The following table is provided for informational purposes only. The table contains a list of the original product exclusions that are being extended by this notice. In addition, the table contains the corresponding subdivisions in new note 20(kkk) to subchapter III of Chapter 99 and new heading 9903.88.58 for the product exclusions that are being extended by this notice. The original product exclusions expire on September 20, 2020. The exclusions that are being extended are effective from September 20, 2020 through December 31, 2020.

Original Product Exclusions		Corresponding Extension of Product Exclusions	
Note 20 Subdivision	**Chapter 99 Heading**	**Note 20 Subdivision**	**Chapter 99 Heading**
20(q)(9)	9903.88.14	20(kkk)(1)	9903.88.58
20(q)(11)	9903.88.14	20(kkk)(2)	9903.88.58
20(q)(25)	9903.88.14	20(kkk)(3)	9903.88.58
20(q)(46)	9903.88.14	20(kkk)(4)	9903.88.58
20(q)(47)	9903.88.14	20(kkk)(5)	9903.88.58
20(q)(51)	9903.88.14	20(kkk)(6)	9903.88.58
20(q)(61)	9903.88.14	20(kkk)(7)	9903.88.58
20(q)(64)	9903.88.14	20(kkk)(8)	9903.88.58
20(q)(70)	9903.88.14	20(kkk)(9)	9903.88.58
20(q)(82)	9903.88.14	20(kkk)(10)	9903.88.58
20(q)(96)	9903.88.14	20(kkk)(11)	9903.88.58
20(q)(97)	9903.88.14	20(kkk)(12)	9903.88.58
20(q)(99)	9903.88.14	20(kkk)(13)	9903.88.58
20(q)(101)	9903.88.14	20(kkk)(14)	9903.88.58
20(q)(104)	9903.88.14	20(kkk)(15)	9903.88.58
20(q)(106)	9903.88.14	20(kkk)(16)	9903.88.58
20(q)(108)	9903.88.14	20(kkk)(17)	9903.88.58
20(q)(109)	9903.88.14	20(kkk)(18)	9903.88.58
20(q)(114)	9903.88.14	20(kkk)(19)	9903.88.58
20(q)(130)	9903.88.14	20(kkk)(20)	9903.88.58
20(q)(141)	9903.88.14	20(kkk)(21)	9903.88.58
20(q)(142)	9903.88.14	20(kkk)(22)	9903.88.58
20(q)(143)	9903.88.14	20(kkk)(23)	9903.88.58
20(q)(148)	9903.88.14	20(kkk)(24)	9903.88.58
20(q)(149)	9903.88.14	20(kkk)(25)	9903.88.58
20(q)(169)	9903.88.14	20(kkk)(26)	9903.88.58
20(q)(179)	9903.88.14	20(kkk)(27)	9903.88.58
20(q)(185)	9903.88.14	20(kkk)(28)	9903.88.58
20(q)(188)	9903.88.14	20(kkk)(29)	9903.88.58

20(q)(198)	9903.88.14	20(kkk)(30)	9903.88.58
20(q)(210)	9903.88.14	20(kkk)(31)	9903.88.58
20(q)(232)	9903.88.14	20(kkk)(32)	9903.88.58
20(q)(234)	9903.88.14	20(kkk)(33)	9903.88.58
20(q)(236)	9903.88.14	20(kkk)(34)	9903.88.58
20(q)(237)	9903.88.14	20(kkk)(35)	9903.88.58
20(q)(244)	9903.88.14	20(kkk)(36)	9903.88.58
20(q)(247)	9903.88.14	20(kkk)(37)	9903.88.58
20(q)(248)	9903.88.14	20(kkk)(38)	9903.88.58
20(q)(254)	9903.88.14	20(kkk)(39)	9903.88.58
20(q)(262)	9903.88.14	20(kkk)(40)	9903.88.58
20(q)(263)	9903.88.14	20(kkk)(41)	9903.88.58
20(q)(272)	9903.88.14	20(kkk)(42)	9903.88.58
20(q)(274)	9903.88.14	20(kkk)(43)	9903.88.58
20(q)(275)	9903.88.14	20(kkk)(44)	9903.88.58
20(q)(276)	9903.88.14	20(kkk)(45)	9903.88.58
20(q)(277)	9903.88.14	20(kkk)(46)	9903.88.58
20(q)(278)	9903.88.14	20(kkk)(47)	9903.88.58
20(q)(279)	9903.88.14	20(kkk)(48)	9903.88.58
20(q)(280)	9903.88.14	20(kkk)(49)	9903.88.58
20(q)(281)	9903.88.14	20(kkk)(50)	9903.88.58
20(q)(282)	9903.88.14	20(kkk)(51)	9903.88.58
20(q)(283)	9903.88.14	20(kkk)(52)	9903.88.58
20(q)(284)	9903.88.14	20(kkk)(53)	9903.88.58
20(q)(285)	9903.88.14	20(kkk)(54)	9903.88.58
20(q)(286)	9903.88.14	20(kkk)(55)	9903.88.58
20(q)(287)	9903.88.14	20(kkk)(56)	9903.88.58
20(q)(288)	9903.88.14	20(kkk)(57)	9903.88.58
20(q)(290)	9903.88.14	20(kkk)(58)	9903.88.58
20(q)(291)	9903.88.14	20(kkk)(59)	9903.88.58
20(q)(303)	9903.88.14	20(kkk)(60)	9903.88.58
20(q)(306)	9903.88.14	20(kkk)(61)	9903.88.58
20(q)(310)	9903.88.14	20(kkk)(62)	9903.88.58

[FR Doc. 2020–20828 Filed 9–21–20; 8:45 am]
BILLING CODE 3290–F0–C

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Product Exclusion Extensions: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of product exclusion extensions.

SUMMARY: Effective August 23, 2018, the U.S. Trade Representative imposed additional duties on goods of China with an annual trade value of approximately $16 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 an exclusion process in September 2018 and has granted three sets of exclusions under the $16 billion action. The second

set of exclusions was published in September 2019 and will expire on September 20, 2020. On June 25, 2020, the U.S. Trade Representative established a process for the public to comment on whether to extend particular exclusions granted in September 2019 for up to 12 months. This notice announces the U.S. Trade Representative's determination to extend certain exclusions through December 31, 2020.

DATES: The product exclusion extensions announced in this notice apply as of September 20, 2020, and extend through December 31, 2020. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

FOR FURTHER INFORMATION CONTACT: For general questions about this notice, contact Associate General Counsel Philip Butler or Assistant General Counsel Benjamin Allen, or Director of Industrial Goods Justin Hoffmann at (202) 395–5725. For specific questions on customs classification or implementation of the product exclusions identified in the Annexes to this notice, contact *traderemedy@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

For background on the proceedings in this investigation, please see prior notices including: 82 FR 40213 (August 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 40823 (August 16, 2018), 83 FR 47236 (September 18, 2018), 83 FR 47974 (September 21, 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 37381 (July 31, 2019), 84 FR 49600 (September 20, 2019), 84 FR 52553 (October 2, 2019), 84 FR 69011 (December 17, 2019), 85 FR 10808 (February 25, 2020), 85 FR 24076 (April 30, 2020), 85 FR 28691 (May 13, 2020), 85 FR 38237 (June 25, 2020), 85 FR 38243 (June 25, 2020), 85 FR 43291 (July 16, 2020), and 85 FR 45949 (July 30, 2020).

Effective August 23, 2018, the U.S. Trade Representative imposed additional 25 percent duties on goods of China classified in 279 eight-digit subheadings of the Harmonized Tariff Schedule of the United States (HTSUS), with an approximate annual trade value of $16 billion. *See* 83 FR 40823 (the $16 billion action). The U.S. Trade Representative's determination included a decision to establish a process by which U.S. stakeholders could request exclusion of particular products classified within an eight-digit HTSUS subheading covered by the $16 billion action from the additional duties. The U.S. Trade Representative issued a notice setting out the process for product exclusions and opened a public docket. *See* 83 FR 47236 (the September 18 notice).

In September 2019, the U.S. Trade Representative granted a set of exclusion requests, which expire on September 20, 2020. *See* 84 FR 49600 (the September 20 notice). On June 25, 2020, the U.S. Trade Representative invited the public to comment on whether to extend for up to 12 months, particular exclusions granted in the September 20 notice. *See* 85 FR 38237 (the June 25 notice).

Under the June 25 notice, commenters were asked to address whether the particular product and/or a comparable product is available from sources in the United States and/or in third countries; any changes in the global supply chain since August 2018 with respect to the particular product, or any other relevant industry developments; and efforts, if any, importers or U.S. purchasers have undertaken since August 2018 to source the product from the United States or third countries.

In addition, commenters who were importers and/or purchasers of the products covered by an exclusion were asked to provide information regarding their efforts since August 2018 to source the product from the United States or third countries; the value and quantity of the Chinese-origin product covered by the specific exclusion request purchased in 2018 and 2019, and whether these purchases are from a related company; whether Chinese suppliers have lowered their prices for products covered by the exclusion following the imposition of duties; the value and quantity of the product covered by the exclusion purchased from domestic and third country sources in 2018 and 2019; the commenter's gross revenue for 2018 and 2019; whether the Chinese-origin product of concern is sold as a final product or as an input; whether the imposition of duties on the products covered by the exclusion will result in severe economic harm to the commenter or other U.S. interests; and any additional information in support or in opposition of the extending the exclusion.

The June 25 notice required the submission of comments no later than July 30, 2020.

B. Determination To Extend Certain Exclusions

Based on an evaluation of the factors set out in the September 18 and June 25 notices, which are summarized above, pursuant to sections 301(b), 301(c), and 307(a) of the Trade Act of 1974, as amended, and in accordance with the advice of the interagency Section 301 Committee, the U.S. Trade Representative has determined to extend certain product exclusions covered by the September 20 notice, as set out in the Annexes to this notice.

The June 25 notice provided that the U.S. Trade Representative would consider extensions of up to 12 months. In light of the cumulative effect of current and possible future exclusions or extensions of exclusions on the effectiveness of the action taken in this investigation, the U.S. Trade Representative has determined to extend the exclusions in the Annexes to this notice for less than 12 months—through December 31, 2020. To date, the U.S. Trade Representative has granted more than 6,800 exclusion requests, has extended some of these exclusions, and may consider further extensions of exclusions. The U.S. Trade Representative will take account of the cumulative effect of exclusions in considering the possible further extension of the exclusions covered by this notice, as well as possible extensions of exclusions of other products covered by the action in this investigation. The U.S. Trade Representative's determination also takes into account advice from advisory committees and any public comments concerning extension of the pertinent exclusion.

In accordance with the September 18 notice, the exclusions are available for any product that meets the description in the Annexes, regardless of whether the importer filed an exclusion request. Further, the scope of each exclusion is governed by the scope of the ten-digit HTSUS headings and product descriptions in the Annexes to this notice, and not by the product descriptions set out in any particular request for exclusion.

Joseph Barloon,

General Counsel, Office of the United States Trade Representative.

BILLING CODE 3290–F0–P

ANNEX A

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 20, 2020 and before 11:59 p.m. eastern daylight time on December 31, 2020, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified:

1. by inserting the following new heading 9903.88.59 in numerical sequence, with the material in the new heading inserted in the columns of the HTSUS labeled "Heading/Subheading", "Article Description", and "Rates of Duty 1-General", respectively:

Heading/ Subheading	Article Description	Rates of Duty		
		1		2
		General	Special	
"9903.88.59	Effective with respect to entries on or after September 20, 2020, and through December 31, 2020, articles the product of China, as provided for in U.S. note 20(lll) to this subchapter, each covered by an exclusion granted by the U.S. Trade Representative	The duty provided in the applicable subheading"		

2. by inserting the following new U.S. note 20(lll) to subchapter III of chapter 99 in numerical sequence:

"(lll) The U.S. Trade Representative determined to establish a process by which particular products classified in heading 9903.88.02 and provided for in U.S. notes 20(c) and 20(d) to this subchapter could be excluded from the additional duties imposed by heading 9903.88.02. See 83 Fed. Reg. 40823 (August 16, 2018) and 83 Fed. Reg. 47326 (September 18, 2018). Pursuant to the product exclusion process, the U.S. Trade Representative has determined that, as provided in heading 9903.88.59, the additional duties provided for in heading 9903.88.02 shall not apply to the following particular products, which are provided for in the enumerated statistical reporting numbers:

(1) Acrylic acid-2-acrylamido-2-methylpropanesulfonic acid-acrylic ester (AA/AMPS/HPA) terpolymers, presented in dry form (described in statistical reporting number 3906.90.5000)
(2) Molded acrylonitrile-butadiene-styrene (ABS) tubes, of a kind used to effect the sterile transfer of fluid from a bag or vial to another container, each tube measuring 7.5 cm or more but not exceeding 23 cm in length, with an inner diameter of less than 0.65 cm and an outer diameter of less than 9 cm, one end having been angle-cut to form a spike, and having an integrated flange, less than 3 cm in diameter (splash guard) near the spike end

and removable polyethylene caps on each end, put up in sterile packing (described in statistical reporting number 3917.29.0090)

(3) Electrical tape of polyvinyl chloride, in rolls, measuring not more than 2 cm in width, not more than 20.2 m in length, and not more than 0.18 mm in thickness (described in statistical reporting number 3919.10.2020)

(4) Transparent tape of plastics with an acrylic emulsion adhesive, in rolls measuring not over 4.8 cm in width, valued not over $.25 per square meter (described in statistical reporting number 3919.10.2030)

(5) Rolls of polyethylene film coated with a solvent acrylic adhesive (described in statistical reporting number 3919.10.2055)

(6) Rolls of polyvinyl chloride, measuring 2.5 cm or more but not exceeding 5.1 cm in width and 182.9 m in length (described in statistical reporting number 3920.43.5000)

(7) Films coated on one or both sides with polyvinylidene chloride (PVdC) or polyvinyl alcohol (PVOH), whether or not having a primer layer between the base and coating; any of the foregoing having a total thickness greater than 0.01 mm but not greater than 0.03 mm (described in statistical reporting number 3920.62.0090)

(8) Printed film of polyvinyl chloride, laminated with foamed-polyvinyl chloride-coated polyester scrim, in rolls, of a kind used for lining shelves or drawers (described in statistical reporting number 3921.12.1100)

(9) Sheets and strips consisting of both cross-linked polyethylene and ethylene vinyl acetate, of a width greater than 1 m but not greater than 1.5 m, and a length greater than 1.75 m but not greater than 2.6 m (described in statistical reporting number 3921.19.0000)

(10) Polyethylene sheet and film laminated with spunbond-spunbond-spunbond nonwoven polypropylene fabric, measuring 1.12 m or more but not over 1.52 m in width and 1.93 m or more but not over 2.29 m in length, and weighing 55 g/m^2 or more but not exceeding 88 g/m^2 (described in statistical reporting number 3921.90.1500)

(11) Girders of iron or steel, meeting ASTM standard A572, Grades 50, 65 or 70 (described in statistical reporting number 7308.90.3000)

(12) Pipes of iron or steel, with connectors, meeting ASTM standard A572, Grade 50 (described in statistical reporting number 7308.90.3000)

(13) Posts of steel pipe and tube, with ball knobs attached (described in statistical reporting number 7308.90.3000)

(14) Posts of steel pipe and tube, with sill plates and ball studs attached (described in statistical reporting number 7308.90.3000)

(15) Rib nodes of iron or steel, meeting ASTM standard A572, Grades 50, 65 or 70 (described in statistical reporting number 7308.90.3000)

(16) Monopolar conductors for a voltage exceeding 1,000 V, other than of copper and not fitted with connectors (described in statistical reporting number 8544.60.6000)

(17) Motorcycles with electric power for propulsion, each of a power not exceeding 1,000 W (described in statistical reporting numbers 8711.60.0050 or 8711.60.0090, effective July 1, 2019; described in statistical reporting number 8711.60.0000, effective prior to July 1, 2019)"

3. by amending the last sentence of the first paragraph of U.S. note 20(c) to subchapter III of chapter 99 by:

a. by deleting "or (4)" and by inserting "(4)" in lieu thereof; and

b. by inserting "; or (5) heading 9903.88.59 and U.S. note 20(lll) to subchapter III of chapter 99" after the phrase "U.S. note 20(ggg) to subchapter III of chapter 99", where it appears at the end of the sentence.

4. by amending U.S. note 20(d) to subchapter III of chapter 99 by:

a. by deleting "or (4)" and by inserting "(4)" in lieu thereof; and

b. by inserting "; or (5) heading 9903.88.59 and U.S. note 20(lll) to subchapter III of chapter 99" after the phrase "U.S. note 20(ggg) to subchapter III of chapter 99", where it appears at the end of the sentence.

5. by amending the Article Description of heading 9903.88.02:

a. by deleting "9903.88.20 or";

b. by inserting in lieu thereof "9903.88.20,"; and

c. by inserting "or 9903.88.59," after "9903.88.54,".

ANNEX B

The following table is provided for informational purposes only. The table contains a list of the original product exclusions that are being extended by this notice. In addition, the table contains the corresponding subdivisions in new note 20(lll) to subchapter III of Chapter 99 and new heading 9903.88.59 for the product exclusions that are being extended by this notice. The original product exclusions expire on September 20, 2020. The exclusions that are being extended are effective from September 20, 2020 through December 31, 2020.

Original Product Exclusions		Corresponding Extension of Product Exclusions	
Note 20 Subdivision	**Chapter 99 Heading**	**Note 20 Subdivision**	**Chapter 99 Heading**
20(v)(1)	9903.88.17	20(lll)(1)	9903.88.59
20(v)(6)	9903.88.17	20(lll)(2)	9903.88.59
20(v)(15)	9903.88.17	20(lll)(3)	9903.88.59
20(v)(16)	9903.88.17	20(lll)(4)	9903.88.59
20(v)(17)	9903.88.17	20(lll)(5)	9903.88.59
20(v)(19)	9903.88.17	20(lll)(6)	9903.88.59
20(v)(25)	9903.88.17	20(lll)(7)	9903.88.59
20(v)(27)	9903.88.17	20(lll)(8)	9903.88.59
20(v)(34)	9903.88.17	20(lll)(9)	9903.88.59
20(v)(36)	9903.88.17	20(lll)(10)	9903.88.59
20(v)(40)	9903.88.17	20(lll)(11)	9903.88.59
20(v)(41)	9903.88.17	20(lll)(12)	9903.88.59
20(v)(42)	9903.88.17	20(lll)(13)	9903.88.59
20(v)(43)	9903.88.17	20(lll)(14)	9903.88.59
20(v)(44)	9903.88.17	20(lll)(15)	9903.88.59
20(v)(83)	9903.88.17	20(lll)(16)	9903.88.59
20(v)(86)	9903.88.17	20(lll)(17)	9903.88.59

[FR Doc. 2020–20829 Filed 9–21–20; 8:45 am]
BILLING CODE 3290–F0–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[FAA–2020–0441]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: NAS Data Release Request

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

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection is an application form, and collection frequency is on occasion, depending on how often requests for National Airspace System (NAS) data are submitted to the FAA. The information to be collected will be used to evaluate the validity of a user's request for NAS data from FAA systems and equipment.

DATES: Written comments should be submitted by November 23, 2020.

ADDRESSES: Please send written comments:

By Electronic Docket: *www.regulations.gov* (Enter docket number into search field).

Because of the coronavirus pandemic, written comments are not being received by mail or fax.

FOR FURTHER INFORMATION CONTACT: Michelle Somerday by email at: *michelle.somerday@covellsolutions.com;* phone: 703.672.3853.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for the FAA's performance; (b) the accuracy of the estimated burden; (c) ways for the FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0668.

Title: NAS Data Release Request.

Form Numbers: FAA Form 1200–5.

Type of Review: Renewal of an information collection.

Background: This information collection is required to obtain or retain a benefit, which is to obtain NAS data from the FAA. The information submitted includes: Whether the requestor currently receives NAS data, the authority to access NAS data, the type of data requested, the proposed method for acquiring data, the purpose of the request, the process for filtering sensitive data, and who at the requestor's organization will be used for the data request, including the scope and nature of work the individual will perform.

This information must be collected to enable the FAA to evaluate the validity of a user's request for NAS data from FAA systems and equipment. The information provided by the requestor is used by the FAA NAS Data Release Board (NDRB) to approve or disapprove individual requests for NAS data, consistent with FAA Order 1200.22E External Requests for National Airspace System (NAS) Data.

Respondents: Approximately 15 requests submitted annually to the FAA by requestors of NAS data.

Frequency: On occasion.

Estimated Average Burden per Response: 1 hour.

Estimated Total Annual Burden: 15 hours total.

Issued in Washington, DC, on July 15, 2020.

Virginia Boyle,

Deputy Vice President, System Operations Services.

[FR Doc. 2020–20880 Filed 9–21–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section.

FOR 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; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treasury.gov/ofac*).

Notice of OFAC Action(s)

On September 17, 2020, OFAC determined that the property and interests in property subject to U.S. jurisdiction are blocked under the relevant sanctions authorities listed below.

Individual:

1. AS'AD, Sultan Khalifah (Arabic: سلطان خليفة اسعد) (a.k.a. ASAAD, Hajj Sultan; a.k.a. ASAAD, Sultan; a.k.a. ASSAD, Sultan Khalife), Jezzine, Lebanon; DOB 31 Oct 1962; nationality Lebanon; Gender Male (individual) [SDGT] (Linked To: HIZBALLAH).

   Designated pursuant to section 1(a)(iii)(E) of Executive Order 13224 of September 23, 2001, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism," 3 CFR, 2001 Comp., p. 786, as amended by Executive Order 13886 of September 9, 2019, "Modernizing Sanctions To Combat Terrorism", 84 FR 48041 (E.O. 13224, as amended), for being a leader or official of HIZBALLAH, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

Entities:

1. ARCH CONSULTING (Arabic: آرش للإستشارات والدراسات الهندسية ش.م.م) (a.k.a. ARCH CONSULTING AND ENGINEERING; a.k.a. ARCH CONSULTING COMPANY; a.k.a. "ARCH COMPANY"; a.k.a. "ARCH CONSTRUCTION"), Al Huda Building, 2nd Floor, Al Miqdad Street, Haret Hreik, Lebanon; Old Airport Way, Amir Bldg, 4th Floor, Beirut, Lebanon; Website https://www.archconsulting.com.lb/; Commercial Registry Number 2008487 (Lebanon) [SDGT] (Linked To: HIZBALLAH).

   Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by HIZBALLAH, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

2. MEAMAR SARL (Arabic: شركة معمار للهندسة والانماء ش.م.م) (a.k.a. MEAMAR COMPANY FOR ENGINEERING AND DEVELOPMENT; a.k.a. MEAMMAR CONSTRUCTION; a.k.a. MI'MAR ENGINEERING COMPANY), Al Huda Building, 2nd Floor, Al Miqdad Street, Haret Hreik, Lebanon; Commercial Registry Number 29160 (Lebanon) [SDGT] (Linked To: HIZBALLAH).
   Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by HIZBALLAH, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

Dated: September 17, 2020.

Andrea Gacki,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2020–20871 Filed 9–21–20; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See Supplementary Information section for applicable date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions

programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Actions

On September 17, 2020, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

Individuals

1. ABEDSHAHI, Omid (a.k.a. SHAHI, Omid Abded Abed), Iran; DOB 21 Jan 1983; POB Mashhad, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport B30739724 (Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of Executive Order 13553 of September 28, 2010, ''Blocking Property of Certain Persons With Respect to Serious Human Rights Abuses by the Government of Iran and Taking Certain Other Actions,'' 75 FR 60567, 3 CFR, 2010 Comp., p. 253 (E.O. 13553), for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

2. ABOUTORABI, Seyed Hamid, Iran; DOB 17 Aug 1991; POB Azna, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

3. AKBARIANA, Omid, Iran; DOB 05 Jul 1994; POB Kashan, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

4. AZADKHANI, Amirhossein, Iran; DOB 23 Jan 1996; POB Shemiran, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport Y33935483 (Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

5. AZIZABADI, Reza Mohammadi, Iran; DOB 11 Jul 1992; POB Karaj, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

6. BABAIE, Nematollah Hosein (a.k.a. BABAEI, Nemat Hossein), Iran; DOB 10 Apr 1990; POB Rasht, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

7. DAVOODI, Abolfazl Hossein Pour, Iran; DOB 15 Jul 1992; POB Amol, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

8. EMADODDIN, Alireza (a.k.a. EMADEDDIN, Alireza), Iran; DOB 22 Jan 1989; POB Semnan, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport P21289307 (Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

9. FARASHAH, Payman Dehghanpour (a.k.a. POUR, Peyman Dehghan), Iran; DOB 22 Jan 1989; POB Yazd, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport L40581001 (Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

10. GASHASBI, Mansoor, Iran; DOB 13 Jun 1991; POB Tehran, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport J11580003 (Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

11. GHAFFARIANANBERAN, Seyedmohammad (a.k.a. GHAFARIAN, Seyed Mohammed), Iran; DOB 29 Jul 1987; POB Manchester, England; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport B16035341 (Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

12. GHOLIZADEH, Hojjat, Iran; DOB 30 Jan 1980; POB Khoy, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport M38523792 (Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

13. HAMIDI, Esmail, Iran; DOB 29 Jul 1968; POB Tonekabon, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN

MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

14. HEJABI, Mahdi, Iran; DOB 26 Aug 1990; POB Tehran, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport R46314475 (Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

15. IRANAGH, Gholamreza Radmard (a.k.a. RADMARD, Gholamreza), Iran; DOB 25 Jan 1984; POB Tabriz, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport F35337357 (Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

16. JABARI, Abolfazl, Iran; DOB 27 Mar 1992; POB Tehran, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

17. JAFARIBANDARABADI, Mohammadreza (a.k.a. BANDARABADI, Mohammad Reza Jafari), Iran; DOB 29 Nov 1989; POB Yazd, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport M20385084 (Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

18. JALALI, Maysam (a.k.a. JALALI, Meysam), Iran; DOB 22 Mar 1987; POB Qorveh, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport K45469660 (Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

19. KALAMI, Seyed Mohammad, Iran; DOB 14 Jun 1989; POB Kahnuj, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport K27232571 (Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

20. KAMALI, Ali, Iran; DOB 09 Jan 1993; POB Mashhad, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport F38965053 (Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

21. KANDI, Omid Moosazadeh Hamzeh (a.k.a. KANDI, Omid Mousazadeh), Iran; DOB 18 Dec 1988; POB Salmas, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

22. KHALILZADEH, Mohammad (a.k.a. ZADEH, Mohammed Khalil), Iran; DOB 02 Jan 1983; POB Mashhad, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport L42320339 (Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

23. KHANMIRI, Amin Hosseinzadeh (a.k.a. HOSEINZADEH, Amin), Iran; DOB 19 Feb 1989; POB Azarshahr, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport X20406521 (Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

24. LOTFI, Benham, Iran; DOB 20 Jan 1993; POB Marand, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

25. MADHI, Shahriyar, Iran; DOB 21 Mar 1993; POB Tabriz, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

26. MAGHSOUDI, Hassan Fazli (a.k.a. MAGHSOUDI, Hasan Fazli), Iran; DOB 21 Sep 1984; POB Nur, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport Y35787473 (Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

27. MAHMOUDI, Mohammad (a.k.a. MAHMOUDI, Mohammed), Iran; DOB 14 Apr 1987; POB Khoy, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

28. MEHRI, Mahmoud (a.k.a. MAHMOOD, Mehri), Iran; DOB 19 Sep 1985; POB Ahar, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport F49959213 (Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

29. MEHRI, Mohammad Hassan, Iran; DOB 04 Jul 1964; POB Ahar, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport F24371256 (Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

30. MEHRI, Mahdi, Iran; DOB 08 Jun 1990; POB Ahar, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

31. MIRZAEI, Mohammad Ali, Iran; DOB 18 Jul 1995; POB Tehran, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport I42045850 (Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

32. MIRZAEI, Reza, Iran; DOB 15 May 1992; POB Ahar, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport F22578558 (Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

33. MOGHADAM, Mohsen Matloub (a.k.a. MATLOUB, Mohsen), Iran; DOB 02 Oct 1990; POB Tehran, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport V25762563 (Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

34. MOSTAFAEI, Saeed (a.k.a. MOSTAFAIE, Saeed), Iran; DOB 16 Sep 1986; POB Khoy, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport P39417799 (Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

35. MOSTAFANEJAD, Vali (a.k.a. NEJAD, Vali Mostafa), Iran; DOB 21 Sep 1981; POB Khoy, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport N17419612 (Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

36. NAFTCHI, Mohsen Raeesi (a.k.a. NAFCHI, Mohsen Raeesi), Iran; DOB 16 Feb 1988; POB Tehran, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport P18702755 (Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

37. NAZARIKOLEHJOUB, Hossein (a.k.a. NAZARI, Hossein), Iran; DOB 21 Mar 1990; POB Aleshtar, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport W48073580 (Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

38. NOORI, Mohsen, Iran; DOB 12 Oct 1990; POB Tehran, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport V29398072 (Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

39. OSTADAKBARI, Alireza, Iran; DOB 23 Apr 1988; POB Delijan, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport Z30367974 (Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

40. RASOULI, Mohammadbagher (a.k.a. RASOULI, Mohammad Bagher), Iran; DOB 15 Mar 1982; POB Tabriz, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport Z23183660 (Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

41. SAFARI, Amirhossein (a.k.a. SAFARI, Amir Hossein), Iran; DOB 08 Aug 1992; POB Tehran, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport A39679672

(Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

42. SEDAGHATI, Mostafa (a.k.a. SEDAGHAT, Mostafa), Iran; DOB 12 Jan 1996; POB Tehran, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport N50040242 (Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

43. TAHERISHABAN, Javad, Iran; DOB 09 Dec 1990; POB Razan, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

44. TAVANA, Ali Akbar Rezaei, Iran; DOB 23 Oct 1975; POB Tehran, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport F19865800 (Iran) (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

45. ZADEH, Salar Mahmoud, Iran; DOB 24 Nov 1990; POB Khoy, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male (individual) [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13553 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

Entities

1. ADVANCED PERSISTENT THREAT 39 (a.k.a. APT39; a.k.a. CADELSPY; a.k.a. CHAFER; a.k.a. ITG07; a.k.a. REMEXI), Iran; Additional Sanctions Information—Subject to Secondary Sanctions [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13553 for to being owned or controlled by the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

2. RANA INTELLIGENCE COMPUTING COMPANY (a.k.a. RANA INSTITUTE), Iran; Additional Sanctions Information—Subject to Secondary Sanctions [IRAN–HR] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13553 for to being owned or controlled by the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY, a person whose property and interest in property is blocked pursuant to E.O. 13553.

Dated: September 17, 2020.

Andrea Gacki,

Director, Office of Foreign Assets Control, U.S. Department of Treasury.

[FR Doc. 2020–20888 Filed 9–21–20; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF VETERANS AFFAIRS

Reasonable Charges for Inpatient Medical Severity-Diagnosis Related Groups (MS–DRG) and Skilled Nursing Facility (SNF) Medical Services; v4.21 Fiscal Year (FY) 2021 Update

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice.

SUMMARY: This document updates the acute inpatient and SNF/sub-acute inpatient facility charges. The updated charges are based on MS–DRGs for fiscal year (FY) 2021.

FOR FURTHER INFORMATION CONTACT: Romona Greene, Office of Community Care, Revenue Operations, Payer Relations and Services, Rates and Charges (10D1C1), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420; email: *Romona.Greene@va.gov;* telephone: 202–382–2521 (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 17.101(a)(1) of title 38 CFR sets forth the VA medical regulations concerning ''Reasonable Charges'' for medical care or services provided or furnished by VA to a veteran: For a nonservice-connected disability for which the Veteran is entitled to care (or the payment of expenses of care) under a health plan contract; for a nonservice-connected disability incurred incident to the Veteran's employment and covered under a worker's compensation law or plan that provides reimbursement or indemnification for such care and services; or, for a nonservice-connected disability incurred as a result of a motor vehicle accident in a state that requires automobile accident reparations insurance. The methodologies for establishing billed amounts for several types of charges are found in 38 CFR 17.101; however, this notice will only address the acute inpatient and the SNF/sub-acute inpatient facility charges.

Based on the methodologies set forth in 38 CFR 17.101(b), this notice updates the acute inpatient facility charges that were based on the FY 2020 MS–DRGs. Acute inpatient facility charges by MS–DRGs are posted on the Veterans Health Administration (VHA) Office of Community Care's website, at the following link: *www.va.gov/communitycare/revenue_ops/payer_rates.asp,* under the ''Reasonable Charges Data Tables'' section, Inpatient Data Table, as Table A (v3.26). This Table A corresponds to the Table A referenced in a notice published in the **Federal Register** on September 30, 2019 (see 84 FR 51727). Table A (v4.21) referenced in this notice provides updated charges based on the FY 2021 MS–DRGs and will replace Table A (v3.26) posted on the VHA Office of Community Care's website.

Also, this document updates the SNF/sub-acute inpatient facility all-inclusive per diem charge using the methodologies set forth in 38 CFR 17.101(c). This charge is adjusted by a geographic area factor that is based on the location where the care is provided. For the geographic area factors, see Table N, title ''Acute Inpatient,'' and Table O, title ''SNF,'' on the VHA Office of Community Care's website under the v3.27 link in the ''Reasonable Charges Data Tables'' section. Tables N and O are not being updated by this notice. The SNF/sub-acute inpatient facility per diem charge is posted on the VHA Office of Community Care's website under the ''Reasonable Charges Data Tables'' section, Table B (v3.26). This Table B corresponds to the Table B referenced in a notice published in the **Federal Register** on September 30, 2019 (see 84 FR 51727). Table B referenced in this notice is v4.21, which provides an update to the all-inclusive nationwide SNF/sub-acute inpatient facility per diem charge and will replace Table B

(v3.26) posted on the VHA Office of Community Care's website.

The charges in this notice for acute inpatient and SNF/sub-acute inpatient facility services are effective October 1, 2020.

This notice is retaining the table designations used for acute inpatient facility charges by MS–DRGs, which are posted on the VHA Office of Community Care's website under ''Reasonable Charges Data Tables.'' This notice is also retaining the table designation used for SNF/sub-acute inpatient facility charges, which are also posted on the VHA Office of Community Care's website. Accordingly, the tables identified as being updated by this notice correspond to the applicable tables referenced in a notice published in the **Federal Register** on September 30, 2019 (see 84 FR 51727).

The list of data sources presented in Supplementary Table 1 (v4.21) reflects the updated data sources used to establish the updated charges described in this notice and will be posted on the VHA Office of Community Care's website under the ''Reasonable Charges Data Sources'' section.

The list of VA medical facility locations is also updated. In Supplementary Table 3, posted on the VHA Office of Community Care's website under the VA Medical Facility Locations section, VA set forth the list of VA medical facility locations, which includes the first three digits of their zip codes and provider-based/non-provider-based designations.

Consistent with VA's regulations, the updated data tables and supplementary tables containing the changes described in this notice will be posted on the VHA Office of Community Care's website, under the ''Payer Rates and Charges'' information section.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Brooks D. Tucker, Acting Chief of Staff, Department of Veterans Affairs, approved this document on September 16, 2020 for publication.

Luvenia Potts,

Regulation Development Coordinator, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2020–20894 Filed 9–21–20; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 85 Tuesday,

No. 184 September 22, 2020

Part II

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 1223

Pecan Research, Promotion, and Information Order; Proposed Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1223

[Document Number AMS–SC–20–0013; PR–A1]

Pecan Research, Promotion, and Information Order

AGENCY: Agricultural Marketing Service.

ACTION: Proposed rule.

SUMMARY: This proposal invites comments on the establishment of the Pecan Research, Promotion, and Information Order (Order). The purpose of the program would be to strengthen the position of pecans in the marketplace, maintain and expand markets for pecans, and develop new uses for pecans. The program would be financed by an assessment on pecan producers and importers. This proposal also invites comments on the procedures for conducting a referendum to determine whether the continuation of the proposed Order is favored by domestic producers and importers of pecans. In addition, this proposal announces the Agricultural Marketing Service's (AMS) intent to request approval by the Office of Management and Budget (OMB) of new information collection requirements to implement the program.

DATES: Comments must be received by November 23, 2020. Pursuant to the Paperwork Reduction Act (PRA), comments on the information collection burden that would result from this proposal must be received by November 23, 2020.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. All comments must be submitted through the Federal e-rulemaking portal at *http://www.regulations.gov* and should reference the document number, and the date and page number of this issue of the **Federal Register**. All comments submitted in response to this proposed rule will be included in the rulemaking record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting comments will be made public at *http://www.regulations.gov*.

Pursuant to the PRA, 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, should be sent to the above address.

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

SUPPLEMENTARY INFORMATION: This proposal is issued pursuant to the Commodity Promotion, Research, and Information Act of 1996 (1996 Act) (7 U.S.C. 7411–7425).

Executive Orders 12866, 13563, and 13771

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

Executive Order 13175

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

Executive Order 12988

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

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

Background

This proposal invites comments on the establishment of the Pecan Research, Promotion, and Information Order (Order). The program would be financed by an assessment on producers and importers and would be administered by a board of industry members selected by the Secretary. The initial assessment rate would be $0.02 per pound of inshell pecans and $0.04 per pound of shelled pecans produced within or imported to the United States. Entities that produce or import less than 50,000 pounds of inshell pecans (25,000 pounds of shelled pecans) on average for four fiscal periods (the fiscal period for which the exemption is claimed and the previous three fiscal periods) would be exempt from the payment of assessments.

The purpose of the program would be to strengthen the position of pecans in the marketplace, maintain and expand markets for pecans, and develop new uses for pecans. The proposal was submitted to USDA by the National Pecan Federation (NPF), an organization representing pecan growers and shellers across the United States whose mission is to promote, protect, and improve business conditions for the pecan industry.

This proposal also invites comments on the procedures for conducting a referendum to determine whether the continuation of the proposed Order is favored by domestic producers and importers of pecans. A referendum would be held among eligible domestic producers and importers no later than three years after assessments begin to determine whether they favor continuation of the program. In

addition, this proposal announces the intent of AMS to request approval by OMB of new information collection requirements to implement the program.

Legal Basis for Action

The proposed Order is authorized under the 1996 Act which authorizes USDA to establish agricultural commodity research and promotion orders which may include a combination of promotion, research, industry information, and consumer information activities funded by mandatory assessments. These programs are designed to maintain and expand markets and uses for agricultural commodities.

The 1996 Act provides several optional provisions that allow the tailoring of orders for different commodities. Section 516 of the 1996 Act provides permissive terms for orders, and other sections provide for alternatives. For example, section 514 of the 1996 Act provides for orders applicable to (1) producers, (2) first handlers and others in the marketing chain as appropriate, and (3) importers (if imports are subject to assessments). Section 516 states that an order may include an exemption of de minimis quantities of an agricultural commodity; different payment and reporting schedules; coverage of research, promotion, and information activities to expand, improve, or make more efficient the marketing or use of an agricultural commodity in both domestic and foreign markets; provision for reserve funds; provision for credits for generic and branded activities; and assessment of imports.

In addition, section 518 of the 1996 Act provides for referenda to ascertain approval of an order to be conducted either prior to its going into effect or within three years after assessments first begin under the order. Pursuant to section 518 of the Act, an order may also provide for its approval in a referendum based upon different voting patterns. Section 515 provides for establishment of a board from among producers, first handlers and others in the marketing chain as appropriate, and importers, if imports are subject to assessment.

USDA currently oversees a marketing order for pecans grown in Alabama, Arkansas, Arizona, California, Florida, Georgia, Kansas, Louisiana, Missouri, Mississippi, North Carolina, New Mexico, Oklahoma, South Carolina, and Texas, which is authorized under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The purpose of marketing orders, in general, is to stabilize market conditions, allowing industries to work together to solve marketing problems, and to improve profitability. The pecan marketing order authorizes collection of industry data; research and promotion activities; regulations on grade, size, quality, pack and container; and is financed by assessments paid by handlers of pecans grown in the production area.

The purpose of research and promotion programs, in general, is to provide a framework for agricultural industries to pool their resources and combine efforts to develop new markets, strengthen existing markets and conduct important research and promotion activities. The proposed pecan research and promotion program would be national in scope, financed by an assessment on pecan producers and importers, and authorize research and promotion activities. The purpose of the proposed Order would be to strengthen the position of pecans in the marketplace, maintain and expand markets for pecans, and develop new uses for pecans. USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

Industry Background

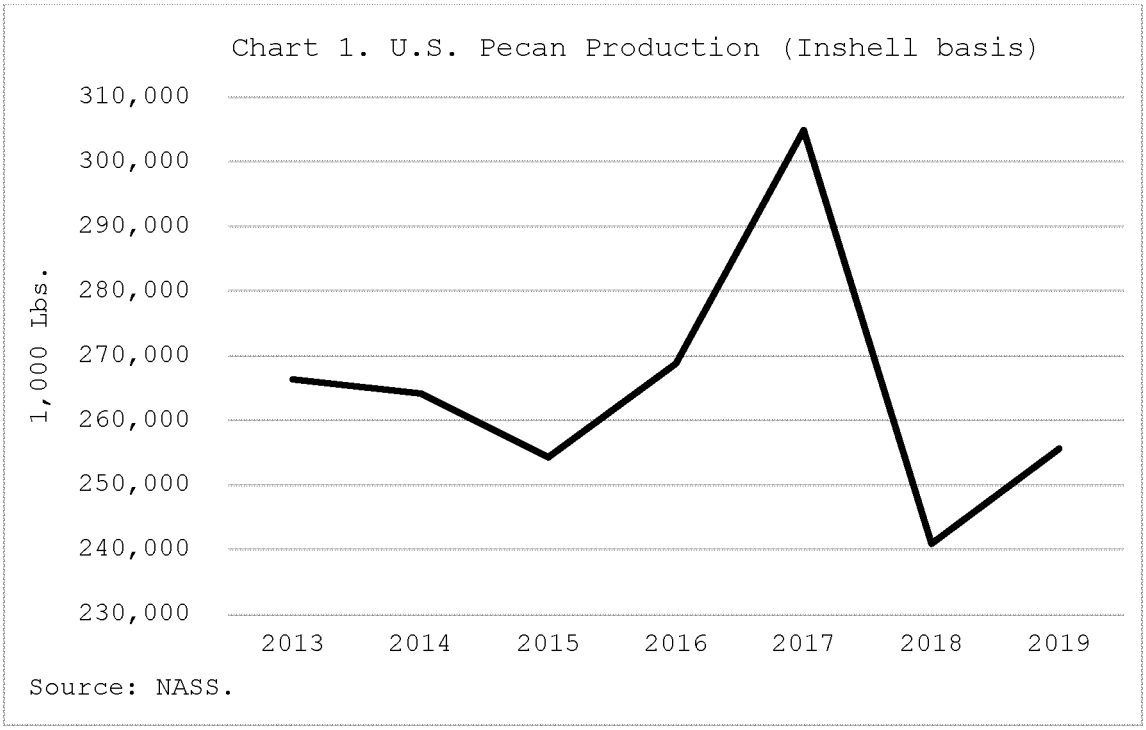
The pecan industry is comprised of producers, shellers, accumulators, wholesalers, and importers that produce, process, and supply pecans for market. Pecans include any and all varieties or sub varieties, inshell or shelled of the Genus, species: *Carya illinoinensis.* Pecans are grown primarily in Alabama, Arkansas, Arizona, California, Florida, Georgia, Kansas, Louisiana, Missouri, Mississippi, North Carolina, New Mexico, Oklahoma, South Carolina, and Texas. According to the most recent Census of Agriculture (2017), there are 15,608 operations with bearing acreage of pecans. Bearing acreage is greatest in Georgia with about 30 percent of the nationwide total, followed by Texas at 27 percent, Oklahoma at 22 percent, New Mexico at 11 percent, and Arizona at 4 percent. These five states generally account for about 95 percent of U.S. pecan production.

U.S. Supply and Consumption

Pecans are an alternate bearing crop, causing variability in production from year to year. Based on data from the National Agricultural Statistics Service (NASS), the 2014 to 2019 six-year average of total U.S. pecan production was almost 265 million pounds on an inshell basis, as shown in Table 1. Together, Georgia and New Mexico produced more than half of pecan production nationwide.

Table 1. State Pecan Production	
State	1,000 Lbs. Inshell basis
Georgia	88,000
New Mexico	80,150
Texas	42,517
Arizona	26,717
Oklahoma	13,533
Louisiana	7,406
California	4,686
Arkansas	2,850
Alabama	1,850
Mississippi	1,150
Missouri	1,090
South Carolina	350
Florida	145
Total U.S.[1]	264,765
Source: NASS, 2014-2019 average. Note: [1]Sum may not equal Total U.S. due to rounding.	

From 2013 through 2016, pecan production averaged about 263 million pounds per year, and reached a peak in 2017 at nearly 305 million pounds. The following year, however, domestic production dropped 21 percent due to the destruction of the Georgia pecan crop by Hurricane Michael. The trend of U.S. pecan production is depicted in Chart 1.



In 2018, Hurricane Michael swept across the southern half of Georgia as a Category 3 storm. According to the University of Georgia Pecan Extension, this storm resulted in a loss of nearly half the expected 2018 crop and a loss of 17 percent of the state's pecan acreage. The effects of Hurricane Michael remain present as the 2019 Georgia crop was down nearly 30 percent from the average production of the six years prior to the storm. Prior to Hurricane Michael, Georgia was the top pecan-producing state in the U.S. Considering this, along with the state's recovery efforts, the University of Georgia Pecan Extension expects Georgia pecan production to rebound in the coming years. Pecan production nationwide began to increase in 2019, climbing six percent from 2018.

Table 2 shows U.S. pecan supply and utilization. Domestic production generally accounts for about 40 percent of the domestic supply, while imports account for nearly one-third, with beginning stocks just under 30 percent. Almost all pecans imported into the U.S. are from Mexico. Of these, 70 percent are shelled, and 30 percent are inshell.

Table 2. U.S. Supply and Utilization of Pecans (1,000 Lbs., Inshell basis)

Year	Production[1]	Beginning Stocks[1]	Imports[2]	Supply[3]	Ending Stocks[1]	Exports[4]	Utilization[5]	Per Capita Consumption (Lbs.)[6]
2013	266,330	183,840	143,285	593,455	166,909	156,450	270,095	0.85
2014	264,150	166,909	186,619	617,678	174,874	167,701	275,103	0.86
2015	254,290	174,874	170,574	599,738	181,390	157,208	261,140	0.81
2016	268,770	181,390	220,069	670,229	204,288	160,469	305,471	0.95
2017	304,850	204,288	176,122	685,260	183,984	188,116	313,160	0.96
2018	240,930	183,984	230,899	655,813	203,341	135,256	317,216	0.97
2019	255,600	203,341	265,287	724,228	180,055	151,370	392,803	1.20
2014-2019 6-yr avg	264,765	185,798	208,262	658,824	187,989	160,020	310,815	0.96
Pct of supply	40%	28%	32%		29%	24%	47%	
2019 v 2018	6%	11%	15%	10%	-11%	12%	24%	23%
2019 v 2013-2018 6-yr avg	-4%	11%	41%	14%	-3%	-6%	35%	33%

Sources: [1]NASS; [2]Customs and Border Protection; [4]Foreign Agricultural Service.
Notes: [3]Production + Beginning Stocks + Imports; [5]Supply - (Ending Stocks + Exports); [6]Utilization / U.S. Population.

Nearly half of the U.S. supply of pecans is consumed domestically each year. Per capita consumption has trended upward for the last four years, reaching a high of 1.20 inshell pounds in 2019. Compared to 2018 and to the 2013 to 2018 six-year average, 2019 per capita consumption is up 23 percent and 33 percent, respectively.

Exports

The U.S. exports about 24 percent of its pecan supply on average each year. Shelled pecans make up 60 percent of U.S. pecan exports, while inshell are 40 percent. Europe and Canada are the primary markets for shelled pecans with, on average, 49 percent and 24 percent, respectively, of total shelled exports. In Europe, the largest consumers of U.S. shelled pecans are the Netherlands, the United Kingdom, and Germany with 39 percent, 24 percent, and 15 percent, respectively, of total shelled exports to Europe. On average, about 94 percent of U.S. inshell exports go to Asia. Together, Hong Kong and China make up 72 percent of the Asian market for inshell pecan exports from the United States.

Competition

The pecan industry competes with other tree nut industries such as almonds, pistachios and walnuts. As Table 3 illustrates, sales by volume of pecans are 95 percent lower than sales of almonds, 74 percent lower than sales of walnuts, but 40 percent higher than sales of pistachios.

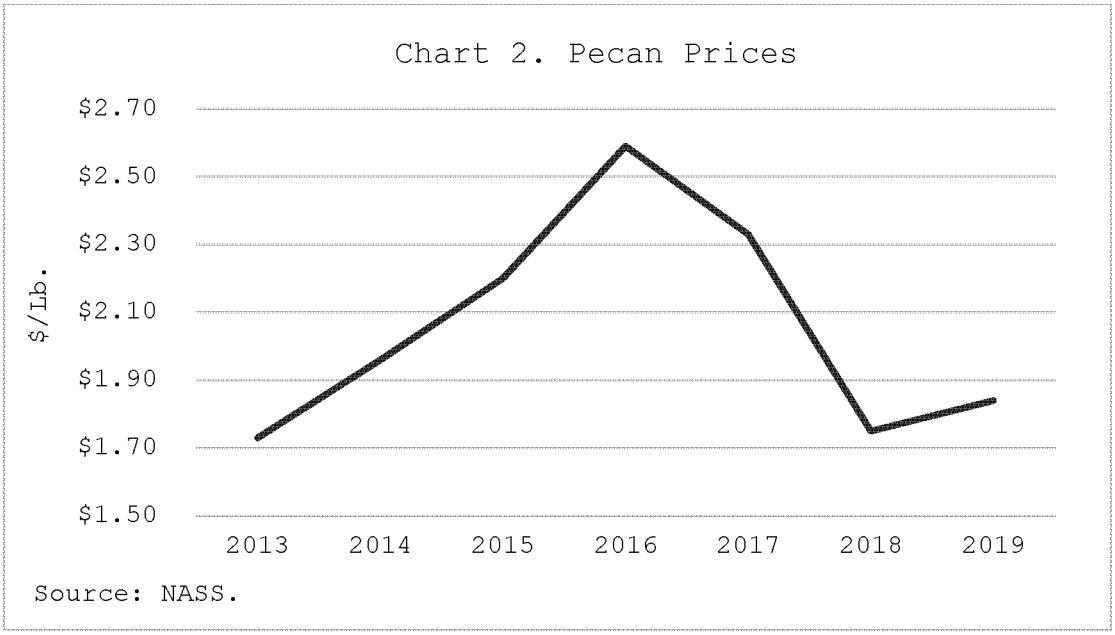
Table 3. Shelled Nut Sales (1,000 Lbs.)				
Year	Pecans	Almonds[1]	Pistachios	Walnuts
2013	106,569	2,010,000	45,400	306,000
2014	101,858	1,870,000	50,800	374,000
2015	87,225	1,900,000	33,100	400,000
2016	116,930	2,140,000	114,400	438,000
2017	126,396	2,270,000	52,807	390,000
2018	88,373	2,280,000	121,000	450,000
2019	115,937	2,550,000	82,000	412,000
2014-2019 6-yr avg	106,120	2,168,333	75,685	410,667
Pecan comparison		-95%	40%	-74%
Source: NASS.				
Note: [1]Almonds is shelled utilized production.				

Prices received by growers, as shown in Table 4, are 25 percent lower for pecans than for almonds. Compared to other nuts, grower-received prices for pecans are 18 percent lower than those for pistachios, but double those for walnuts.

Table 4. Grower-Received Prices ($/Lb.)				
Year	Pecans	Almonds	Pistachios	Walnuts
2013	$ 1.73	$ 3.21	$ 3.48	$ 1.86
2014	$ 1.96	$ 4.00	$ 3.57	$ 1.67
2015	$ 2.20	$ 3.13	$ 3.29	$ 0.84
2016	$ 2.59	$ 2.39	$ 1.68	$ 0.93
2017	$ 2.33	$ 2.53	$ 1.69	$ 1.25
2018	$ 1.75	$ 2.50	$ 2.65	$ 0.68
2019	$ 1.84	$ 2.43	$ 2.62	$ 0.99
2014-2019 6-yr avg	$ 2.11	$ 2.83	$ 2.58	$ 1.06
Pecan comparison		-25%	-18%	100%
Source: NASS.				

Price Trends

Chart 2 shows the trend of prices for pecans from 2013 to 2019. In recent years, pecan prices were at their highest in 2016 before dropping in the following two years. Prices increased slightly between 2018 and 2019 but are still down about 12 percent compared to the average of the previous six years.



Need for a Program

According to the NPF, the greatest challenge the pecan industry is facing is supply surpassing demand. Data from the International Nut and Dried Fruit Council and from the research compiled by the Boston Consulting Group, contracted by the NPF, show that the supply of pecans may exceed demand by 19 percent in 2028.[1] The NPF believes the establishment of a national research and promotion program for pecans would help the industry address this challenge. NPF concluded that without a program funded by assessments from both domestically produced and imported pecans, the industry would not be able to meet the challenge of the approaching supply and demand imbalance.

In 2016, the U.S. pecan industry favored the establishment of a marketing order for pecans grown in Alabama, Arkansas, Arizona, California, Florida, Georgia, Kansas, Louisiana, Missouri, Mississippi, North Carolina, New Mexico, Oklahoma, South Carolina, and Texas. The program authorizes collection of industry data; research and promotion activities; regulation of grade, size, quality, pack and container; and is financed by assessments paid by handlers of pecans grown in the production area. Over the past several years the marketing order program has launched marketing campaigns to increase demand for pecans.

[1] Based on historic compound annual growth rates (CAGR's) in global pecan supply and demand for 10 years from 2008 to 2018; resultant CAGR's of 6 percent for global supply and demand applied to 2018 estimates to forecast 2028 figures.

According to the NPF, the proposed research and promotion program will benefit domestic producers and importers of pecans, thereby justifying the collection of assessments on both domestic production and imports.

The NPF proposal indicates that imported product accounts for approximately 39 percent of pecans being supplied to the U.S., with domestic production accounting for the other 61 percent. With mandatory assessments being collected only on domestic production, this has created a gap in the dollars available to fund marketing campaigns focused on creating increased demand for pecans in the U.S. and globally. As domestic production and imports increase, the need for a robust promotion campaign is apparent, which would only be accomplished with both domestic producers and importers contributing financially. The NPF concluded that the marketing order would continue to have an important role within the industry and the intent is that the two programs would work together to benefit the entire pecan industry.

Provisions of Proposed Program

Definitions

Pursuant to section 513 of the 1996 Act, §§ 1223.1 through 1223.24 of proposed 7 CFR part 1223 (referred to as the proposed Order) define certain terms that would be used throughout final 7 CFR part 1223 (referred to as the Order). Several of the terms are common to all research and promotion programs authorized under the 1996 Act, while other terms are specific to the proposed Order.

Section 1223.1 would define the term ''Act'' to mean the Commodity Promotion, Research, and Information Act of 1996 (7 U.S.C. 7411–7425), and any amendments thereto.

Section 1223.2 would define the term ''American Pecan Council'' or ''APC'' to mean that governing body of the Federal Marketing Order established pursuant to 7 CFR part 986, unless otherwise noted. As specified in proposed § 1223.41, the APC would conduct the initial nominations for producers of the American Pecan Promotion Board and submit them to the Secretary.

Section 1223.3 would define the term ''American Pecan Promotion Board'' or ''Board'' to mean the administrative body established pursuant to § 1223.40.

Section 1223.5 would define ''Customs'' or ''CBP'' to mean the Customs and Border Protection, an agency of the United Sates Department of Homeland Security.

Section 1223.7 would define ''first handler'' to mean any person who receives, shells, cracks, accumulates, warehouses, roasts, packs, sells, consigns, transports, exports, or ships (except as a common or contract carrier of pecans owned by another person), or in any other way puts inshell or shelled pecans in the stream of commerce. The term first handler includes a producer who handles or markets pecans of the producer's own production.

Section 1223.8 would define the term ''fiscal period'' to mean the period from October 1 to September 30, or such other period as recommended by the Board and approved by the Secretary.

Section 1223.10 would define the term ''information'' to mean information

and programs that are designed to increase efficiency in processing and to develop new markets, marketing strategies, increase market efficiency, and activities that are designed to enhance the image of pecans on a national or international basis. This includes consumer information, which means any action taken to provide information to, and broaden the understanding of, the general public regarding the consumption, use, nutritional attributes, and care of pecans. This would also include industry information, which means information and programs that would lead to the development of new markets, new marketing strategies, or increased efficiency for the pecan industry, and activities to enhance the image of the pecan industry.

Section 1223.11 would define the term ''inshell pecans'' to mean nuts whose kernel is maintained inside the shell.

Section 1223.12 would define the terms ''market'' or ''marketing.'' The term ''marketing'' would mean the sale or other disposition of pecans in any channel of commerce. The term ''market'' would mean to sell or otherwise dispose of pecans in interstate, foreign, or intrastate commerce.

Section 1223.14 would define the terms ''part'' and ''subpart.'' The term ''part'' would mean all rules, regulations, and supplemental orders issued pursuant to the Act and the Order. The Pecan Promotion, Research, and Information Order would be a ''subpart'' (specifically subpart A) of such part.

Section 1223.15 would define the term ''pecans'' to mean and includes any and all varieties or subvarieties, inshell or shelled, of the Genus, species: Carya illinoinensis grown or imported into the United States.

Section 1223.17 would define the term ''producer'' to mean synonymous with grower and any person engaged in the production and sale of pecans in the United States who owns, or who shares in the ownership and risk of loss of such pecans.

Section 1223.18 would define the terms programs, plans, and projects to mean research, promotion and information programs, plans, or projects established under the Order.

Section 1223.19 would define the term ''promotion'' to mean any action taken to present a favorable image of pecans to the general public and the food industry for the purpose of improving the competitive position of pecans both in the United States and abroad and stimulating the sale of pecans. This includes paid advertising and public relations.

Section 1223.20 would define the term ''research'' to mean any type of test, study, or analysis designed to advance the image, desirability, use, marketability, production, product development, or quality of pecans, including research relating to nutritional value, cost of production, new product development, varietal development, nutritional value, health research, and marketing of pecans.

Section 1223.22 would define the term ''shelled pecans'' to mean pecans whose shells have been removed leaving only edible kernels, kernel pieces or pecan meal. One pound of shelled pecans is the equivalent of two pounds inshell pecans.

Sections 1223.4, 1223.6, 1223.9, 1223.13, 1223.16, 1223.21, 1223.23, 1223.24, and 1223.25 would define the terms ''conflict of interest,'' ''Department or USDA,'' ''importer,'' ''Order,'' ''person,'' ''Secretary,'' ''suspend,'' ''terminate,'' and ''United States,'' respectively. The definitions are the same as or are based on the definitions specified in section 513 of the Act.

Establishment of the Board

Pursuant to section 515 of the 1996 Act, §§ 1223.40 through 1223.47 of the proposed Order would detail the establishment and membership of the proposed American Pecan Promotion Board (Board), nominations and appointments, term of office, removal and vacancies, procedure, compensation and reimbursement, powers and duties, and prohibited activities.

Section 1223.40 would specify the Board establishment and membership. The 1996 Act requires the composition of a board to reflect the geographical distribution of production of the commodity in the U.S. as well as the quantity or value of the commodity imported into the United States. In accordance with this requirement, the NPF recommended the Board would consist of 17 members: 10 domestic producers and 7 importers.

To determine whether the NPF's proposed board representation is reflective of the appropriate geographical distribution, USDA used the following resources: The NASS for U.S. production data; the 2007, 2012, and 2017 Census of Agriculture (published by NASS) for bearing acreage data by state; Customs import data for shelled and inshell pecans (HTS Codes 0802901500 and 0802901000, respectively); and the Global Agricultural Trade System (GATS) of the Foreign Agricultural Service (FAS) for data on U.S. exports of inshell pecans to Mexico. All data presented in this document is based on a calendar year for consistency in timeframe. Due to the alternate-bearing nature of the crop, USDA concluded that the most appropriate way to illustrate production and import volume is a six-year average of years 2014 through 2019.

U.S. Production

Every five years, following the Census of Agriculture, NASS reviews production for each commodity and evaluates the inclusion of states in its annual estimating program. Given limited available resources, NASS has reduced the number of states included in its annual estimation of pecan production to five states as of 2019, down from 12 states in 2014 after the 2012 Census of Agriculture. NASS had reported annual estimates of pecan production for 15 states as early as 2007.

Using bearing acreage data from the 2007, 2012, and 2017 Census of Agriculture, USDA estimated 2017 production in the seven states for which no data was issued by NASS. USDA calculated an average yield per acre for each of these seven states using bearing acreage data from the 2007 and 2012 Census of Agriculture and NASS production data for the corresponding years. Next, USDA applied these calculations of yield to bearing acreage data from the 2017 Census of Agriculture to estimate 2017 production. Table 5 shows the result.

Table 5. Pecan Production Volume by State 2014-2019 Six-Year Average	
States	Lbs. (Inshell basis)
Alabama	1,850,000
Arizona	26,783,333
Arkansas [1]	3,102,365
California	4,686,000
Florida [1]	1,958,448
Georgia [2]	90,900,000
Kansas [1]	676,226
Louisiana	7,406,000
Mississippi [1]	1,217,850
Missouri [1]	1,415,427
New Mexico	81,950,000
North Carolina [1]	216,949
Oklahoma	13,300,000
South Carolina [1]	714,239
Texas	43,366,667
U.S. Total	279,543,504

Source: NASS.
Notes: [1]2017 production estimated by USDA; [2]Georgia production estimated using a weighted average with lower weights applied to production in years 2018 and 2019 to discount anomalous effects of 2018 Hurricane Michael.

In 2018, Hurricane Michael swept across the southern half of Georgia as a Category 3 storm. According to the University of Georgia Pecan Extension, this storm resulted in a loss of nearly half the expected 2018 crop and a loss of 17 percent of the state's pecan acreage. The effects of Hurricane Michael remain present as the 2019 Georgia crop was down nearly 30 percent from the average production of the six years prior to the storm. To more accurately represent the geographical distribution of U.S. pecan production, USDA adjusted the six-year average of production for Georgia by applying weights to each year's production figures. Equal weights of 20 percent were applied to years 2014 through 2017, and weights of 10 percent each were applied to years 2018 and 2019. The result, as shown in Table 5, is a six-year weighted average of 90.9 million pounds, inshell, of Georgia production. Prior to Hurricane Michael, Georgia was the top pecan producer in the United States. Considering this, along with the state's recovery efforts, the University of Georgia Pecan Extension expects Georgia pecan production to rebound in the coming years.

According to the proposal, domestic board representation would be split into three regions: Eastern, Central, and Western. The Eastern Region includes Alabama, Florida, Georgia, North Carolina, South Carolina, and any other U.S. states the majority of whose land mass is in the Eastern Time Zone, plus any U.S. territories in the Atlantic Ocean. The Central Region includes Arkansas, Kansas, Louisiana, Mississippi, Missouri, Oklahoma, Texas, and any other U.S. states the majority of whose land mass is in the Central Time Zone. Finally, the Western Region includes Arizona, California, New Mexico, and any other U.S. states the majority of whose land mass is in the Mountain or Pacific Time Zones, plus Alaska, Hawaii, and any U.S. territories in the Pacific Ocean.

Table 6 lists the three regions including their states and territories, along with regional six-year average production, and portion of total U.S. production. The Eastern and Central Regions, with 34 percent and 25 percent of total U.S. production, respectively, would each have three seats on the Board as recommended by the NPF. The Western Region, with 41 percent of total U.S. production would have four seats on the Board as recommended by the NPF, for a total of 10 seats representing domestic U.S. production.

Table 6. Pecan Production Volume by Region 2014-2019 Six-Year Average			
	States	Lbs. (Inshell basis)	% of U.S.
Eastern Region	Alabama Florida Georgia North Carolina South Carolina Eastern Time Zone States Atlantic Territories	95,639,636	34%
Central Region	Arkansas Kansas Louisiana Mississippi Missouri Oklahoma Texas Central Time Zone States	70,484,535	25%
Western Region	Arizona California New Mexico Mountain Time Zone States Pacific Time Zone States Alaska Hawaii Pacific Territories	113,419,333	41%
Total U.S. Production		279,543,504	
Source: NASS.			

Imports

Regarding import volume, USDA estimated about 208 million pounds, inshell, using a six-year average for years 2014 through 2019. To arrive at this estimate, USDA considered the routine industry practice of domestic inshell pecans being exported to Mexico for shelling, and then reentering the United States as shelled kernels. These shelled kernels may be documented as imported product, but they were actually produced in the United States. To account for this scenario, USDA deducted from total imports U.S. exports of inshell pecans to Mexico. This calculation assumes that all U.S. inshell pecan exports to Mexico ultimately return to the United States as shelled kernels. According to the NPF, this is a reasonable assumption. The result of this calculation is shown in Table 7.

Table 7. Revised Pecan Import Calculation 2014-2019 Six-Year Average, Lbs. (Inshell basis)		
Total Imports[1]	Exports[2]	Revised Imports[3]
244,539,780	36,278,137	208,261,643
Sources: [1]Customs and Border Protection; [2]Foreign Agricultural Service. Notes: [2]U.S. inshell exports to Mexico; [3]Total Imports - Exports.		

In Table 8, revised imports are added to domestic production to estimate the total U.S. supply of pecans. With 279.5 million pounds, on an inshell basis, U.S. production accounts for 57 percent of the total domestic supply; and, with just over 208 million pounds, on an inshell basis, imports account for 43 percent of the total U.S. supply. In its proposal, the NPF recommended 17 total board members, including ten domestic producers and seven importers.

Table 8. Board Representation
2014-2019 Six-Year Average, Lbs. (Inshell basis)

U.S. Production[1]	Imports[2]	Total U.S. Supply[3]
279,543,504	208,261,643	487,805,148
57%	43%	100%

Sources: [1]NASS; [2]Customs and Border Protection, Foreign Agricultural Service.

Notes: [2]Revised Imports calculated in Table 7 (Total Imports - Exports); [3]U.S. Production + Imports.

The NPF proposed to have no alternate Board members. It wants to ensure that industry members who seek representation and serve on the Board are committed to their service and participate in all Board meetings.

At least once every five years, the Board must review the geographical distribution of United States production of pecans and the quantity or value of imports. The review would be conducted through an audit of state crop production, Customs data, and Board assessment records. If warranted, the Board would recommend to the Secretary of Agriculture that the Board membership be reapportioned appropriately to reflect such changes. The distribution of production between regions also shall be considered. Any changes in Board composition would be implemented by the Secretary through rulemaking.

Section 1223.41 of the proposed Order would specify Board nominations and appointments. The initial nominations for producers would be submitted to the Secretary by the American Pecan Council (APC). The APC would publicize the nomination process, using trade press or other means it deems appropriate. The APC would use regional caucuses, mail or other methods to solicit potential nominees and would work with USDA to help ensure that all interested persons are apprised of the nomination process. The APC would submit the nominations and recommend two nominees for each Board position for the Secretary's consideration.

USDA would conduct initial importer nominations. This includes publicizing the nomination process, using trade press or other means it deems appropriate, and conducting outreach to all importers. USDA would receive the nominations and submit two nominees for each Board position for the Secretary's consideration.

Regarding subsequent nominations, the Board would solicit nominations as described in the following paragraph. Nominees must produce more than 50,000 pounds of inshell pecans (25,000 pounds of shelled pecans) on average for four fiscal periods (the fiscal period for which the nominations are being conducted and the previous three fiscal periods).

The Board would seek nominations for each vacant seat from producers who paid their assessments to the Board in the most recent fiscal period. Producers that produce in more than one region could seek nomination in only the region in which they produce the majority of their pecans. Interested producers could also submit a background statement outlining their qualifications to serve on the Board. The names of producer nominees would be placed on a ballot by region. The ballots, along with any background statements, would be mailed to producers in each respective region for a vote. Producers who produce pecans in more than one region could only vote in the region in which they produce the majority of their pecans. The votes would be tabulated for each region with the nominee receiving the highest number of votes at the top of the list in descending order by vote. Two candidates for each position would be submitted to the Secretary for consideration.

The Board would also solicit candidates for importer nominees. All qualified national organizations representing importers would have the opportunity to nominate members to serve on the Board. To be certified by the Secretary as a qualified national organization, an organization would have to have been established for more than a year; be comprised primarily of importers of pecans; receive a portion of its operating funds from importers; and demonstrate it would be willing and able to further the Act and Order's purposes. Interested importers could also submit a background statement outlining their qualifications to serve on the Board. The names of importer nominees would then be placed on a ballot. The ballots, along with any background statements, would be mailed to importers for a vote. The votes would be tabulated with the nominee receiving the highest number of votes at the top of the list in descending order by vote. Two candidates for each position would then be submitted to the Secretary for consideration.

The Board would submit nominations to the Secretary at least six months before the new Board term begins.

The NPF also recommended that no two Board members be employed by a single corporation, company, partnership, or any other legal entity. The NPF stated this is to help ensure that no one entity has control on the Board.

In order to provide the Board flexibility, the Board could recommend to the Secretary modifications to its nomination procedures. Any such modifications would be implemented through rulemaking by the Secretary.

Section 1223.42 of the proposed Order would specify the term of office. Except for the initial Board, each Board member would serve a three-year term or until the Secretary selected his or her successor. Each term of office would

begin on October 1 and end on September 30. No member could serve more than two consecutive terms, excluding any term of office less than three years. For the initial Board, the members' terms would be staggered for two, three, and four years and would be determined at random. The initial members would be able to serve one successive three-year term.

Section 1223.43 of the proposed Order would specify criteria for the removal of members and for filling vacancies. If a Board member ceased to work for or be affiliated with the category of members from which the member was appointed or in the region he or she represented, such position would become vacant. The Board could recommend to the Secretary that a member be removed from office if the member consistently refused to perform his or her duties or engaged in dishonest acts or willful misconduct. Further, without recommendation of the Board, a member may be removed by the Secretary upon showing of adequate cause, including the continued failure by a member to submit reports or remit assessments required under this part, if the Secretary determines that such member's continued service would be detrimental to the achievement of the purposes of the Act. If a position became vacant, nominations to fill the vacancy would be conducted using the nomination process as proposed in § 1223.41 of the Order. A vacancy would not be required to be filled if the unexpired term is less than six months.

Section 1223.44 of the proposed Order would specify procedures of the Board. A majority of the Board members (9) would constitute a quorum. A motion would carry if supported by one vote more than 50 percent of the total votes represented by the Board members present. Proxy voting would not be permitted.

The proposed Order would also provide for the Board to take action by mail, telephone, electronic mail, facsimile, or any other electronic means when the chairperson believes it is necessary. Actions taken under these procedures would be valid only if all members and the Secretary were notified of the meeting and all members were provided the opportunity to vote and at least nine Board members voted in favor of the action. Additionally, all votes would have to be confirmed in writing and recorded in Board minutes.

The proposed Order would specify that Board members would serve without compensation. However, Board members would be reimbursed for reasonable travel expenses, as approved by the Board, incurred when performing Board business.

Section 1223.46 of the proposed Order would specify powers and duties of the Board. These are similar in promotion programs authorized under the 1996 Act. They include, among other things, to administer the Order and collect assessments; to develop bylaws and recommend regulations necessary to administer the Order; to select a chairperson and other Board officers; to create committees and subcommittees as necessary; to hire staff or contractors; to develop programs and enter into contracts to implement programs; to prepare and submit a budget for approval by USDA in accordance with the Order; to invest Board funds appropriately; have its books audited by an outside certified public accountant at the end of each fiscal period and at other times as requested by the Secretary; to provide appropriate notice of meetings to the industry and USDA and keep minutes of such meetings; to report its activities to producers and importers; to make public an accounting of funds received and expended; to receive, investigate and report to the Secretary complaints of violations of the Order; and to recommend amendments to the Order as appropriate.

Section 1223.47 of the proposed Order would specify prohibited activities that are common to all promotion programs authorized under the 1996 Act. In summary, the Board nor its employees and agents could engage in actions that would be a conflict of interest; use Board funds to lobby (influencing legislation or governmental action or policy, by local, state, national, and foreign governments or subdivision thereof, other than recommending to the Secretary amendments to the Order); or engage in any advertising or activities that may be false, misleading or disparaging to another agricultural commodity.

Expenses and Assessments

Pursuant to sections 516 and 517 of the 1996 Act, §§ 1223.50 through 1223.53 of the proposed Order detail requirements regarding the Board's budget and expenses, financial statements, assessments, and exemption from assessments. At least 60 calendar days before the start of the fiscal period, and as necessary during the year, the Board would submit a budget to USDA covering its projected expenses. The budget must include a summary of anticipated revenue and expenses for each program along with a breakdown of staff and administrative expenses. Except for the initial budget, the Board's budgets should include comparative data for at least one preceding fiscal period.

Each budget must provide for adequate funds to cover the Board's anticipated expenses. Any amendment or addition to an approved budget must be approved by USDA, including shifting of funds from one program, plan or project to another. Shifts of funds that do not result in an increase in the Board's approved budget would not need prior approval from USDA. For example, if the Board's approved budget provided for $1 million in consumer advertising and $500,000 in research projects, a shift of $50,000 from consumer advertising to research would require USDA approval. However, a shift within the $1 million consumer advertising line item would not require prior USDA approval.

The Board would be authorized to incur reasonable expenses for its maintenance and functioning. During its first year of operation, the Board could borrow funds for startup costs and capital outlay. Any borrowed funds would be subject to the same fiscal, budget and audit controls as other funds of the Board.

The Board could also accept voluntary contributions and seek other funding sources to carry out activities authorized under the Order. Any contributions received by the Board would be free from encumbrances by the donor and the Board would retain control over use of the funds. However, the Board could receive funds from outside sources targeted for specific authorized projects. For example, the Board could receive Federal grant funds, subject to approval by the Secretary, for a specific research project. The Board would also be required to reimburse USDA for costs incurred by USDA in overseeing the Order's operations, including all costs associated with referenda.

The Board would be limited to spending no more than 15 percent of its assessment and other income received for administration, maintenance, and the functioning of the Board for that fiscal period. This limitation would be applicable for fiscal periods beginning three or more years after the establishment of the Board. Reimbursements to USDA would not be considered administrative costs. As an example, if the Board received $9 million in assessments during fiscal period five, and $1 million in Federal grant funding, the Board's assessment and other income would be $10 million for that fiscal period. In this scenario, the Board would be limited to spending

no more than $1.5 million (.15 × $10 million) on administrative costs.

The Board could also maintain a monetary reserve and carry over excess funds from one fiscal period to the next. However, such reserve funds could not exceed two fiscal period's budgeted expenses. For example, if the Board's budgeted expenses for a fiscal period were $8 million, it could carry over no more than $16 million in reserve. With approval of the Secretary, reserve funds could be used to pay expenses.

The Board could invest its revenue collected under the Order in the following: (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; and 4) Obligations fully guaranteed as to principal interest by the United States.

The Board would be required to submit to USDA financial statements on a monthly or quarterly basis, or at any other time as requested by the Secretary. Financial statements should include, at a minimum, a balance sheet, statement of activities (budget versus actual), an income statement, and an expense budget.

Assessments

The Board's programs and expenses would be funded through assessments on producers and importers, other income, and other funds available to the Board. The Order would provide for an initial assessment rate of $0.02 per pound of all inshell pecans and $0.04 per pound on all shelled pecans. Each producer would pay on the amount of pecans produced in the United States. The importer of record would pay assessments based on the amount of pecans imported to the United States.

The Order provides that it is the responsibility of the first handler, as defined in § 1223.7, to collect and remit assessments owed to the Board. First handlers would collect assessments from each producer based on pounds of pecans received. The first handler would remit those assessments, along with the required reports, to the Board. As an example, first handler A receives 100,000 pounds inshell pecans from producer X, 250,000 pounds shelled pecans from producer Y, and 750,000 inshell pecans from producer Z. First handler A would collect $2,000 (100,000 pounds × $0.02 per pound inshell pecans) from producer X, $10,000 (250,000 pounds × $0.04 per pound shelled pecans) from producer Y, and $15,000 (750,000 pounds × $0.02 per pound inshell pecan) from producer Z. First handler A would remit the assessment collected totaling $27,000 ($2,000 + $10,000 + $15,000) to the Board. If a producer is acting as its own first handler, the producer would be required to remit its individual assessments. Assessments owed would be due to the Board by the 10th calendar day of the month following the end of the previous month. As an example, assessments for pecans received in June would be due to the Board by July 10th.

Importer assessments would be collected through Customs. If Customs did not collect the assessment from an importer, the importer would be responsible for paying the assessment directly to the Board by the 10th calendar day of the month following the end of the previous month after the pecans were imported into the United States.

Domestic inshell pecans are routinely exported to Mexico, shelled, and imported into the United States as shelled pecans. The intent of the Order is not to double assess such pecans. For pecans produced in the United States, shipped to locations outside the United States for shelling, and imported back into the United States, assessments would be owed on the pecans produced in the United States and would be remitted by the first handler. If assessments are being collected through Customs, the importer would need to request a refund from the Board and provide proof that assessments had been previously remitted by the first handler. For importers who remit assessments directly to the Board, the importers would have to provide documentation that assessments had been paid by the first handler. As an example, if producer A, acting as its own first handler, exports 100,000 pounds of inshell pecans to Mexico to be shelled, that individual would be required to remit to the Board assessments owed on the 100,000 pounds of inshell pecans. When Importer B imports the 50,000 pounds of shelled pecans, the importer would need to provide documentation that substantiates that assessments were remitted by the producer A.

Section 1223.52(e)(2) of the Order would prescribe the Harmonized Tariff Schedule (HTS) of the United States categories covered under the program. Imported commodities are assigned codes via the HTS with the first numbers denoting the heading, which is a broad description of the commodity, and the subsequent numbers denoting the subheadings, which specify the commodity in greater detail. In the event an HTS number subject to assessment changed and the change is merely a replacement of a previous number and has no impact on the description of the pecans involved, assessments would continue to be collected based on the new number.

Section 1223.520 of the Order would provide authority for the Board to impose a late payment charge and interest for assessments not received within 30 calendar days of the date assessments were due. There would be a one-time late payment charge of five percent of the assessments due. In addition, there would be a one percent per month interest charge on the outstanding balance, including any late payment and accrued interest. Interest would accrue monthly until the outstanding balance would be paid to the Board.

De Minimis

The proposed Order would provide an exemption to assessment of producers whose production volume was less than 50,000 pounds of inshell pecans (25,000 pounds of shelled pecans) on average for four fiscal periods (the fiscal period for which the exemption is claimed and the previous three fiscal periods). The exemption would also apply to importers whose import volume was less than 50,000 pounds of inshell pecans (25,000 pounds of shelled pecans) on average for four fiscal periods (the fiscal period for which the exemption is claimed and the previous three fiscal periods). The Federal Marketing Order (FMO) regulating the handling of pecans defines a producer or grower as one who produces ''a minimum of 50,000 pounds of inshell pecans'' or who owns ''a minimum of 30 pecan acres''. Record evidence in the 2015 FMO promulgation hearings—including witness testimonies and a study entitled ''Economic Analysis of the Implementation of a Federal Marketing Order for Pecans''—verified that 50,000 pounds of inshell pecans or 30 pecan acres was an acceptable threshold for distinguishing a commercial pecan producer from a hobby farmer.

This proposal prescribes an average of four fiscal periods of production or imports to determine whether an entity is subject to assessment. For quantifying the number of domestic producers of pecans, data from the 2017 Census of Agriculture, representing a single year, is the best resource available to USDA. Regarding importers, USDA used a six-year average instead of a four-year average to maintain consistency across analyses in this proposal. Finally, all data used in this analysis is reflective of a calendar year, not a fiscal year. NASS, who publishes the Census of

Agriculture, reports data on a calendar year basis. USDA analyzed Customs data by calendar year for consistency with NASS. In 2017, NASS estimated pecan production for 12 states. Every five years, following the Census of Agriculture, NASS reviews production for each commodity and evaluates the inclusion of states in its annual estimating program.

To determine the number of domestic producers that would be assessed or exempt from assessment, USDA first estimated the minimum number of acres required to produce 50,000 pounds, inshell, of pecans for 12 states. To accomplish this, USDA divided the de minimis threshold of 50,000 pounds, inshell, by the 2017 yield estimates for each of the 12 states. These yield estimates, along with the resulting minimum number of acres to produce 50,000 pounds, inshell, of pecans are shown in Table 9. Next, USDA used each state's minimum number of acres to find the number of operations that had pecan bearing acreage that would enable them to produce at least 50,000 pounds, inshell, of pecans, based on data from the 2017 Census of Agriculture.

Table 9. 2017 State Yield and Minimum Acreage for Assessment

State	Yield	Min. Acres for 50,000 Lbs. (Inshell)
Alabama	220	227
Arizona	1,750	29
Arkansas	257	195
Florida	302	166
Georgia	892	56
Louisiana	650	77
Mississippi	310	161
Missouri	267	187
New Mexico	2,115	24
North Carolina	242	207
Oklahoma	163	307
Texas	426	117

Source: NASS.

Table 10 depicts the number of producers and importers that would be assessed and exempt from assessment under the de minimis threshold of 50,000 pounds, inshell, of pecans. According to the 2017 Census of Agriculture, there were 15,608 operations with bearing acreage of pecans in the U.S. in 2017. Based on data from Customs and Border Protection (Customs), there were 190 entities that imported shelled or inshell pecans between 2014 and 2019. USDA estimates that of the total 15,798 producers and importers of pecans, 1,061, or seven percent, would be assessed and 14,737, or 93 percent, would be exempt from assessment.

USDA seeks comment on whether this de minimis provides a good representation of the industry for assessments collected and board representation.

Table 10. Entities Exempt and Assessed at De Minimis Threshold

Entities	Total	Assessed	Exempt
Producers[1]	15,608	990	14,618
Importers[2]	190	71	119
Total	15,798	1,061	14,737

Sources: [1]NASS, 2017; [2]Customs and Border Protection, 2014-2019 average.

Using NASS data, USDA estimates 2017 pecan production to amount to more than 316 million pounds, inshell. Customs data shows total imports of shelled and inshell pecans to average 244.5 million pounds, on an inshell basis, from 2014 to 2019.[2] Together, total volume of pecans in the U.S. market is almost 561 million pounds, inshell, as shown in Table 11. Assessed volume amounts to 251 million pounds, inshell, for producers and 244 million pounds, inshell, for importers. Total assessed volume multiplied by the assessment rate of $0.02 per pound of inshell pecans (equivalent to $0.04 per pound of shelled pecans) results in a total assessment revenue of nearly $10 million.[3]

Table 11. Estimated Volume and Assessment Revenue

Entities	Volume (Lbs., Inshell Basis)		Assessment Revenue
	Total	Assessed	
Producers[1]	316,171,267	251,309,740	$ 5,026,195
Importers[2]	244,539,780	243,662,767	$ 4,873,255
Total	560,711,047	494,972,508	$ 9,899,450

Sources: [1]NASS, 2017; [2]Customs and Border Protection, 2014-2019 average.

In addition to the proposed exemption of 50,000 pounds of pecans on an inshell basis or 25,000 pounds of pecans on a shelled basis, USDA considered other options for a de minimis threshold. First, USDA considered a de minimis exemption for growers with less than 30 acres of pecans, aligning with one of the definitions of producer or grower in the FMO. A de minimis exemption of less than 30 acres could not apply to pecan importers, and therefore would not be fairly applied to all those subject to the program. Thus, this exemption is not contained in this proposal.

In the pecan FMO, handlers who handle at least 1,000 pounds of pecans, on an inshell basis, are subject to assessment. If this de minimis exemption of less than 1,000 pounds of pecans, on an inshell basis, were applied to pecan growers, then about 50 percent of growers would be subject to assessment. Of these assessed growers, nearly half would operate between 5 and 15 bearing acres of pecans, therefore placing a significant burden on smaller growers to fund the program. Thus, this exemption is not contained in this proposal.

Finally, USDA considered a de minimis exemption which mirrors the definition of a small pecan grower and small pecan importer according to the Small Business Administration (SBA). The SBA size standard for a small pecan grower is annual sales receipts of no more than $1 million. The SBA size standard for small pecan importer (equivalent to ''Postharvest crop activities'') is annual receipts equal to no more than $30 million. Tying the de minimis exemption to these differing SBA size standards becomes problematic when considering equitable contributions to the proposed program. This is true not only when evaluating contributions from each sector but also within the respective sectors. A de minimis exemption tied to annual sales receipts may overly burden growers and importers who produce or import high annual sales receipts of pecans.

AMS seeks comments on the proposed de minimis exemption, particularly on whether the proposed level is appropriate to ensure equitable contribution and representation from both domestic producers and importers, or if modification to the exemption level is needed. Please provide data to substantiate any recommendation.

Exemptions

The proposed Order would provide for two exemptions. First, as described in the previous section, producers who produce domestically and importers that import less than 50,000 pounds of inshell pecans (25,000 pounds of shelled pecans) on average for four fiscal periods (the fiscal period for which the exemption is claimed and the previous three fiscal periods) would be exempt.

Producers or importers seeking an exemption would apply to the Board for an exemption prior to the start of the fiscal period. This would be an annual exemption; entities would have to reapply each year. They would have to certify that they expect to produce domestically or import less than 50,000 pounds of inshell pecans (25,000 pounds of shelled pecans) on average for four fiscal periods (the fiscal period for which the exemption is claimed and the previous three fiscal periods). The Board could request documentation to support the exemption claim, such as past sales or import data. The Board would then issue, if deemed appropriate, a certificate of exemption to the eligible producer or importer.

Producers and importers who received an exemption but domestically produced or imported more than 50,000 pounds of inshell pecans (25,000 pounds of shelled pecans) on average for four fiscal periods (the fiscal period for which the exemption is claimed and the previous three fiscal periods) during the fiscal period would be obligated to pay the applicable assessments.

Producers and importers who are exempt from assessments would be eligible for a refund of assessments collected. Requests for assessment refunds would be submitted to the Board within 90 days of the last day of the fiscal period when assessments were collected. The Board would refund such assessments no later than 60 calendar days after receipt of information justifying the exemption.

[2] For quantifying the number of domestic producers of pecans, data from the 2017 Census of Agriculture, representing a single year, is the best resource available to USDA. The Census of Agriculture is only published every five years. Regarding importers, USDA used a six-year average to maintain consistency across analyses in this proposal.

[3] In its proposal, NPF estimated that 4,300 growers would be subject to assessment under this proposed Order, and that assessment revenue would range from $10.5 million to $11.6 million. The variance in the number of assessed growers and the amount of assessment revenue estimated by USDA and by NPF is due to differing methods of analysis, and different assumptions made.

The Board could develop additional procedures to administer the exemption as appropriate. Such procedures would be implemented through rulemaking by the Secretary.

The second exemption under the proposed Order would be for organic pecans. Under section 501 of the Federal Agriculture Improvement and Reform Act of 1996 (FAIR Act) (7 U.S.C. 7401), a producer who operates under an approved National Organic Program (NOP) (7 CFR part 205) system plan, and domestically produces pecans that are certified ''organic'' or ''100 percent organic'' (as defined in the NOP) would be eligible for exemption. The exemption would apply to all certified ''organic'' or ''100 percent organic'' pecans regardless of whether the pecans are produced by a person who produces conventional or nonorganic pecans. Likewise, an importer who imports pecans that are certified as ''organic'' or ''100 percent organic'' under the NOP, or certified as ''organic'' or ''100 percent organic'' under a U.S. equivalency arrangement established under the NOP, would be exempt from the payment of assessments.

Refunds From Escrow Account

Pursuant to section 517 of the 1996 Act, § 1223.54 of the proposed Order would specify the refund procedures if the initial referendum does not pass. The NPF has proposed that the proposed Order be voted in a referendum of producers and importers no later than three years after assessments first begin under the Order. The Board shall establish an interest bearing escrow account with a financial institution that is a member of the Federal Reserve System and would deposit into such account an amount equal to ten percent of the assessments collected during the period beginning on the effective date of the Order and ending on the date the Secretary announces the results of the required referendum.

If the required referendum fails, the Board shall promptly pay refunds of assessments to all producers and importers that have paid assessments during the period beginning on the effective date of the Order and ending on the date the Secretary announces the results of the required referendum in the manner specified in the proposed Order. Producers and importers shall notify the Board, in a manner specified by the Secretary, within 60 days after the announcement of the referendum of their demand to receive a refund.

If the amount deposited in the escrow account is less than the amount of all refunds that producers and importers subject to the Order have a right to receive, the Board shall prorate the amount deposited in such account among all producers and importers who desire a refund of assessments paid no later than 90 days after the required referendum results are announced by the Secretary.

If the proposed Order is approved by the required referendum conducted under this section, the Board would close the escrow account and all funds would be available to the Board under § 1223.50.

Promotion, Research and Information

Pursuant to section 516 of the 1996 Act, §§ 1223.55 through 1223.57 of the proposed Order would detail requirements regarding promotion, research and information programs, plans and projects authorized under the Order. The Board would develop and submit to the Secretary for approval programs, plans and projects regarding promotion, research, education, and other activities, including consumer and industry information and advertising designed to, among other things, maintain and expand markets for pecans, and develop new uses for pecans. The Board would be required to evaluate each plan and program to ensure that it contributes to an effective promotion program. The Order would also require that, at least once every five years, the Board fund an independent evaluation of the effectiveness of the Order and programs conducted by the Board.

Finally, the Order would specify that any patents, copyrights, trademarks, inventions, product formulations and publications developed through the use of funds received by the Board would be the property of the U.S. Government, as represented by the Board. These along with any rents, royalties and the like from their use would be considered income subject to the same fiscal, budget, and audit controls as other funds of the Board, and could be licensed with approval of the Secretary.

Reports, Books and Records

Pursuant to section 515 of the 1996 Act, §§ 1223.60 through 1223.62 specify the reporting and recordkeeping requirements under the proposed Order as well as requirements regarding confidentiality of information.

Producers and first handlers would be required to submit periodically to the Board certain information as the Board may request. Since first handlers would be obligated to collect and remit assessments owed to the Board, the first handlers would be required to submit a report at the time assessments are remitted. Producers who are acting as their own first handler would also be required to submit a report at the time assessments are remitted. Specifically, the report submitted to the Board would include, but is not be limited to, the producer and handlers' name, address, and telephone number; the pounds produced or handled; and the pounds of pecans for which assessments were paid. Producers who received a certificate of exemption from the Board would not have to submit such a report to the Board.

Likewise, importers who pay their assessments directly to the Board would be required to submit a report to the Board that would include, but not be limited to, the importer's name, address, and telephone number; the pounds of pecans imported to the United States; the pounds of pecans for which assessments were paid. Importers would submit this report at the same time they remit their assessments to the Board. Importers who paid their assessments through Customs would not have to submit such reports because Customs would collect this information upon entry.

Additionally, producers, first handlers and importers including those who were exempt, would be required to maintain books and records needed to verify any required reports. Such books and records would be required to be made available during normal business hours for inspection by the Board's or USDA's employees or agents. Producers, first handlers, and importers would be required to maintain such books and records for three years beyond the applicable fiscal period.

The Order would also require that all information obtained from persons subject to the Order as a result of proposed recordkeeping and reporting requirements would be kept confidential by all officers, employees, and agents of the Board and USDA. Such information could only be disclosed if the Secretary considered it relevant, and the information were revealed in a judicial proceeding or administrative hearing brought at the direction or at the request of the Secretary or to which the Secretary or any officer of USDA were a party. Other exceptions for disclosure of confidential information would include the issuance of general statements based on reports or on information relating to a number of persons subject to the Order, if the statements did not identify the information furnished by any person, or the publication, by direction of the Secretary, of the name of any person violating the Order and a statement of

the particular provisions of the Order violated.

Miscellaneous Provisions

Referenda

Pursuant to section 518 of the 1996 Act, § 1223.71(a)(1) of the proposed Order specifies that the program would be implemented, and a referendum conducted not later than three years after assessments first begin under the Order. The Order would continue if approved by a majority of producers and importers voting in the referendum who, during a representative period determined by the Secretary, were engaged in the production or importation of pecans into the United States.

Section 1223.71(b) of the proposed Order specifies criteria for subsequent referenda. Under the Order, a referendum would be held to ascertain whether the program should continue, be amended, or terminated. This section specifies that a referendum would be held every seven years to determine whether producers and importers favor continuation of the Order. The Order would continue if favored by a majority of producers and importers voting in the referendum. Additionally, a referendum could be conducted at the request of the Board. A referendum could also be conducted at the request of 10 percent or more of the number of persons eligible to vote in a referendum under the Order. Finally, a referendum could be conducted at any time as determined by the Secretary.

Other Miscellaneous Provisions

Sections 1223.70 and 1223.72 through 1223.78 describe the rights of the Secretary; authorize the Secretary to suspend or terminate the Order when deemed appropriate; prescribe proceedings after termination; address personal liability, separability, and amendments; and provide OMB control numbers. These provisions are common to all research and promotion program authorized under the 1996 Act.

Referenda Procedures

Sections 1223.100 through 1223.107 of the proposed Order would specify procedures for the conduct of referenda. The sections cover the definitions, voting instructions, use of subagents, ballots, the referendum report, and confidentiality of information. Producers and importers eligible to vote in the referenda would mean any person, during the representative period, that was subject to the Order. Each eligible producer or importer would be entitled to cast only one ballot. USDA would conduct the referenda. USDA would announce the voting period; mail ballots to eligible producers and importers; tabulate the results; prepare a report; and announce the results to the public. The ballots and other information or reports that would disclose any person's vote would be held confidential. The procedures would be applicable for the initial referendum and future referenda.

Initial Regulatory Flexibility Analysis

Pursuant to the requirements set forth in the Regulatory Flexibility Act (5 U.S.C. 601–612), USDA has considered the economic impact of this action on small entities. USDA has prepared this Initial Regulatory Flexibility Analysis, the purpose of which is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses would not be unduly or disproportionately burdened.

Need for Regulation

NPF stated in its proposal that the greatest challenge facing the pecan industry is supply outpacing demand. Based on worldwide planting and crop data, NPF estimates that supply would exceed demand by 15 percent in 2027. NPF believes that the establishment of a national research and promotion program for pecans, funded by assessments on both domestic producers and importers, would help the industry address this challenge.

In 2016, the U.S. pecan industry favored the establishment of a marketing order for pecans grown in Alabama, Arkansas, Arizona, California, Florida, Georgia, Kansas, Louisiana, Missouri, Mississippi, North Carolina, New Mexico, Oklahoma, South Carolina, and Texas. The program authorizes collection of industry data; research and promotion activities; regulations on grade, size, quality, pack and container; and is financed by assessments paid by handlers of pecans grown in the production area. Over the past several years, the marketing order program has launched marketing campaigns to increase demand for pecans.

According to the NPF, the proposed research and promotion program will benefit domestic producers and importers of pecans, thereby justifying the collection of assessments on both domestic production and imports. The NPF proposal indicates that imported product accounts for approximately 39 percent of pecans being supplied to the United States. With mandatory assessments applied to both domestic production and imports, the proposed Order would be able to fund marketing campaigns focused on creating increased demand for pecans in the United States and globally. The NPF concluded that the marketing order would continue to have an important role within the industry and the intent is that the two programs would work together for the benefit of the entire pecan industry. The research and promotion program would concentrate its efforts on activities that would maintain and expand markets for pecans, strengthening its position in the marketplace. The marketing order would continue its primary responsibility of collection and distribution of industry data to empower stakeholders with accurate and timely information. Additionally, the marketing order provides the authority for the pecan industry to recommend on grade, size, quality, pack and container requirements.

Objectives of the Action

The purpose of the program would be to strengthen the position of pecans in the marketplace, maintain and expand markets for pecans, and develop new uses for pecans.

Legal Basis for Action

The proposed Order is authorized under the 1996 Act which authorizes USDA to establish agricultural commodity research and promotion orders which may include a combination of promotion, research, industry information, and consumer information activities funded by mandatory assessments. These programs are designed to maintain and expand markets and uses for agricultural commodities.

USDA currently administers a marketing order for pecans grown in Alabama, Arkansas, Arizona, California, Florida, Georgia, Kansas, Louisiana, Missouri, Mississippi, North Carolina, New Mexico, Oklahoma, South Carolina, and Texas which is authorized under the Agricultural Marketing Agreement Act of 1937. The purpose of marketing orders, in general, is to stabilize market conditions, allowing industries to work together to solve marketing problem, improving profitability. Marketing order programs' mandatory assessments are paid by handlers within the designated production areas. The pecan marketing order authorizes collection of industry data; research and promotion activities; regulations on grade, size, quality, pack and container; and is financed by assessments paid by handlers of pecans grown in the production area.

The proposed pecan research and promotion program is national in scope, financed by an assessment on pecan producers and importers, and authorizes

research and promotion activities. The purpose of the proposed Order would be to strengthen the position of pecans in the marketplace, maintain and expand markets for pecans, and develop new uses for pecans. USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

Potentially Affected Small Entities

In 13 CFR part 121, the Small Business Administration (SBA) defines the threshold at which an operation would be considered ''small'' based on its North American Industry Classification System (NAICS) Code. For Tree Nut Farming operations (NAICS Code 111335) and Fruit and Tree Nut Combination Farming operations (NAICS Code 111336), an operation is considered to be ''small'' if its annual receipts total no more than $1 million. This standard applies to U.S. pecan producers.

Importers and first handlers of inshell and shelled pecans (HTS Codes 0802901000 and 0802901500, respectively) belong to the industry classification of Postharvest Crop Activities (NAICS Code 115114). ''Postharvest crop activities'' include nut hulling and shelling, sorting, grading, packing, and cooling. An operation that meets this definition is considered to be ''small'', per the SBA, if its annual receipts equal no more than $30 million. Table 12 depicts the number of pecan producers, importers, and handlers that would be considered small under these SBA standards.

According to the 2017 Census of Agriculture, published by NASS in 2019, there were 15,608 farms with pecan bearing acreage. Of these 15,608 farms, 440 sold pecans whose market value met or exceeded $1 million. Based on these figures, 97 percent of U.S. pecan producers are considered to be ''small'' under the SBA standards. USDA recognizes the potential inclusion in its count of ''small'' farms those farms whose sales of pecans were exactly $1 million in market value; however, USDA lacks the data to remedy this, and the number of farms who meet this criterion is likely quite small.

Table 12. Entities Considered Small According to SBA Size Standards

Entities	Total	Small	Large
Producers[1]	15,608	15,168	440
Importers[2]	190	186	4
Handlers[3]	104	78	26
Total	15,902	15,432	470

Sources: [1]NASS 2017 Census of Agriculture; [2]Customs and Border Protection, 2014–2019 average; [3]American Pecan Council, 2018 crop year.
Notes: [1]Small is annual receipts no greater than $1 million; [2,3]Small is annual receipts no greater than $30 million.

According to data from Customs, there were 190 importers of inshell and shelled pecans from 2014 to 2019. Of these, four importers had a six-year average sales value of pecans which exceeded $30 million. The portion of pecan importers that would be considered to be ''small'' under the SBA standards, therefore, is 98 percent.

The definition of a ''small'' importer also applies to a first handler; that is, annual receipts which exceed $30 million. According to the American Pecan Council (APC), there were 104 first handlers who reported pecans handled in crop year 2018. Of these, the APC estimates that about 75 percent recorded annual receipts exceeding $30 million.

Of the 15,902 total entities expected to be impacted by this action, including producers, importers, and first handlers, about 97 percent would be considered to be ''small'' according to their respective SBA size standards.

Compliance Requirements

This proposal would impose a reporting and recordkeeping burden on producers, importers, and first handlers of pecans. Producers and importers who domestically produce or import less than 50,000 pounds of inshell pecans (25,000 pounds of shelled pecans) on average for four fiscal periods (the fiscal period for which the exemption is claimed and the previous three fiscal periods) could submit to the Board an application for exemption from paying assessments. Of the 15,168 domestic producers considered to be small under SBA standards, 14,618 of them, or 96 percent, produced less than 50,000 pounds, inshell, of pecans, and would be exempt from assessment. Of the 186 importers considered to be small under SBA standards, 119 of them, or 64 percent, imported less than 50,000 pounds, inshell of pecans, and would also be exempt from assessment. The reporting and recordkeeping burden to file an application for exemption from assessment would impact a total of 14,737 producers and importers considered to be small under their respective SBA size standards. Importers, and first handlers, who collect the assessments from producers, would be required to file a report listing pecans imported or received from each producer. This report would place a reporting and recordkeeping burden on a total of 149 importers and first handlers considered to be small under their SBA size standard of annual receipts of no more than $30 million.

These forms are being submitted to OMB for approval under OMB Control No. 0581–NEW. Specific burdens for the forms are detailed later in this document in the section titled Paperwork Reduction Act. As with all Federal promotion programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

Alternatives To Minimize Impacts of the Rule

Regarding alternatives, USDA considered de minimis exemptions of 30 acres of pecans, 1,000 pounds, inshell, of pecan volume, and $1 million in annual pecan sales receipts. These alternatives, which are fully discussed in the section titled De Minimis, were rejected in favor of the industry-proposed de minimis exemption of 50,000 pounds, inshell, or 25,000 pounds, shelled. USDA also considered the alternative of no action; that is, the status quo. This alternative, however,

would leave the pecan industry without the tools of a research and promotion program to strengthen the position of pecans in the marketplace, maintain and expand markets for pecans, and develop new uses for pecans. In place of a research and promotion program, the NPF discussed amending the Agricultural Marketing Agreement Act of 1937, which provides authority for the pecan marketing order. The NPF stated in its proposal for a pecan research and promotion program that it decided not to move forward with this alternative due to the time and costs involved in amending U.S. law.

Outreach

Regarding outreach efforts, NPF conducted sessions earlier in 2020 throughout the United States in different States and regions. Many were held in conjunction with regional and state organization meetings where both pecan producers and importers participated. They also presented at the National Pecan Shellers Association (NPSA) mid-winter conference. NPSA supports and promotes the interest of pecan shellers and the global industry. Approximately 13 sessions were held across the United States. NPF also had information regarding the proposed program published in April 2020 editions of the ''The Pecan Grower'' and ''Pecan South'' magazines. ''The Pecan Grower'' is the official publication of the Georgia Pecan Growers Association, with nearly three-thousand subscribers including growers, researchers, extension agents and agribusinesses. ''Pecan South'' is a magazine for growers, processors, commercial vendors, and those interested in pecans. It provides to its forty-six hundred plus subscribers U.S. pecan production information; industry news and events; and market-related issues, both domestic and international. In the articles, NPF elaborated the work it has been doing to establish a research and promotion program for pecans that would assess producers and importers.

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

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), AMS announces its intention to request an approval of a new information collection and recordkeeping requirements for the proposed pecan program.

Title: Advisory Committee or Research and Promotion Background Information.

OMB Number for background form AD–755: (Approved under OMB No. 0505–0001).

Expiration Date of Approval: 03/31/2022.

Title: National Research, Promotion, and Consumer Information Programs.

Expiration Date of Approval: 3 years from approval date.

Type of Request: New information collection for research and promotion programs.

Abstract: The information collection requirements in the request are essential to carry out the intent of the 1996 Act. The information collection concerns a proposal received by USDA for a national research and promotion program for the pecan industry. The program would be financed by an assessment on pecan producers and importers and would be administered by a board of industry members selected by the Secretary. The program would provide for an exemption for producers who produce domestically and importers that import less than 50,000 pounds of inshell pecans (25,000 pounds of shelled pecans) on average for four fiscal periods (the fiscal period for which the exemption is claimed and the previous three fiscal periods). A referendum would be held among eligible producers and importers to determine whether they favor implementation of the program not later than three years after assessments first begin under the Order. The purpose of the program would be to strengthen the position of pecans in the marketplace, maintain and expand markets for pecans, and develop new uses for pecans within the United States.

In summary, the information collection requirements under the program concern Board nominations, exemption applications, the collection and refund of assessments, and referenda. For Board nominations, producers and importers interested in serving on the Board would be asked to submit a ''Nomination Form'' to the Board indicating their desire to serve or to nominate another industry member to serve on the Board. Interested persons could also submit a background statement outlining qualifications to serve on the Board. Except for the initial Board nominations, producers and importers would have the opportunity to submit a ''Nomination Ballot'' to the Board where they would vote for candidates to serve on the Board. Nominees would also have to submit a background information form, ''AD–755,'' to the Secretary to ensure they are qualified to serve on the Board. Organizations representing importers would be able to be certified by the Secretary and have an opportunity to nominate importer members. Those such organizations would submit form ''Application for Certification of Organization.''

Regarding assessments, producers and importers who domestically produce and import less than 50,000 pounds of inshell pecans (25,000 pounds of shelled pecans) on average for four fiscal periods (the fiscal period for which the exemption is claimed and the previous three fiscal periods), would be exempt from assessments. Producers or importers would apply to the Board for an exemption prior to the start of the fiscal period. This would be an annual exemption; entities would have to reapply each year. Producers or importers could submit a request, ''Application for Exemption from Assessments,'' to the Board for an exemption from paying assessments. Producers and importers who would qualify as ''organic'' or ''100 percent organic'' under the NOP could submit an ''Organic Exemption Form'' to the Board and request an exemption from assessments.

First handlers who receive assessments from producers would be asked to submit a ''First Handler/Importer Report'' that would accompany their assessments paid to the Board and report the quantity of pecans received during the applicable period, the quantity for which assessments were paid, contact information for whom they collected the assessment, and the country of export (for imports). Additionally, only importers who pay their assessments directly to the Board would be required to submit a report. As previously mentioned, the majority of importer assessments would be collected by Customs. Customs would remit the funds to the Board and the other information would be available from Customs (*i.e.,* country of export, quantity of pecans imported).

Importers and producers who are exempt and whose assessments were collected, either by Customs or a first handler, could also request a refund of any assessments paid to the Board. Producers and importers would also file a form to request a refund of assessments paid if the referendum fails to pass. A referendum is proposed to be conducted three years after the assessments first begin to determine if producers and importers favor continuance of the Order.

Lastly, producers and importers eligible to vote in a referendum would have to complete a ballot to determine

whether the research and promotion program would continue.

Information collection requirements that are included in this proposal include:

(1) Nomination Form

Estimate of Burden: Public recordkeeping burden for this collection of information is estimated to average 0.25 hour per application.

Respondents: Producers and importers.

Estimated Number of Respondents: 50.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 12.5 hours.

(2) Background Statement

Estimate of Burden: Public recordkeeping burden for this collection of information is estimated to average 0.25 hour per application.

Respondents: Producers and importers.

Estimated Number of Respondents: 50.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 12.5 hours.

(3) Nomination Ballot

Estimate of Burden: Public recordkeeping burden for this collection of information is estimated to average 0.25 hour per application.

Respondents: Producers and importers.

Estimated Number of Respondents: 900.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 225 hours.

(4) Background Information FormAD–755 (OMB Form No. 0505–0001)

Estimate of Burden: Public reporting for this collection of information is estimated to average 0.5 hour per response for each Board nominee.

Respondents: Producers and importers.

Estimated Number of Respondents: 11 (34 for initial nominations to the Board, 0 for the second year, and up to 11 annually thereafter).

Estimated Number of Responses per Respondent: 1 every 3 years. (0.3)

Estimated Total Annual Burden on Respondents: 17 hours for the initial nominations to the Board, 0 hours for the second year of operation, and up to 5.5 hours annually thereafter.

(5) Application for Certification of Organization

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.25 hour.

Respondents: Importer organizations.

Estimated Number of Respondents: 5.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 2.5 hours.

(6) Application for Exemption From Assessments

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.25 hour per producers or importer reporting on pecans produced domestically or imported. Upon approval of an application, producers and importers would receive exemption certification.

Respondents: Producers and importers who produce or import less than 50,000 pounds of inshell pecans (25,000 pounds of shelled pecans) on average for four fiscal periods (the fiscal period for which the exemption is claimed and the previous three fiscal periods).

Estimated Number of Respondents: 14,737.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 3,684 hours.

(7) Organic Exemption Form

Estimate of Burden: Public recordkeeping burden for this collection of information is estimated to average 0.5 hours per exemption form.

Respondents: Organic producers and importers.

Estimated Number of Respondents: 50.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 25 hours.

(8) First Handler/Importer Report

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.5 hour per first handler or importer.

Respondents: First handlers who collect assessments from producers who produce over 50,000 pounds of inshell pecans (25,000 pounds of shelled pecans) on average for four fiscal periods (the fiscal period for which the exemption is claimed and the previous three fiscal periods) and importers that do not remit through Customs.

Estimated Number of Respondents: 175.

Estimated Number of Responses per Respondent: 12.

Estimated Total Annual Burden on Respondents: 1,050 hours.

(9) Application for Reimbursement of Assessments

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.25 hour.

Respondents: Producers and importers.

Estimated Number of Respondents: 170.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 42.5 hours.

(10) Application for Refund of Assessments Paid From Escrow

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.25 hour.

Respondents: Producers and importers.

Estimated Number of Respondents: 900.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 225 hours.

(11) Referendum Ballot

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.25 hour.

Respondents: Producers and importers.

Estimated Number of Respondents: 900.

Estimated Number of Responses per Respondent: 0.14 (after first referendum they would occur once every 7 years).

Estimated Total Annual Burden on Respondents: 31.50 hours.

(12) A Requirement To Maintain Records Sufficient To Verify Reports Submitted Under the Order

Estimate of Burden: Public recordkeeping burden for keeping this information is estimated to average 0.5 hours per record keeper maintaining such records.

Recordkeepers: Producers, first handlers and importers.

Estimated number of recordkeepers: 15,902.

Estimated total recordkeeping hours: 7,951 hours.

As noted above, under the proposed program, producers through first handlers, and importers would be required to pay assessments and file reports with and submit assessments to the Board (importers through Customs). While the proposed Order would impose certain recordkeeping requirements on producers, first handlers, and importers, information

required under the proposed Order could be compiled from records currently maintained. Such records shall be retained for at least three years beyond the fiscal period of their applicability.

An estimated 15,902 respondents would provide information to the Board (15,608 producers, 104 first handlers, and 190 importers). The estimated cost of providing the information to the Board by respondents would be $630,994. This total has been estimated by multiplying 13,278.5 hours by ($36.08 hourly wage × 0.317 benefits = $11.44 (benefits) + $36.08 (wage) = $47.52), $47.52 for the average mean hourly earnings of producers and importers plus benefits.

Data for computation of the hourly rate for producers (Occupation Code 11–9013: Farmers, Ranchers, and other Agricultural Managers = $38.63) and importers (Occupation Code 13–1020: Buyers and Purchasing Agents = $33.53) was obtained from the U.S. Department of Labor's Bureau of Labor Statistics. The average of the producer and importer wages is $36.08. Data for computation of this hourly wage were obtained from the U.S. Department of Labor Statistics' publication, ''May 2019 National Occupation Employment and Wage Estimates in the United States,'' updated May 31, 2019. This publication can also be found at the following website: *https://www.bls.gov/oes/current/oes_nat.htm#45-0000.* Data for the benefit costs of 31.7 percent was obtained by U.S. Department of Labor's Bureau of Labor Statistics press release dated Dec. 14, 2018.

The proposed Order's provisions have been carefully reviewed, and every effort has been made to minimize any unnecessary recordkeeping costs or requirements, including efforts to utilize information already submitted under other programs administered by USDA and other state programs. USDA currently oversees a marketing order for pecans grown in Alabama, Arkansas, Arizona, California, Florida, Georgia, Kansas, Louisiana, Missouri, Mississippi, North Carolina, New Mexico, Oklahoma, South Carolina, and Texas, which is authorized under the Marketing Agricultural Agreement Act of 1937. This program collects information to facilitate the administration of the program. The information collected by the marketing order has been carefully reviewed and it was determined that the information collected could not be utilized to facilitate the administration of the research and promotion program. The proposed forms would require the minimum information necessary to effectively carry out the requirements of the program, and their use is necessary to fulfill the intent of the 1996 Act. Such information can be supplied without data processing equipment or outside technical expertise. In addition, there are no additional training requirements for individuals filling out reports and remitting assessments to the Board. The forms would be simple, easy to understand, and place as small a burden as possible on the person required to file the information.

Collecting information monthly would coincide with normal industry business practices. The timing and frequency of collecting information are intended to meet the needs of the industry while minimizing the amount of work necessary to fill out the required reports. The requirement to keep records for three years is consistent with normal industry practices. In addition, the information to be included on these forms is not available from other sources because such information relates specifically to individual producers, first handlers and importers who are subject to the provisions of the 1996 Act. Therefore, there is no practical method for collecting the required information without the use of these forms.

Request for Public Comment Under the Paperwork Reduction Act

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of functions of the proposed Order and USDA's oversight of the proposed Order, including whether the information would have practical utility; (b) the accuracy of USDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) the accuracy of USDA's estimate of the principal producing areas in the United States for pecans; (d) the accuracy of USDA's estimate of the number of producers, first handlers and importers of pecans that would be covered under the program; (e) ways to enhance the quality, utility, and clarity of the information to be collected; and (f) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments concerning the information collection requirements contained in this action should reference OMB No. 0581–NEW. In addition, the docket number, date, and page number of this issue of the **Federal Register** also should be referenced. Comments should be sent to the same addresses referenced in the **ADDRESSES** section of this rule.

OMB is required to make a decision concerning the collection of information contained in this rule between 30 and 60 days after publication. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

USDA made modifications to the proponent's proposal to conform with other similar national research and promotion programs implemented under the 1996 Act.

While the proposal set forth below has not received the approval of USDA, it is determined that this proposed Order is consistent with and would effectuate the purposes of the 1996 Act.

A 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments received in response to this rule by the date specified will be considered prior to finalizing this action.

List of Subjects in 7 CFR Part 1223

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

■ For the reasons set forth in the preamble, it is proposed that title 7, chapter XI of the Code of Federal Regulations be amended by adding part 1223 to read as follows:

PART 1223—PECAN PROMOTION, RESEARCH, AND INFORMATION ORDER

Subpart A—Pecan Promotion, Research, and Information Order

Definitions

Sec.

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

Subpart A—Pecan Promotion, Research, and Information Order

Definitions

§ 1223.1 Act.

Act means the Commodity Promotion, Research, and Information Act of 1996 (7 U.S.C. 7411–7425), and any amendments thereto.

§ 1223.2 American Pecan Council.

American Pecan Council or *APC* means that governing body of the Federal Marketing Order established pursuant to 7 CFR part 986 unless otherwise noted.

§ 1223.3 American Pecan Promotion Board.

American Pecan Promotion Board or the *Board* means the administrative body established pursuant to § 1223.40.

§ 1223.4 Conflict of interest.

Conflict of interest means a situation in which a member or employee of the Board has a direct or indirect financial interest in a person who performs a service for, or enters into a contract with, the Board for anything of economic value.

§ 1223.5 Customs or CBP.

Customs or *CBP* means Customs and Border Protection, an agency of the United States Department of Homeland Security.

§ 1223.6 Department or USDA.

Department or *USDA* means the U.S. Department of Agriculture, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

§ 1223.7 First handler.

First handler means any person who receives, shells, cracks, accumulates, warehouses, roasts, packs, sells, consigns, transports, exports, or ships (except as a common or contract carrier of pecans owned by another person), or in any other way puts inshell or shelled pecans in the stream of commerce. The term first handler includes a producer who handles or markets pecans of the producer's own production.

§ 1223.8 Fiscal period.

Fiscal period means October 1 to September 30, or such other period as recommended by the Board and approved by the Secretary.

§ 1223.9 Importer.

Importer means any person who imports pecans into the United States as a principal or as an agent, broker, or consignee of any person who produces or handles pecans outside of the United States for sale in the United States, and who is listed in the import records as the importer of record for such pecans.

§ 1223.10 Information.

Information means information and programs that are designed to increase efficiency in processing and to develop new markets, marketing strategies, increase market efficiency, and activities that are designed to enhance the image of pecans on a national or international basis. These include:

(a) *Consumer information,* which means any action taken to provide information to, and broaden the understanding of, the general public regarding the consumption, use, nutritional attributes, and care of pecans; and

(b) *Industry information,* which means information and programs that will lead to the development of new markets, new marketing strategies, or increased efficiency for the pecan industry, and activities to enhance the image of the pecan industry.

§ 1223.11 Inshell pecans.

Inshell pecans are nuts whose kernel is maintained inside the shell.

§ 1223.12 Market or marketing.

(a) *Marketing* means the sale or other disposition of pecans in any channel of commerce.

(b) *To market* means to sell or otherwise dispose of pecans in interstate, foreign, or intrastate commerce.

§ 1223.13 Order.

Order means an order issued by the Secretary under section 514 of the Act that provides for a program of generic promotion, research, and information regarding agricultural commodities authorized under the Act.

§ 1223.14 Part and subpart.

This *part* is comprised of all rules, regulations, and supplemental orders issued pursuant to the Act and the Order. The Pecan Promotion, Research, and Information Order comprises *subpart A* of this part.

§ 1223.15 Pecans.

Pecans means and includes any and all varieties or subvarieties, inshell or shelled, of the Genus, species: *Carya illinoinensis* grown or imported into the United States.

§ 1223.16 Person.

Person means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

§ 1223.17 Producer.

Producer is synonymous with grower and means any person engaged in the production and sale of pecans in the United States who owns, or who shares in the ownership and risk of loss of such pecans.

§ 1223.18 Programs, plans, and projects.

Programs, plans, and projects mean those research, promotion, and information programs, plans, or projects established pursuant to this subpart.

§ 1223.19 Promotion.

Promotion means any action taken to present a favorable image of pecans to the general public and the food industry for the purpose of improving the competitive position of pecans both in the United States and abroad and stimulating the sale of pecans. This includes paid advertising and public relations.

§ 1223.20 Research.

Research means any type of test, study, or analysis designed to advance the image, desirability, use, marketability, production, product development, or quality of pecans, including research relating to nutritional value, cost of production, new product development, varietal development, nutritional value, health research, and marketing of pecans.

§ 1223.21 Secretary.

Secretary means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

§ 1223.22 Shelled pecans.

Shelled pecans are pecans whose shells have been removed leaving only edible kernels, kernel pieces or pecan meal. One pound of shelled pecans is the equivalent of two pounds inshell pecans.

§ 1223.23 Suspend.

Suspend means to issue a rule under section 553 of title 5, U.S.C., to temporarily prevent the operation of an order or part thereof during a particular period of time specified in the rule.

§ 1223.24 Terminate.

Terminate means to issue a rule under section 553 of title 5, U.S.C., to cancel permanently the operation of an order or part thereof beginning on a date certain specified in the rule.

§ 1223.25 United States.

United States means collectively the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

American Pecan Promotion Board

§ 1223.40 Establishment and membership.

(a) *Establishment of the American Pecan Promotion Board.* There is hereby established an American Pecan Promotion Board, called the Board in this part, comprised of seventeen (17) members, appointed by the Secretary from nominations as follows:

(1) Ten (10) producer members: Three (3) each from the Eastern Region and Central Region and four (4) from the Western Region as follows:

(i) Eastern Region shall mean the States of Alabama, Florida, Georgia, North Carolina, South Carolina plus any states in the United States, the majority of whose land mass is in the Eastern Time Zone, plus any U.S. territories in the Atlantic Ocean;

(ii) Central Region shall mean the States of Arkansas, Kansas, Louisiana, Mississippi, Missouri, Oklahoma, Texas plus any states in the United States, the majority of whose land mass is in the Central Time Zone; and

(iii) Western Region shall mean the States of Arizona, California, New Mexico plus any states in the United States, the majority of whose land mass is in the Mountain or Pacific Time Zones, plus Alaska and Hawaii and any U.S. territories in the Pacific Ocean.

(2) Seven (7) importers.

(b) *Adjustment of membership.* At least once every five years, the Board will review the geographical distribution of United States production of pecans and the quantity or value of imports. The review will be conducted through an audit of state crop production and Customs figures and Board assessment records. If warranted, the Board will recommend to the Secretary that the membership on the Board be altered to reflect any changes in the geographical distribution of domestic pecan production and the quantity or value of imports. If the level of imports fluctuates versus domestic pecan production, importer members may be added to or reduced from the Board.

(c) *Board's ability to serve the diversity of the industry.* When making recommendations for appointments, the industry should take into account the diversity of the population served and the knowledge, skills, and abilities of the members to serve a diverse population, size of the operations, methods of production and distribution, and other distinguishing factors to ensure that the recommendations of the Board take into account the diverse interest of persons responsible for paying assessments, and others in the marketing chain, if appropriate.

§ 1223.41 Nominations and appointments.

(a) Initial nominations for producers will be submitted to the Secretary by the American Pecan Council (APC), or the Department if appropriate. Before considering any nominations, the APC shall publicize the nomination process, using trade press or other means it deems appropriate, to reach out to all known producers for the U.S. market. The APC may use regional caucuses, mail or other methods to elicit potential nominees. The APC shall submit the nominations to the Secretary and recommend two nominees for each Board position specified in paragraph (a)(1) of § 1223.40. The Department will conduct initial nominations for the importer members. The Secretary shall appoint the members of the Board.

(b) Subsequent nominations shall be conducted as follows:

(1) Nomination of producer members will be conducted by the Board. The Board staff will seek nominations for each vacant producer seat from each region from producers who have paid their assessments to the Board in the most recent fiscal period and who produced more than 50,000 pounds of inshell pecans (25,000 pounds of shelled pecans) on average for four fiscal periods (the fiscal period for which nominations are being conducted and the previous three fiscal periods). Producers who produce pecans in more than one region may seek nomination only in the region in which they produce the majority of their pecans. Nominations will be submitted to the Board office and placed on a ballot that will be sent to producers in each region for a vote. Producers may only vote in the region in which they produce the majority of their pecans. The votes shall be tabulated for each region with the nominee receiving the highest number of votes at the top of the list in descending order by vote. Two candidates for each position shall be submitted to the Secretary; and

(2) Nomination of importer members will be conducted by the Board. All qualified national organizations representing importer interests will have the opportunity to nominate members to serve on the Board. If the Secretary determines that there are no qualified national organizations representing importer interests, individual importers who have paid assessments to the Board in the most recent fiscal period and imported more than 50,000 pounds of inshell pecans (25,000 pounds of shelled pecans) on average for four fiscal periods (the fiscal period for which nominations are being conducted and the previous three fiscal periods) may submit nominations. The names of importer nominees shall be placed on a ballot and mailed to importers for a vote. The votes shall be tabulated with the nominee receiving the highest number of votes at the top of the list in descending order by vote. Two candidates for each importer Board position shall be submitted to the Secretary. To be certified by the

Secretary as a qualified national organization representing importer interests, an organization must meet the following criteria, as evidenced by a report submitted by the organization to the Secretary:

(i) The organization's voting membership must be comprised primarily of importers of pecans;

(ii) The organization has a history of stability and permanency and has been in existence for more than one year;

(iii) The organization must derive a portion of its operating funds from importers;

(iv) The organization must demonstrate it is willing and able to further the Act and Order's purposes; and

(v) To be certified by the Secretary as a qualified national organization representing importer interests, an organization must agree to take reasonable steps to publicize to non-members the availability of open Board importer positions.

(c) Producer and importer nominees may provide the Board a short background statement outlining their qualifications to serve on the Board.

(d) Nominees must be in compliance with the applicable provisions of this subpart.

(e) The Board must submit nominations to the Secretary at least six months before the new Board term begins. The Secretary shall appoint the members of the Board.

(f) No two members shall be employed by a single corporation, company, partnership, or any other legal entity.

(g) The Board may recommend to the Secretary modifications to its nomination procedures as it deems appropriate. Any such modifications shall be implemented through rulemaking by the Secretary.

§ 1223.42 Term of office.

(a) With the exception of the initial Board, each Board member will serve a three-year term or until the Secretary selects his or her successor. Each term of office shall begin on October 1 and end on September 30. No member may serve more than two consecutive terms, excluding any term of office less than three years.

(b) For the initial board, the terms of Board members shall be staggered for two, three, and four years. Determination of which of the initial members shall serve a term of two, three, or four years shall be determined at random. Those members serving an initial term of two, three, or four years may serve one successive three-year term.

§ 1223.43 Vacancies.

(a) In the event that any member of the Board ceases to work for or be affiliated with the category of members from which the member was appointed to the Board, such position shall automatically become vacant.

(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. If the Secretary finds the recommendation of the Board shows adequate cause, the Secretary shall remove such member from office.

(c) Without recommendation of the Board, a member may be removed by the Secretary upon showing of adequate cause, including the continued failure by a member to submit reports or remit assessments required under this part, if the Secretary determines that such member's continued service would be detrimental to the achievement of the purposes of the Act.

(d) Should the position of a member become vacant, successors for the unexpired terms of such member shall be appointed in the manner specified in §§ 1223.40 and 1223.41, except that said nomination and replacement shall not be required if said unexpired terms are less than six months.

§ 1223.44 Procedure.

(a) At a Board meeting, it will be considered a quorum when a majority of members are present.

(b) At the start of each fiscal period, the Board will select a chairperson and vice chairperson who will conduct meetings and appoint committee membership throughout that period.

(c) All Board and committee members will receive a minimum of 10 days advance notice of all Board and committee meetings, unless an emergency meeting is declared by the Chairperson.

(d) Each member of the Board will be entitled to one vote on any matter put to the Board, and the motion will carry if supported by one vote more than 50 percent of the total votes represented by the Board members present.

(e) It will be considered a quorum at a committee meeting when at least one more than half of those assigned to the committee are present. Committees may also consist of individuals other than Board members and such individuals may vote in committee meetings. These committee members shall be appointed by the Chairperson and shall serve without compensation but shall be reimbursed for reasonable travel expenses, as approved by the Board.

(f) In lieu of voting at a properly convened meeting and, when in the opinion of the Chairperson of the Board such action is considered necessary, the Board may take action if supported by one vote more than 50 percent of the members by mail, telephone, electronic mail, facsimile, or any other means of communication, and all telephone votes shall be confirmed promptly in writing. In that event, all members and the Secretary must be notified and all members must be provided the opportunity to vote. Any action so taken shall have the same force and effect as though such action had been taken at a properly convened meeting of the Board. All votes shall be recorded in Board minutes.

(g) There shall be no voting by proxy.

(h) The Chairperson shall be a voting member.

(i) 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.

§ 1223.45 Compensation and reimbursement.

The members of the Board when acting as members, shall serve without compensation but shall be reimbursed for reasonable travel expenses, as approved by the Board, incurred by them in the performance of their duties as Board members.

§ 1223.46 Powers and duties.

The Board shall have the following powers and duties:

(a) To administer this subpart 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, and such rules as may be necessary to administer this subpart, including activities authorized to be carried out under this subpart;

(c) To meet, organize, and select from among the members of the Board a chairperson, other officers, committees, and subcommittees, as the Board determines to be appropriate;

(d) To employ persons, other than the Board members, or to enter into contracts, other than with Board 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, or to determine the contractual terms of such parties;

(e) To develop programs and projects, and 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, information, or promotion, and the payment of costs thereof with funds collected pursuant to this subpart. Each contract or agreement shall provide that any person who enters into a contract or agreement with the Board shall develop and submit to the Board a proposed activity; keep accurate records of all of its transactions relating to the contract or agreement; account for funds received and expended in connection with the contract or agreement; make periodic reports to the Board of activities conducted under the contract or agreement; and make such other reports available as the Board or the Secretary considers relevant. Any contract or agreement shall provide that:

(1) The contractor or agreeing party shall develop and submit to the Board a program, plan, or project together with a budget or budgets that shall show the estimated cost to be incurred for such program, plan, 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; and

(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;

(f) To prepare and submit for approval of the Secretary fiscal period budgets in accordance with § 1223.50;

(g) To invest assessments collected under this part in accordance with § 1223.50;

(h) 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; 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;

(i) To cause its books to be audited by a competent auditor at the end of each fiscal period and at such other times as the Secretary may request, and to submit a report of the audit directly to the Secretary;

(j) To give the Secretary the same notice of meetings of the Board as is given to members in order that the Secretary's representative(s) may attend such meetings, and to keep and report minutes of each meeting of the Board to the Secretary;

(k) To act as intermediary between the Secretary and any producer, first handler, or importer;

(l) To furnish to the Secretary any information or records that the Secretary may request;

(m) To receive, investigate, and report to the Secretary complaints of violations of this subpart;

(n) To recommend to the Secretary such amendments to this subpart as the Board considers appropriate; and

(o) To work to achieve an effective, continuous, and coordinated program of promotion, research, consumer information, evaluation, and industry information designed to strengthen the pecan industry's position in the marketplace; maintain and expand existing markets and uses for pecans; and to carry out programs, plans, and projects designed to provide maximum benefits to the pecan industry.

§ 1223.47 Prohibited activities.

The Board may not engage in, and shall prohibit the employees and agents of the Board from engaging in:

(a) Any action that would be a conflict of interest; and

(b) Using funds collected by the Board under this subpart to undertake any action for the purpose of influencing legislation or governmental action or policy, by local, state, national, and foreign governments, other than recommending to the Secretary amendments to this subpart.

(c) No program, plan, or project including advertising shall be false or misleading or disparaging to another agricultural commodity. Pecans of all origins shall be treated equally.

Expenses and Assessments

§ 1223.50 Budget and expenses.

(a) At least 60 days prior to the beginning of each fiscal period, and as may be necessary thereafter, the Board shall prepare and submit to the Secretary a budget for the fiscal period covering its anticipated expenses and disbursements in administering this subpart. 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 and to provide for a reserve as set forth in this subpart.

(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, plan, or project to another. Shifts of funds which do not cause an increase in the Board's approved budget and which are consistent with governing bylaws need not have prior approval by the Secretary.

(d) The Board is authorized to incur such expenses, including provision for a reasonable reserve, 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 subpart. Such expenses shall be paid from funds received by the Board.

(e) 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 and are limited to the first year of operation of the Board.

(f) The Board may accept voluntary contributions, but these shall only be used to pay expenses incurred in the conduct of programs, plans, and projects. Such contributions shall be free from any encumbrance by the donor and the Board shall retain complete control of their use.

(g) The Board may also receive funds provided through the Department's Foreign Agricultural Service or from other sources, for authorized activities.

(h) The Board shall reimburse the Secretary for all expenses incurred by the Secretary in the implementation, administration, and supervision of this subpart, including all referendum costs in connection with this subpart.

(i) For fiscal periods beginning three (3) or more years after the date of the establishment of the Board, the Board may not expend for administration, maintenance, and functioning of the Board in any fiscal period an amount that exceeds 15 percent of the assessments and other income received by the Board for that fiscal period. Reimbursements to the Secretary required under paragraph (h) of this

section are excluded from this limitation on spending.

(j) The Board may establish an operating monetary reserve and may carry over to subsequent fiscal periods excess funds in any reserve so established: *Provided* that the funds in the reserve do not exceed the last two fiscal periods' budget of expenses. Subject to approval by the Secretary, such reserve funds may be used to defray any expenses authorized under this part.

(k) 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 part 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;

(4) Obligations fully guaranteed as to principal interest by the United States; or

(5) Other investments as authorized by the Secretary.

§ 1223.51 Financial statements.

(a) The Board shall prepare and submit financial statements to the Secretary on a monthly or quarterly basis or at any other time as requested by the Secretary. Each such financial statement shall include, but not be limited to, a balance sheet, income statement, and expense budget. The expense budget shall show expenditures during the time period covered by the report, year-to-date expenditures, and the unexpended budget.

(b) Each financial statement shall be submitted to the Secretary within 30 days after the end of the time period to which it applies.

(c) The Board shall submit annually to the Secretary an annual financial statement within 90 days after the end of the fiscal period to which it applies.

§ 1223.52 Assessments.

(a) The funds to cover the Board's expenses shall be paid from assessments on producers and importers, other income of the Board, and other funds available to the Board including those collected pursuant to § 1223.57 and subject to the limitations contained in § 1223.57.

(b) Each producer shall pay an assessment per pound of pecans produced in the United States. The collection of assessments on pecans produced in the United States will be the responsibility of the first handler receiving the pecans from producers. In the case of the producer acting as its own first handler, the producer will be required to collect and remit its individual assessments.

(1) First handlers may remit assessments to a third-party collection agent under this subpart.

(2) First handlers may also remit assessments directly to the Board.

(c) Such assessments shall be levied at $0.02 per pound on all inshell pecans and $0.04 per pound on all shelled pecans. The assessment rate may be reviewed and modified with the approval of the Secretary. A change in the assessment rate is subject to rulemaking by the Secretary.

(d) All assessment payments and reports will be submitted to the office of the Board. All assessment payments for a fiscal period are to be received no later than the 10th of the month following the end of the previous month. A late payment charge shall be imposed on any producer and importer who fails to remit to the Board, the total amount for which any such producer and importer is liable on or before the due date established by the Board on forms approved by the Secretary. In addition to the late payment charge, an interest charge shall be imposed on the outstanding amount for which the producer and importer is liable. The rate of interest shall be prescribed in regulations issued by the Secretary.

(e) Each importer of pecans shall pay an assessment to the Board on pecans imported for marketing in the United States, through Customs.

(1) The assessment rate for imported pecans shall be the same or equivalent to the rate for pecans produced in the United States.

(2) The import assessment shall be uniformly applied to imported pecans that are identified by the number 0802.90.10.00 and 0802.90.15.00 in the Harmonized Tariff Schedule (HTS) of the United States or any other numbers used to identify pecans in that schedule.

(3) In the event that any HTS number is subject to assessment is changed and such change is merely a replacement of a previous number and has no impact on the description of pecans, assessment will continue to be collected based on the new numbers.

(4) The assessment due on imported pecans shall be paid when they enter, or are withdrawn from warehouse, for consumption in the United States.

(5) If Customs does not collect an assessment from an importer, the importer is responsible for paying the assessment directly to the Board no later than the 10th of the month following the end of the previous month after the assessed pecans were imported into the United States.

(f) Persons 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.

§ 1223.53 Exemption procedures.

(a) *De minimis.* An exemption from payment of assessments as provided in § 1223.52, shall be provided to producers that domestically produce and importers that import less than 50,000 pounds of inshell pecans (25,000 pounds of shelled pecans) on average for four fiscal periods (the fiscal period for which the exemption is claimed and the previous three fiscal periods) as follows:

(1) Any producer who desires to claim an exemption from assessments shall file an application on a form provided by the Board, for a certificate of exemption for each fiscal period claiming an exemption. Such producer shall certify that it will domestically produce less than 50,000 pounds of inshell pecans (25,000 pounds of shelled pecans) on average for four fiscal periods (the fiscal period for which the exemption is claimed and the previous three fiscal periods). It is the responsibility of the producer to retain a copy of the certificate of exemption.

(2) Any importer who desires to claim an exemption from assessments shall file an application on a form provided by the Board, for a certificate of exemption for each fiscal period claiming an exemption. Such importer shall certify that it will import less than 50,000 pounds of inshell pecans (25,000 pounds of shelled pecans) on average for four fiscal periods (the fiscal period for which the exemption is claimed and the previous three fiscal periods). It is the responsibility of the importer to retain a copy of the certificate of exemption.

(3) On receipt of an exemption application, the Board shall determine whether an exemption may be granted for that fiscal period. The Board will then issue, if deemed appropriate, a certificate of exemption to the producer or importer which is eligible to receive one covering that fiscal period. The Board may request persons applying for the exemption to provide supporting documentation, such as past sales receipts or import data.

(4) The Board, with the Secretary's approval, may require persons receiving an exemption from assessments to

provide to the Board reports on the disposition of exempt pecans and, in the case of importers, proof of payment of assessments.

(5) The exemption will apply immediately following the issuance of the certificate of exemption.

(6) Producers and importers who received an exemption certificate from the Board but domestically produced or imported more than 50,000 pounds of inshell pecans (25,000 shelled of pecans) on average for four fiscal periods (the fiscal period for which the exemption is claimed and the previous three fiscal periods) during the fiscal period shall pay the Board the applicable assessments owed and submit any necessary reports to the Board pursuant to § 1223.60.

(b) *Assessment refunds.* Importers and producers who are exempt from assessment shall be eligible for a refund of assessments collected, either by Customs or a first handler. Requests for such assessment refunds must be submitted to the Board within 90 days of the last day in the fiscal period when assessments were collected on such producer's or importer's pecans. No interest will be paid on such assessments. The Board shall refund such assessments no later than 60 calendar days after receipt by the Board of information justifying the exemption from assessment.

(c) *Organic.* (1) A producer who domestically produces pecans under an approved National Organic Program (7 CFR part 205) (NOP) organic production system plan may be exempt from the payment of assessments under this part, provided that:

(i) Only agricultural products certified as ''organic'' or ''100 percent organic'' (as defined in the NOP) are eligible for exemption;

(ii) The exemption shall apply to all certified ''organic'' or ''100 percent organic'' (as defined in the NOP) products of a producer regardless of whether the agricultural commodity subject to the exemption is produced by a person that also produces conventional or nonorganic agricultural products of the same agricultural commodity as that for which the exemption is claimed;

(iii) The producer maintains a valid certificate of organic operation as issued under the Organic Foods Production Act of 1990 (7 U.S.C. 6501–6522) (OFPA) and the NOP regulations issued under OFPA (7 CFR part 205); and

(iv) Any producer so exempted shall continue to be obligated to pay assessments under this part that are associated with any agricultural products that do not qualify for an exemption under this section.

(2) To apply for exemption under this section, an eligible producer shall submit a request to the Board on an *Organic Exemption Request Form* (Form AMS–15) at any time during the fiscal period initially, and annually thereafter on or before the start of the fiscal period, for as long as the producer continues to be eligible for the exemption.

(3) A producer request for exemption shall include the following:

(i) The applicant's full name, company name, address, telephone and fax numbers, and email address;

(ii) Certification that the applicant maintains a valid certificate of organic operation issued under the OFPA and the NOP;

(iii) Certification that the applicant produces organic products eligible to be labeled ''organic'' or ''100 percent organic'' under the NOP;

(iv) A requirement that the applicant attach a copy of their certificate of organic operation issued by a USDA-accredited certifying agent;

(v) Certification, as evidenced by signature and date, that all information provided by the applicant is true; and

(vi) Such other information as may be required by the Board, with the approval of the Secretary.

(4) If a producer complies with the requirements of this section, the Board will grant an assessment exemption and issue a Certificate of Exemption to the producer within 30 days. If the application is disapproved, the Board will notify the applicant of the reason(s) for disapproval within the same timeframe.

(5) An importer who imports pecans that are eligible to be labeled as ''organic'' or ''100 percent organic'' under the NOP, or certified as ''organic'' or ''100 percent organic'' under a U.S. equivalency arrangement established under the NOP, may be exempt from the payment of assessments. Such importer may submit documentation to the Board and request an exemption from assessment on certified ''organic'' or ''100 percent organic'' pecans on an *Organic Exemption Request Form* (Form AMS–15) at any time initially, and annually thereafter on or before the beginning of the fiscal period, as long as the importer continues to be eligible for the exemption. This documentation shall include the same information required of a producer in paragraph (c)(3) of this section. If the importer complies with the requirements of this section, the Board will grant the exemption and issue a Certificate of Exemption to the importer within the applicable timeframe. Any importer so exempted shall continue to be obligated to pay assessments under this part that are associated with any imported agricultural products that do not qualify for an exemption under this section.

(6) If Customs collects the assessment on exempt product under paragraph (c)(5) of this section that is identified as ''organic'' by a number in the Harmonized Tariff Schedule, the Board must reimburse the exempt importer the assessments paid upon receipt of such assessments from Customs. For all other exempt organic product for which Customs collects the assessment, the importer may apply to the Board for a reimbursement of assessments paid, and the importer must submit satisfactory proof to the Board that the importer paid the assessment on exempt organic product.

(7) The exemption will apply immediately following the issuance of the Certificate of Exemption.

§ 1223.54 Refund escrow accounts.

(a) The Board shall establish an interest bearing escrow account with a financial institution that is a member of the Federal Reserve System and will deposit into such account an amount equal to 10 percent of the assessments collected during the period beginning on the effective date of the Order and ending on the date the Secretary announces the results of the required referendum.

(b) If the Order is not approved by the required referendum, the Board shall promptly pay refunds of assessments to all producers and importers that have paid assessments during the period beginning on the effective date of the Order and ending on the date the Secretary announces the results of the required referendum in the manner specified in paragraph (c) of this section.

(c) If the amount deposited in the escrow account is less than the amount of all refunds that producers and importers subject to this subpart have a right to receive, the Board shall prorate the amount deposited in such account among all producers and importers who desire a refund of assessments paid no later than 90 days after the required referendum results are announced by the Secretary.

(d) Any producer or importer requesting a refund shall submit an application on the prescribed form to the Board within 60 days from the date the results of the required referendum are announced by the Secretary. The producer and importer shall also submit documentation to substantiate that assessments were paid. Any such demand shall be made by such producer

or importer in accordance with the provisions of this subpart and in a manner consistent with the regulations in this part.

(e) If the Order is approved by the required referendum conducted under § 1223.71 then:

(1) The escrow account shall be closed; and,

(2) The funds shall be available to the Board for disbursement under § 1223.50.

Promotion, Research, and Information

§ 1223.55 Programs, plans, and projects.

(a) The Board shall receive and evaluate, or on its own initiative develop, and submit to the Secretary for approval any program, plan, or project authorized under this subpart. Such programs, plans, or projects shall provide for:

(1) The establishment, issuance, effectuation, and administration of appropriate programs for promotion, research, and information, including producer and consumer information, with respect to pecans; and

(2) The establishment and conduct of research with respect to the use, nutritional value, sale, distribution, and marketing of pecans, and the creation of new products thereof, to the end that the marketing and use of pecans may be encouraged, expanded, improved, or made more acceptable and to advance the image, desirability, or quality of pecans.

(b) No program, plan, or project shall be implemented prior to its approval by the Secretary. Once a program, plan, or project is so approved, the Board shall take appropriate steps to implement it.

(c) Each program, plan, or project implemented under this subpart shall be reviewed or evaluated periodically by the Board to ensure that it contributes to an effective program of promotion, research, or information. If it is found by the Board that any such program, plan, or project does not contribute to an effective program of promotion, research, or information, then the Board shall terminate such program, plan, or project.

§ 1223.56 Independent evaluation.

The Board shall, not less often than every five years, authorize and fund, from funds otherwise available to the Board, an independent evaluation of the effectiveness of the Order and other programs conducted by the Board pursuant to the Act. The Board shall submit to the Secretary, and make available to the public, the results of each periodic independent evaluation conducted under this section.

§ 1223.57 Patents, copyrights, trademarks, information, publications, and product formulations.

Patents, copyrights, trademarks, information, publications, and product formulations developed through the use of funds received by the Board under this subpart shall be the property of the U.S. Government as represented by the Board and shall, along with any rents, royalties, residual payments, or other income from the rental, sales, leasing, franchising, or other uses of such patents, copyrights, trademarks, information, publications, or product formulations, inure to the benefit of the Board; shall be considered income subject to the same fiscal, budget, and audit controls as other funds of the Board; and may be licensed subject to approval by the Secretary. Upon termination of this subpart, § 1223.73 shall apply to determine disposition of all such property.

Reports, Books, and Records

§ 1223.60 Reports.

(a) Each first handler, producer, or importer subject to this subpart shall be required to provide to the Board periodically such information as required by the Board, with the approval of the Secretary, which may include but not be limited to the following:

(1) First handler must report or producer acting as its own first handler:

(i) Number of pounds handled;

(ii) Number of pounds on which an assessment was collected;

(iii) Name, address and other contact information from whom the first handler has collected the assessments on each pound handled; and

(iv) Date collection was made on each pound handled.

(2) Unless provided by Customs, importer must report:

(i) Number of pounds imported;

(ii) Number of pounds on which an assessment was paid;

(iii) Name, address, and other contact information of the importer; and

(iv) Date assessment was paid on each pound imported.

(b) These reports shall accompany the payment of the collected assessments.

§ 1223.61 Books and records.

Each producer, first handler, and importer subject to this subpart shall maintain and make available for inspection by the Secretary such books and records as are necessary to carry out the provisions of this part, including such records as are necessary to verify any reports required. Such records shall be retained for at least 3 years beyond the fiscal period of their applicability.

§ 1223.62 Confidential treatment.

All information obtained from books, records, or reports under the Act and this part 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, producers, importers, or first handlers. Only those persons having a specific need for such information to effectively administer the provisions of this subpart shall have access to such information. Only such information so obtained as the Secretary deems relevant shall be disclosed by them, and then only 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 United States is a party and involving this subpart. Nothing in this section shall be deemed to prohibit:

(a) The issuance of general statements based upon the reports of the number of persons subject to this subpart or statistical data collected therefrom, which statements will not identify the information furnished by any person; and

(b) The publication, by direction of the Secretary, of the name of any person who has been adjudged to have violated this subpart, together with a statement of the particular provisions of this subpart violated by such person.

Miscellaneous

§ 1223.70 Right of the Secretary.

All fiscal matters, programs, plans, or projects, rules or regulations, reports, or other substantive actions proposed and prepared by the Board shall be submitted to the Secretary for approval.

§ 1223.71 Referenda.

(a) *Required referendum.* For the purpose of ascertaining whether the persons subject to this subpart favor the continuation, suspension, amendment, or termination of this subpart, the Secretary shall conduct a referendum among persons subject to assessments under § 1223.52 who, during a representative period determined by the Secretary, have engaged in the production or importation of pecans:

(1) The required referendum shall be conducted not later than 3 years after assessments first begin under the Order; and

(2) The Order will be approved in a referendum if a majority of producers and importers vote for approval in the referendum.

(b) *Subsequent referenda.* The Secretary shall conduct subsequent referenda:

(1) For the purpose of ascertaining whether producers and importers favor the continuation, suspension, or termination of the Order;

(2) Every seven years the Secretary shall hold a referendum to determine whether producers and importers of pecans favor the continuation of the Order. The Order shall continue if it is favored by a majority of producers and importers voting for approval in the referendum who have been engaged in the production or importation of pecans;

(3) At the request of the Board established in this subpart;

(4) At the request of 10 percent or more of the number of persons eligible to vote in a referendum as set forth under the Order; or

(5) At any time as determined by the Secretary.

§ 1223.72 Suspension and termination.

(a) The Secretary shall suspend or terminate this part or subpart or a provision thereof if the Secretary finds that this part or subpart or a provision thereof obstructs or does not tend to effectuate the purposes of the Act, or if the Secretary determines that this part or subpart or a provision thereof is not favored by persons voting in a referendum conducted pursuant to the Act.

(b) The Secretary shall suspend or terminate this subpart at the end of the fiscal period whenever the Secretary determines that its suspension or termination is approved or favored by a majority of producers and importers voting for approval who, during a representative period determined by the Secretary, have been engaged in the production or importation of pecans.

(c) If, as a result of a referendum the Secretary determines that this subpart is not approved, the Secretary shall:

(1) Not later than 180 days after making the determination, suspend or terminate, as the case may be, collection of assessments under this subpart; and

(2) As soon as practical, suspend or terminate, as the case may be, activities under this subpart in an orderly manner.

§ 1223.73 Proceedings after termination.

(a) Upon the termination of this subpart, the Board shall recommend not more than three of its members to the Secretary to serve as trustees for the purpose of liquidating the affairs of the Board. Such persons, upon designation by the Secretary, shall become trustees of all of the funds and property then in the possession or under control of the Board, including claims for any funds unpaid or property not delivered, or any other claim existing at the time of such termination.

(b) The said trustees shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) Carry out the obligations of the Board under any contracts or agreements entered into pursuant to this subpart;

(3) From time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and the trustees, to such person or persons as the Secretary may direct; and

(4) Upon request of the Secretary execute such assignments or other instruments necessary and appropriate to vest in such person's title and right to all funds, property, and claims vested in the Board or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered pursuant to this subpart shall be subject to the same obligations imposed upon the Board and upon the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be turned over to the Secretary to be disposed of, to the extent practical, to the pecan producer organizations in the interest of continuing pecan promotion, research, and information programs.

§ 1223.74 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this part, or the issuance of any amendment to this part, 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 part; or

(b) Release or extinguish any violation of this part; 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.

§ 1223.75 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.

§ 1223.76 Separability.

If any provision of this subpart is declared invalid or the applicability thereof to any person or circumstances is held invalid, the validity of the remainder of this subpart or the applicability thereof to other persons or circumstances shall not be affected thereby.

§ 1223.77 Amendments.

Amendments to this subpart 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.

§ 1223.78 OMB control numbers.

The control number assigned to the information collection requirements 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 0581–NEW, except for the Board nominee background statement form which is assigned OMB control number 0505–0001.

Subpart B—Referendum Procedures

§ 1223.100 General.

Referenda to determine whether eligible pecan producers and importers favor the issuance, amendment, suspension, or termination of the Pecan Promotion, Research, and Information Order shall be conducted in accordance with this subpart.

§ 1223.101 Definitions.

(a) *Administrator* means the Administrator of the Agricultural Marketing Service, with power to redelegate, or any officer or employees of the U.S. Department of Agriculture to whom authority has been delegated or may hereafter be delegated to act in the Administrator's stead.

(b) *Eligible importer* means any person who, during the representative period, was subject to the Order and required to pay assessments on pecans imported into the United States.

(c) *Eligible producer* means any person who, during the representative period, was subject to the Order and required to pay assessments on pecans produced in the United States.

(d) *Order* means subpart A of this part, the Pecan Promotion, Research, and Information Order.

(e) *Pecans* means and includes any and all varieties or subvarieties, inshell and shelled, of Carya illinoinensis grown or imported into the United States.

(f) *Person* means any individual, group of individuals, partnership, corporation, association, cooperative, or

any other legal entity. For the purpose of this paragraph (f), the term ''partnership'' includes, but is not limited to:

(1) A husband and a wife who have title to, or leasehold interest in, a pecan farm as tenants in common, joint tenants, tenants by the entirety, or, under community property laws, as community property; and

(2) So-called ''joint ventures'' wherein one or more parties to an agreement, informal or otherwise, contributed land and others contributed capital, labor, management, or other services, or any variation of such contributions by two or more parties.

(g) *Referendum agent* or *agent* means the individual or individuals designated by the Secretary to conduct the referendum.

(h) *Representative period* means the period designated by the Secretary.

(i) *United States* means collectively the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

§ 1223.102 Voting.

(a) Each person who is an eligible producer or an eligible importer, as defined in this subpart, at the time of the referendum and during the representative period, shall be entitled to cast only one ballot in the referendum. However, each producer in a landlord-tenant relationship or a divided ownership arrangement involving totally independent entities cooperating only to produce pecans, in which more than one of the parties is a producer, shall be entitled to cast one ballot in the referendum covering only such producer's share of the ownership.

(b) Proxy voting is not authorized, but an officer or employee of a corporate producer or importer, or an administrator, executor, or trustee or an eligible entity may cast a ballot on behalf of such person. Any individual so voting in a referendum shall certify that such individual is an officer or employee of the eligible entity, or an administrator, executive, or trustee of an eligible entity and that such individual has the authority to take such action. Upon request of the referendum agent, the individual shall submit adequate evidence of such authority.

(c) All ballots are to be cast by mail, overnight delivery, electronic mail, facsimile, or by other means as instructed by the Secretary.

§ 1223.103 Instructions.

The referendum agent shall conduct the referendum, in the manner provided in this section, under the supervision of the Administrator. The Administrator may prescribe additional instructions, not inconsistent with the provisions in this section, to govern the procedure to be followed by the referendum agent. Such agent shall:

(a) Determine the period during which ballots may be cast.

(b) Provide ballots and related material to be used in the referendum. The ballot shall provide for recording essential information, including that needed for ascertaining whether the person voting, or on whose behalf the vote is cast, is an eligible voter.

(c) Give reasonable public notice of the referendum:

(1) By utilizing available media or public information sources, without incurring advertising expense, to publicize the dates, places, method of voting, eligibility requirements, and other pertinent information. Such sources of publicity may include, but are not limited to, print and radio; and

(2) By such other means as the agent may deem advisable.

(d) Mail to eligible producers and eligible importers whose names and addresses are known to the referendum agent, the instructions on voting, a ballot, and a summary of the terms and conditions of the proposed Order. No person who claims to be eligible to vote shall be refused a ballot.

(e) At the end of the voting period, collect, open, number, and review the ballots and tabulate the results in the presence of an agent of a third party authorized to monitor the referendum process.

(f) Prepare a report on the referendum.

(g) Announce the results to the public.

§ 1223.104 Subagents.

The referendum agent may appoint any individual or individuals necessary or desirable to assist the agent in performing the referendum agent's functions listed in this subpart. Each individual so appointed may be authorized by the agent to perform any or all of the functions which, in the absence of such appointment, shall be performed by the agent.

§ 1223.105 Ballots.

The referendum agent and subagents shall accept all ballots cast. However, if the agent or subagent deems that a ballot should be challenged for any reason, the agent or subagent shall endorse above their signature, on the ballot, a statement to the effect that such ballot was challenged, by whom challenged, the reasons therefore, the results of any investigations made with respect thereto, and the disposition thereof. Ballots invalid under this subpart shall not be counted.

§ 1223.106 Referendum report.

Except as otherwise directed, the referendum agent shall prepare and submit to the Administrator a report on the results of the referendum, the manner in which it was conducted, the extent and kind of public notice given, and other information pertinent to the analysis of the referendum and its results.

§ 1223.107 Confidential information.

The ballots and other information or reports that reveal, or tend to reveal, the vote of any person covered under the Act and the voting list shall be held confidential and shall not be disclosed.

Subpart C—Administrative Provisions

§ 1223.520 Late payment and interest charges for past due assessments.

(a) A late payment charge will be imposed on any producer, first handler or importer who fails to make timely remittance to the Board of the total assessments for which they are liable. The late payment will be imposed on any assessments not received within 30 calendar days of the date when assessments are due. This one-time late payment charge will be 5 percent of the assessments due before interest charges have accrued.

(b) In addition to the late payment charge, 1 percent per month interest on the outstanding balance, including any late payment and accrued interest, will be added to any accounts for which payment has not been received within 30 calendar days of the date when assessments are due. Interest will continue to accrue monthly until the outstanding balance is paid to the Board.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2020–19031 Filed 9–21–20; 8:45 am]

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FEDERAL REGISTER

Vol. 85 Tuesday,

No. 184 September 22, 2020

Part III

The President

Notice of September 18, 2020—Continuation of the National Emergency With Respect to Persons Who Commit, Threaten To Commit, or Support Terrorism

Federal Register
Vol. 85, No. 184
Tuesday, September 22, 2020

Presidential Documents

Title 3—

The President

Notice of September 18, 2020

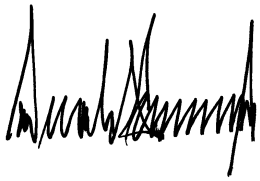
Continuation of the National Emergency With Respect to Persons Who Commit, Threaten To Commit, or Support Terrorism

On September 23, 2001, by Executive Order 13224, the President declared a national emergency with respect to persons who commit, threaten to commit, or support terrorism, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the terrorist attacks on September 11, 2001, in New York and Pennsylvania and against the Pentagon, and the continuing and immediate threat of further attacks against United States nationals or the United States.

On September 9, 2019, I signed Executive Order 13886 to strengthen and consolidate sanctions to combat the continuing threat posed by international terrorism and to take additional steps to deal with the national emergency declared in Executive Order 13224.

The actions of persons who commit, threaten to commit, or support terrorism continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For this reason, the national emergency declared in Executive Order 13224 of September 23, 2001, as amended, and the measures adopted to deal with that emergency, must continue in effect beyond September 23, 2020. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to persons who commit, threaten to commit, or support terrorism declared in Executive Order 13224, as amended.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
September 18, 2020.

[FR Doc. 2020–21059
Filed 9–21–20; 11:15 am]
Billing code 3295–F0–P

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