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Presidential Documents

Title 3—

The President

Executive Order 13952 of September 25, 2020

Protecting Vulnerable Newborn and Infant Children

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. *Purpose.* Every infant born alive, no matter the circumstances of his or her birth, has the same dignity and the same rights as every other individual and is entitled to the same protections under Federal law. Such laws include the Emergency Medical Treatment and Labor Act (EMTALA), 42 U.S.C. 1395dd, which guarantees, in hospitals that have an emergency department, each individual's right to an appropriate medical screening examination and to either stabilizing treatment or an appropriate transfer. They also include section 504 of the Rehabilitation Act (Rehab Act), 29 U.S.C. 794, which prohibits discrimination against individuals with disabilities by programs and activities receiving Federal funding. In addition, the Born-Alive Infants Protection Act, 1 U.S.C. 8, makes clear that all infants born alive are individuals for purposes of these and other Federal laws and are therefore afforded the same legal protections as any other person. Together, these laws help protect infants born alive from discrimination in the provision of medical treatment, including infants who require emergency medical treatment, who are premature, or who are born with disabilities. Such infants are entitled to meaningful and non-discriminatory access to medical examination and services, with the consent of a parent or guardian, when they present at hospitals receiving Federal funds.

Despite these laws, some hospitals refuse the required medical screening examination and stabilizing treatment or otherwise do not provide potentially lifesaving medical treatment to extremely premature or disabled infants, even when parents plead for such treatment. Hospitals might refuse to provide treatment to extremely premature infants—born alive before 24 weeks of gestation—because they believe these infants may not survive, may have to live with long-term disabilities, or may have a quality-of-life deemed to be inadequate. Active treatment of extremely premature infants has, however, been shown to improve their survival rates. And the denial of such treatment, or discouragement of parents from seeking such treatment for their children, devalues the lives of these children and may violate Federal law.

Sec. 2. *Policy*. It is the policy of the United States to recognize the human dignity and inherent worth of every newborn or other infant child, regardless of prematurity or disability, and to ensure for each child due protection under the law.

Sec. 3. (a) The Secretary of Health and Human Services (Secretary) shall ensure that individuals responsible for all programs and activities under his jurisdiction that receive Federal funding are aware of their obligations toward infants, including premature infants or infants with disabilities, who have an emergency medical condition in need of stabilizing treatment, under EMTALA and section 504 of the Rehab Act, as interpreted consistent with the Born-Alive Infants Protection Act. In particular, the Secretary shall ensure that individuals responsible for such programs and activities are aware that they are not excused from complying with these obligations, including the obligation to provide an appropriate medical screening examination and stabilizing treatment or transfer, when extremely premature infants are born alive or infants are born with disabilities. The Secretary shall also ensure

that individuals responsible for such programs and activities are aware that they may not unlawfully discourage parents from seeking medical treatment for their infant child solely because of their infant child's disability. The Secretary shall further ensure that individuals responsible for such programs and activities are aware of their obligations to provide stabilizing treatment that will allow the infant patients to be transferred to a more suitable facility if appropriate treatment is not possible at the initial location.

(b) The Secretary shall, as appropriate and consistent with applicable law, ensure that Federal funding disbursed by the Department of Health and Human Services is expended in full compliance with EMTALA and section 504 of the Rehab Act, as interpreted consistent with the Born-Alive Infants Protection Act, as reflected in the policy set forth in section 2 of this order.

(i) The Secretary shall, as appropriate and to the fullest extent permitted by law, investigate complaints of violations of applicable Federal laws with respect to infants born alive, including infants who have an emergency medical condition in need of stabilizing treatment or infants with disabilities whose parents seek medical treatment for their infants. The Secretary shall also clarify, in an easily understandable format, the process by which parents and hospital staff may submit such complaints for investigation under applicable Federal laws.

(ii) The Secretary shall take all appropriate enforcement action against individuals and organizations found through investigation to have violated applicable Federal laws, up to and including terminating Federal funding for non-compliant programs and activities.

(c) The Secretary shall, as appropriate and consistent with applicable law, prioritize the allocation of Department of Health and Human Services discretionary grant funding and National Institutes of Health research dollars for programs and activities conducting research to develop treatments that may improve survival—especially survival without impairment—of infants born alive, including premature infants or infants with disabilities, who have an emergency medical condition in need of stabilizing treatment.

(d) The Secretary shall, as appropriate and consistent with applicable law, prioritize the allocation of Department of Health and Human Services discretionary grant funding to programs and activities, including hospitals, that provide training to medical personnel regarding the provision of life-saving medical treatment to all infants born alive, including premature infants or infants with disabilities, who have an emergency medical condition in need of stabilizing treatment.

(e) The Secretary shall, as necessary and consistent with applicable law, issue such regulations or guidance as may be necessary to implement this order.

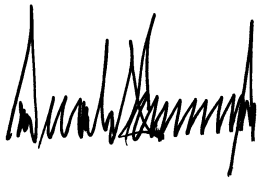
Sec. 4. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
September 25, 2020.

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Presidential Documents

Title 3—

The President

Presidential Permit of September 28, 2020

Authorizing the Alaska to Alberta Railway Development Corporation To Construct, Connect, Operate, and Maintain Railway Facilities at the International Boundary Between the United States and Canada

By virtue of the authority vested in me as President of the United States of America, I hereby grant this Presidential permit, subject to the conditions herein set forth, to the Alaska to Alberta Railway Development Corporation (the ''permittee''). The permittee is a private corporation organized under the laws of the Government of Alberta, Canada, and registered in the State of Alaska. Permission is hereby granted to the permittee to construct, connect, operate, and maintain certain railway Border facilities, as described herein, at the international border of the United States and Canada at Southeast Fairbanks Census Area, Alaska, in the Ladue River Valley at 63°15'N and 141°W, approximately 45 miles due north over land from the Alcan Border Crossing on Alaska Route 2 (also known as the Alaska Highway) and approximately 60 miles due east over land from the town of Tok, Alaska.

This permit does not affect the applicability of any otherwise relevant laws and regulations. As confirmed in Article 2 below, the Border facilities shall remain subject to all such laws and regulations.

The term ''Facilities,'' as used in this permit, means the portion in the United States of the ''Alaska to Alberta Railway'' project associated with the permittee's application for a Presidential permit filed on September 6, 2019, and any land, structures, installations, or equipment appurtenant thereto.

The term ''Border facilities,'' as used in this permit, means those parts of the Facilities extending 1.0 miles from the international border between the United States and Canada, and any land, structures, installations, or equipment appurtenant thereto.

This permit is subject to the following conditions:

Article 1. The Border facilities herein described, and all aspects of their operation, shall be subject to all the conditions, provisions, and requirements of this permit and any subsequent Presidential amendment to it. This permit may be terminated, revoked, or amended at any time at the sole discretion of the President of the United States (the ''President''), with or without advice provided by any executive department or agency (agency). The permittee shall make no substantial change in the Border facilities, in the location of the Border facilities, or in the operation authorized by this permit unless the President has approved the change in an amendment to this permit or in a new permit.

Article 2. The standards for, and the manner of, construction, connection, operation, and maintenance of the Border facilities shall be subject to inspection by the representatives of appropriate Federal, State, and local agencies. Officers and employees of such agencies who are duly authorized and performing their official duties shall be granted free and unrestricted access to said Border facilities by the permittee. The Border facilities, including the construction, connection, operation, and maintenance of the Border facilities, shall be subject to all applicable laws and regulations, including laws

and regulations governing railway safety or issued or administered by the Committee on Foreign Investment in the United States.

Article 3. Upon the termination, revocation, or surrender of this permit, unless otherwise decided by the President, the permittee, at its own expense, shall remove the Border facilities within such time as the President may specify. If the permittee fails to comply with an order to remove, or to take such other appropriate action with respect to, the Border facilities, the President may direct an appropriate official or agency to take possession of the Border facilities—or to remove the Border facilities or take other action—at the expense of the permittee. The permittee shall have no claim for damages caused by any such possession, removal, or other action.

Article 4. When, in the judgment of the President, ensuring the national security of the United States requires entering upon and taking possession of any of the Border facilities or parts thereof, and retaining possession, management, or control thereof for such a length of time as the President may deem necessary, the United States shall have the right to do so, provided that the President or his designee has given due notice to the permittee. The United States shall also have the right thereafter to restore possession and control to the permittee. In the event that the United States exercises the rights described in this article, it shall pay to the permittee just and fair compensation for the use of such Border facilities, upon the basis of a reasonable profit in normal conditions, and shall bear the cost of restoring the Border facilities to their previous condition, less the reasonable value of any improvements that may have been made by the United States.

Article 5. Any transfer of ownership or control of the Border facilities, or any part thereof, or any changes to the name of the permittee, shall be immediately communicated in writing to the President or his designee, and shall include information identifying any transferee. Notwithstanding any such transfers or changes, this permit shall remain in force subject to all of its conditions, permissions, and requirements, and any amendments thereto, unless subsequently terminated, revoked, or amended by the President.

Article 6. (1) The permittee is responsible for acquiring any right-of-way grants or easements, permits, and other authorizations as may become necessary or appropriate.

(2) The permittee shall hold harmless and indemnify the United States from any claimed or adjudged liability arising out of construction, connection, operation, or maintenance of the Border facilities, including environmental contamination from the release, threatened release, or discharge of hazardous substances or hazardous waste.

(3) To ensure the safe operation of the Border facilities, the permittee shall maintain them and every part of them in a condition of good repair and in compliance with applicable law.

Article 7. To the extent authorized by law, the permittee shall provide to U.S. Customs and Border Protection and any other relevant United States Government agencies, at no cost to the United States, suitable inspection facilities, at a mutually agreed upon site, for officers and employees of such agencies to perform their duties. The provision of such facilities shall include, to the extent deemed necessary by such agencies, the transfer of title to any such facilities (including the site) to the United States. The inspection facilities shall meet the latest agency design standards and any operational requirements, including facilities for the Rail-Vehicle and Cargo Inspection Systems, inspection and office space, personnel parking and restrooms, utilities, and an access road. To the extent authorized by law, the permittee shall be responsible for any ongoing maintenance or necessary improvements to the inspection facilities, including to comply with updated agency design standards, and for the full cost of providing services at such facilities.

Article 8. The permittee shall file with the President or his designee, and with appropriate agencies, such sworn statements or reports with respect to the Border facilities, or the permittee's activities and operations in connection therewith, as are now, or may hereafter, be required under any law or regulation of the United States Government or its agencies. These reporting obligations do not alter the intent that this permit be operative as a directive issued by the President alone.

Article 9. Upon request, the permittee shall provide appropriate information to the President or his designee with regard to the Border facilities. Such requests could include, for example, information concerning current conditions or anticipated changes in ownership or control, construction, connection, operation, or maintenance of the Border facilities.

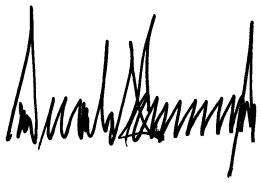
Article 10. The permittee shall provide written notice to the President or his designee at the time that the construction authorized by this permit begins, at such time as such construction is completed, interrupted, or discontinued, and at other times as may be requested by the President.

Article 11. The permittee shall provide written notice to the President or his designee describing any material investment in the Facilities, direct or indirect, by non-Canadian foreign investors of any kind, including individuals, corporations or other non-governmental entities, and governmental entities. Such written notice shall be provided at such time as an agreement for any such investment is entered into, or 30 days before any such investment is made, whichever is earlier, and at other times as may be requested by the President.

Article 12. This permit shall expire 10 years from the date of its issuance if the permittee has not commenced construction of the Border facilities by that date.

Article 13. This permit is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees or agents, or any other person.

IN WITNESS WHEREOF, I, DONALD J. TRUMP, President of the United States of America, have hereunto set my hand this twenty-eighth day of September, 2020, in the City of Washington, District of Columbia.



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Rules and Regulations

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Friday, October 2, 2020

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

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DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Rural Housing Service

Rural Utilities Service

7 CFR Parts 1779, 3575, 4279, 4287, and 5001

[Docket No. RUS–19–Agency–0030]

RIN 0572–AC43

OneRD Guaranteed Loan Regulation; Correction

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

ACTION: Final rule; technical correction.

SUMMARY: On July 14, 2020, Rural Development's Rural Business-Cooperative Service, Rural Housing Service, and Rural Utilities Service referred to as ''the Agency'' or ''Agency'' promulgated the OneRD Guaranteed Loan regulation. Following final implementation of this final rule, the Agency found that corrections due to error, omissions, or need for clarity were necessary. This technical correction makes amendments to address these necessary changes.

DATES: Effective October 1, 2020.

FOR FURTHER INFORMATION CONTACT: For questions on this document contact Thomas P. Dickson, Regulatory Division Team 2, Rural Development Innovation Center, U.S. Department of Agriculture, 1400 Independence Ave. SW, Stop 1522, Washington, DC 20250; telephone, 202–690–4492; email, *thomas.dickson@usda.gov*.

SUPPLEMENTARY INFORMATION:

I. Need for Corrections

The Agency published a final rule on July 14, 2020, (85 FR 42494—42580) for the purpose of implementing a unified guaranteed loan platform for enhanced delivery of four of its existing guaranteed loan programs: Community Facilities (CF) administered by the Rural Housing Service; Water and Waste Disposal (WWD) administered by the Rural Utilities Service; and, Business and Industry (B&I) and Rural Energy for America Program (REAP) administered by the Rural Business-Cooperative Service. The Agency discovered that errors and omissions were made during the drafting process that impact the successful implementation of this regulation. The following items will be addressed in this technical correction:

The removal of Supplementary Information language referring to a reduced guarantee in the Agency's response to a question regarding issuance of the loan note guarantee prior to the completion of construction. The Agency determined that the reduction is not necessary due to implementation of other risk mitigation measures.

Modifying language at § 5001.2 (e) to clarify intent.

Division B, Title I of the CARES Act supplemented existing authority in 7 CFR part 4279 for the Business and Industry program and was implemented after development of the OneRD final rule, but prior to the effective date of the OneRD rule. In order to continue to administer loans authorized under the CARES Act, 7 CFR part 4279 and Subpart B of Part 4287 are still needed. Therefore, it is necessary to remove Supplementary Information language and delete the amendment to remove and reserve 7 CFR part 4279 and Subpart B of 7 CFR part 4287. These parts continue to be necessary to originate Business & Industry CARES Act Program loans, and service Business and Industry Cares Act Program loans and B&I loans guaranteed by the Agency prior to October 1, 2020. Amendments have been added to revise 7 CFR 4279.1, 4279.101, and 4287.101 accordingly.

Modification of the definition of non-regulated lending entity at § 5001.3, to remove language that does not apply nor further the meaning of the definition.

Addition of language at § 5001.102(d) to clarify that long-term financing to pay off a lender's interim construction loan after project completion will not be treated as debt refinancing in this section.

Addition of language at end of § 5001.102(d)(3) to clarify that (4) is included with § 5001.102(d)(1) to (3).

Correction of language at § 5001.115(n) and an addition of a new paragraph (s) that was inadvertently missed.

Removal of § 5001.118(b)(3) as this information was duplicative.

Modification to the list of regulated lending entities at § 5001.130(b) to include other lending entities not specified, but that meet the eligibility requirements. This language was inadvertently left out of the regulation during drafting.

Addition of paragraph § 5001.121(a)(4) to include refinancing as an eligible use of CF loan funds. The paragraph was inadvertently left out during the drafting of the regulation.

Addition of paragraph § 5001.121(c)(12) to include refinancing as an eligible use of WWD loan funds. The paragraph was inadvertently left out during the drafting of the regulation.

Addition of paragraph § 5001.121(c)(12) to include refinancing as an eligible use of B&I loan funds. The paragraph was inadvertently left out during the drafting of the regulation.

Removal of the last sentence in § 5001.202(b)(4)(ii). This sentence was inadvertently left in during the drafting of the regulation.

Removal of language at § 5001.205(e) referencing closure of a lender's construction loan as the reference should be to the guaranteed loan.

Additional items were added to the list of provisional content for a complete application at § 5001.303(c). These items are included in the program specific areas but were not included in this section.

Modifying language at § 5001.408 clarifying how a lender may obtain participation in the loan or assign all or part of the guaranteed portion of the guaranteed loan on the secondary market and that that any assignment by the lender of the guaranteed portion of the loan must be accomplished in accordance with the conditions in the lender's agreement and the assignment of the guaranteed or non-guaranteed portion of the loan applies to all individuals, not just the borrower as well as making changes to terminology.

Modifying language at § 5001.450(b)(1) to remove duplicative language.

Modifying language at § 5001.452(b) to improve readability.

Adding language at § 5001.453 to advise holders the Agency will provide

a certificate of incumbency to verify the signature and title of the Agency official who signs the assignment guarantee agreement.

Removing § 5001.459(c) as it is no longer applicable.

Modifying language at § 5001.511 to improve readability.

Removing § 5001.515(c) as it is no longer applicable.

Removal of § 5001.524(d) which allowed the Agency to terminate the loan note guarantee for good cause. The Agency determined that this paragraph was duplicative of other language in the regulation.

The Agency, while drafting the regulation, inadvertently used sale and assign interchangeably when the correct term is assign. The Agency is taking the opportunity to correct this. Various spelling and grammar items were also corrected.

II. Corrections

In FR Doc. 2020–13991, appearing on page 42494 in the **Federal Register** of Tuesday, July 14, 2020, the following corrections are made:

■ 1. On page 42511, in the first column, under *Subpart F—Servicing Provisions* in the third paragraph under Loan Note Guarantee Construction titled *Agency's Response:* The last sentence is corrected to read ''As this poses more risk to the Agency, it will be mitigated with additional lender documentation and enhanced lender oversight along with an additional lender fee.''

Chapter XLII—[Corrected]

PART 4279—GUARANTEED LOANMAKING

Subpart A—General

■ 2. On page 42517, in the third column, in part 4279, remove ''Subpart A—[Removed and Reserved]'', revise instruction 4, and add amendatory text to read as follows:.

■ 4. Amend § 4279.1 by revising paragraph (a) to read as follows:

§ 4279.1 Introduction.

(a) As of October 1, 2020, this subpart is specifically applicable to and only contains regulations for Business and Industry loans under the authority of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (Pub. L. 116–136) to provide B&I guarantees for loans needed as a result of the Coronavirus Disease 2019 (COVID–19) pandemic for working capital loan purposes to support business operations and facilities in rural areas (B&I CARES Act Program Loans). Some of the requirements of this subpart are waived or altered for B&I CARES Act Program Loans. The waivers and alterations are provided in § 4279.190 of this subpart. Other than B&I CARES Act Program Loans, this subpart is no longer used for making Business and Industry (B&I) loans guaranteed by the Agency. Subpart B of part 4287 of this chapter is retained for servicing B&I CARES Act Program Loans and B&I loans guaranteed by the Agency prior to October 1, 2020. Requirements for B&I loans guaranteed by the Agency after October 1, 2020 (other than B&I CARES Act Loans) may be found at 7 CFR part 5001.

* * * * *

Subpart B—Business and Industry Loans

■ 3. On page 42518, in the first column, in part 4279, remove ''Subpart B—[Removed and Reserved]'', revise instruction 5, and add amendatory text to read as follows:

■ 5. Amend § 4279.101 by revising paragraph (a) to read as follows:

§ 4279.101 Introduction.

(a) *Content.* As of October 1, 2020, this subpart is specifically applicable to and only contains loan processing regulations for Business and Industry loans under the authority of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (Pub. L. 116–136) to provide B&I guarantees for loans needed as a result of the Coronavirus Disease 2019 (COVID–19) pandemic for working capital loan purposes to support business operations and facilities in rural areas (B&I CARES Act Program Loans). Some of the requirements of this subpart are waived or altered for B&I CARES Act Program Loans. The waivers and alterations are provided in § 4279.190 of this subpart. This subpart is supplemented by subpart A of this part, which contains general guaranteed loan regulations, and subpart B of part 4287 of this chapter, which contains loan servicing regulations. Other than the B&I CARES Act Program Loans, this subpart is no longer used for loan processing requirements for Business and Industry (B&I) loans guaranteed by the Agency. Requirements for regular B&I loans (other than the B&I CARES Act Program Loans) may be found at 7 CFR part 5001.

* * * * *

PART 4287—SERVICING

Subpart B—Servicing Business and Industry Guaranteed Loans

■ 4. On page 42518, in the first column, in part 4287, remove ''Subpart B—[Removed and Reserved]'', revise instruction 7, and add amendatory text to read as follows:

■ 7. Amend § 4287.101 by revising paragraph (a) to read as follows:

§ 4287.101 Introduction.

(a) As of October 1, 2020, this subpart is specifically applicable to and only contains regulations for servicing Business and Industry (B&I) Loans guaranteed by the Agency prior to October 1, 2020 and Business and Industry loans under the authority of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (Pub. L. 116–136) to provide B&I guarantees for loans needed as a result of the Coronavirus Disease 2019 (COVID–19) pandemic for working capital loan purposes to support business operations and facilities in rural areas (B&I CARES Act Program Loans). Other than B&I CARES Act Program Loans and B&I loans guaranteed by the Agency prior to October 1, 2020, this subpart is no longer used for servicing B&I loans guaranteed by the Agency. Requirements for B&I loans guaranteed by the Agency after October 1, 2020 (other than B&I CARES Act Loans) may be found at 7 CFR part 5001.

■ 5. On page 42518, in the first column, in part 4287, remove Instruction 7.

* * * * *

■ 6. On page 42518, in the third column in the table of contents under ''Subpart F-Servicing Provisions,'' ''5001.118 [Reserved]'' is corrected to read ''5001.518 [Reserved]''.

■ 7. On page 42519, in the second column, in § 5001.2, the second sentence of paragraph (e) is revised to read as follows:

§ 5001.2 Structure.

* * * * *

(e) * * * Loan provisions cover interest rates, term length, loan schedule, repayment, lender fees, loan amounts, percentage of guarantee, and assignment of a guaranteed loan. * * *

* * * * *

■ 8. On page 42523, in the second column, in § 5001.3, the definition of ''Non-regulated lending entity'' is revised to read as follows:

§ 5001.3 Definitions.

* * * * *

Non-regulated lending entity means a lending entity that is not subject to supervision and examination by an agency of the United States or a State.

* * * * *

■ 9. On page 43527, in the third column, and continuing on page 42528, in the first column, in § 5001.102, revise

paragraph (d) introductory sentence and the last sentence of paragraph (d)(3) to read as follows:

§ 5001.102 Project eligibility—general.

* * * * *

(d) *Debt refinancing.* The Agency can guarantee loans for debt refinancing, as described in paragraphs (d)(1) through (5) of this section. Longer-term financing to pay off a lender's interim construction loan after project completion will not be treated as debt refinancing. An eligible debt refinancing project is:

* * * * *

(3) * * * Such guaranteed debt shall not be included in the amount of applicant lender debt when calculating the maximum percentage of the total use of funds in the new guaranteed loan as stated in paragraph (d)(2) of this section; and,

* * * * *

§ 5001.105 Corrected

■ 10. On page 42530 in the second column in § 5001.105 paragraph (b)(21) is revised to read as follows:

§ 5001.105 Eligible B&I projects and requirements.

* * * * *

(b) * * *

(21) Development and construction of RES, including modification of existing systems that are commercially available and that are not otherwise eligible under REAP, or if funding is not available in the REAP program.

* * * * *

■ 11. On page 42533 in the third column in § 5001.115, revise paragraph (n) and add paragraph (s) to read as follows:

§ 5001.115 Ineligible projects—general.

* * * * *

(n) Owner-occupied housing.

* * * * *

(s) Self-storage facilities.

§ 5001.118 [Corrected]

■ 12. On page 42534 in the second column in § 5001.118, remove paragraph (b)(3).

■ 13. On page 42535 in the first and second columns in § 5001.121 add paragraphs (a)(4), (b)(11), and (c)(12) to read as follows:

§ 5001.121 Eligible uses of loan funds.

* * * * *

(a) * * *

(4) Refinancing in accordance with § 5001.102(d).

(b) * * *

(11) Refinancing in accordance with § 5001.102(d),

(c) * * *

(12) Refinancing in accordance with § 5001.102(d).

* * * * *

■ 13. On page 42538 in the first column in § 5001.130, revise paragraph (b) introductory text and add paragraph (b)(10) to read as follows:

§ 5001.130 Lender Eligibility Requirements.

* * * * *

(b) *Regulated lending entities.* Regulated lending entities identified in paragraphs (b)(1) through (10) of this section are eligible to receive a loan guarantee under this part without documentation to the Agency provided they are subject to supervision and credit examination by the applicable agency of the United States or a state, or were created specifically by state statute and operate under the direct supervision of a state government authority.

* * * * *

(10) Other lending entities not specified in paragraphs (b)(1) through (9) of this section that meet the requirements as specified in this paragraph (b).

* * * * *

§ 5001.202 [Corrected]

■ 14. On page 42543 in the third column and continuing onto page 42544 in the first column in § 5001.202, remove the last sentence in paragraph (b)(4)(ii).

§ 5001.205 [Corrected]

■ 15. On page 42545 in the third column in § 5001.205, remove the second sentence in paragraph (e)(2) introductory text.

■ 16. On page 42548 in the second column in § 5001.303, revise paragraph (c)(16) and add paragraphs (c)(17) and (18) to read as follows:

§ 5001.303 Applications for loan guarantee.

* * * * *

(c) * * *

(16) Certification regarding credit elsewhere in accordance with § 5001.126(b)(3) and (c)(2).

(17) Certification of significant community support in accordance with § 5001.126(b)(4) and (c)(3).

(18) Copies of organizational documents if not already provided with a preliminary eligibility review in accordance with § 5001.302.

■ 17. On pages 42562 and continuing onto page 42563 in § 5001.408, revise paragraph (a), the first sentence of paragraph (a)(2), paragraphs (a)(4) and (5), and (c), and the first sentences of paragraphs (d)(3) and (e) introductory text to read as follows:

§ 5001.408 Participation or assignment of guaranteed loan.

(a) *General.* The lender may obtain participation in the loan or assign all or part of the guaranteed portion of the guaranteed loan on the secondary market subject to the conditions specified in paragraphs (a)(1) through (5) of this section or retain the entire guaranteed loan.

* * * * *

(2) * * * Any assignment by the lender of the guaranteed portion of the loan must be accomplished in accordance with the conditions in the lender's agreement and the provisions of this section. The holders and the borrower have no rights or obligations to one another. * * *

* * * * *

(4) *Prohibition.* The lender must not assign or participate any amount of the guaranteed or non-guaranteed portion of the loan to the borrower, borrower's officers, directors, stockholders, other owners, or to members of their immediate families, or to a parent company, an affiliate, or a subsidiary of the borrower.

(5) *Secondary market.* The lender must properly close their loan and fully disburse loan funds of a promissory note for the purposes intended prior to assignment of the guaranteed portion of the promissory note(s) on the secondary market. The lender can assign all or part of the guaranteed portion of the loan only if the loan is not in default.

(c) *Distribution of proceeds.* The lender must apply all loan payments and collateral proceeds received, after payment of liquidation expenses, to the guaranteed and unguaranteed portions of the loan on a pro rata basis.

(d) * * *

(3) A holder, upon written notice to the lender and the Agency, may reassign the unpaid guaranteed portion of the loan, in full, assigned under the assignment guarantee agreement. * * *

* * * * *

(e) *Rights and liabilities.* When a guaranteed portion of a loan is assigned to a holder using an assignment guarantee agreement, the holder succeeds to all rights of the lender under the loan note guarantee to the extent of the portion purchased. * * *

* * * * *

■ 18. On page 42563 in the second column in § 5001.450, revise paragraph (b)(1) to read as follows:

§ 5001.450 General.

* * * * *

(b) * * *

(1) The entire loan must be secured by the same collateral with equal lien

priority for the guaranteed and unguaranteed portions of the loan. The unguaranteed portion of the guaranteed loan will neither be paid first nor given any preference or priority over the guaranteed portion. A parity or junior lien position in the guaranteed loan collateral may be considered on a case-by-case basis and must be approved by the Agency.

* * * * *

■ 19. On page 42564 in the third column in § 5001.452, revise paragraph (b) introductory text to read as follows:

§ 5001.452 Loan closing and conditions precedent to issuance of loan note guarantee.

* * * * *

(b) Simultaneously with or immediately after the guaranteed loan closing, the lender must provide to the Agency the guarantee fee, any secondary market assignment documents, and the following forms and documents:

* * * * *

■ 20. On page 42566 in the first column in§ 5001.453 revise paragraphs (a)(1) and (3) to read as follows:

§ 5001.453 Issuance of the loan note guarantee.

* * * * *

(a) * * *

(1) *Loan note guarantee.* The Agency will provide the lender the original loan note guarantee document which the lender must attach to the promissory note. If the lender elected to use the multi-note system, the Agency will issue one loan note guarantee for the set of promissory notes.

* * * * *

(3) *Certificate of incumbency and signature.* The Agency will provide the holder an executed certificate of incumbency form to verify the signature and title of the Agency official who signed the assignment guarantee agreement.

* * * * *

§ 5001.459 [Corrected]

■ 21. On page 42567 in the third column in § 5001.459, in the introductory text. correct ''through (c)'' to read ''and (b)'' and on page 42568 in the first column, remove paragraph (c).

■ 22. On pages 42572 in the second column and continuing onto page 42573, § 5001.511 is revised to read as follows:

§ 5001.511 Repurchases from holders.

(a) *General.* A holder can make written demand on either the lender or the Agency to repurchase the unpaid guarantee portion of the loan when the borrower is in monetary default or when the lender has failed to pay the holder its pro-rata share of any payment made by the borrower within 30 days of the lender's receipt thereof from the borrower. When making written demand on the lender, the holder must concurrently send a copy of the demand letter to the Agency.

(1) The lender is encouraged to repurchase the guarantee, upon written demand of a holder, to facilitate the accounting of funds, resolve any loan problem, and resolve the monetary default, where and when reasonable. The benefit to the lender is that it may re-assign the guaranteed portion of the loan and then continue collection of its servicing fee, if any, when the monetary default is cured.

(2) When a lender receives a written demand for repurchase from a holder, the lender must notify any other holder and the Agency within 30 calendar days of receipt of the written demand. The lender must inform all parties if the lender will repurchase the unpaid guaranteed portion of the loan from the requesting holder.

(3) Upon repurchase the holder will re-assign the assignment guarantee agreement to the lender without recourse.

(b) *Repurchase by lender for loan servicing purposes.* If the lender, borrower, and holder are unable to agree to restructuring of loan repayment, interest rate, or loan terms to resolve any loan problem or resolve any default, and repurchase of the guaranteed portion of the loan is necessary to adequately service the loan, the holder must reassign the guaranteed portion of the loan to the lender. The reassignment must be for an amount not less than the holder's unpaid principal and accrued Interest, in accordance with § 5001.450(c) of this part, on such portion less the lender's servicing fee.

(1) Upon repurchase the holder will re-assign the assignment guarantee agreement to the lender without recourse.

(2) The lender must not repurchase from the holder for arbitrage or other purposes to further its own financial gain.

(3) Any repurchase from a holder may only be made after the lender obtains the Agency's written approval.

(c) *Agency repurchase.* If the lender does not repurchase the guaranteed portion from the holder, the Agency may, at its option, purchase such guaranteed portion of the loan for loan servicing purposes. A holder can submit a written demand to the Agency for repurchase only if the lender declines to repurchase. If a prior written demand was not made upon the lender, the Agency will notify the lender and allow up to seven calendar days for the lender to exercise their option to repurchase as provided in this section.

(1) *Lender does not repurchase.* If the lender does not repurchase the unpaid guaranteed portion of a loan as provided in paragraph (a) of this section, the Agency will, within 30 calendar days after written demand to the Agency from the holder, purchase from the holder the unpaid principal balance of the guaranteed portion together with accrued interest to date of repurchase or the interest termination date, whichever is sooner, less the lender's servicing fee. The guarantee will pay accrued interest to the holder on the loan as determined under § 5001.450(c) of this part.

(2) *Written demand content.* The holder must include in its written demand to the Agency:

(i) A copy of the written demand made upon the lender;

(ii) A copy of the lender's denial to repurchase the unpaid guaranteed portion of the guaranteed loan;

(iii) Evidence of the right to require payment from the Agency as provided by the holder or duly authorized agent. Such evidence must consist of the original assignment guarantee agreement properly assigned to the Agency without recourse including all rights, title, and interest in the loan;

(iv) The amount due including unpaid principal, unpaid interest to date of demand, and interest subsequently accruing from date of demand to proposed payment date; and

(v) When the initial holder has assigned its interest, the original assignment guarantee agreement and an original of each Agency-approved reassignment document in the chain of ownership, with the latest reassignment being assigned to the Agency without recourse, including all rights, title, and interest in the guarantee.

(3) *Payment.* Unless otherwise agreed upon, payment will not be later than 30 calendar days from the date of demand.

(i) Upon request by the Agency, the lender must promptly furnish (within 30 calendar days of such request) a current statement, certified by an appropriate authorized officer of the lender, of the unpaid principal and interest then owed by the borrower on the loan and the amount then owed to any holder, along with the information necessary for the Agency to determine the appropriate amount due the holder.

(ii) Any discrepancy between the amount claimed by the holder and the information submitted by the lender must be resolved between the lender and the holder before payment will be approved. The Agency will notify both

parties and such conflict will suspend the running of the 30-calendar-day payment requirement.

(iii) If a repurchase of a guaranteed loan includes the capitalization of interest, interest accrued on the capitalized interest will not be paid to the holder.

(4) *Subrogation.* When the Agency purchases a loan from a holder it assumes all rights that were previously held by the holder.

(5) *Servicing fee.* When the Agency purchases the guaranteed portion of the loan from a holder, the lender's servicing fee will stop on the date that interest was last paid by the borrower. The lender can neither charge a servicing fee to the Agency nor collect such fee from the Agency.

(6) *Accrued interest.* If the Agency repurchases 100 percent of the guaranteed portion of a loan and becomes the holder, interest accrual on the loan will cease until the lender resumes remittance of the pro rata payments to the Agency.

(7) *Establishing interest termination date.* When a guaranteed loan has been delinquent more than 60 calendar days and no holder comes forward or when the lender has accelerated the account, and subject to the expiration of any forbearance or workout agreement, the lender, or the Agency at its sole discretion, must issue a letter to the holder(s) establishing the interest termination date in accordance with § 5001.450(c)(2).

(8) *Obligations and rights.* Purchase by the Agency neither changes, alters, or modifies any of the lender's obligations to the Agency arising from the lender's agreement, guaranteed loan or loan note guarantee, nor does it waive any of the Agency's rights against the lender. The Agency will have the right to set-off against the lender all rights inuring to the Agency as the holder of the instrument against the Agency's obligation to the lender under the loan note guarantee.

(9) *Accelerated loan.* When the lender has accelerated the loan and the lender holds all or a portion of the guaranteed loan, an estimated loss claim must be filed by the Lender with the Agency within 60 calendar days from the date the loan was accelerated. Accrued interest paid to the lender in accordance with § 5001.450(c)(1).

(10) *Interest termination during bankruptcy.* When a borrower files a Chapter 7 liquidation plan, the lender shall immediately notify the Agency and submit a liquidation plan. The Agency will establish an interest termination date based on the date Interest was last paid to the lender. When a borrower files either a Chapter 9 or Chapter 11 bankruptcy restructuring plan, the Agency and lender shall meet to discuss the bankruptcy procedure, the ability of the borrower to meet their restructuring plan, the lender's treatment of accruing interest, and potentially establish an interest termination date for the guaranteed loan. If the restructuring bankruptcy Chapter 9 or Chapter 11 is converted to a liquidation bankruptcy Chapter 7 by court order, the interest termination date will be the date of such conversion.

§ 5001.515 [Corrected]

■ 23. On page 42574 in the third column in § 5001.515, remove paragraph (c).

§ 5001.524 [Corrected]

■ 24. On page 42580 in the third column in § 5001.524, remove paragraph (d).

Bette B. Brand,

Deputy Under Secretary, Rural Development.

[FR Doc. 2020–21917 Filed 9–30–20; 4:15 pm]

BILLING CODE 3410–XY–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[NRC–2017–0151]

RIN 3150–AK07

Reactor Vessel Material Surveillance Program

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending the reactor vessel material surveillance program requirements for commercial light-water power reactors. This direct final rule revises the requirements associated with the testing of specimens contained within surveillance capsules and reporting the surveillance test results. This direct final rule also clarifies the requirements for the design of surveillance programs and the capsule withdrawal schedules for surveillance capsules in reactor vessels purchased after 1982. These changes reduce regulatory burden, with no effect on public health and safety.

DATES: This direct final rule is effective February 1, 2021, unless significant adverse comments are received by November 2, 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: Please refer to Docket ID NRC–2017–0151 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–2017–0151. 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.
- *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 ''ADAMS Public Documents'' and then 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, at 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 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.

FOR FURTHER INFORMATION CONTACT: Stewart Schneider, Office of Nuclear Material Safety and Safeguards, 301–415–4123, email: *Stewart.Schneider@nrc.gov,* or On Yee, Office of Nuclear Reactor Regulation, telephone: 301–415–1905, email: *On.Yee@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

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I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0151 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–2017–0151.
- *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 PDR reference staff at 1–800–397–4209, at 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.
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B. Submitting Comments

Please include Docket ID NRC–2017–0151 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. Procedural Background

Because the NRC anticipates that this action will be non-controversial, the NRC is using the ''direct final rule process'' for this rule. The direct final rule will become effective on February 1, 2021. However, if the NRC receives significant adverse comments on this direct final rule by November 2, 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 Rule 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.

(3) The comment causes the NRC staff to make a change (other than editorial) to the rule.

For detailed instructions on filing comments, please see the **ADDRESSES** section of this document.

III. Background

A. Description of a Reactor Vessel Material Surveillance Program

The reactor vessel and its internal components support and align the fuel assemblies that make up the reactor core and provide a flow path to ensure adequate heat removal from the fuel assemblies. The reactor vessel also provides containment and a floodable volume to maintain core cooling in the event of an accident causing loss of the primary coolant. It is a cylindrical shell with a welded hemispherical bottom head and a removable hemispherical upper head. Some vessel shells were fabricated from curved plates that were joined by longitudinal and circumferential welds. Others were manufactured using forged rings and, therefore, only have circumferential welds that join the rings. These plate and forging materials are referred to as base metals. Maintenance of the structural integrity of the reactor vessel is essential in ensuring plant safety, because there is no redundant system to maintain core cooling in the event of a vessel failure.

One characteristic of reactor vessel steels is that their material properties change as a function of temperature and neutron irradiation. The primary material property of interest for the purposes of reactor vessel integrity is the fracture toughness of the reactor vessel material. Extensive experimental work determined that Charpy impact energy tests, which measure the amount of energy required to fail a small material specimen, can be correlated to changes in fracture toughness of a material. Thus, the Charpy impact specimens [1] from the beltline [2] materials (*i.e.,* base metal, weld metal, and heat-affected zone) became the standard to assess the change in fracture toughness in ferritic steels.

The fracture toughness of reactor vessel materials decreases with decreasing temperature and with increasing irradiation from the reactor. The decrease in fracture toughness due to neutron irradiation is referred to as ''neutron embrittlement.'' The fracture toughness of reactor vessel materials is determined by using fracture toughness curves in the American Society of Mechanical Engineers (ASME) Code,

[1] A Charpy impact specimen is a bar of metal, or other material, having a V-groove notch machined across the 10 mm thickness dimension.

[2] A definition of the beltline or beltline region is provided in appendix G to 10 CFR part 50.

which are indexed to the reference temperature for nil-ductility transition (RT_{NDT}), as specified in ASME Boiler and Pressure Vessel Code, Section II, ''Materials.'' To account for the effects of neutron irradiation, the increase in RT_{NDT} is equated to the increase in the 30 ft-lb index temperature from tests of Charpy-V notch impact specimens irradiated in capsules as a part of the surveillance program. The surveillance program includes Charpy impact specimens of the base and weld metals for the reactor vessel in each surveillance capsule. These surveillance capsules are exposed to the same operating conditions as the reactor vessel, and because the capsules are located closer to the reactor core than the reactor vessel inner diameter, the surveillance specimens are generally exposed to higher neutron irradiation levels than those experienced by the reactor vessel at any given time.

As a result of the surveillance capsule's location within the reactor vessel, the test specimens generally reflect changes in fracture toughness due to neutron embrittlement in advance of what the reactor vessel experiences and provide insight to the future condition of the reactor vessel. Therefore, the NRC instituted reactor vessel material surveillance programs as a requirement of appendix H, ''Reactor Vessel Material Surveillance Program Requirements'' (appendix H), to part 50 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Domestic Licensing of Production and Utilization Facilities,'' so that the placement and testing of Charpy impact specimens in capsules between the inner diameter vessel wall and the core can provide data for assessing and projecting the change in fracture toughness of the reactor vessel.

The purpose for requiring a reactor vessel material surveillance program is to monitor changes in the fracture toughness properties in the beltline region of the reactor vessel and to use this information to analyze the reactor vessel integrity. Surveillance programs are designed not only to examine the current status of reactor vessel material properties but also to predict the changes in these properties resulting from the cumulative effects of neutron irradiation.

The determination as to whether a commercial nuclear power reactor vessel requires a material surveillance program under appendix H to 10 CFR part 50 is made at the time of plant licensing under 10 CFR part 50 or 10 CFR part 52, ''Licenses, Certifications, and Approvals for Nuclear Power Plants.'' If this surveillance program is required, it is designed and implemented at that time using the existing requirements. Certain aspects of the program, such as the specific materials to be monitored, the number of required surveillance capsules to be inserted in the reactor vessel, and the initial capsule withdrawal schedule were designed for the original licensed period of operation (*i.e.,* 40 years). The editions of the ASTM International (ASTM) E 185, which are incorporated by reference in appendix H to 10 CFR part 50, recommend three, four, or five surveillance capsules to be included in the design of reactor vessel material surveillance programs for the original licensed period of operation, based on the irradiation sensitivity of the material used to fabricate the reactor vessel.[3] Most plants have included several additional surveillance capsules beyond the number recommended by ASTM E 185. These capsules are referred to as ''standby capsules.'' The surveillance program for each reactor vessel provides assurance that the plant's operating limits (*e.g.,* the pressure-temperature limits) continue to meet the provisions in Appendix G of ASME Boiler and Pressure Vessel Code, Section XI, ''Rules for Inservice Inspection of Nuclear Power Plant Components,'' as required by appendix G, ''Fracture Toughness Requirements,'' to 10 CFR part 50. The program also provides assurance that the reactor vessel material upper shelf energy meets the requirements of appendix G to 10 CFR part 50. These assessments are used to ensure the integrity of the reactor vessel.

In addition to the Charpy impact specimens for determining the embrittlement in the reactor vessel, the surveillance capsules typically contain neutron dosimeters, thermal monitors, and tension specimens.[4] Surveillance capsules may also contain correlation monitor material, which is a material with composition, properties, and response to radiation that have been well characterized. The overall accuracy of neutron fluence measurements is dependent upon knowledge of the neutron spectrum. Therefore, a variety of neutron detector materials (dosimetry wires) are included in each surveillance capsule and used in the determination of neutron fluence for the vessel. The thermal monitors that are placed in the capsules (*e.g.,* low-melting-point elements or eutectic alloys) are used to identify the irradiated specimen's maximum exposure temperature.

B. Current Requirements Under Appendix H to 10 CFR Part 50

Appendix H to 10 CFR part 50 requires light-water nuclear power reactor licensees to have a reactor vessel material surveillance program to monitor changes in the fracture toughness properties of the reactor vessel materials adjacent to the reactor core in the beltline region. Unless it can be shown that the end of design life neutron fluence is below certain criteria, the NRC requires licensees to implement a materials surveillance program that tests irradiated material specimens that are located in surveillance capsules in the reactor vessels. The program evaluates changes in material fracture toughness and thereby assesses the integrity of the reactor vessel. For each capsule withdrawal, the test procedures and reporting requirements must meet the requirements of ASTM E 185–82, ''Standard Practice for Conducting Surveillance Tests for Light-Water Cooled Reactor Vessels,'' to the extent practicable for the configuration of the specimens in the capsule.

The design of the surveillance program and the withdrawal schedule must meet the requirements of the edition of ASTM E 185 that is current on the issue date of the ASME Code to which the reactor vessel was purchased. Later editions of ASTM E 185, up to and including those editions through 1982, may be used. Appendix H to 10 CFR part 50 specifically incorporates by reference ASTM E 185–73, ''Standard Recommended Practice for Surveillance Tests for Nuclear Reactor Vessels;'' ASTM E 185–79, ''Standard Practice for Conducting Surveillance Tests for Light-Water Cooled Nuclear Power Reactor Vessels,'' and ASTM E 185–82. In sum, the surveillance program must comply with ASTM E 185, as modified by appendix H to 10 CFR part 50. The number, design, and location of these surveillance capsules within the reactor vessel are established during the design of the program, before initial plant operation.

Appendix H to 10 CFR part 50 also specifies that each capsule withdrawal and subsequent test results must be the subject of a summary technical report to be submitted to the NRC within one year of the date of capsule withdrawal,

[3] The requirements in appendix H to 10 CFR part 50 are based, in part, on the information contained within ASTM E 185–73, ''Standard Recommended Practice for Surveillance Tests for Nuclear Reactor Vessels;'' ASTM 185–79, ''Standard Practice for Conducting Surveillance Tests for Light-Water Cooled Nuclear Power Reactor Vessels;'' and ASTM E 185–82, ''Standard Practice for Conducting Surveillance Tests for Light-Water Cooled Nuclear Power Reactor Vessels,'' which are incorporated by reference.

[4] Tension specimens have a standardized sample cross-section, with two shoulders and a gage (section) in between.

unless an extension is granted by the Director, Office of Nuclear Reactor Regulation. The NRC uses the results from the surveillance program to assess licensee submittals related to pressure-temperature limits under appendix G to 10 CFR part 50 and to assess pressurized water reactor licensee's compliance with either § 50.61, ''Fracture toughness requirements for protection against pressurized thermal shock events,'' or § 50.61a, ''Alternate fracture toughness requirements for protection against pressurized thermal shock events.''

C. The Need for Rulemaking

When appendix H to 10 CFR part 50 was established as a requirement (38 FR 19012; July 17, 1973), limited information and data were available on the subject of reactor vessel embrittlement. Thus, appendix H to 10 CFR part 50 required the inclusion of a comprehensive collection of specimen types representing the reactor vessel beltline materials in each surveillance capsule. Since 1973, a significant number of surveillance capsules have been withdrawn and tested. Analyses of these results support reconsidering the specimen types required for testing, and the required time for reporting the results from surveillance capsule testing. One outcome of this effort was that some specimen types were found to contribute to the characterization of reactor vessel embrittlement, while others did not. Therefore, the NRC determined that these latter types were unnecessary to meet the objectives of appendix H to 10 CFR part 50 and should no longer be required. Revising appendix H to 10 CFR part 50 to address this situation reduces the regulatory burden on licensees of data collection, with no effect on public health and safety.

In 1983, appendix H to 10 CFR part 50 was revised to require licensees to submit test results to the NRC within one year of the date of capsule withdrawal, unless an extension is granted by the Director, Office of Nuclear Reactor Regulation (48 FR 24008; May 27, 1983). As stated in the 1983 rulemaking, the reason for the requirement was the need for timely reporting of test results and notification of any problems. At that time, there was a limited amount of data from irradiated materials from which to estimate embrittlement trends of reactor vessels at nuclear power plants, making it important to receive timely reporting of test results.

Licensees that participate in an integrated surveillance program have found it challenging to meet this one-year requirement. This is related to the fact that an integrated surveillance program requires coordination among the multiple licensees participating in the program.[5] A significant number of test specimens have been analyzed since 1983, the results of which support a reduced need for prompt reporting of the test results. Based on this, the NRC has determined that the reporting requirement in appendix H to 10 CFR part 50 should be revised. Extending the reporting period allows for more time for licensee coordination and should help eliminate the need for licensees to prepare and submit extension requests and for the NRC to review such requests. This revision has no effect on public health and safety.

D. Regulatory Basis To Support Rulemaking

In January 2019, the Commission issued Staff Requirements Memorandum (SRM)–COMSECY–18–0016, ''Request Commission Approval to Use the Direct Final Rule Process to Revise the Testing and Reporting Requirements in 10 CFR part 50, Appendix H, Reactor Vessel Material Surveillance Program Requirements (RIN 3150–AK07),'' approving publication of the supporting regulatory basis and use of the direct final rule process. On April 3, 2019, the NRC issued the regulatory basis which provides an in-depth discussion on the technical merits of this rulemaking (84 FR 12876).[6] The regulatory basis includes additional information on the regulatory framework, types of reactor vessel material surveillance programs, regulatory topics that initiated this rulemaking effort, and options to address these topics. The regulatory basis shows that there is sufficient justification to proceed with rulemaking to amend appendix H to 10 CFR part 50 to reduce certain test specimens and extend the period to submit surveillance capsule reports to the NRC. In addition, in SRM–COMSECY–18–0016, the Commission directed the staff to clarify the requirements for the design of surveillance programs and the withdrawal schedules for reactor vessels purchased after 1982. These revisions will not establish any additional requirements for the current fleet of operating reactors.

IV. Discussion

The purpose of this action is to reduce the regulatory burden on reactor licensees and the NRC that is associated with test specimens contained within surveillance capsules and the reporting of surveillance test results, with no effect on public health and safety. This action also clarifies the requirements for the design of surveillance programs and the withdrawal schedules for reactor vessels purchased after 1982. The NRC has determined that the following revisions to appendix H to 10 CFR part 50 achieve the goal of reducing regulatory burden. These revisions do not establish any additional requirements for the current fleet of operating reactors.

1. Heat-Affected Zone Specimens

The editions of ASTM E 185 incorporated by reference in appendix H to 10 CFR part 50 specify that the surveillance test specimens shall include base metal, weld metal, and heat-affected zone materials. Heat-affected zone specimens were first required in reactor vessel material surveillance programs in 1966 (ASTM E 185–66, ''Recommended Practice for Surveillance Tests on Structural Materials in Nuclear Reactors''). Cracks in heat-affected zone material had been observed to cause the failure of components in non-nuclear applications, and from early research, these failures were in heat-affected zone materials with high hardness measurements, which is associated with low fracture toughness.

The heat-affected zone has been shown to exhibit superior fracture toughness compared to the base metal. In addition, test results from surveillance specimens have shown significant scatter of the heat-affected zone Charpy test data because of the inhomogeneous nature of the heat-affected zone material. This was the basis for eliminating the requirement for heat-affected zone specimens after the 1994 edition of ASTM E 185; thus, it is no longer prudent to require the inclusion or testing of heat-affected zone materials.

For these reasons, the NRC is revising appendix H to 10 CFR part 50 to make optional the requirement to include or test heat-affected zone specimens as part of the reactor vessel material surveillance program. For existing capsules that are currently in the reactor vessel, licenses can continue their practice to test the heat-affected zone specimens. For new and reconstituted

[5] Appendix H to 10 CFR part 50 permits the use of an integrated surveillance program (ISP) as an alternative to a plant-specific surveillance program. In an ISP, the representative materials chosen for surveillance of a reactor vessel are irradiated in one or more other reactor vessels that have similar design and operating features. The data obtained from these test specimens may then be used in the analysis of other plants participating in the program.

[6] A subsequent notification was published on April 12, 2019 (84 FR 14845), to correct the ADAMS accession number for the regulatory basis.

capsules[7] that may be inserted into the reactor vessel in the future, licensees are no longer required to have heat-affected zone specimens in the capsules but could choose to continue this practice. This revision has no effect on public health and safety.

2. Tension Specimens

The editions of ASTM E 185 currently incorporated by reference in appendix H to 10 CFR part 50 specify the following with respect to tensile testing:

(1) For unirradiated material, tension specimens shall be tested for both the base and weld material at specified temperatures.

(2) For irradiated material, tension specimens shall be included for both the base and weld material and tested at specified temperatures.

(3) Tensile testing shall be conducted in accordance with ASTM Method E 8, ''Methods of Tension Testing of Metallic Materials,'' and ASTM E 21, ''Recommended Practice for Elevated Temperature Tension Tests of Metallic Materials.''

The variation of tensile properties (*e.g.,* yield strength, tensile strength, and elongation) with test temperatures is established by testing tension specimens over a range of temperatures. Performing tensile tests before and after irradiation permits quantification of the hardening effect due to irradiation using the change in yield strength. Tensile data provide an indication of the radiation-induced strength property changes in the reactor vessel material and serve as a consistency check relative to Charpy data.

Past experience and test results have demonstrated that the differences in the test temperatures specified in ASTM E 185 can be small, which could yield small differences in tensile properties and redundant tensile information. Eliminating one test temperature and testing at room temperature and service temperature at all irradiation levels, allows for the comparison of the change in strength properties due to irradiation and temperature.

For these reasons, the NRC is revising appendix H to 10 CFR part 50 to require the inclusion or testing of only one tension specimen at room temperature and one tension specimen at service temperature, for all materials and irradiation levels as part of the reactor vessel material surveillance program. This reduces the number of tension specimens required in new and reconstituted surveillance capsules and for testing in existing surveillance capsules. For existing capsules that are currently in the reactor vessel, licensees can continue their practice of testing the tension specimens in accordance with ASTM E 185. For new and reconstituted capsules that may be inserted into the reactor vessel in the future, licensees could choose to continue this practice. This revision has no effect on public health and safety.

3. Correlation Monitor Material

Correlation monitor material is a well characterized reactor vessel material that has been included in many surveillance capsules. Correlation monitor material is selected so that it has a comparable composition and processing history to the reactor vessel material. The purpose of a correlation monitor material in a surveillance capsule is to provide reference data for comparison to the established trends for the correlation monitor material.

The editions of ASTM E 185 currently incorporated by reference in appendix H to 10 CFR part 50 specify that it is optional to include correlation monitor material in surveillance capsules. These editions of ASTM E 185 do not explicitly indicate whether correlation monitor material shall be tested if it was optionally included in a surveillance capsule. Therefore, it is ambiguous whether correlation monitor material testing is required even though it is optional to include this material in surveillance capsules. In practice, the testing of correlation monitor material has demonstrated variability in the measured material properties of the correlation monitor material, which has limited the practical use of the data.

For these reasons, the NRC is revising appendix H to 10 CFR part 50 to clarify that testing of correlation monitor material is optional when included in existing, new, and reconstituted surveillance capsules. This revision has no effect on public health and safety.

4. Thermal Monitors

ASTM E 185–82 specifies that the surveillance capsules shall include one set of temperature monitors (also known as ''thermal monitors'') that are located within the capsule where the specimen temperature is predicted to be the maximum, and additional sets of temperature monitors may be placed at other locations to characterize the temperature profile. The standard specifies reporting of the temperature monitor results and an estimate of the maximum capsule exposure temperature.

Irradiation temperature is one of the parameters that is closely correlated with the effects of neutron embrittlement of reactor vessel steels, with lower embrittlement measured at higher irradiation temperatures within a range close to the standard operating temperature of 288 degrees Celsius (550 degrees Fahrenheit). Therefore, knowledge of the irradiation temperature history of surveillance capsules is important to ensure that the surveillance data are properly interpreted and do not portray a non-conservative estimate of the reactor vessel neutron embrittlement.

Temperature monitors are targeted to melt at specific temperatures, normally somewhat higher than the planned operating temperature, to identify the highest temperature seen by the surveillance capsule. The monitors provide an indication of whether the melt temperature was reached but they do not provide a time-based exposure history of the monitor.

Several factors can complicate the interpretation of the information from temperature monitors. The first complication arises when the surveillance capsule experiences a short duration thermal transient that increases the coolant inlet temperature. This could result in a positive indication from the temperature monitors, which is insignificant to the overall exposure conditions of the surveillance capsule. A second complication is caused by possible interpretation issues, where apparent melting of the temperature monitors is caused by long-term exposure of the monitor to temperatures near, but below, its melting point.

For these reasons, the NRC is revising appendix H to 10 CFR part 50 to make optional the requirement to include or evaluate temperature monitors as part of the reactor vessel material surveillance program. For existing capsules that are currently in the reactor vessel, licensees can continue their practice of evaluating the temperature monitors. For new and reconstituted capsules that may be inserted into the reactor vessel in the future, licensees are no longer required to include temperature monitors in the capsules but could choose to continue this practice. As an alternative to these temperature monitors, an estimate of the average capsule temperature during full power operation for each reactor fuel cycle will provide the irradiation temperature history of the surveillance capsule. This revision has no effect on public health and safety.

5. Surveillance Test Results Reporting

Appendix H to 10 CFR part 50 currently requires that within one year of the date of the surveillance capsule withdrawal, a summary technical report be submitted to the NRC that contains

[7] A reconstituted capsule contains specimens from previously tested capsules.

the data required by ASTM E 185, and the results of all fracture toughness tests conducted on the beltline materials in the irradiated and unirradiated conditions, unless an extension is granted by the Director, Office of Nuclear Reactor Regulation.

This one-year requirement in appendix H to 10 CFR part 50 became effective on July 26, 1983 (48 FR 24008), with the primary purpose of timely reporting of test results and notification of any problems determined from surveillance tests. This was important because there was a limited amount of available data from irradiated materials from which to estimate embrittlement trends. An extensive amount of embrittlement data has been collected and analyzed since this time, the results of which support the reduced need for prompt reporting of the test results.

Licensees participating in an integrated surveillance program have found it challenging to meet the one-year requirement to submit a report following each capsule withdrawal. In an integrated surveillance program, the representative materials chosen for a reactor are irradiated in one or more other reactors that have similar design and operating features. The data obtained from these test specimens may then be used in the analysis of other plants participating in the program. Implementation of the integrated surveillance program requires significant coordination among the multiple licensees participating in the program. Historically, these licensees have requested a 6-month extension to this reporting requirement and, to date, the Director of the NRC Office of Nuclear Reactor Regulation, has granted them. Furthermore, as surveillance capsules remain in the reactor vessel to support operation through 60 years and 80 years, longer periods of radioactive decay may be needed before the capsules can be shipped to testing facilities. Licensees may find it burdensome to meet the one-year reporting requirement under these circumstances.

For these reasons, the NRC is revising appendix H to 10 CFR part 50 to increase the time given to licensees to submit a summary technical report of each capsule withdrawal and the test results from 1 year to 18 months. This revision has no effect on public health and safety.

6. Design of the Surveillance Program

Appendix H to 10 CFR part 50 is also being revised to clarify the edition of ASTM E 185 that is required for a reactor vessel purchased after 1982. Currently, there is the potential to misinterpret the regulation as requiring the use of an edition of ASTM E 185 that is not incorporated by reference in appendix H to 10 CFR part 50. Therefore, the NRC is revising appendix H to 10 CFR part 50 to clarify that for reactor vessels purchased after 1982, the design of the surveillance program and the withdrawal schedule must meet the requirements of ASTM E 185–82 (*i.e.,* the latest edition of ASTM E 185 that is incorporated by reference in appendix H to 10 CFR part 50).

License Renewal and Subsequent License Renewal

Surveillance programs that include the withdrawal schedule required by appendix H to 10 CFR part 50 were originally established and designed for the initial 40-year operating license of a nuclear power plant. The objective of this program during extended plant operations [8] remains the same as it was during the initial 40-year operating license, which is to continue monitoring changes in fracture toughness of the reactor vessel materials to ensure the integrity of the reactor vessel. This direct final rule does not revise appendix H to 10 CFR part 50 with respect to surveillance capsule withdrawal schedules during extended plant operation.

New Reactors

New light-water nuclear power reactor designs are substantially similar to operating reactors with regard to the relevant considerations for establishing adequate surveillance programs under appendix H to 10 CFR part 50. These similarities include proposed materials, fabrication methods, and operating environments. The proposed withdrawal schedules from ASTM E 185 are constructed to provide early evidence of material behavior which is of particular interest for a new or novel design with little or no operating experience. Consequently, the NRC is not revising appendix H to 10 CFR part 50 to address new light-water nuclear power reactor designs separately from existing reactors.

V. Section-by-Section Analysis

The following paragraphs describe the specific changes being made by this direct final rule.

[8] The period beyond the original license of a nuclear power plant (*i.e.,* during license renewal to operate for 60 years and potentially during subsequent license renewal to operate for 80 years).

Appendix H to Part 50—Reactor Vessel Material Surveillance Program Requirements

Section III. Surveillance Program Criteria

This direct final rule revises paragraph III.B.1 to clarify the design of surveillance programs and the capsule withdrawal schedules for reactor vessels purchased after 1982 and to include information regarding the use of optional provisions. This direct final rule also adds new paragraph III.B.4 that makes optional certain aspects of ASTM E 185.

Section IV. Report of Test Results

This direct final rule revises the timeframe for the submission of a summary technical report from 1 year to 18 months.

VI. Regulatory Flexibility Certification

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), the NRC certifies that this direct final rule does not have a significant economic impact on a substantial number of small entities. This direct final rule affects only the licensing and operation of nuclear power plants. The companies that own these plants 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).

VII. Regulatory Analysis

The NRC has prepared a regulatory analysis for this direct final rule. The analysis examines the costs and benefits of the alternatives considered by the NRC. Based on the analysis, the NRC concludes that this action is cost beneficial and reduces the regulatory costs for reactor licensees and the NRC for an issue that is not significant to safety. This issue is not significant to safety because this direct final rule reduces the testing of some specimens and eliminates the testing of other specimens that were found not to provide meaningful information to assess the integrity of the reactor vessel. Also, extending by 6 months the period for submitting the report of test results to the NRC is not significant to safety. This is because the increase in neutron fluence over 6 months is very small, and therefore the projected increase in embrittlement for the 6-month period would also be very small. This small impact, in conjunction with the margin of safety that is inherent in the pressure-temperature limit curves, minimizes any impact due to the 6-month increase.

VIII. Backfitting and Issue Finality

The NRC's backfitting provisions for holders of construction permits, and applicants and holders of operating licenses and combined licenses, appear in § 50.109, ''Backfitting'' (the Backfit Rule). Issue finality provisions, which are analogous to the backfitting provisions in § 50.109, appear in § 52.63, ''Finality of Standard Design Certifications;'' § 52.83, ''Finality of Referenced NRC Approvals; Partial Initial Decision on Site Suitability;'' § 52.98, ''Finality of Combined Licenses; Information Requests;'' § 52.145, ''Finality of Standard Design Approvals, Information Request;'' and § 52.171, ''Finality of Manufacturing Licenses; Information Requests.''

This direct final rule: (1) Provides licensees with a nonmandatory relaxation from the current 1 year following a capsule withdrawal to 18 months to submit surveillance capsule test results, and (2) reduces testing requirements by amending the NRC's regulations in appendix H to 10 CFR part 50. Because these changes are nonmandatory, licensees have the option to comply with the revised requirements for testing certain surveillance capsule specimens or for extending the allowable period for submitting surveillance test results to the NRC (*i.e.,* licensees can continue to submit surveillance capsule test results within one year of the date of capsule withdrawal). Therefore, this direct final rule does not constitute backfitting or raise issue finality concerns.

IX. Cumulative Effects of Regulation

Cumulative effects of regulation (CER) consists of the challenges licensees may face in addressing the implementation of new regulatory positions, programs, and requirements (*e.g.,* rulemaking, guidance, generic letters, backfits, inspections). The CER may manifest in several ways, including the total burden imposed on licensees by the NRC from simultaneous or consecutive regulatory actions that can adversely affect the licensee's capability to implement those requirements, while continuing to operate or construct its facility in a safe and secure manner.

The goals of the NRC's CER effort were met throughout the development of this action. The NRC has engaged external stakeholders at public meetings held during the development of the regulatory basis and this direct final rule. A public meeting was held on June 1, 2017, to provide an opportunity for the exchange of information on the scope and related costs and benefits associated with this action. Feedback obtained at this meeting was used in developing the regulatory basis and regulatory analysis. A second public meeting was held on April 30, 2019, to provide information on the status and scope of this direct final rule, and to discuss implementation and CER. Summaries of both public meetings are available in ADAMS, as provided in the ''Availability of Documents'' section of this document.

X. 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 31883).

XI. Environmental Impact—Categorical Exclusion

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in 10 CFR part 51, subpart A, that the direct final rule will not have a significant effect on the quality of the human environment and, therefore, an environmental impact statement is not required. The principal effect of this direct final rule is to amend the reactor vessel materials surveillance program requirements for commercial light-water power reactors. Specifically, it amends the requirements associated with the testing of specimens contained within surveillance capsules and reporting the surveillance test results.

The amendments to appendix H to 10 CFR part 50 that revise the surveillance requirements for testing specimens add optional provisions that would need to be adopted by individual licensees. In order to adopt these optional provisions, licensees would need to either submit a license amendment or determine whether the optional provisions can be implemented under 10 CFR 50.59, ''Changes, tests and experiments.'' When the 10 CFR 50.59 regulation was promulgated in 1999, the Commission concluded that there would be no significant impact on the environment for the types of changes to a nuclear power plant's licensing basis that a licensee could make under this provision without NRC review. If a license amendment is required to be submitted, the environmental impacts of that future license amendment would be evaluated by the NRC staff as part of the review of the license amendment request. The amendments to appendix H to 10 CFR part 50 that revise the recordkeeping and reporting requirements are categorically excluded under 10 CFR 51.22(c)(3)(ii) and (iii). The NRC has also determined that this action would involve no significant change in the types or amounts of any effluents that may be released offsite; no significant increase in individual or cumulative occupational radiation exposure; and no significant increase in the potential for or consequences from radiological accidents. In addition, the NRC has determined that there are no significant impacts to biota, water resources, historic properties, cultural resources, or socioeconomic conditions in the region. As such, there are no extraordinary circumstances that would preclude reliance on this categorical exemption. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with revising the reporting requirement under appendix H to 10 CFR part 50.

XII. Paperwork Reduction Act

The burden to the public for the information collection is estimated to be reduced by 78 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. Further information about information collection requirements associated with this direct final rule can be found in the companion proposed rule published elsewhere in this issue of the **Federal Register**.

This direct final rule is being issued prior to approval by the Office of Management and Budget (OMB) of these information collection requirements, which were submitted under OMB control number 3150–0011. When OMB notifies us of its decision, we will publish a document in the **Federal Register** providing notice of the effective date of the information collections or, if approval is denied, providing notice of what action we plan to take.

Send comments on any aspect of these information collections, including suggestions for reducing the burden, to the Information Services Branch (T6–A10M), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by email to *INFOCOLLECTS.RESOURCE@NRC.GOV;* and to OMB Office of Information and Regulatory Affairs (3150–0011), Attn: Desk Officer for the Nuclear Regulatory Commission, 725 17th Street NW, Washington, DC 20503; email: *oira_submission@omb.eop.gov.*

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

XIII. Congressional Review Act

This direct final rule is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

XIV. Compatibility of Agreement State Regulations

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs,'' approved by the Commission on June 20, 1997, and published in the **Federal Register** (62 FR 46517; September 3, 1997), this rule is classified as compatibility ''NRC.'' Compatibility is not required for Category ''NRC'' regulations. 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, and although an Agreement State may not adopt program elements reserved to the NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with a particular State's administrative procedure laws, but does not confer regulatory authority on the State.

XV. 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 using such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC is amending the reactor vessel materials surveillance program requirements to reduce the regulatory burden for an issue that is not significant to safety associated with the testing of surveillance capsule specimens and reporting the surveillance test results. It also clarifies the requirements for the design of surveillance programs and the withdrawal schedules for reactor vessels purchased after 1982. Specifically, this direct final rule allows licensees to reduce the testing of some specimens and eliminates the testing of other specimens that were found not to provide meaningful information to assess the integrity of the reactor vessel. It also extends by 6 months the period for licensees to submit the report of test results to the NRC. The increase in neutron fluence over 6 months is very small, and therefore the projected increase in embrittlement over this period would also be very small. This small impact, in conjunction with the margin of safety which is inherent in the pressure-temperature limit curves, minimizes any impact due to the 6-month increase. This action does not constitute the establishment of new conditions on the ASTM standards that are currently incorporated by reference in appendix H to 10 CFR part 50 nor a standard that contains generally applicable requirements. This action maintains the use of the ASTM standards that are currently incorporated by reference in appendix H to 10 CFR part 50 but makes optional certain aspects of the ASTM standards that have been determined not to be necessary for the safe operation of nuclear power plants.

XVI. 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*
ASME Boiler and Pressure Vessel Code, Section II, ''Materials''	*https://www.asme.org.*
ASTM E 185–73, ''Standard Recommended Practice for Surveillance Tests for Nuclear Reactor Vessels''	*https://www.astm.org.*
ASTM 185–79, ''Standard Practice for Conducting Surveillance Tests for Light-Water Cooled Nuclear Power Reactor Vessels''.	*https://www.astm.org.*
ASTM E 185–82, ''Standard Practice for Conducting Surveillance Tests for Light–Water Cooled Nuclear Power Reactor Vessels''.	*https://www.astm.org.*
ASME Boiler and Pressure Vessel Code, Section XI, Appendix G, ''Rules for Inservice Inspection of Nuclear Power Plant Components''.	*https://www.asme.org.*
Federal Register notification—''Part 50 Final Rule–Licensing of Production and Utilization Facilities; Fracture Toughness and Surveillance Program Requirements,'' July 17, 1973.	38 FR 19012.
Federal Register notification—''10 CFR Part 50 Final Rule, Fracture Toughness Requirements for Light-Water Nuclear Power Reactors,'' May 27, 1983.	48 FR 24008.
Rulemaking for Appendix H to 10 CFR Part 50, ''Reactor Vessel Material Surveillance Program Requirements—Regulatory Basis,'' April 2019.	ML19038A477.
Federal Register notification—''10 CFR Part 50, Reactor Vessel Material Surveillance Program: Regulatory Basis; Availability,'' April 3, 2019.	84 FR 12876.
Federal Register notification—''10 CFR Part 50, Reactor Vessel Material Surveillance Program: Regulatory Basis; Availability; Correction,'' April 12, 2019.	84 FR 14845.
ASTM E 185–66, ''Recommended Practice for Surveillance Tests on Structural Materials in Nuclear Reactors''.	*https://www.astm.org.*
ASTM Method E 8, ''Methods of Tension Testing of Metallic Materials,''	*https://www.astm.org.*
ASTM E21 ''Recommended Practice for Elevated Temperature Tension Tests of Metallic Materials.''	*https://www.astm.org.*
Summary of April 30, 2019, Public Meeting to Discuss the Status of the Appendix H, Reactor Vessel Material Surveillance Program Requirements Rulemaking.	ML19127A050.
Summary of June 1, 2017, Public Meeting to Discuss the Scope and Related Costs and Benefits Associated with the ''Reactor Vessel Materials Surveillance Program Requirements'' Proposed Rulemaking.	ML17173A081.
Staff Requirements Memorandum (SRM)–COMSECY–18–0016, ''Request Commission Approval to Use the Direct Final Rule Process to Revise the Testing and Reporting Requirements in 10 CFR Part 50, Appendix H, Reactor Vessel Material Surveillance Program Requirements (RIN 3150–AK07)''.	ML19009A517.
Regulatory Analysis for the Direct Final Rule: Appendix H to 10 CFR Part 50—Reactor Vessel Material Surveillance Program Requirements, September 2020.	ML20246G422.

List of Subjects in 10 CFR Part 50

Administrative practice and procedure, Antitrust, Backfitting, Classified information, Criminal penalties, Education, Fire prevention, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalties, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements, Whistleblowing.

For the reasons set forth in the preamble, and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR part 50:

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

■ 1. The authority citation for part 50 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 101, 102, 103, 104, 105, 108, 122, 147, 149, 161, 181, 182, 183, 184, 185, 186, 187, 189, 223, 234 (42 U.S.C. 2014, 2131, 2132, 2133, 2134, 2135, 2138, 2152, 2167, 2169, 2201, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2239, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); Nuclear Waste Policy Act of 1982, sec. 306 (42 U.S.C. 10226); National Environmental Policy Act of 1969 (42 U.S.C. 4332); 44 U.S.C. 3504 note; Sec. 109, Pub. L. 96–295, 94 Stat. 783.

■ 2. In appendix H to part 50:
■ a. Revise paragraph III.B.1;
■ b. Add paragraph III.B.4; and
■ c. In paragraph IV.A, remove the phrase ''one year'' and add in its place the phrase ''eighteen months''.

The revision and addition read as follows:

Appendix H to Part 50—Reactor Vessel Material Surveillance Program Requirements

* * * * *

III. * * *

B. * * *

1. The design of the surveillance program and the withdrawal schedule must meet the requirements of the edition of the ASTM E 185 that is current on the issue date of the ASME code to which the reactor vessel was purchased; for reactor vessels purchased after 1982, the design of the surveillance program and the withdrawal schedule must meet the requirements of ASTM E 185–82. For reactor vessels purchased in or before 1982, later editions of ASTM E 185 may be used, but including only those editions through 1982. For each capsule withdrawal, the test procedures and reporting requirements must meet the requirements of the ASTM E 185 to the extent practicable for the configuration of the specimens in the capsule. If any of the optional provisions in paragraphs III.B.4(a) through (d) of this section are implemented in lieu of ASTM E 185, the number of specimens included or tested in the surveillance program shall be adjusted as specified in paragraphs III.B.4(a) through (d) of this section.

* * * * *

4. Optional provisions. As used in this section, references to ASTM E 185 include the edition of ASTM E 185 that is current on the issue date of the ASME Code to which the reactor vessel was purchased through the 1982 edition.

(a) *First Provision:* Heat-Affected Zone Specimens—The inclusion or testing of weld heat-affected zone Charpy impact specimens within the surveillance program as specified in ASTM E 185 is optional.

(b) *Second Provision:* Tension Specimens—If this provision is implemented, the minimum number of tension specimens to be included and tested in the surveillance program shall be as specified in paragraphs III.B.4(b)(i) and (ii) of this section.

(i) Unirradiated Tension Specimens—Two tension specimens from each base and weld material required by ASTM E 185 shall be tested, with one specimen tested at room temperature and the other specimen tested at the service temperature; and

(ii) Irradiated Tension Specimens—Two tension specimens from each base and weld material required by ASTM E 185 shall be included in each surveillance capsule and tested, with one specimen tested at room temperature and the other specimen tested at the service temperature.

(c) *Third Provision:* Correlation Monitor Materials—The testing of correlation monitor material specimens within the surveillance program as specified in ASTM E 185 is optional.

(d) *Fourth Provision:* Thermal Monitor—The inclusion or examination of thermal monitors within the surveillance program as specified in ASTM E 185 is optional.

* * * * *

Dated at Rockville, Maryland, this 24th day of September, 2020.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary for the Commission.

[FR Doc. 2020–21505 Filed 10–1–20; 8:45 am]

BILLING CODE 7590–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 700, 701, 702, 704, 705, 707, 708a, 708b, 709, 717, 725, 740, 741, 747, 748, and 750

RIN 3133–AF22

Technical Amendments

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule and final rule; correction.

SUMMARY: The NCUA Board (Board) is issuing a final rule to make technical amendments to various provisions of the NCUA's regulations. These amendments correct minor technical problems and improve clarity.

DATES: The final rule is effective on October 2, 2020, except for the corrections to the final rule amending 12 CFR part 702, published at 80 FR 66626, which was delayed on November 6, 2018 (83 FR 55467) and December 17, 2019 (84 FR 68781), which are effective on January 1, 2022.

FOR FURTHER INFORMATION CONTACT: Justin Anderson, Senior Staff Attorney; Gira Bose, Staff Attorney, Division of Regulations and Legislation, Office of General Counsel, at 1775 Duke Street, Alexandria, VA 22314 or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

I. Background

The Board periodically issues a technical amendments rule correcting minor typographical errors, inaccurate legal citations, or superfluous or outdated regulatory provisions throughout the NCUA's regulations. Because these changes are technical in nature, and do not affect federally insured credit unions in a substantive manner, the Board issues these technical amendments rules as final rules without notice and comment typically required by the Administrative Procedure Act (APA).[1] Accordingly, the Board is issuing this final rule to address those matters.

II. Legal Authority

The Board has the legal authority to issue this final rule pursuant to its plenary rulemaking authority under the Federal Credit Union Act (FCU Act)[2] and its specific rulemaking authority under the various acts the Board administers.

III. Section-by-Section Analysis

General Wording, Style, and Cross-Reference Changes

The final rule makes general wording, style, and cross-reference changes throughout the NCUA's regulations. For example, the final rule corrects various typographical errors. Technical amendments of this nature will apply throughout the NCUA's regulations. Therefore, the preamble does not address these types of stylistic changes in the section-by-section analysis below.

[1] 5 U.S.C. 553(b)(A), (B).

[2] 12 U.S.C. 1766, 1789.

Parts 700, 701, 702, 704, 705, 707, 708a, 708b, 709, 717, 725, 740, 741, 747, 748, and 750

The final rule amends one of the definitions listed in § 700.2 of the NCUA's regulations that was erroneously changed. The definitions in part 700 apply throughout chapter VII of title 12 of the Code of Federal Regulations ''unless the context indicates otherwise.''[3] A ''Noninsured credit union'' is currently defined by regulation as ''a credit union chartered under the laws of any State, the District of Columbia, the several territories and possessions of the United States, the Panama Canal Zone, or the Commonwealth of Puerto Rico, whose member accounts are not insured by NCUA.'' This term mirrors the Federal Credit Union Act definition.[4] A final technical amendments rule issued in 2018 amended several references to ''Non-federally insured credit unions'' changing them to ''Noninsured credit unions.'' Although this change conformed the regulatory definition to the statutory definition, it also inadvertently created internal inconsistencies in the regulations and created unintended confusion and consequences. The Board has determined that the erroneous technical amendment issued in 2018 needs to be reversed to correct the inadvertent regulatory inconsistencies. This will restore clarity that the term ''Non-federally insured credit unions,'' consistent with the Federal Credit Union Act, includes credit unions whose member accounts are insured by agencies or entities other than the NCUA, such as state or private share insurers, as well as credit unions whose member accounts are not insured by any party. Accordingly, the final rule makes this change in § 700.2 and in other parts where the term ''Noninsured credit union'' currently appears—parts 704, 705, 708b, and 740.

Section 701.34 Designation of Low Income Status; Acceptance of Secondary Capital Accounts by Low-Income Designated Credit Unions

Section 701.34(a)(6) provides the definition of ''median family income'' and ''total median earnings for individuals'' by referring to data from the Census Bureau. The current definition points to the Census Bureau's American FactFinder site with a specific hyperlink. The Census Bureau no longer houses this data at that specific site. Accordingly, this final rule replaces the ''FactFinder'' reference with ''American Community Survey'' and provides a more general link to the Census Bureau's website. This change is not intended to alter the reliance on Census Bureau data for these statistics.

Appendix B to Part 701—Chartering and Field of Membership Manual

The final rule amends certain provisions to update the NCUA office responsible for a certain activity. For instance, the Office of Credit Union Resources and Expansion (CURE) has replaced the Regional Office as the responsible office at Chapter 1, Section III. The final rule also updates references to the Regional Offices to reflect the agency's realignment that was finalized in 2019, as well as an update to the name of one of the credit union trade associations noted in the Chartering Manual.

Part 702—Capital Adequacy

In addition to typographical corrections, the final rule includes corrections to the amendatory instructions from the 2015 final rule on risk-based capital[5] to ensure that cross-references to other provisions that the Board has since been amended will be correctly reflected in this part when the 2015 final rule goes into effect, as it is scheduled to do on January 1, 2022.[6] These corrections do not make any substantive change to the 2015 final rule.

Part 704—Corporate Credit Union

Throughout part 704, corporate credit unions are frequently referred to as ''corporates.'' The final rule amends several sections in this part to replace ''corporate'' or ''corporates'' with ''corporate credit union'' or ''corporate credit unions'' to avoid confusion and to be more precise.

In addition, a reference to ''notational principal balance'' has been corrected to ''notional principal balance.''

Part 707—Truth in Savings

This final rule makes a notable change relating to the model clauses and forms in appendix B to this part, which addresses Truth in Savings. Specifically, appendix B refers several times to a chart of accounts in a specific section of the NCUA's Accounting Manual for Federal Credit Unions. This publication no longer contains this chart of accounts, but this chart served as the model for the sample forms. Accordingly, the final rule adds a statement to this effect in the prefatory language to this appendix to avoid confusion for those referring to the current version of the Accounting Manual.

In addition, the final rule redesignates several paragraphs in appendix C to this part to correct duplicate paragraph numbering that resulted from prior amendments. This change does not affect or add to the substance of these provisions. The final rule will also correct minor wording or typographical errors.

Part 708a—Bank Conversions and Mergers

Section 708a.304 addresses the notice that a credit union must file with the NCUA within 30 days of its board adopting a proposal to merge. This provision refers to an asset threshold set by the Federal Trade Commission (FTC) under the Hart-Scott Rodino Act that triggers a premerger notification to the FTC. The threshold amount listed in the current regulation is outdated. Because the FTC will continue to update this threshold, removing the specific dollar amount from this regulation will help to avoid confusion or alternatively, the need for the NCUA to update its regulation each time the FTC updates the threshold. Credit unions should refer to the FTC's announcements of the threshold amounts on that agency's website and in the **Federal Register**.

Part 747—Administrative Actions, Adjudicative Hearings, Rules of Practice and Procedure, and Investigations

The final rule makes two notable clarifications and updates to this part. In § 747.0, which sets forth the scope of this part, the final rule adds a defined term for the Uniform Rules when that subject is first discussed in order to provide clarity. In § 747.207, which addresses notices of termination of insured status, the final rule updates a reference to the standard maximum share insurance amount from $100,000 to $250,000 to reflect the statutory change that Congress enacted in 2010.[7]

IV. Regulatory Procedures

Administrative Procedure Act

Generally, the APA requires a Federal agency to provide the public with notice and an opportunity to comment on agency rulemakings.[8] The APA, however, creates an exception in cases where an agency for good cause determines ''that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public

[3] 12 CFR 700.2.

[4] 12 U.S.C. 1752(7).

[5] 80 FR 66626 (Oct. 29. 2015).

[6] *See* 84 FR 68781 (Dec. 17, 2019).

[7] Public Law 111–203, sec. 335(b).

[8] 5 U.S.C. 553(b).

interest.'' [9] Because all of the changes in this final rule involve only minor, technical amendments to the NCUA's existing regulations, the Board has determined that notice and comment would be unnecessary and contrary to the public interest.

Furthermore, the APA generally provides that a final rule may not become effective until at least 30 days after its publication in the **Federal Register** unless the agency determines that good cause exists to dispense with this requirement.[10] As noted above, given that the rule does not impose new requirements on federally insured credit unions and only involves minor, technical amendments to existing regulations, the Board finds sufficient good cause exists to dispense with the 30-day effective date requirement. The rule will, therefore, be effective immediately upon publication.

Regulatory Flexibility Act

The Regulatory Flexibility Act requires the NCUA to prepare an analysis of any significant economic impact a regulation may have on a substantial number of small entities (primarily those under $100 million in assets).[11] As discussed previously, consistent with the APA,[12] the Board has determined for good cause that general notice and opportunity for public comment is unnecessary, and therefore the Board is not issuing a notice of proposed rulemaking. Rules that are exempt from notice and comment procedures are also exempt from the RFA requirements, including conducting a regulatory flexibility analysis, when among other things the agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. Accordingly, the Board has concluded that the RFA's requirements relating to initial and final regulatory flexibility analysis do not apply.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden on regulated entities or increases an existing burden.[13] For purposes of the PRA, a paperwork burden may take the form of a reporting or recordkeeping requirement, both referred to as information collections. As the final rule makes only minor, technical amendments to the NCUA's existing regulations, the NCUA has determined it does not increase paperwork requirements under the PRA.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) provides generally for congressional review of agency rules.[14] A reporting requirement is triggered in instances where the NCUA issues a ''final rule'' as defined by statute.[15] As required by SBREFA, the NCUA will submit this rule to the Office of Management and Budget for it to determine if the final rule is a ''major rule'' for purposes of SBREFA. The NCUA does not believe the rule is major.

Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act.[16]

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests.[17] The NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles. The final rule does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The NCUA has therefore determined that this final rule does not constitute a policy that has federalism implications for purposes of the Executive order.

List of Subjects

12 CFR Part 700

Credit unions.

12 CFR Part 701

Advertising, Aged, Civil rights, Credit, Credit unions, Fair housing, Individuals with disabilities, Insurance, Marital status discrimination, Mortgages, Religious discrimination, Reporting and recordkeeping requirements, Sex discrimination, Signs and symbols, Surety bonds.

12 CFR Part 702

Credit unions, Reporting and recordkeeping requirements.

12 CFR Part 704

Credit unions, Reporting and recordkeeping requirements, Surety bonds.

12 CFR Part 705

Community programs, Credit unions, Grants, Loans, Low income, Revolving fund.

12 CFR Part 707

Advertising, Credit unions, Reporting and recordkeeping requirements, Truth in lending.

12 CFR Part 708a

Credit unions, Reporting and recordkeeping requirements.

12 CFR Part 708b

Bank deposit insurance, Credit unions, Reporting and recordkeeping requirements.

12 CFR Part 709

Claims, Credit unions.

12 CFR Part 717

Consumer protection, Credit unions, Information, Privacy, Reporting and recordkeeping requirements.

12 CFR Part 725

Central liquidity facility.

12 CFR Part 740

Advertisements, Credit unions, Share insurance, Signs and symbols.

12 CFR Part 741

Bank deposit insurance, Credit unions, Reporting and recordkeeping requirements.

12 CFR Part 747

Administrative practice and procedure, Bank deposit insurance, Claims, Credit unions, Crime, Equal access to justice, Investigations, Lawyers, Penalties.

12 CFR Part 748

Credit unions, Reporting and recordkeeping requirements, Security measures.

12 CFR Part 750

Credit unions, Golden parachute payments, Indemnity payments.

[9] *Id.* at 553(b)(B).

[10] 5 U.S.C. 553(d). For the same reasons, the Board is not providing the usual 60-day comment period before finalizing this rule. *See* NCUA Interpretive Ruling and Policy Statement (IRPS) 87–2, as amended by IRPS 03–2 and IRPS 15–1. 80 FR 57512 (Sept. 24, 2015), *available at https://www.ncua.gov/files/publications/irps/IRPS1987-2.pdf.*

[11] 5 U.S.C. 601–612.

[12] 5 U.S.C. 553(b)(3)(B).

[13] 44 U.S.C. 3501–3521.

[14] 5 U.S.C. 801–808.

[15] 5 U.S.C. 551, 804.

[16] Public Law 105–277, sec. 654, 112 Stat. 2681, 2681–528 (1998).

[17] ''Federalism,'' E.O. 13,132 (Aug. 10, 1999).

By the National Credit Union Administration Board on June 25, 2020.

Gerard Poliquin,

Secretary of the Board.

Correction

In FR Doc. 2015–26790, appearing on page 66626 in the **Federal Register** of Thursday, October 29, 2015, the following corrections are made:

§ 702.1 [Corrected]

■ 1. On page 66706, in the third column, revise § 702.1(a) by removing ''12 U.S.C. 1776'' adding in its place ''12 U.S.C. 1766''.

■ 2. On page 66722, in the first column, remove instruction 11.

§ 702.305 [Corrected]

■ 3. On page 66722, in the first column, correct instruction 12 to read as follows: ''Amend newly redesignated § 702.305(b)(4) by removing the citation ''§ 702.504'' and adding in its place ''§ 702.304''

For the reasons discussed above, the Board is correcting FR Doc. 2015–26790, as set forth above, and amending 12 CFR parts 700, 701, 702, 704, 705, 707, 708a, 708b, 709, 717, 725, 740, 741, 747, 748, and 750 as follows:

PART 700—DEFINITIONS

■ 1. The authority citation for part 700 continues to read as follows:

Authority: 12 U.S.C. 1752, 1757(6), 1766.

■ 2. Amend § 700.2 by:

■ a. Removing the definition of ''Noninsured credit union''; and

■ b. Adding in alphabetical order the definition of ''Non-federally insured credit union''.

The addition reads as follows:

§ 700.2 Definitions

* * * * *

Non-federally insured credit union means a credit union chartered under the laws of any State, the District of Columbia, the several territories and possessions of the United States, the Panama Canal Zone, or the Commonwealth of Puerto Rico, whose member accounts are not insured by the NCUA.

* * * * *

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

■ 3. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1758, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1786, 1787, 1789. Section 701.6 is also authorized by 15 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.;* 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

§ 701.22 [Amended]

■ 4. In § 701.22, amend paragraph (e) by removing the citation ''(b)(1)(ii)'' and adding in its place the citation ''(b)(5)(ii)''.

■ 5. Amend § 701.34 by revising paragraph (a)(6) to read as follows:

§ 701.34 Designation of low income status; Acceptance of secondary capital accounts by low-income designated credit unions.

* * * * *

(a) * * *

(6) *Definitions.* The following definitions apply to this section:

Median family income and *total median earnings for individuals* are income statistics reported by the U.S. Census Bureau. The applicable income data can be obtained via the American Community Survey on the Census Bureau's web page at *http://www.census.gov.*

Metropolitan area means an area designated by the Office of Management and Budget pursuant to 31 U.S.C. 1104(d), 44 U.S.C. 3504(c), and Executive Order 10253 (June 13, 1951) (as amended).

* * * * *

■ 6. Amend appendix B to part 701 by revising the first sentence of the second paragraph under the heading ''III —Subscribers'', Appendix 3, and Appendix 5 to read as follows:

Appendix B to Part 701—Chartering and Field of Membership Manual

* * * * *

III—Subscribers

* * * * *

Persons interested in organizing a Federal credit union should contact one of the credit union trade associations or the NCUA Office of Credit Union Resources and Expansion.

* * *

* * * * *

Appendix 3

NCUA Offices

Office of Credit Union Resources and Expansion (CURE)
1775 Duke Street, Alexandria, VA 22314–3428
Phone: 703–518–1150
Fax: 703–518–6672
Email: DCAMail@NCUA.GOV

The Divisions of Consumer Access (East, Central, and West) within CURE share the responsibility for chartering and field-of-membership matters, low-income designations, charter conversions, and bylaw amendments.

Eastern Region—Alexandria
1775 Duke Street, Alexandria, VA 22314–3428
Phone: 703–519–4600
Fax: 703–519–6674
Email: EasternMail@NCUA.GOV

States in the Eastern Region include: Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia.

Southern Region—Austin
4807 Spicewood Springs Road, Suite 5200, Austin, TX 78759–8490
Phone: 512–342–5600
Fax: 512–342–5620
Email: SouthernMail@NCUA.GOV

States in the Southern Region include: Alabama, Arkansas, Florida, Georgia, Indiana, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Oklahoma, Tennessee, and Texas, as well as Puerto Rico and the U.S. Virgin Islands.

Western Region—Tempe
1230 West Washington Street, Suite 301, Tempe, AZ 85281
Phone: 602–302–6000
Fax: 602–302–6024
Email: WesternMail@NCUA.GOV

States in the Western Region include: Alaska, Arizona, California, Colorado, Hawaii, Idaho, Illinois, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Nevada, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming, as well as Guam.

* * * * *

Appendix 5

Trades Associations

Credit Union National Association (CUNA)
www.cuna.org
P.O. Box 431, Madison, WI 53701, 800–356–9655

National Association of Federally-Insured Credit Unions (NAFCU)
www.nafcu.org
3138 N 10th Street, Suite 300, Arlington, VA 22201–2149, 800–336–4644

National Association of State Credit Union Supervisors (NASCUS)
www.nascus.org
1655 North Fort Myer Drive, Suite 650, Arlington, VA 22209, 703–528–8351

Inclusiv
https://www.inclusiv.org/
39 Broadway, Suite 2140, New York, NY 10006–3063, 212–809–1850

PART 702—CAPITAL ADEQUACY

■ 7. The authority citation for part 702 continues to read as follows:

Authority: 12 U.S.C. 1766(a), 1790d.

§ 702.306 [Amended]

■ 8. In § 702.306(a)(1)(i), remove the word ''the-present'' and add, in its place, the word ''then-present''.

PART 703—INVESTMENT AND DEPOSIT ACTIVITIES

■ 9. The authority citation for part 703 continues to read as follows:

Authority: 12 U.S.C. 1757(7), 1757(8), 1757(15).

■ 10. Revise § 703.14(k) to read as follows:

§ 703.14 Permissible investments.

* * * * *

(k) *Derivatives.* A Federal credit union may only enter into the following derivatives transactions:

* * * * *

§ 703.112 [Amended]

■ 11. In § 703.112, amend paragraph (a) by removing the word ''fescribed'' and adding, in its place, the word ''described''.

PART 704—CORPORATE CREDIT UNIONS

■ 12. The authority citation for part 704 continues to read as follows:

Authority: 12 U.S.C. 1766(a), 1781, 1789.

§ 704.1 [Amended]

■ 13. In § 704.1, amend paragraph (a) by removing in the second sentence the words ''Noninsured corporate credit unions'' and adding, in their place, the words ''Non-federally insured corporate credit unions''.

§ 704.4 [Amended]

■ 14. Amend § 704.4 by adding the words ''credit union'' after ''corporate'' in the last sentence of paragraph (e)(1)(ii)(5).

§ 704.5 [Amended]

■ 15. In § 704.5 amend paragraph (e)(4) by adding the words ''credit union'' after ''corporate'' in the last sentence.

■ 16. Amend § 704.6 by revising paragraph (f)(2) to read as follows.

§ 704.6 Credit risk management.

* * * * *

(f) * * *

(2) A corporate credit union must identify and monitor any changes in credit quality of the investment and retain appropriate supporting documentation as long as the corporate credit union owns the investment.

* * * * *

■ 17. Amend § 704.8 by revising paragraphs (j)(1) and (k) to read as follows:

§ 704.8 Asset and liability management.

* * * * *

(j) *Limit breaches.* (1)(i) If a corporate credit union's decline in NEV, base case NEV ratio, or any NEV ratio calculated under paragraph (d) of this section exceeds established or permitted limits, or the corporate credit union is unable to satisfy the tests in paragraph (f) or (g) of this section, the operating management of the corporate credit union must immediately report this information to its board of directors and ALCO; and

(ii) If the corporate credit union cannot adjust its balance sheet to meet the requirements of paragraph (d), (f), or (g) of this section within 10 calendar days after detection by the corporate credit union, the corporate credit union must notify in writing the Director of the Office of National Examinations and Supervision.

* * * * *

(k) *Overall limit on business generated from individual credit unions.* On or after April 22, 2013, a corporate credit union is prohibited from accepting from any member, or any nonmember credit union, any investment, including shares, loans, PCC, or NCAs if, following that investment, the aggregate of all investments from that entity in the corporate credit union would exceed 15 percent of the corporate credit union's moving daily average net assets.

■ 18. Amend § 704.11 by:

■ a. Adding the words ''credit union'' after the second use of the word ''corporate'' in the last sentence of paragraph (b)(2);

■ b. Adding the words ''credit union'' after ''corporate'' in the first sentence of paragraph (b)(3);

■ c. Adding the word ''from'' between the words ''activity'' and ''the'' in paragraph (e)(2); and

■ d. Revising paragraph (g)(7).

The revision reads as follows:

§ 704.11 Corporate Credit Union Service Organizations (Corporate CUSOs).

* * * * *

(g) * * *

(7) Will inform the corporate credit union, at least quarterly, of all the compensation paid by the CUSO to its employees who are also employees of the corporate credit union; and

* * * * *

■ 19. Amend § 704.14 by revising paragraphs (a)(4) and (8) to read as follows:

§ 704.14 Representation.

(a) * * *

(4) No individual may be elected or appointed to serve on the board if, after such election or appointment, any member of the corporate credit union would have more than one representative on the board of the corporate credit union;

* * * * *

(8) In the case of a corporate credit union whose membership is composed of more than 25 percent non-credit unions, the majority of directors serving as representatives of member credit unions, including the chair, must be elected only by member credit unions; and

* * * * *

■ 20. Revise § 704.19(a) introductory text to read as follows:

§ 704.19 Disclosure of executive compensation.

(a) *Annual disclosure.* A corporate credit union must annually prepare and maintain a disclosure of the dollar amount of compensation paid to its most highly compensated employees, including compensation from any corporate CUSO in which the corporate credit union has invested or made a loan, in accordance with the following schedule:

* * * * *

§ 704.20 [Added and Reserved]

■ 21. Add reserved § 704.20.

■ 22. Amend § 704.22 by revising paragraph (b) to read as follows:

§ 704.22 Membership fees.

* * * * *

(b) The corporate credit union must calculate the fee uniformly for all members as a percentage of each member's assets, except that the corporate credit union may reduce the amount of the fee for members that have contributed capital to the corporate credit union. Any reduction must be proportional to the amount of the member's nondepleted contributed capital.

* * * * *

Appendix A to Part 704 [Amended]

■ 23. Amend appendix A to part 704 as follows:

■ a. In Part I, add the words ''credit union'' between the words ''corporate'' and ''on'' in the first sentence;

■ b. In Part I, add the words ''credit union'' between the words ''corporate'' and ''before'' in the first sentence;

■ c. In Part II, Model Form C, add the words ''credit union'' after the word ''corporate'' in the second sentence of paragraph (3); and

■ d. In Part II, Model Form D, add the words ''credit union'' after the word ''corporate'' in the second sentence of paragraph (3).

Appendix B to Part 704 [Amended]

■ 24. Amend appendix B to part 704 as follows:
■ a. In paragraph titled ''Base-Plus'', add the words ''credit union'' after the word ''corporate'';
■ b. In paragraph (b)(1) of Part III, remove the word ''corporate's'' and add, in its place, ''corporate credit union's'';
■ c. In paragraph (b)(2) of Part III, add the words ''credit union'' between the words ''corporate'' and ''must'';
■ d. In paragraph (b)(2) of Part III, remove the word ''corporate's'' and add, in its place, ''corporate credit union's'';
■ e. In paragraph (b)(3) of Part III, add the words ''credit union'' after the word ''corporate'';
■ f. In paragraph (b)(4) of Part III, add the words ''credit union'' between the words ''corporate'' and ''must''; and
■ g. In paragraph (b)(4) of Part III, remove the word ''corporate's'' and add, in its place, ''corporate credit union's''.

Appendix C to Part 704 [Amended]

■ 25. Amend appendix C to part 704 by:
■ a. In Part I, paragraph (b):
■ i. Revising the definition of ''Face amount;'' and
■ ii. Revising paragraph (2) of the definition of ''Qualifying mortgage loan;''
■ b. In Part II, paragraph (a)(6), in the first sentence, remove the word ''corporate's'' and add, in its place, ''corporate credit union's'';
■ c. In Part II, paragraph (b)(2)(ii), in the last sentence, remove the word ''or'' and add, in its place, the word ''of''; and
■ d. In Part II, paragraph (c)(3)(i), in the last sentence, remove the word ''corporate's'' and add, in its place, the words ''corporate credit union's''.

The revisions read as follows:

Appendix C to Part 704—*

* * * * *

Part I

* * * * *

(b) * * *

Face amount means the notional principal, or face value, amount of an off-balance sheet item or the amortized cost of an on-balance sheet asset.

* * * * *

Qualifying mortgage loan * * *

(2) Is underwritten in accordance with prudent underwriting standards, including standards relating to the ratio of the loan amount to the value of the property (LTV ratio), as presented in the *Interagency Guidelines for Real Estate Lending Policies* (December 31, 1992). A nonqualifying mortgage loan that is paid down to an appropriate LTV ratio (calculated using value at origination, appraisal obtained within the prior six months, or updated value using an automated valuation model) may become a qualifying loan if it meets all other requirements of this definition;

* * * * *

PART 705—COMMUNITY DEVELOPMENT REVOLVING LOAN FUND ACCESS FOR CREDIT UNIONS

■ 26. The authority citation for part 705 continues to read as follows:

Authority: 12 U.S.C. 1756, 1757(5)(D), and (7)(I), 1766, 1782, 1784, 1785 and 1786.

§ § 705.2 and 705.7 [Amended]

■ 27. Amend §§ 705.2 and 705.7(b)(3) by removing ''noninsured credit union'' and adding in its place ''Non-federally insured credit union''.

PART 707—TRUTH IN SAVINGS

■ 28. The authority citation for part 707 continues to read as follows:

Authority: 12 U.S.C. 4311.

■ 29. Amend appendix B to part 707 by:
■ a. Adding a paragraph at the end of the introductory text;
■ b. In the note to B–6 Sample Form (REGULAR SHARE ACCOUNT DISCLOSURES), revising ''Nonfederally'' to read as ''Non-federally'',
■ c. In B–9 ''Sample Form (TERM SHARE (CERTIFICATE) ACCOUNT DISCLOSURES)'':
■ i. In paragraph 3, removing the word ''minium'' in the first non-italicized sentence, and adding in its place the word ''minimum''; and
■ ii. In the ''NOTE'' in the last sentence, removing the word ''if'', and adding in its place, the word ''is''.

The addition reads as follows:

Appendix B to Part 707—Model Clauses and Sample Forms

* * * * *

Note also that certain information that appeared in previous versions of the *NCUA Accounting Manual for FCUs* that served as a model for this appendix do not appear in the current version of that publication.

* * * * *

■ 30. Amend appendix C to part 707 by:
■ a. In Section 707.2:
■ i. Under ''*(i) Dividend and Dividends*'' revise paragraph 4.D;
■ ii. Under ''*(z) Variable-Rate Account*'', revise the first sentence of paragraph 2;
■ b. In Section 707.4,
■ i. Under ''*(a)(2)(i)*'' revise paragraph (2;
■ ii. Under ''*(b)(6)(ii)*'' revise paragraph (2)(i);
■ c. In Section 707.7, revise the heading for ''*(a)(2)*'';
■ d. In Section 707.9, under ''*(c)Record retention*'', revise paragraph (1)(ii);
■ e. In Section 707.11, under ''*(a)(1) General*'':
■ i. Redesignate sections *(a)(1)*(2) through *(a)(1)*(6) as *(a)(1)*(3) through *(a)(1)*(7); and
■ ii. redesignate the second section numbered (1) as (2).

The revisions read as follows:

Appendix C to Part 707—Official Staff Interpretations

* * * * *

Section 707.2—Definitions

* * * * *

(i) Dividend and Dividends

* * * * *

4. * * *

D. I further certify that the Board of Directors of this Credit Union has, and at the time of adoption of this resolution had, full power and lawful authority to adopt the foregoing resolutions and that this resolution revokes any prior resolution.

* * * * *

(z) Variable-Rate Account

* * * * *

2. *Differences between fixed-rate and variable-rate accounts.* All accounts must either be fixed-rate or variable-rate accounts. Classifying an account as variable-rate affects credit unions three ways:

* * * * *

Section 707.4—Account Disclosures

* * * * *

(a)(2) Requests

(a)(2)(i)

* * * * *

2. *General requests.* When members or potential members request disclosures about a type of account (a share draft account, for example), a credit union that offers several variations may provide disclosures for any one of them. No disclosures need be made to nonmembers, though a credit union may provide disclosures to nonmembers within its sole discretion.

* * * * *

(b) Content of Account Disclosures

* * * * *

(b)(6)(ii) Early Withdrawal Penalties

* * * * *

2. * * *

i. Monetary penalties, such as a specific dollar amount (*e.g.,* ''$10.00'') or a specific days' worth of dividends (*e.g.,* ''seven days' dividends plus accrued but uncredited dividends, but only if the account is closed'').

* * * * *

Section 707.7—Payment of Dividends

* * * * *

(a2) Determination of Minimum Balance To Earn Dividends

* * * * *

Section 707.9—Enforcement and Record Retention

(c) Record retention

* * * * *

ii. Retained sample disclosures for each type of account offered to members, such as account-opening disclosures, copies of advertisements, and change-in-term notices; and information regarding the dividend rates and annual percentage yields offered.

* * * * *

PART 708a—BANK CONVERSIONS AND MERGERS

■ 31. The authority citation for part 708a continues to read as follows:

Authority: 12 U.S.C. 1766, 1785(b), 1785(c).

§ 708a.304 [Amended]

■ 36. In § 708a.304(a)(13), remove the words ''currently $63.4 million,''.

PART 708b—MERGERS OF INSURED CREDIT UNIONS INTO OTHER CREDIT UNIONS; VOLUNTARY TERMINATION OR CONVERSION OF INSURED STATUS

■ 32. The authority citation for part 708b continues to read as follows:

Authority: 12 U.S.C. 1752(7), 1766, 1785, 1786, 1789.

■ 33. Throughout part 708b, remove the terms ''nonfederal'', ''noninsured'', ''noninsured credit union'', and ''noninsured state credit union'' and add in their place ''non-Federal'', ''non-federally insured'', ''Non-federally insured credit union'', and ''Non-federally insured credit union'', respectively.

§ 708b.1 [Amended]

■ 34. Amend § 708b.1 as follows:

■ a. In paragraph (a), remove the word ''partprescribes'', and, add in its place, the phrase ''part prescribes''.

■ b. In paragraph (b), remove the word ''partprescribes'', and, add in its place, the phrase ''part prescribes''.

■ c. In paragraph (d), remove the word ''partrestricts'', and, add in its place, the phrase ''part restricts''.

§ 708b.205 [Amended]

■ 35. In § 708b.205 amend paragraph (c) by removing the word ''state'' and adding, in its place, ''state-chartered''.

PART 709—INVOLUNTARY LIQUIDATION OF FEDERAL CREDIT UNIONS AND ADJUDICATION OF CREDITOR CLAIMS INVOLVING FEDERALLY INSURED CREDIT UNIONS IN LIQUIDATION

■ 36. The authority citation for part 709 continues to read as follows:

Authority: 12 U.S.C. 1757, 1766, 1767, 1786(h), 1786(t), and 1787(b)(4), 1788, 1789, 1789a.

§ 709.8 [Amended]

■ 37. In § 709.8 amend paragraph (f) by in the first sentence, adding the word ''is'' between the words ''request'' and ''filed''.

§ 709.9 [Amended]

■ 38. In § 709.9 amend paragraph (b)(5)(ii)(B) by, in the last sentence, removing the word ''all'' after the word ''existing''.

PART 717—FAIR CREDIT REPORTING

■ 39. The authority citation for part 717 continues to read as follows:

Authority: 12 U.S.C. 1766(a), 1789; 15 U.S.C. 1681m(e).

§ 717.82 [Amended]

■ 40. In § 717.82(a), add the word ''a'' between words ''is'' and ''federal''.

PART 725—NATIONAL CREDIT UNION ADMINISTRATION CENTRAL LIQUIDITY FACILITY

■ 41. The authority citation for part 725 continues to read as follows:

Authority: 12 U.S.C. 1795f(a)(2).

§ 725.4 [Amended]

■ 42. Amend § 725.4 as follows:

■ a. In paragraph (b)(4), add the word ''the'' between the words ''of'' and ''Facility''; and

■ b. In paragraph (e), remove the word ''agent'' and add in its place ''Agent'' in the first sentence.

§ 725.18 [Amended]

■ 43. In § 725.18(c), in the first sentence, add a closing quotation mark after the word ''insolvency''.

PART 740—ACCURACY OF ADVERTISING AND NOTICE OF INSURED STATUS

■ 44. The authority citation for part 740 continues to read as follows:

Authority: 12 U.S.C. 1766, 1781, 1785, and 1789.

■ 45. Throughout part 740, remove the term ''nonfederally'' and add in its place the word ''Non-federally''.

■ 46. Revise § 740.5(c)(6) to read as follows:

§ 740.5 *.

* * * * *

(c) * * *

(6) Joint or group advertisements of credit union services where the names of federally insured credit unions and Non-federally insured credit unions are listed and form a part of such advertisement;

* * * * *

PART 741—REQUIREMENTS FOR INSURANCE

■ 47. The authority citation for part 741 continues to read as follows:

Authority: 12 U.S.C. 1757, 1766(a), 1781–1790, and 1790d; 31 U.S.C. 3717.

§ 741.4 [Amended]

■ 48. In §§ 741.4(i)(2) and (j)(1), remove the word ''nonfederally'' and add in its place the word ''non-federally''.

§ 741.204 [Amended]

■ 49. In § 741.204(c), add the word ''union'' after the word ''credit'' in the first sentence the first time that word appears.

PART 747—ADMINISTRATIVE ACTIONS, ADJUDICATIVE HEARINGS, RULES OF PRACTICE AND PROCEDURE, AND INVESTIGATIONS

■ 50. The authority citation for part 747 continues to read as follows:

Authority: 12 U.S.C. 1766, 1782, 1784, 1785, 1786, 1787, 1790a, 1790d; 15 U.S.C. 1639e; 42 U.S.C. 4012a; Pub. L. 101–410; Pub. L. 104–134; Pub. L. 109–351; Pub. L. 114–74.

§ 747.0 [Amended]

■ 51. In § 747.0, in the second sentence, add the words ''(Uniform Rules)'' after the words ''uniform rules of practice and procedure''.

§ 747.29 [Amended]

■ 52. In § 747.29(a)(2), remove the word ''part'' and add in its place the word ''party''.

§ 747.207 [Amended]

■ 53. In § 747.207, amend paragraph 3 of the sample notice, by removing ''$100,000'' and adding, in its place, ''$250,000'';

§ 747.306 [Amended]

■ 54. In § 747.306(b), in the first sentence, remove the words ''state with'' the second time they appear;

§ 747.402 [Amended]

■ 55. In § 747.402(b), remove the word ''or'' between the words ''dissipation'' and ''credit'' and add in its place the word ''of''.

PART 748—SECURITY PROGRAM, REPORT OF SUSPECTED CRIMES, SUSPICIOUS TRANSACTIONS, CATASTROPHIC ACTS AND BANK SECRECY ACT COMPLIANCE

■ 56. The authority citation for part 748 continues to read as follows:

Authority: 12 U.S.C. 1766(a), 1786(q); 15 U.S.C. 6801–6809; 31 U.S.C. 5311 and 5318.

Appendix B to Part 748 [Amended]

■ 57. Amend appendix B to part 748 as follows:

■ a. In footnote 34, remove the word ''identify'' and add, in its place, the word ''identity'';

■ b. In footnote 39, remove the word ''Suspiciouis'' and add, in its place, the word ''Suspicious''; and

■ c. In footnote 39, remove the word ''Isues'' and add, in its place, the word ''Issues''.

PART 750—GOLDEN PARACHUTE AND INDEMNIFICATION PAYMENTS

■ 58. The authority citation for part 750 continues to read as follows:

Authority: 12 U.S.C. 1786(t).

§ 750.5 [Amended]

■ 59. In § 750.5(a)(3), add a space between the word ''in'' and ''§ 750.1(j)''.

§ 750.6 [Amended]

■ 60. In § 750.6(a), in the first sentence, add a space between the word ''to'' and ''§ 750.1(d)(2)(v)''.

[FR Doc. 2020–17372 Filed 10–1–20; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF COMMERCE

15 CFR Chapter VII

[Docket Number 200928–0256]

RIN 0605–XD009

Identification of Prohibited Transactions To Implement Executive Order 13942 and Address the Threat Posed by TikTok and the National Emergency With Respect to the Information and Communications Technology and Services Supply Chain; Preliminary Injunction Order Entered by a Federal District Court

AGENCY: Office of the Secretary, U.S. Department of Commerce.

ACTION: Notification of preliminary injunction.

SUMMARY: The U.S. Department of Commerce (''Department'') is issuing this document to inform the public of a preliminary injunction ordered by a United States district court on September 27, 2020, preventing the implementation of specific Department actions.

DATES: The court order was effective September 27, 2020.

FOR FURTHER INFORMATION CONTACT: Kathy Smith, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1859.

For media inquiries: Meghan Burris, Director, Office of Public Affairs, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4883.

SUPPLEMENTARY INFORMATION: On September 24, 2020, the Department published the ''Identification of Prohibited Transactions to Implement Executive Order 13942 and Address the Threat Posed by TikTok and the National Emergency with Respect to the Information and Communications Technology and Services Supply Chain'' (the ''Identification'') in the **Federal Register** at 85 FR 60061. The Identification provided that the following transactions would be prohibited:

1. Any provision of services to distribute or maintain the TikTok mobile application, constituent code, or application updates through an online mobile application store, or any online marketplace where mobile users within the land or maritime borders of the United States and its territories may download or update applications for use on their mobile devices;

2. Any provision of internet hosting services enabling the functioning or optimization of the TikTok mobile application within the land and maritime borders of the United States and its territories;

3. Any provision of content delivery network services enabling the functioning or optimization of the TikTok mobile application within the land and maritime borders of the United States and its territories;

4. Any provision of directly contracted or arranged internet transit or peering services enabling the functioning or optimization of the TikTok mobile application within the land and maritime borders of the United States and its territories;

5. Any utilization of the TikTok mobile application's constituent code, functions, or services in the functioning of software or services developed and/or accessible within the land and maritime borders of the United States and its territories; or

6. Any other transaction by any person, or with respect to any property, subject to the jurisdiction of the United States, with ByteDance Ltd., or its subsidiaries, including TikTok Inc., in which any such company has any interest, as may be identified at a future date under the authority delegated under Executive Order 13942.

Transactions identified in paragraph 1 above were to be prohibited at 11:59 p.m. eastern standard time on September 27, 2020; transactions identified in paragraphs 2, 3, 4, and 5 above were to be prohibited at 11:59 p.m. eastern standard time on November 12, 2020.

Preliminary Injunction

On September 18, 2020, TikTok Inc. filed a lawsuit in the United States District Court for the District of Columbia (*TikTok Inc. et al.* v. *Trump et al.,* No. 20–cv–02658), seeking various relief, including a court order to prohibit the Department from implementing or enforcing Executive Order 13942 or the identified prohibited transactions. Plaintiffs subsequently filed a motion for a preliminary injunction to pursue such relief.

On September 27, 2020, the District Court issued an Order granting in part and denying in part the Plaintiffs' motion for a preliminary injunction. This Order enjoined the Department from implementing the prohibition on transactions identified in Paragraph 1 above.

The Department is complying with the terms of this order. Accordingly, this serves as NOTICE that the Secretary's prohibition of identified transactions (limited to the transactions identified in Paragraph 1 above) pursuant to Executive Order 13942, related to TikTok, HAS BEEN ENJOINED, and WILL NOT GO INTO EFFECT, pending further legal developments.

Any further guidance and updates regarding the subject litigation will be posted on the Department website (*www.commerce.gov*) on an ongoing basis.

Dated: September 29, 2020.

This document of the Department of Commerce was signed on September 29, by Wilbur Ross, Secretary of Commerce. That document with the original signature and date is maintained by the Department of Commerce. For administrative purposes only,

and in compliance with requirements of the Office of the Federal Register, the undersigned Department of Commerce 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 Commerce. 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 29, 2020.

Asha Mathew,

Federal Register Liaison Officer, U.S. Department of Commerce.

[FR Doc. 2020–21897 Filed 9–30–20; 1:00 pm]

BILLING CODE 3510–20–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–633]

Schedules of Controlled Substances: Placement of Crotonyl Fentanyl in Schedule I

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final amendment; final order.

SUMMARY: With the issuance of this final order, the Acting Administrator of the Drug Enforcement Administration maintains the placement of crotonyl fentanyl ((*E*)-*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylbut-2-enamide), including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, in schedule I of the Controlled Substances Act. This scheduling action discharges the United States' obligations under the Single Convention on Narcotic Drugs (1961). This action continues to impose the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances on persons who handle (manufacture, distribute, import, export, engage in research or conduct instructional activities with, or possess), or propose to handle crotonyl fentanyl.

DATES: Effective October 2, 2020.

FOR FURTHER INFORMATION CONTACT: Scott A. Brinks, Regulatory Drafting and Policy Support Section, Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (571) 362–3261.

SUPPLEMENTARY INFORMATION:

Legal Authority

The United States is a party to the 1961 United Nations Single Convention on Narcotic Drugs (''Single Convention''), March 30, 1961, 18 U.S.T. 1407, 570 U.N.T.S. 151, as amended. Article 3, paragraph 7 of the Single Convention requires that if the Commission on Narcotic Drugs (''Commission'') adds a substance to one of the schedules of such Convention, and the United States receives notification of such scheduling decision from the Secretary-General of the United Nations (''Secretary-General''), the United States, as a signatory Member State, is obligated to control the substance under its national drug control legislation. Under 21 U.S.C. 811(d)(1) of the Controlled Substances Act (CSA), if control of a substance is required ''by United States' obligations under international treaties, conventions, or protocols in effect on October 27, 1970,'' the Attorney General must issue an order permanently controlling such drug under the schedule he deems most appropriate to carry out such obligations, without regard to the findings required by 21 U.S.C. 811(a) or 812(b), and without regard to the procedures prescribed by 21 U.S.C. 811(a) and (b). The Attorney General has delegated scheduling authority under 21 U.S.C. 811 to the Administrator of the Drug Enforcement Administration (Administrator of DEA or Administrator). 28 CFR 0.100.

Background

On February 6, 2018, DEA issued a temporary scheduling order, placing fentanyl-related substances, as defined in the order, in schedule I of the CSA. 83 FR 5188. That order was based on findings by the former Acting Administrator that the temporary scheduling of this class of substances was necessary to avoid an imminent hazard to the public safety; the order was codified at 21 CFR 1308.11(h)(30). On April 19, 2019, in the **Federal Register**, DEA provided the chemical name for crotonyl fentanyl, along with four other substances, identifying how these individual substances met the definition for fentanyl-related substances,[1] and, as such, were already covered by the February 2018 temporary order. 84 FR 16397. Regarding crotonyl fentanyl specifically, this substance was not otherwise controlled in any schedule (*i.e.,* listed under another Administration Substance Controlled Number) and is structurally related to fentanyl by the replacement of the *N*-propionyl group by another acyl group (*i.e.,* meets definition for modification E). On February 6, 2020, Congress extended the temporary control of fentanyl-related substances, as set forth in 21 CFR 1308.11(h)(30), until May 6, 2021. Public Law 116–114, sec. 2, 134 Stat. 103 (2020).

In November 2019, the Director-General of the World Health Organization recommended to the Secretary-General that crotonyl fentanyl and valeryl fentanyl be placed in Schedule I of the Single Convention, as these two substances have opioid mechanisms of action and similarity to drugs that are controlled in Schedule I of the Single Convention (*i.e.,* crotonyl fentanyl is similar to drugs such as oxycodone and fentanyl; valeryl fentanyl is similar to drugs such as fentanyl), and have dependence and abuse potential. On May 7, 2020, the Secretary-General advised the Secretary of State of the United States, by letter, that during its 63rd session in March 2020, the Commission voted to place crotonyl fentanyl and valeryl fentanyl in Schedule I of the Single Convention (CND Mar/63/2 and Mar/63/3). Valeryl fentanyl is temporarily controlled in schedule I of the CSA until February 1, 2021 (85 FR 5321, Jan. 30, 2020), and it will not be discussed in this final order.[2]

Crotonyl Fentanyl

As discussed in the background section, crotonyl fentanyl is temporarily controlled in schedule I of the CSA, as it meets the definition of fentanyl-related substances, pursuant to 21 CFR 1308.11(h)(30). Accordingly, crotonyl fentanyl is scheduled as part of a class of substances.

Crotonyl fentanyl has a pharmacological profile similar to morphine, fentanyl, and other synthetic opioids that act as μ-opioid receptor agonists. For this reason, crotonyl fentanyl is abused for its opioid-like effects.

Law enforcement reports in the United States demonstrate the illicit use and distribution of this substance, which are similar to that of heroin and prescription opioid analgesics. The National Forensic Laboratory Information System (NFLIS) is a national drug forensic laboratory reporting system that systematically collects results from drug chemistry analyses conducted by other federal, state, and local forensic laboratories across the country. According to

[1] These four other substances (2′-fluoro *ortho*-fluorofentanyl, *ortho*-methyl acetylfentanyl, beta′-phenyl fentanyl, and thiofuranyl fentanyl) will not be discussed further in this final order.

[2] DEA issued a notice of proposed rulemaking to permanently control valeryl fentanyl in schedule I (85 FR 5356, Jan. 30, 2020) and is currently working to finalize that rule.

NFLIS,[3] there have been 143 reports containing crotonyl fentanyl since it was first reported in June 2017.

DEA is not aware of any claims or any medical or scientific literature suggesting that crotonyl fentanyl has a currently accepted medical use in treatment in the United States. In addition, the Department of Health and Human Services (HHS) advised DEA, by letter dated November 29, 2017, that there were no investigational new drug applications or approved new drug applications for fentanyl-related substances, a class that, as noted, includes crotonyl fentanyl.

DEA requested that HHS conduct a scientific and medical evaluation and a scheduling recommendation for several fentanyl-related substances, including crotonyl fentanyl, by letter dated April 3, 2019. In response to this request, HHS provided DEA a recommendation, dated July 2, 2020, to place crotonyl fentanyl in schedule I of the CSA. The recommendation from HHS is consistent with the placement of crotonyl fentanyl in Schedule I of the Single Convention in March 2020.

Normally, 21 U.S.C. 811(b) would require DEA to secure such an HHS recommendation as part of the regular scheduling process. As discussed above, however, DEA has authority under 21 U.S.C. 811(d)(1) to control substances that have been added to the Single Convention without making any findings otherwise required by 21 U.S.C. 811(a) or 812(b), and without following the procedures prescribed by 21 U.S.C. 811(a) and (b)—including 811(b)'s requirement that DEA secure an evaluation and recommendation from HHS. Thus, HHS's recommendation supports scheduling crotonyl fentanyl, but its scheduling does not depend on that recommendation.

Therefore, consistent with 21 U.S.C. 811(d)(1), DEA concludes that crotonyl fentanyl has no currently accepted medical use in treatment in the United States[4] and is most appropriately placed in schedule I of the CSA, the same schedule in which it currently resides. Because control is required under the Single Convention, DEA will not be initiating regular rulemaking proceedings to schedule crotonyl fentanyl pursuant to 21 U.S.C. 811(a).

This action establishes a specific listing for crotonyl fentanyl in schedule I of the CSA within 21 CFR 1308.11(b) (the opiates category of schedule I), and assigns an Administration Controlled Substances Number for the substance: As discussed above, crotonyl fentanyl was not previously listed in schedule I individually, but was instead temporarily controlled as part of the class of fentanyl-related substances controlled under 21 CFR 1308.11(h)(30). This action will allow DEA to establish an aggregate production quota for crotonyl fentanyl and grant individual manufacturing and procurement quotas to DEA-registered manufacturers of crotonyl fentanyl who had previously been granted individual quotas for such purposes under the drug code for fentanyl-related substances.

Conclusion

In order to meet the United States' obligations under the Single Convention and because crotonyl fentanyl has no currently accepted medical use in treatment in the United States, the Acting Administrator has determined that crotonyl fentanyl, including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible, should remain in schedule I of the CSA.

Requirements for Handling

Crotonyl fentanyl has been controlled as a schedule I controlled substance since February 6, 2018. With publication of the final order contained in this document, crotonyl fentanyl remains subject to the CSA's schedule I regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture of, distribution of, importation of, exportation of, engagement in research or conduct of instructional activities with, and possession of, schedule I controlled substances, including the following:

1. *Registration.* Any person who handles (manufactures, distributes, imports, exports, engages in research or conducts instructional activities with, or possesses), or who desires to handle, crotonyl fentanyl must be registered with DEA to conduct such activities pursuant to 21 U.S.C. 822, 823, 957, and 958, and in accordance with 21 CFR parts 1301 and 1312.

2. *Disposal of stocks.* Crotonyl fentanyl must be disposed of in accordance with 21 CFR part 1317, in addition to all other applicable federal, state, local, and tribal laws.

3. *Security.* Crotonyl fentanyl is subject to schedule I security requirements and must be handled and stored pursuant to 21 U.S.C. 821, 823, 871(b), and in accordance with 21 CFR 1301.71 through 1301.93. Non-practitioners handling crotonyl fentanyl must also comply with the employee screening requirements of 21 CFR 1301.90 through 1301.93.

4. *Labeling and packaging.* All labels, labeling, and packaging for commercial containers of crotonyl fentanyl must be in compliance with 21 U.S.C. 825 and 958(e), and must be in accordance with 21 CFR part 1302.

5. *Quota.* Only registered manufacturers are permitted to manufacture crotonyl fentanyl in accordance with a quota assigned pursuant to 21 U.S.C. 826 and in accordance with 21 CFR part 1303.

6. *Inventory.* Every DEA registrant who possesses any quantity of crotonyl fentanyl has been required to keep an inventory of all stocks of this substance on hand as of February 6, 2018, pursuant to 21 U.S.C. 827 and 958(e), and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

7. *Records and Reports.* DEA registrants must maintain records and submit reports with respect to crotonyl fentanyl pursuant to 21 U.S.C. 827 and 958(e), and in accordance with 21 CFR parts 1304, 1312, and 1317.

8. *Order Forms.* All DEA registrants who distribute crotonyl fentanyl must continue to comply with order form requirements pursuant to 21 U.S.C. 828 and in accordance with 21 CFR part 1305.

9. *Importation and Exportation.* All importation and exportation of crotonyl fentanyl must continue to be in compliance with 21 U.S.C. 952, 953, 957, and 958, and in accordance with 21 CFR part 1312.

10. *Liability.* Any activity involving crotonyl fentanyl not authorized by, or in violation of the CSA, is unlawful, and may subject the person to administrative, civil, and/or criminal sanctions.

Regulatory Analyses

Executive Orders 12866, 13563, and 13771, Regulatory Planning and Review, Improving Regulation and Regulatory Review, and Reducing Regulation and Controlling Regulatory Costs

[3] NFLIS was queried on April 14, 2020. Data are still being collected for November 2019 to April 2020 due to the normal lag period for labs reporting to NFLIS.

[4] Although, as discussed above, there is no evidence suggesting that crotonyl fentanyl has a currently accepted medical use in treatment in the United States, it bears noting that a drug cannot be found to have such medical use unless DEA concludes that it satisfies a five-part test. Specifically, with respect to a drug that has not been approved by the Food and Drug Administration, to have a currently accepted medical use in treatment in the United States, all of the following must be demonstrated: i. The drug's chemistry must be known and reproducible; ii. there must be adequate safety studies; iii. there must be adequate and well-controlled studies proving efficacy; iv. the drug must be accepted by qualified experts; and v. the scientific evidence must be widely available. 57 FR 10499 (March 26, 1992).

This action is not a significant regulatory action as defined by Executive Order (E.O.) 12866 (Regulatory Planning and Review), section 3(f), and the principles reaffirmed in E.O. 13563 (Improving Regulation and Regulatory Review); and, accordingly, this action has not been reviewed by the Office of Management and Budget (OMB). This order is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

Executive Order 12988, Civil Justice Reform

This action meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988 to eliminate drafting errors and ambiguity, minimize litigation, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

Executive Order 13132, Federalism

This action does not have federalism implications warranting the application of E.O. 13132. This action does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications warranting the application of E.O. 13175. The action does not 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.

Administrative Procedure Act

The CSA provides for an expedited scheduling action where control is required by the United States obligations under international treaties, conventions, or protocols. 21 U.S.C. 811(d)(1). If control is required pursuant to such international treaty, convention, or protocol, the Attorney General, as delegated to the Administrator, must issue an order controlling such drug under the schedule he deems most appropriate to carry out such obligations, without regard to the findings or procedures otherwise required for scheduling actions. *Id.*

In accordance with 21 U.S.C. 811(d)(1), scheduling actions for drugs that are required to be controlled by the United States' obligations under international treaties, conventions, or protocols in effect on October 27, 1970, shall be issued by order (as compared to scheduling by rule pursuant to 21 U.S.C. 811(a)). Therefore, DEA believes that the notice and comment requirements of section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553, do not apply to this scheduling action. In the alternative, even if this action does constitute ''rule making'' under 5 U.S.C. 551(5), this action is exempt from the notice and comment requirements of 5 U.S.C. 553 pursuant to 5 U.S.C. 553(a)(1) as an action involving a foreign affairs function of the United States because it is being done pursuant to 21 U.S.C. 811(d)(1), which requires that the United States comply with its obligations under the specified international agreements.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) applies to rules that are subject to notice and comment under section 553(b) of the APA or any other law. As explained above, the CSA exempts this final order from notice and comment. Consequently, the RFA does not apply to this action.

Paperwork Reduction Act of 1995

This action does not impose a new collection of information requirement under the Paperwork Reduction Act of 1995. 44 U.S.C. 3501–3521. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Congressional Review Act

This action is not a major rule as defined by the Congressional Review Act (CRA), 5 U.S.C. 804. This order will not result in: ''an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.'' However, pursuant to the CRA, DEA has submitted a copy of this final order to both Houses of Congress and to the Comptroller General.

List of Subjects in 21 CFR Part 1308

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

For the reasons set out above, DEA amends 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

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

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

■ 2. In § 1308.11:

■ a. Redesignate paragraphs (b)(22) through (70) as (b)(23) through (71); and

■ b. Add new paragraph (b)(22).

The addition reads as follows:

§ 1308.11 Schedule I.

* * * * *

(b) * * *

(22) Crotonyl fentanyl ((*E*)-*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylbut-2-enamide) 9844

* * * * *

Timothy J. Shea,

Acting Administrator.

[FR Doc. 2020–19305 Filed 10–1–20; 8:45 am]

BILLING CODE 4410–09–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 1042

[EPA–HQ–OAR–2018–0638; FRL–10013–36–OAR]

RIN 2060–AU30

Amendments Related to Marine Diesel Engine Emission Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is amending the national marine diesel engine program with relief provisions to address concerns associated with finding and installing certified Tier 4 marine diesel engines in certain high-speed commercial vessels. This relief is in the form of additional lead time for qualifying engines and vessels.

DATES: This final rule is effective on November 2, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2018–0638. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at Air and Radiation Docket and Information Center, EPA Docket Center, EPA/DC, EPA WJC West Building, 1301 Constitution Ave. NW, Room 3334, Washington, DC. Note that the EPA Docket Center and Reading Room were closed to public visitors on March 31, 2020, to reduce the risk of transmitting COVID–19. The Docket Center staff will continue to provide remote customer service via email, phone, and webform. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742. For further information on EPA Docket Center services and the current status, go to *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Alan Stout, Office of Transportation and Air Quality, Assessment and Standards Division (ASD), Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: (734) 214–4805; email address: *stout.alan@epa.gov.*

SUPPLEMENTARY INFORMATION:

Does this action apply to me?

This action relates to marine diesel engines with rated power between 600 and 1,400 kW intended for installation on vessels flagged or registered in the United States, vessels that use those engines, and companies that manufacture, repair, or rebuild those engines and vessels.

Categories and business entities that might be affected by this rule include the following:

Category	NAICS code [a]	Examples of potentially affected entities
Industry	333618	Marine engine manufacturing.
Industry	336611	Shipbuilding and repairing.

[a] North American Industry Classification System (NAICS).

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely covered by these rules. This table lists the types of entities that we are aware may be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your activities are regulated by this action, you should carefully examine the applicability criteria in the referenced regulations. You may direct questions regarding the applicability of this action to the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

I. Summary

EPA's 2008 Final Rule for Control of Emissions of Air Pollution from Locomotive Engines and Marine Compression-Ignition Engines Less than 30 Liters per Cylinder adopted Tier 4 emission standards for commercial marine diesel engines at or above 600 kilowatts (kW) (73 FR 37096, June 30, 2008). These standards, which were expected to require the use of exhaust aftertreatment technology, phased in from 2014 to 2017, depending on engine power.[1] After the Tier 4 standards were fully in effect for all engine sizes, some boat builders informed EPA that there were no certified Tier 4 engines available with suitable performance characteristics for the vessels they needed to build, specifically for high-speed commercial vessels that rely on engines with rated power between 600 and 1,400 kW that have high power density.

To address these concerns, EPA proposed, and through this rule is adopting, provisions to provide additional lead time for implementing the Tier 4 standards for engines used in certain high-speed vessels (84 FR 46909, September 6, 2019). We are also finalizing the proposed approaches for streamlining certification requirements to facilitate or accelerate certification of Tier 4 marine engines with high power density. These changes are reflected in amendments to 40 CFR. 1042.145, 1042.505, and 1042.901 that we are making in this final rule. Each of these elements is discussed in more detail in this final rule.

The September 2019 proposed rule also included provisions related to in-use fuel sulfur standards that apply for global marine fuel. We adopted those regulatory amendments to 40 CFR part 80 in a separate rule (84 FR 69335, December 18, 2019).

The regulatory changes EPA is adopting in this final rule are largely the same as we proposed, with a few adjustments to address concerns raised by commenters. Several commenters also suggested that we broaden the scope of the rule to provide additional relief—either for a longer period or for a wider range of vessels. We are considering further rulemaking action to address these concerns, as described in Section VII.

EPA adopted emission standards for marine diesel engines under Clean Air Act authority (42 U.S.C. 7401–7671q). The amendments in this rule are covered by that same authority.

[1] For engines up to 1,000 kW, compliance could be delayed for up to nine months, but no later than October 1, 2017.

II. Background

In 2008, EPA adopted Tier 3 and Tier 4 emission standards for new marine diesel engines with per-cylinder displacement less than 30 liters (73 FR 37096, June 30, 2008). The Tier 3 standards were based on engine manufacturers' capabilities to reduce particulate matter (PM) and oxides of nitrogen (NO_X) emissions with recalibration and other engine-based technologies. The Tier 4 standards were based on achieving emission reductions through the application of catalytic aftertreatment technology, including selective catalytic reduction (SCR). These Tier 4 standards currently apply to commercial marine diesel engines with rated power at or above 600 kW. The Tier 3 standards phased in for different engine sizes and power ratings from 2009 to 2014. The Tier 4 phase-in schedule applied these more stringent standards starting in 2014 to engines at or above 2,000 kW, which are most prevalent on large workboats that are less sensitive to engine size and weight concerns. The Tier 4 standards started to apply at the start of model year 2017 for engines from 1,000 to 1,400 kW, and on October 1, 2017 for engines from 600 kW to 999 kW. The schedule for applying the Tier 4 standards was intended to give engine manufacturers time to redesign and certify compliant engines, and to give boat builders time to redesign their vessels to accommodate the Tier 4 engines.

The 600 kW threshold for applying the Tier 4 standards was intended to avoid aftertreatment-based standards for small vessels used for certain applications that were most likely to be designed for high-speed operation with very compact engine installations. Most engines above 600 kW provide power for various types of workboats and larger passenger vessels. We were aware that there would be some high-speed vessels with engines above 600 kW, but expected that engine manufacturers would be able to certify 600–1,400 kW engines and vessel manufacturers would be able to make the necessary vessel design changes during the nine-year period between the final rule and the implementation of the Tier 4 standards.

In response to the proposal preceding the 2008 final rule, some commenters recommended that the Tier 4 standards apply to engines as small as 37 kW, because small land-based nonroad diesel engines were subject to similar aftertreatment-based standards. Other commenters at that time advocated a vessel-based approach, for example exempting engines installed on patrol boats and ferries from the Tier 4 standards. However, engine manufacturers commented that a vessel-based approach would be unworkable because they would then need to certify engines for a range of vessel types. Several commenters affirmed the 600 kW threshold as appropriate, and no commenters suggested a higher threshold. As a result, EPA finalized the 600 kW threshold without further limiting the Tier 4 standards to particular types of commercial vessels.

In the intervening years, only one engine manufacturer certified Tier 4 engines below 1,400 kW, and none of those had a power density greater than 35 kW per liter total engine displacement.[2] Engine manufacturers pointed to the cost of product development and certification rather than technological feasibility as the reason for delaying certification of Tier 4 engines. We also heard from manufacturers of high-speed vessels that the lack of certified Tier 4 engines with high power density was preventing them from building new vessels. Most of these concerns were related to lobster boats and pilot boats. Boat builders also told us that there would be greater challenges when installing SCR-equipped engines in these high-speed vessels.

When we adopted the Tier 4 standards in 2008, most if not all lobster boats used engines below 600 kW. Targeted lobster beds were typically located relatively close to shore. Lobster boats navigating in these areas have size and performance requirements that do not call for engines above 600 kW. Since 2008, however, it has become common to navigate to lobster beds 40 miles or farther from shore. The greater traveling distance necessitates more cargo space for a greater catch, and more speed to complete a day's work in a reasonable time. These factors caused a demand for larger vessels and more engine power, which led boat builders to install engines above 600 kW in lobster boats. Prior to the Tier 4 standards taking effect in 2017, engines for these lobster boats were subject to Tier 3 standards and thus required no aftertreatment technology. As a result, the lobster-boat engines needed for high speed and ocean navigation could fit into fiberglass hulls with minimal changes to fiberglass molds, or vessel design generally.

A complicating factor for pilot boats is other federal, state, or local programs that impose speed restrictions on vessels for certain vessel lengths. Specifically, pilot boats that operate in certain coastal areas are subject to whale-strike avoidance rules that are designed to protect migrating and calving right whales. In designated areas off the coast of Georgia, for example, vessels 65 feet and longer may not exceed an operating speed of 10 knots from November 1 to April 30 each year.[3] The whale-strike avoidance rules increase the demand for pilot boats that are less than 65 feet long. This additional constraint further complicates the challenge to design vessels with Tier 4 engines as the SCR emission control system takes up a significant amount of already limited space. Here again, the use of Tier 4 engines will require significant boat changes and more time is needed to resolve these challenges.

These concerns led us to propose provisions to allow additional lead time for implementing the Tier 4 standards for engines used in certain high-speed vessels, and to streamline Tier 4 certification requirements. The proposal identified several vessel and engine parameters that served as criteria to limit the additional lead time to qualifying vessels, rather than naming certain vessel types.

EPA benefitted from extensive input from engine manufacturers, boat builders, and other stakeholders before publishing the proposed rule and in the comments submitted during the comment period. This information helped to clarify the constraints, capabilities, processes, and concerns for engine manufacturers, vessel manufacturers, and others affected by the Tier 4 standards.

Since the middle of 2019, four additional engine manufacturers have certified Tier 4 engines with rated power between 600 and 1,400 kW. This expands the list of Tier 4 engine models that are available to provide power for a wider range of vessel types. However, these new engine certifications and the comments received do not change EPA's concerns as stated in the proposed rule that manufacturers of vessels for certain high-speed commercial applications continue to face important challenges associated with the availability of engines certified to the Tier 4 engine standards. These vessels have performance needs for achieving substantial propulsion power from a light-weight engine. In short, these vessel manufacturers have been unable to find certified Tier 4 engines meeting their requirements for maximum power, power density, and weight. See Section

[2] Tier 4 engines in 2017 and 2018 were limited to Caterpillar's 32-liter and 57-liter engines.

[3] The whale-strike avoidance rule was originally adopted by the National Marine Fisheries Service on October 10, 2008 (73 FR 60173). See 50 CFR 224.105.

V for a more detailed discussion of the newly certified engines and the relationship to designing vessels with those Tier 4 engines.

In response to these concerns, and consistent with the proposed rule, EPA is adopting amendments to our marine diesel engine program to provide additional lead time to address these concerns for certain high-speed vessels. The new provisions allow engines installed on qualifying high-speed vessels to continue to meet Tier 3 standards during a relief period, which in turn will allow time for engine manufacturers to certify additional engine models, and for vessel manufacturers to implement design changes to their vessels to accommodate new Tier 4 engines as they become available.

The Tier 4 relief in this final rule addresses the concerns that led to the proposed rule. In particular, absent relief, boat builders would be unable to build the types of high-speed vessels identified in the proposed rule in the near term. This could result in boat purchasers sourcing new boats that are underpowered or prolonging the service life of older boats, perhaps including replacement of original engines with Tier 3 or dirtier engines. As more Tier 4 engines become available, boat builders will be able to design and build high-speed vessels that comply with Tier 4 requirements, consistent with the schedule we are specifying in this final rule. Section IV evaluates the cost and environmental impact of the relief provisions in this final rule.

Note that the new provisions allowing additional lead time for EPA's Tier 4 marine diesel engine standards are distinct from the international engine emission standards that apply under Annex VI to the International Convention for the Prevention of Pollution from Ships (MARPOL Annex VI). Because the domestic and international emission standards are adopted under different legal authorities, this rule has no bearing on the international standards. It is also the case that U.S. vessels operating only domestically are not subject to the standards adopted under MARPOL Annex VI (see 40 CFR 1043.10(a)(2)). As a result, the high-speed commercial vessels that are the subject of this rule will not be subject to emission standards under MARPOL Annex VI as long as they do not operate internationally.

III. Regulatory Changes in This Final Rule

In this rule, EPA is adopting revisions to the marine diesel engine emission control program for certain high-speed vessels and the associated engines with rated power between 600 and 1,400 kW. These changes provide more time for engine manufacturers to certify additional engine models and for vessel manufacturers to design and build boats with Tier 4 engines. We are also making changes to our certification requirements to facilitate certification, especially related to demonstrating the durability of emission controls.

The regulatory changes in this final rule are largely the same as we proposed, with a few adjustments in response to concerns raised by commenters. Several commenters also suggested that we broaden the scope of the rule to provide additional relief—either for a longer period or for a wider range of vessels. We are considering further rulemaking action to address these concerns, as noted in Section VII.

A. Adjusted Implementation Dates

EPA is revising the Tier 4 implementation dates for certain types of marine diesel engines for installation in qualifying high-speed vessels. The additional time will allow vessel manufacturers to redesign their vessels to accommodate engines with the Tier 4 technology. Engine manufacturers have also indicated that the additional time will allow them to certify more engine models with high power density to the Tier 4 standards.

The new lead time provisions have two phases. The first phase sets model year 2022 as the Tier 4 implementation deadline for engines installed in high-speed vessels meeting a specific set of criteria. The second phase sets model year 2024 as the Tier 4 implementation deadline for engines installed in a narrower set of high-speed vessels that are facing a different set of compliance challenges.

We are applying the model year 2022 implementation date for Phase 1 relief, as proposed. This will allow boat builders time to redesign qualifying vessels to install certified Tier 4 engines. Available engines include currently certified models with total displacements of 24 and 32 liters. Engine manufacturers are also continuing to develop additional Tier 4 engine models.

The second phase addresses the different needs of manufacturers of fiberglass and other nonmetal vessels up to 50 feet long that need additional time to redesign their boats to use 600–1,000 kW engines certified to Tier 4 standards.

Boat builders and boat owners expressed a concern that the proposed additional lead time for both Phase 1 and Phase 2 was not adequate. For Phase 1, commenters requested some additional years to redesign vessels, and to find customers needing vessels during the relief period. Our intent in the proposed rule was to allow boat builders to address the dilemma of not being able to fill orders for building new boats because Tier 4 engines were not available. We did not intend, and do not support, a longer time frame that would allow boat builders to seek out expanded opportunities based on marketing the cost-saving advantages of Tier 3 compliant vessels for additional customers. The additional lead time associated with this proposed rule will allow vessel manufacturers to reconfigure vessels, create new tooling, and start producing compliant vessels.

Commenters representing the lobstering industry described their concerns that Tier 4 standards would be more challenging and may never be appropriate for vessels meeting the Phase 2 criteria. The types of lobster boats that need engines with more than 600 kW have size and performance characteristics that are best met with 15–18 liter engines. Larger engines, especially with SCR aftertreatment, are too large and heavy to provide a suitable alternative power source for these lobster boats. We are therefore adopting the Phase 2 relief, as proposed, to allow two additional years of lead time beyond the Phase 1 criteria, and a waiver process to address the possibility that Tier 4 engines will continue to be unavailable.

Vigor, Gladding-Hearn, and Ray Hunt Design requested that EPA clarify whether they would need to take certain steps before the end of the relief period for their vessels to qualify for the additional lead time. Implementation of new emission standards is based on a combination of build dates for the engines and the vessels. For example, Phase 1 relief expires in 2021, which means that engines qualifying for relief must have a date of manufacture in model year 2021 or earlier; *i.e.,* crankshafts must be installed in those engine blocks on or before December 31, 2021.[4] Similarly, vessels qualify for relief only if their keels are laid on or before December 31, 2021.[5]

At the same time, however, we are concerned that boat builders may lay keels and order engines speculatively to allow them to sell Tier 3 vessels for several years beyond the relief period. This practice would be contrary to the

[4] See the prohibition in 40 CFR 1068.101(a)(1) and the definitions of ''Date of manufacture'' and ''Model year'' in 40 CFR 1068.30.

[5] See the prohibition in 40 CFR 1068.101(a)(1) and paragraph (8) of the definition of ''Model year'' in 40 CFR 1042.901.

intent of the proposed relief. The program is intended to allow boat builders to meet existing demand for certain high-speed vessels where they are currently unable to supply those vessels. To prevent building up inventories of vessels during the relief period to circumvent the Tier 4 standards, we are adopting a requirement to limit the relief to vessels for which the boat builder has a written contract from a buyer to purchase a vessel. The contract must be signed before the end of the relief period.

B. Relief Criteria

Vessels qualify for relief if they meet certain criteria, as specified in the proposal and updated for this final rule.

Both phases of relief will be available only to engines installed on high-speed vessels. High-speed vessels may generally be characterized as planing vessels based on a hull design that causes the vessel to rise up out of the water and experience lower hydrodynamic drag (with a corresponding decrease in required propulsion power) when operating at high speed. This contrasts with displacement hulls, for which propulsion power continuously increases with increasing vessel speed. Vessels with displacement hulls do not experience the same design and installation challenges compared to planing hulls. While this distinction is straightforward, there is no generally accepted way to draw a clear line between the two types of vessels. This is illustrated by ''semi-planing'' vessels, which have operating characteristics that fall between planing and displacement vessels. We are adopting a vessel speed criterion, as proposed, that is consistent with industry practice. We are limiting relief to high-speed vessels that have a maximum operating speed (in knots) at or above $3.0 \cdot L^{1/2}$, where L is the vessel's waterline length, in feet. This includes an upward adjustment of about 40 percent compared to published definitions to draw a clearer line to identify high-speed vessels. As an example, 45-foot vessels would need to have a maximum speed of at least 23 knots to qualify for relief using the specified threshold. Vessels not meeting the speed criterion either (1) are large enough to not have the same sensitivity to engine size and weight that should qualify them for relief from using Tier 4 engines or (2) do not need engines with more than 600 kW. In particular, vessels with displacement hulls that are less than 65′ long generally do not have engines with rated power above 600 kW. The vessel speed criterion applies equally to both phases of adjusted implementation dates for the Tier 4 standards.

Both phases of relief will be available to both inspected and uninspected commercial vessels. This is different from our proposal, which would have limited both phases of relief provisions to vessels classified as uninspected vessels by the U.S. Coast Guard.[6] Coast Guard designates all commercial vessels as either inspected or uninspected. Inspected vessels carry freight-for-hire or any hazardous or dangerous cargo. Towing and most passenger vessels are also inspected. In contrast, uninspected vessels include recreational vessels not engaged in trade, non-industrial fishing vessels, very small cargo vessels (less than 15 gross tons), and miscellaneous vessels such as pilot boats, patrol and other law-enforcement vessels, fire boats, and research vessels, among others. The Passenger Vessel Association, All American Marine, Gladding-Hearn, and Savannah Bar Pilots indicated that there are examples of inspected vessels that face the same issues related to engine availability and design constraints that apply for uninspected vessels. For example, pilot boats may be inspected or uninspected, depending on the owner's interest in expanding the use of a pilot boat to carrying some paying passengers. We agree that limiting relief to uninspected vessels may unnecessarily exclude some vessels for which relief was intended. We have therefore revised the final rule to remove this as a qualifying criterion. This change is necessary to accomplish the goal of the intended relief. We do not think this change will significantly expand the range or number of vessels that will qualify for relief, because other engine and vessel qualifying criteria will continue to limit the number of qualifying vessels.

Vessels qualify for additional lead time based on engine characteristics in addition to the vessel characteristics described above. Qualifying engines would need to be certified to EPA's Tier 3 standards and have certain characteristics related to power density and maximum power output. Specifically, the first phase of relief is limited to propulsion engines with maximum power output up to 1,400 kW, and power density of at least 27.0 kW per liter displacement, rather than the proposed 35.0 kW per liter displacement. In addition, we are limiting relief to engines that will be installed on vessels with a waterline length up to 65 feet with total nameplate propulsion power at or below 2,800 kW (to accommodate vessels with multiple propulsion engines). The combination of the limit on maximum power for each engine with the limit on the total nameplate propulsion power has the practical effect of limiting relief to vessels with one or two propulsion engines. These criteria are intended to target relief from the Tier 4 standards for the engines and vessels identified in the proposed rule as needing additional lead time.

The second phase of relief is limited to engines that will be installed on vessels with a single propulsion engine with maximum power output up to 1,000 kW and power density of at least 35.0 kW per liter displacement, where the vessel is made with a nonmetal hull and has a maximum waterline length of 50 feet. As noted in the proposed rule, we limited Phase 2 relief to fiberglass and other nonmetal hulls because of the cost of creating new hull forms, and because there is no option for a twin-engine installation for lobster boats or similar vessels less than 50′.

Gladding-Hearn and Ray Hunt Design requested that the regulation clearly state how to determine vessel length, and suggested referencing the U.S. Coast Guard regulations at 46 CFR 175.400. We agree with these comments and are adding a regulatory definition of ''waterline length'' in 40 CFR 1042.901 that references the Coast Guard regulation. This includes language defining a worst-case condition representing maximum vessel loading and minimum water density. This is intended to prevent a situation in which a vessel could exceed specified length limits as a result of changing conditions.

We proposed power density criteria of 35.0 and 40.0 kW per liter displacement for Phase 1 and Phase 2, respectively. The proposed criteria were intended to focus the relief on lightweight engines needed for the affected high-speed vessels. However, boat builders expressed a concern that the proposed value might reduce the number of available Tier 3 engines to the point that the relief provisions would not allow them to build the vessels as contemplated in the proposed rule. Vigor and Savannah Bar Pilots identified 27 kW/liter as an alternative qualifying threshold to allow a wider range of engines that could be used with vessels qualifying for relief. Similarly, Gladding-Hearn and Ray Hunt Design identified 24 kW/liter as an alternative qualifying threshold. The 24 kW/liter value was based on an engine model with 57 liters total displacement, and the 27 kW/liter value was based on an engine model with 38 liters total displacement. We agree that a wider

[6] See Title 46, Chapter I, of the Code of Federal Regulations.

range of power density values is appropriate to accomplish the rule's objectives and are therefore adjusting the power density thresholds for the final rule. We selected the 27 kW/liter threshold because the 38-liter engine is a viable option for vessels qualifying for Phase 1 relief, while the 57-liter engine is much too large to be a viable option for these vessels. If we consider relief for additional types of vessels in a future rulemaking, as described in Section VII, we may reconsider the appropriate qualifying criteria for engines installed on those vessels.

These commenters suggesting lower power density thresholds made clear that weight considerations are a secondary engine parameter in designing high-speed vessels. For example, a 38-liter engine at 27 kW/liter provides about 1,100 kW of propulsion power. An engine could achieve the same power output with only 29 liters total displacement if the engine had power density at 35 kW/liter. The incremental engine weight of adding SCR to a 29-liter engine is probably less than the added weight of the larger engine without SCR. We therefore conclude that space and packaging rather than engine weight are the limiting factor in designing compliant high-speed vessels. This helps us to understand the range of engine characteristics that will be suitable for these vessels when the Tier 4 standards apply.

Table 1 summarizes the provisions we are adopting for additional lead time in this rule. This takes the form of a revised Tier 4 implementation schedule for propulsion engines with high power density.

TABLE 1—SUMMARY OF QUALIFYING CRITERIA FOR ADJUSTED TIER 4 IMPLEMENTATION DATES

Criteria [1]	Phase 1	Phase 2
Vessel speed (knots)	>3.0 · (feet)½	>3.0 · (feet)½.
Engine power density	>27.0 kW/liter	>35.0 kW/liter.
Engine power rating	≤1,400 kW	≤1,000 kW.
Total vessel propulsion power	≤2,800 kW	≤1,000 kW.
Vessel's waterline length	≤65 feet	≤50 feet.
Vessel hull construction	Any	nonmetal.
Model years for continued use of Tier 3 Engines.	through 2021	through 2023.

[1] The specified engine criteria apply for the Tier 3 engines installed in vessels that qualify for relief.

Only those engines and vessels that meet the criteria we are finalizing in this rule qualify for the revised Tier 4 implementation dates. An engine installed in a nonqualifying vessel, or a nonqualifying engine installed on any vessel, is subject to the prohibitions set out in 40 CFR 1068.101(a)(1) for new engines and vessels introduced into U.S. commerce, and would therefore be in violation.

In addition to the above provisions, several commenters suggested other adjustments to the proposed criteria to broaden the scope of relief. Section V includes our response to those comments.

C. Availability of Tier 3 Engines During Relief Period

Engine manufacturers will need to certify engines above 600 kW to the Tier 3 commercial standards for installation in newly constructed vessels that meet the qualifying criteria before vessel manufacturers can utilize the additional lead time provided in this final rule. Boat builders may need these Tier 3 engines very soon after we finalize this rule. To do this, engine manufacturers would generally need to restart production of engine configurations that were already certified to the Tier 3 commercial standards. Engine manufacturers may still be producing these or substantially equivalent engine configurations as certified Tier 3 recreational engines, as exempt replacement engines, or as engines for export. In most cases, engine manufacturers can resubmit information from their earlier Tier 3 application for certification to cover the new production.

Vigor, Gladding-Hearn, Ray Hunt Design, Savannah Bar Pilots, and Columbia River Pilots asked EPA to allow installation of recreational Tier 3 engines in commercial vessels during the relief period. We are not adjusting our program to allow this. Since the beginning of our emission control program for marine diesel engines, we have prohibited installation of recreational engines in commercial vessels. Recreational engines have a much shorter useful life and therefore cannot provide reliable emission control in a commercial application. However, engine manufacturers can consider qualifying their recreational marine engines as light-commercial marine engines meeting a reduced useful life of 5,000 hours, as described in Section III.E.2. Except for that accommodation, we still find it important to disallow installation of recreational engines in commercial vessels. For manufacturers using the new provision for a reduced useful life, we will be ready to work with engine manufacturers to apply the provisions of 40 CFR 1042.245(b) to determine appropriate deterioration factors (see Section III.E.1).

Based on input received from engine manufacturers after the comment period, we expect boat builders to have several available Tier 3 engine models. Several manufacturers indicated publicly that they intend to pursue certification for Tier 3 commercial engines above 600 kW during the relief period, including Caterpillar (18-liter and 32-liter), MTU (22-liter and 27-liter) and Scania (16-liter). We are aware of additional engine manufacturers that may also pursue Tier 3 certification for engines above 600 kW.

D. Relief Through Waivers for Qualifying Engines and Vessels

EPA is adopting waiver provisions that start to apply in 2024 for vessels meeting the Phase 2 specifications described in Table 1. These waiver provisions are intended to allow boat builders to continue building boats with Tier 3 engines if engine manufacturers have not yet certified suitable engines for those vessels.

Starting in 2024, manufacturers of vessels meeting the Phase 2 qualifications described in Table 1 have the option to request that EPA approve an exemption from the Tier 4 standards. EPA will evaluate these requests based on the availability of suitable certified Tier 4 engines at the time of the request for the intended vessel design. EPA may approve requests covering multiple vessels, but any approval will apply only for the number of vessels approved for relief. The waiver authority does not expire, so EPA would be able to

continue approving manufacturers' requests to install Tier 3 engines in qualifying vessels until suitable certified Tier 4 engine models become available.

The Passenger Vessel Association, Vigor, Savannah Bar Pilots, and Columbia River Pilots suggested that the waiver process should also apply for all vessels meeting the Phase 1 qualifying criteria. As noted above, the waiver provisions are intended to allow for continued boat building in case there continue to be no suitable Tier 4 engines for the targeted vessels. In 2022 and later, we expect boat builders to be able to choose from several Tier 4 engine models between 20 and 40 liters total displacement. It will take time to modify vessel designs to accommodate Tier 4 engine technologies, but it is reasonable to expect the available Tier 4 engines to be suitable for the Phase 1 vessels. As mentioned above and described in Section VII, we are considering a separate rulemaking proposal to address remaining questions about the availability of Tier 4 engines for other types of high-speed vessels where there may not yet be suitable Tier 4 engines.

EMA stated that they do not support extending Tier 4 relief for a longer period than we proposed. They specifically objected to specifying 2028 as the year for applying the Tier 4 standards for Phase 2 relief based on engine manufacturers' need to start selling Tier 4 engines to recover their development costs. They also expressed a concern that waiver provisions could be disruptive for product planning if the waiver approval would not be well defined or if it extended more than one year beyond the adjusted starting date of the Tier 4 standards. We agree that adding several years of lead time would not be an effective way to support the engine manufacturers' development and certification programs for Tier 4 engines. The waiver process is preferable because it allows us to limit relief in 2024 and later to cases in which there are no suitable engines certified to the Tier 4 standards. For example, engine manufacturers have not committed to certifying Tier 4 engines below 20 liters, and if that is still the case and raised in a request for a waiver, it may be appropriate not to limit a waiver to a single year beyond the adjusted start date for the Tier 4 standards. Conversely, if an engine manufacturer certifies an engine model that is suitable for powering vessels that would otherwise meet the specified Phase 2 criteria, it would be appropriate to deny the waiver request. The waiver provisions spell out the approval criteria needed for EPA to evaluate any future requests for relief; the approval process with the approval criteria adequately define the terms of the waiver to avoid arbitrary decision-making that would be disruptive for engine manufacturers and their product planning.

E. Revised Certification Requirements

Engine manufacturers told us that one of the biggest factors delaying their plans to certify Tier 4 engines in the 600 to 1,400 kW power range is the expected low sales volumes that make it harder to recover the investment needed to develop marine-specific calibrations and perform the testing needed to certify engines under 40 CFR part 1042. We understand engine manufacturers' concerns to recover their investment in designing and certifying compliant engines. The market for compliant engines is expected to grow as more engines are needed internationally to comply with the stringent emission standards adopted for NO_X Emission Control Areas under MARPOL Annex VI. Manufacturers are also expected to redesign their engines to comply with the stringent marine diesel engine emission requirements for vessels operating on inland waterways in Europe. The stringency of the European standards is similar to EPA's Tier 4 standards for NO_X emissions and is more stringent for PM emissions. These standards will therefore contribute to further development and installation of advanced emission controls.

To facilitate certification of engines meeting the EPA Tier 4 standards, we are adopting revised engine certification requirements aimed at reducing engine manufacturer compliance and certification costs for the affected engines. These provisions are intended to help accelerate the market entry of additional Tier 4 marine engines, and additional power ratings for engines already certified to Tier 4 standards.

1. Deterioration Factors

We are adopting a temporary provision allowing engine manufacturers to certify specific engines to Tier 4 standards based on assigned deterioration factors. Engine manufacturers rely on deterioration factors so they can test a new engine and adjust the test results mathematically to represent emission levels at full useful life. Before this rule, the regulations for certifying marine diesel engines have allowed assigned deterioration factors only for small-volume engine manufacturers and post-manufacture marinizers. Assigned deterioration factors reduce the cost and time to certify to Tier 4 standards, which could accelerate the schedule for certifying, and may lead manufacturers to decide to pursue Tier 4 certification in light of the expected low sales volumes for recovering the associated development costs.

To encourage development of additional engine options for high-speed vessels, we will allow assigned deterioration factors for engines with power density above 30.0 kW/liter displacement. This applies through 2024 for 1,000–1,400 kW engines, and through model year 2026 for 600–1,000 kW engines. These dates are set to apply for the first three years after the Tier 4 standards start to apply on the adjusted schedule, with the expectation that engine manufacturers could accumulate information on the durability characteristics of engines during those three model years before needing to develop family-specific deterioration factors.

The proposal specified that assigned deterioration factors would be available for two years for engines with power density above 35.0 kW/liter. Engine manufacturers' comments requested that we allow assigned deterioration factors down to 30.0 kW/liter, and for a year longer than we proposed. They suggested the changes to ensure that the amended provisions would together create the appropriate reduction in development costs needed to achieve the objective of getting additional engines certified to the Tier 4 standards. We had selected the proposed thresholds for power density mostly to prevent adverse competitive effects for manufacturers that had already certified to Tier 4 standards. We realize, however, that even those manufacturers with certified engines can benefit from the new flexibility for certifying additional engine families.

We have reviewed available data to support default values for assigned deterioration factors. The deterioration factors are multiplicative values of 1.1 for NO_X and 1.4 for HC and CO, and an additive value of 0.003 g/kW-hr for PM.[7] These are the same values specified for the proposed rule. Where an individual engine manufacturer has existing data available, such as from certified land-based versions of its marine engines, EPA would consider that information, consistent with 40 CFR 1042.245(b), and may adjust the value of one or more default assigned deterioration factors accordingly.

[7] "Technical Analysis for Amendments Related to Marine Diesel Engine Emission Standards," EPA memorandum from Cheryl Caffrey to Docket EPA–HQ–OAR–2018–0638, August 1, 2019.

Engine manufacturers would need to certify using family-specific deterioration factors in the first model year after the assigned deterioration factors are no longer available. Manufacturers could determine new deterioration factors from a conventional durability demonstration based on emission measurements before and after an extended period of service accumulation in the laboratory.

The proposal included a request for comment to allow at-sea emission measurement in addition to lab-based measurement to establish deterioration factors. We contemplated this change in the context of engine manufacturers' interest in an alternative to the conventional durability demonstration. In their comments, engine manufacturers did not support changing the program to require deterioration factors based on emission measurement for engines installed in vessels. We will not adopt this as a requirement. With respect to alternative durability demonstration, we note that 40 CFR 1042.245(b) allows manufacturers to determine deterioration factors using an engineering analysis based on emission measurements from highway or nonroad engines that are similar to the marine engine being certified.

2. Reduced Regulatory Useful Life for Light Commercial Engines

We proposed to reduce the useful life from 10,000 hours to 5,000 hours for commercial marine engines that have power density above 50.0 kW/liter displacement. There are currently no engines certified to Tier 4 standards with power density above 44 kW per liter. We acknowledge that increasing an engine's power rating comes from higher intake air pressures and greater fuel flow into the engine, which can cause some engine and aftertreatment components to wear out sooner. Engines with lower power density are designed for continuous operation for very long periods with minimal downtime. Engines with high power density are inherently lighter weight for a given power rating and have a shorter time before scheduled rebuilding. Under our current regulations, the same regulatory useful life applies for commercial engines without regard to power density. However, the performance demands associated with high power density make it more difficult to demonstrate that engines with aftertreatment technology will meet Tier 4 standards over the full regulatory useful life.

Vigor and Savannah Bar Pilots supported the proposal to adopt a shorter useful life for engines with high power density as a way to increase the number of certified engines, but stated that 40 kW/liter would be the appropriate qualifying threshold. The Truck and Engine Manufacturers Association also supported adopting a shorter useful life, but stopped short of making a recommendation on the threshold that should apply.

We are adopting a shorter regulatory useful life for commercial engines above 600 kW with very high power density as proposed, except that the qualifying threshold is 45.0 kW/liter (see § 1042.145). If manufacturers opt for the shorter useful life for qualifying engines, we consider those to be ''light-commercial marine engines'' (see § 1042.901). The newly certified 24-liter engine from MAN meets the Tier 4 standards for a useful life of 10,000 hours at a top rating of about 44 kW/liter. This engine serves as an important benchmark for decision-making about the limits of a 10,000 hour useful life in an engine with very high power density. First, the engine demonstrates the feasibility of meeting the Tier 4 standards for 10,000 hours. Second, it demonstrates the feasibility limits of meeting Tier 4 standards over a useful life of 10,000 hours. MAN makes this same engine with higher power ratings for recreational applications. We therefore understand 44 kW/liter to be the upper bound for meeting the Tier 4 standards without a reduced useful life. Setting the threshold at 45.0 kW/liter creates an incentive for other manufacturers to pursue engine certification for higher-output light-commercial ratings to create additional power alternatives for boat builders that need to meet the most demanding performance specifications.

The reduced useful life for light-commercial engines also applies for Tier 3 engines with maximum power above 600 kW, consistent with the proposed rule. This may increase the number of engine models available during the relief period to the extent that engine manufacturers certify recreational engine models for light-commercial applications. The Truck and Engine Manufacturers Association commented asking that we specify the shorter useful life also for Tier 3 engines below 600 kW. However, there are several such engine models currently certified to the Tier 3 standards over a useful life of 10,000 hours with power density between 45 and 55 kW/liter. As a result, allowing engines less than 600 kW to qualify for a shorter useful life would relax the stringency of standards that manufacturers are already meeting. We are therefore not reducing the useful life for engines below 600 kW.

Manufacturers certifying engines to Tier 4 standards using a reduced useful life can use assigned deterioration factors as described in Section III.E.1. In the proposal, we considered adjusting the values of the assigned deterioration factors to account for the shorter useful life. However, this final rule applies the same assigned deterioration factors for the shorter useful life, because we expect those engines to experience the same amount of wear and degradation in 5,000 hours that other engines would experience in 10,000 hours.

3. Engine Duty Cycle for Certification Testing

Engine manufacturers certify their engines to the relevant emission standards by measuring emissions at test points on the applicable duty cycle specified in 40 CFR 1042.505 and contained in Appendix II of 40 CFR part 1042, and summing the weight-adjusted emission results. As described in 40 CFR 1042.505(b)(1) and (2), commercial propulsion engines with fixed-pitch propellers are tested on the 4-mode E3 duty cycle, and recreational engines are tested on the 5-mode E5 duty cycle. While engine speed and power at the test modes are substantially the same for both duty cycles, the E5 duty cycle has an extra test point at idle and also includes different weighting to calculate overall emissions. These duty cycles are intended to represent in-use operation for the different applications: Commercial engines are expected to operate more time at 75% load and above while doing work (engaged in commercial activity) while recreational engines are expected to operate at high load only occasionally. Recreational engines have much less operation overall, and they spend more time at idle and low engine loads.

Table 2 reproduces the speed and power settings for the E3 and E5 duty cycles.

TABLE 2—SPEED AND POWER SETTINGS FOR THE ISO E3 AND E5 DUTY CYCLES

Mode No.	Engine speed	Percent of maximum test power (percent)	E3 weighting factors	E5 weighting factors
1	Maximum test speed	100	0.20	0.08
2	91%	75	0.50	0.13
3	80%	50	0.15	0.17
4	63%	25	0.15	0.32
5	Warm idle	0		0.30

In response to EPA's request for comment on duty cycles, engine manufacturers asked that EPA allow the option of using the E5 duty cycle to certify commercial marine diesel engines with power density above 30.0 kW/liter. Engines above 30 kW/liter may be used in applications that are more like high-speed recreational boats (*e.g.,* planing boats) than low-speed commercial boats (*e.g.,* river boats). We agree with engine manufacturers that this change is appropriate. We are therefore amending 40 CFR 1042.505 to allow manufacturers to certify engines above 30.0 kW/liter using the E5 duty cycle. The reasons for this change are the same as the reasons supporting the reduced useful life revision described above. These engines are likely to be operated in a way more reflective of the E5 duty cycle, particularly those installed on planing or semi-planing vessels like lobster boats or pilot boats. The option to certify engines above 30.0 kW/liter applies equally to Tier 3 and Tier 4 engines.

As noted above, engines with power density above 45.0 kW/liter may certify with a reduced useful life of 5,000 hours. These engines are inherently limited to installation in vessels whose operation is shifted toward light-load operation. We are therefore requiring engines to be certified using the E5 duty cycle if they have the shorter useful life. This may require development of engine calibrations and control strategies optimized to maintain low NO_X emissions at idle and low-load operation to ensure that in-use engines will control emissions as effectively as the prototype engine tested for certification.

We will not require testing with both E3 and E5 duty cycles for any engine families certified to EPA standards under 40 CFR part 1042. However, to simplify dual certification to both our Clean Air Act marine diesel engine standards and MARPOL Annex VI Regulation 13 NO_X limits, manufacturers may submit test data from both duty cycles. The reported data would need to show that engines meet emission standards over each duty cycle.

These changes to the program will not require new testing for engines that are already certified to our Tier 3 or Tier 4 standards, and certification based on the E3 duty cycle will continue to be valid for demonstrating compliance with standards for any engines certified to a useful life of 10,000 hours.

IV. Economic and Environmental Impacts

The economic impact, emission inventory, and human health and welfare assessments performed for this final rule use the same methodologies as were used for the proposal. The inventory and costs assessments rely on the data and methodologies developed to support our 2008 Final Rule. The benefits assessment uses a simplified health benefits estimation method. The results of these analyses are set out in a technical memorandum prepared for this rule,[8] are summarized below, and are contained in Table 3 below. The Technical memorandum also contains the Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs analysis prepared for this rule.

Consistent with the economic impact analysis prepared for EPA's 2008 rulemaking, the costs for this final rule were estimated using both a behavioral approach (in the intermediate-run after the adoption of new standards, producers pass only some compliance through to consumers), and a full-cost pass-through approach (in the long-run after the adoption of new standards, producers pass all compliance costs through to consumers). This rule imposes no additional economic costs above those included in our 2008 rulemaking. Instead, the additional lead time is expected to result in cost savings. We estimate cost reductions of about $3.9 million, using a behavioral modeling approach, or $4.2 million, using a full-cost pass-through approach (2015$). These are the estimated cost reductions from installing less expensive Tier 3 engines in new vessels during the relief period (2020 through 2023) and the associated operating cost reductions during the 13-year lifetime of those engines (2020 through 2035).

With respect to emission inventory impacts, this rule changes the implementation date of the Tier 4 standards for qualifying engines and vessels, which will delay the emission and air quality benefits of those standards. The estimated annual increase in NO_X and PM_{10} [9] emissions associated with the relief is about 108 and 2.3 short tons, respectively, in 2020 and 2021, when both sets of engines are affected, decreasing to 37 and 1 ton, respectively, in 2022 and 2023, when only those engine up to 1,000 kW engines are affected. The lifetime inventory increase is estimated to be about 3,764 tons of NO_X and 79 tons of PM_{10}, assuming a 13-year lifetime. This represents less than one-tenth of one percent of the national annual emissions for these pollutants from commercial Category 1 marine diesel engines (*i.e.,* engines below 7.0 liters per cylinder displacement).

The estimated impacts on emissions and costs presented in Table 3 do not include the use of waivers. If engine manufacturers apply for and receive waivers post-2023, the estimated cost reductions and emission inventory impacts would increase and would extend for a longer period of time (the useful life of the engines produced subject to the waiver).

[8] See ''Final Assessment Analysis: Amendments Related to Marine Diesel Engine Emission Standards,'' EPA memorandum from Jean Marie Revelt, EPA, Kenneth Davidson, PS, and Margaret Zawacki, EE, to Docket EPA–HQ–OAR–2018–0638, August 12, 2020.

[9] Consistent with the 2008 Rule, this inventory analysis is for PM_{10}. In the 2008 rule, $PM_{2.5}$ was estimated at 97% of PM_{10}.

TABLE 3—ESTIMATED IMPACTS ON EMISSIONS AND COSTS

Year	Affected engines per year	NO_X increase per year (short tons)	PM_{10} increase per year (short tons)	Compliance cost reduction (2005$) *	Operating cost reduction (2005$)
2020	25	108.1	2.3	$455,667 to $531,177	$36,000
2021	25	216.3	4.6	$455,913 to $531,689	72,000
2022	21	252.9	5.3	$301,749 to $359,562	102,240
2023	21	289.5	6.1	$301,686 to $359,499	132,480
2024	0	289.5	6.1	0	132,480
Lifetime Impacts (sum of 2020–2035).	92	3,764	79.2	$3.2 to $3.5 million (2005$) ($3.9 to $4.2 million 2015$)	

* Costs were modeled in 2005$; lifetime impacts were converted in the final step of the analysis. Lower value of costs impacts estimated with a behavioral modeling approach, upper value estimated with a full-cost pass-through modeling approach. See ''Assessment Analysis: Final Marine CI Tier 4 Rule,'' EPA memorandum from Jean Marie Revelt, to Docket EPA–HQ–OAR–2018–0638 for details.

These forgone emission reductions are associated with forgone improvements in human health. Using reduced form health benefit per-ton values,[10] we estimate that the annual $PM_{2.5}$-related forgone benefits do not exceed a high-end estimate of $3.0 million in any given year (2015$, 3% discount rate, mortality effect estimate derived from Lepeule et al., 2012). The total present value of the stream of forgone benefits ranges from $9.8 million to $31 million.

Reduced form tools, by their nature, are subject to uncertainty.[11] In addition to the uncertainties present across the entire emissions-to-impact modeling pathway, it is important to note that the monetized benefit per ton estimates used here reflect the geographic patterns of the underlying emissions and air quality modeling assumptions used to create the reduced form health benefit per ton values. Those assumptions do not necessarily reflect the conditions of the policy scenario in which they are applied, which can lead to an over- or underestimate of benefits. In this rule, for example, the forgone benefits may be overstated in a location like Maine, because there will be some transport of emissions offshore or to areas external to the United States with different population and geographic characteristics. See the Final Assessment Analysis prepared for this rule for additional discussion regarding reduced form benefit per ton values.[12]

V. Response to Comments

As described in Section II, the proposed rule focused on providing relief for specific applications where limited engine availability may be preventing boat builders from making certain types of high-speed vessels. The proposed rule accordingly described regulatory amendments to allow additional lead time only for certain types of vessels, based on several engine-related and vessel-related qualifying criteria.

Section III describes the regulatory amendments for this final rule and addresses comments that relate directly to those provisions. This Section V addresses comments that apply more generally, or that are outside the scope of the proposed rule.

A. Commenters Generally Supporting the Rule

The Truck and Engine Manufacturers Association (EMA) and multiple state organizations commented in support of the proposed rule to provide Tier 4 relief for certain high-speed vessels. Maritime Partners stated that they did not oppose the proposed rule. Each of these comments also noted that EPA should not expand the relief beyond what was proposed.

In line with these comments, we are taking the approach of finalizing the narrowly crafted relief from the proposed rule. Section III describes how we made several minor adjustments following the proposal. For example, the final rule—

- Includes vessels that are subject to Coast Guard inspections as qualifying for relief.
- Allows boat builders to build vessels qualifying for relief based on a less challenging requirement for minimum power density.
- Specifies a lower power density to qualify for a reduced useful life for certifying Tier 4 ''light-commercial'' engines.
- Adds an option to certify certain commercial engines with the E5 duty cycle that previously was used only for certifying recreational engines.

Each of these minor modifications from the proposal is intended to ensure that the relief provisions will accomplish the intended objective.

B. Commenters Wanting To Expand the Scope of Relief for High-Speed Vessels

Several boat builders and boat operators suggested that we broaden the scope of the rule to provide additional relief for a wider range of high-speed vessels for which certified Tier 4 engines were not available. This included general recommendations to allow relief for all high-speed vessels longer than 65′ and for all emergency-response vessels (or all publicly owned vessels). Some commenters also described the need for relief for very specific applications, such as hovercraft and catamarans with certain characteristics. Commenters also advocated for allowing Phase 2 relief for vessels with metal hulls.

To prepare the proposed rule, we did an in-depth investigation of information, perspectives, constraints, and prospects for developments related to the vessels and engines that we identified in the proposed rule. That led us to carefully construct the qualifying criteria to allow relief where the need was evident, and to disallow relief where we expected vessel manufacturers to have access to Tier 4 engines that were suitable for those applications. We also used available information to determine the appropriate duration of the relief period

[10] $PM_{2.5}$-related health benefits are estimated by applying sector-specific (C1/C2 marine vessel engine) benefit per ton values for NO_X and directly-emitted $PM_{2.5}$ using a source apportionment approach that is similar to what has been used in past EPA analyses. See: Wolfe, P., Davidson, K. Fulcher, C., Fann, N., Zawacki, M., Baker, K.R. (2018). Monetized health benefits attributable to mobile source emission reductions across the United States in 2025. STOTEN, 650 (2019) 2490–2498, September.

[11] See EPA (2018). Technical Support Document: Estimating the Benefit per Ton of Reducing $PM_{2.5}$ Precursors from 17 Sectors. Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, February.

[12] See ''Final Assessment Analysis: Amendments Related to Marine Diesel Engine Emission Standards,'' EPA memorandum from Jean Marie Revelt, EPS, Kenneth Davidson, PS, and Margaret Zawacki, EE, to Docket EPA–HQ–OAR–2018–0638, August 12, 2020.

and to quantify the economic and environmental impacts of providing relief for qualifying vessels and engines. The result was the proposed arrangement of Phase 1 and Phase 2 qualifying criteria and the corresponding schedule for delaying implementation of the Tier 4 standards.

It is appropriate to focus this final rule on solving the problems that were the basis of the proposed rule. This will allow us to quickly finalize the relief for the vessels targeted in the proposed rule. Repeating the process of defining qualifying criteria and setting an appropriately revised implementation schedule for additional vessel types would require additional information gathering and stakeholder outreach.

Commenters raised several concerns about boat builders' ability to find and install Tier 4 engines in certain types of vessels. As described in Section VII, we are not adopting relief in this rule to address these concerns, but we are rather intending to further investigate the need additional relief. If we pursue additional relief for certain types of vessels, this would be in the form of a new proposal that would consider the comments we received in the context of this rule.

A similar assessment applies for the comments describing a need for lobster boats to be permanently excluded from Tier 4 requirements. We are adopting the Phase 2 relief consistent with the proposed rule to address what we know about concerns for building boats with Tier 4 engines. In any subsequent proposal, we would also consider revisiting the decision in this rule to require installation of Tier 4 engines in lobster boats and other vessels meeting the Phase 2 criteria starting in 2024.

C. Commenters Opposed to the Rule

Some commenters objected to providing any relief from the Tier 4 standards. We address each of these comments in the following sections based on the main arguments presented.

1. General Issues

The American Lung Association (ALA) and an anonymous commenter stated that EPA should keep the Tier 4 standards as adopted to realize the important environmental gains from improved emission control. They argued that manufacturers have had enough time to produce compliant engines and vessels, and that EPA should not revise the rules to reduce costs to industry. MAN objected to EPA providing relief based on the increased cost of Tier 4 engines in light of their understanding that certifying engines to Tier 4 standards did not involve unreasonable costs.

Regarding ALA's comments on the forgone environmental benefits, we quantified the estimated environmental impacts of this rule using the methods and data we used in our 2008 final rule; see Section IV. Allowing boat builders to use Tier 4 engines for a longer phase-in period is expected to increase annual in NOx and PM_{10} [13] emissions by about 108 and 2.3 short tons, respectively, in 2020 and 2021, when both sets of engines are affected, decreasing to 37 and 1 ton, respectively, in 2022 and 2023, when only engines 600–1,000 kW are affected. EPA talked with several boat builders who indicated that they simply cannot build boats at this time because certified Tier 4 engines in the necessary power range are unavailable. This means that at least some part of the fleet of commercial boats with high power density engines is prevented from turning over to cleaner Tier 4 engines, and that in at least some of these cases unregulated engines or Tier 1 or Tier 2 engines with higher emission levels will continue to operate in the fleet. While it is not possible to know how many of these previous-tier vessels are not being replaced, it is reasonable to observe that replacing these boats with new boats powered by Tier 3 engines is preferable to having the older vessels continue in the fleet. This is because the older vessels that need to be replaced are likely to have engines that pre-date the Tier 3 standards: Tier 2 or, even more likely, pre-control engines. As such, these vessels are likely to have much higher emissions than vessels powered by Tier 3 engines. Replacing these vessels with vessels powered by Tier 3 engines would reduce air emissions from the sector.

Regarding MAN's comment on costs, the basis for the proposed changes to the program was to respond to the concerns of boat builders that they could not build new boats due to the non-availability of compliant engines. EPA was aware of the challenges of certifying 600–1400 kW engines when we adopted the 2008 rule, which was the basis for allowing the greatest lead time for these engines. It is straightforward to conclude that boat builders have not been able to build the identified types of vessels because engine manufacturers had not produced many of the same engine models in a Tier 4 configuration that they had previously produced in a Tier 3 configuration for use in these vessel types.

EPA notes that MAN has recently certified a 24-liter engine with high power density for use in commercial boat applications, and that some additional lead time will be necessary for vessel builders to incorporate this engine into their designs. We anticipate that further developments in certifying additional engine models to Tier 4 standards will make it possible to eventually realize most or all of the anticipated emission reductions anticipated in the 2008 rule.

2. Availability of Suitable Tier 4 Engines

MAN objected to EPA acknowledging widespread use of SCR in marine applications, and then providing relief based on SCR not being available for marine engines. More specifically, MAN argued that they and other manufacturers have certified a range of Tier 4 engines that provide suitable power options for the vessels EPA identified as needing relief. MAN emphasized that EPA's relief provisions would prevent them from being able to sell their Tier 4 engines after investing substantially to certify their engines.

EPA was not suggesting that SCR is not an appropriate technology for marine engines. However, boat builders need engine manufacturers to develop properly sized compliant engines and certify them to Tier 4 standards before they do the necessary design work to install those engines into their vessels. In this rule, EPA is responding to the engine manufacturers' delayed schedule for certifying Tier 4 engines. Specifically, before the Tier 4 standards went into effect in 2017, engine manufacturers offered several marine diesel engine models for use in a wide variety of commercial boats. However, when the Tier 4 standards went into effect, the market was characterized by the absence of certified engines. For whatever reason, engine manufacturers chose not to carry out the development programs necessary to apply SCR or other Tier 4 technology to these smaller engines and to certify those engines in large enough quantities to maintain this section of the marine diesel market. Our decision to propose relief was accordingly based on the availability of certified engines, not on a judgment as to whether SCR is an inappropriate technology for marine installations.

Engine manufacturers have now certified 20-liter, 24-liter and 32-liter engines to the Tier 4 standards (Table 4 identifies the Tier 4 engines that are available). Currently certified Tier 4 engines larger than 32-liter reach high power density only for ratings well above 1,400 kW. We anticipate that engine manufacturers will certify

[13] Consistent with the 2008 Rule, this inventory analysis is for PM_{10}. In the 2008 rule, $PM_{2.5}$ was estimated at 97% of PM_{10}.

additional engine models with different displacements and power ratings in the years ahead. The 65′ pilot boat that Savannah Bar Pilots want to build illustrates the need for relief. Vigor, the boat builder for Savannah Bar Pilots, commented that this boat would not meet performance specifications related to speed and annual operating hours with 24-liter engines. Previous designs for this type of vessel included a pair of 32-liter engines, which may give an appropriate balance of power, weight, and durability, but 32-liter engines with after treatment and associated hardware would require the boat builder to substantially redesign the vessel. Boat builders need time to make those changes to be able to build a boat that meets performance specifications with the Tier 4 engine configuration. In recognition that additional certified Tier 4 engines are now becoming available for consideration by boat builders, EPA is providing only temporary, limited relief from the Tier 4 standards.

TABLE 4—CURRENTLY CERTIFIED TIER 4 ENGINES BELOW 1400 kW

Manufacturer	Displacement (liters)	Maximum power (kW)	Power density (kW/liter)
Yanmar	20.4	670–749	33–37
MAN	24.2L	746–1,066	31–44
Baudouin	32.1L	900–1,215	28–38
Caterpillar	32L	746–1,082	23–35
Mitsubishi	49L	940	19
Caterpillar	57.6L	1,000–1,772	17–31

3. Vessel Redesign for Lobster Boats

MAN described their 24-liter engine as being a suitable option for lobster boats if boat builders make a reasonable effort to redesign vessels to account for the additional size and heat rejection associated with exhaust after treatment.

We have learned that a full-size lobster boat is normally 45–50′ long with a single 16–18 liter engine that has a power rating of 700–750 kW. These Tier 4 engines with exhaust aftertreatment will require boat builders to substantially redesign their vessels just to make room for a larger engine package. That would be a considerable challenge with 16–18 liter engines. Boat builders would not be able to install the larger 24-liter engine with exhaust aftertreatment in these vessels without extensive structural changes. The vessel redesign would also need to address concerns about higher engine room temperatures, water reversion that could damage SCR catalysts, and storing Diesel Exhaust Fluid (DEF), among other things. Boat builders may be able to redesign their vessels to address all these concerns, but they need to have clear specifications from the engine manufacturers before they undertake such redesign and, in any event, are not likely to be able to successfully accomplish this for building boats in 2023 or earlier. They may even need more lead time than we are adopting in this rule. This is the basis to allow for the possibility that boat builders will not be able to install Tier 4 engines in 2024 and later model years by providing the waiver provisions discussed in Section III.D.

It should be noted that some lobster boat builders (and boat purchasers), faced with a requirement to install Tier 4 engines, may choose instead to build a boat with a smaller engine certified to Tier 3 standards. Other boat owners may choose to keep their older boats running instead of buying new boats with Tier 4 engines, and possibly repowering with previous tier engines when needed.[14] The purpose of the relief provisions we are adopting in this rule is to avoid these unintended consequences by giving engine manufacturers more time to address the power needs for high-speed vessels while allowing boat builders to continue to build boats with Tier 3 engines in the interim. To the extent these unintended consequences would play out in the marketplace in the absence of this rulemaking, there could be associated cost and emission impacts in the absence of this rulemaking. However, these costs are unclear and EPA's impacts assessment described in Section IV only models costs and disbenefits directly related to this rule.

4. DEF Availability

MAN commented that DEF is widely available and EPA should therefore not extend compliance deadlines based on limited access to DEF.

As described above, the proposed relief is based on the limited availability of certified Tier 4 engines suitable for use in certain high-speed vessels. Some commenters advocated for relief from Tier 4 emission standards based on limited access to DEF, but DEF supply and infrastructure were not considered in the proposed rule. These issues are therefore outside the scope of this rule.

[14] See EPA–HQ–OAR–2018–0638–0054 and EPA–HQ–OAR–2018–0638–0055.

D. River Towing

The American Waterways Operators and some of its members commented on the proposed rule to suggest that river pushboats also needed additional time to comply with Tier 4 standards. Commenters mainly cited reliability concerns for Tier 4 engines operating in a river environment (*i.e.,* operating at high load when pushing against the river current, low load when operating with the river current), the challenge of redesigning this type of vessel to use Tier 4 engines, the additional complexity of operating and maintaining Tier 4 engines with advanced electronic controls and aftertreatment, the limited available Tier 4 engine models, and access to diesel exhaust fluid on inland rivers. They also expressed concerns about the aggregate costs of purchasing, installing, and using Tier 4 engines.

These comments contrasted with those from Maritime Partners, who said that engine manufacturers and multiple boat builders are actively engaged with substantial investments to design and build river pushboats with Tier 4 engines.

We did not propose to make any changes to the Tier 4 standards or implementation schedule for river pushboats and are therefore not in a position to adopt relief provisions for those vessels in this rule. We may take further action to address these concerns in any follow-on action we consider as described in Section VII.

E. Replacement Engines

Gladding-Hearn Shipbuilding and the Passenger Vessel Association requested that we revise the regulation to allow vessel owners to replace old engines

under the replacement engine exemption under 40 CFR 1068.240, but keep the old engine as a spare to minimize downtime in anticipation of an emergency engine failure. The commenters stated that such an engine failure without a spare engine could be economically devastating.

These commenters are describing ''swing'' engines. EPA clarified our approach to swing engines in our 2008 rulemaking in response to the concerns of commenters on that rule (73 FR 37158, June 30, 2008). Some ship owners said that they currently use swing engines in their regular operations and that the application of our replacement engine provisions would prevent them from continuing this practice. In our 2008 rule, we clarified that we allow swing engines as a maintenance practice when the swing engines are additional engines purchased at the time the vessel is constructed and are clearly intended to be part of an engine maintenance strategy for that vessel. In a qualifying swing engine fleet, when one of the vessel's engines is due for rebuild, it is removed from the vessel and replaced with an engine from the swing engine group. The removed engine is rebuilt and then becomes the next swing engine. The swing engine must be the same emission tier as the original engine on the vessel, and it is subject to EPA's marine diesel engine remanufacturing requirements when it is rebuilt. Note that if a swing engine is replaced with a new engine, both engines are subject to the engine replacement provisions in 40 CFR 1042.615 and 1068.240.

The commenters are requesting that they be allowed to designate an engine as a swing engine at the time the engine is replaced, by retaining the rebuilt original engine, thus exempting the engine from the provisions for new replacement engines. We disagree with this request, as it undermines the purpose of the replacement engine provisions in our marine diesel engine program. Currently, if an owner installs a new replacement engine, the new engine must meet the most stringent tier of standards feasible for installation on a boat.[15] Thus, a new replacement engine for a vessel built in 1995 would need to meet at least Tier 3, unless it can be established that a Tier 3 engine cannot be used in the vessel because of the physical or performance needs of the vessel, at which point a Tier 2 engine must be considered, and then a Tier 1 engine. Because new replacement engines prolong the life of older vessels and delay the turnover of the fleet to cleaner engines, this requirement is an important means of making incremental improvements in emission controls from the marine fleet.

In the context of swing engines, if an engine in the fleet experiences engine failure, the owner would remove the failed engine, install the swing engine, and use the exemption for new replacement engines to become the next swing engine. This would require returning the failed engine to the engine manufacturer as a core exchange. The engine manufacturer may restore the failed engine to a working condition and resell it, subject to the conditions that apply under 40 CFR 1068.240. The regulation does not allow the owner to retain ownership of the original engine after it has been replaced with an exempted engine under 40 CFR 1068.240, even if it could otherwise be rebuilt for use as a swing engine.

Note that if the owner is replacing the old engine with a used engine, rather than a new engine, the only regulatory constraint is that the replacement engine may not be certified to a lesser tier of standards than the engine it is replacing (see 40 CFR 1068.120). However, that used engine may be subject to EPA's marine diesel engine remanufacture program when it is rebuilt (see 40 CFR part 1042, subpart I).

These comments on replacement engines are outside the scope of the proposed rule. However, we want to take the opportunity to emphasize that EPA's swing engine program is well established and that the Agency has no plans to revise those regulatory provisions.

F. Other Comments

State groups submitted comments stating that EPA would need to adopt alternative control measures to make up for forgone emission reductions that are already in state plans for meeting air quality standards. We originally adopted emission standards for marine diesel engines to comply with our Clean Air Act authority to set emission standards requiring the greatest achievable degree of emission control. The relief provisions we are adopting are based on this same assessment of what is feasible. We will consider every opportunity to require emission reductions from marine diesel engines and other sectors, but emissions accounting does not change our assessment of what boat builders can do to comply with the Tier 4 standards.

The National Association of Clean Air Agencies (NACAA) encouraged us to prioritize and take action to establish more stringent marine emission standards for engines below 600 kW, and to consider adopting emission standards that harmonize with more stringent standards that apply outside the United States where possible. Our 2008 final rule described the challenges associated with applying Tier 4 standards to commercial marine engines below 600 kW and the boats that use them and, to our knowledge, these challenges have not been resolved. EPA does not have plans to revisit those emission standards at this time; however, we will continue to evaluate whether or when it is appropriate to apply more stringent emission standards for engines below 600 kW. Similarly, we will continue to evaluate whether or when it is appropriate to adopt more stringent emission standards that would allow engine manufacturers to make a single low-emission engine that simultaneously complies with emission standards adopted by multiple regulating agencies.

EMA commented that dedicated direct-drive fire pumps should be permanently exempted from Tier 4 standards because their use is limited to emergency operations (plus limited maintenance and testing). EMA provided no detailed justification for not meeting Tier 4 standards and provided no information that would help us assess the economic or environmental impacts of such a change to the regulation. This comment is outside the scope of this rulemaking. We are not taking action in this final rule to address the request.

NACAA recommended that we provide a more geographically resolved estimation of the lost emission reductions, at least on the regional level. We have concluded that it is not possible to provide a more geographically resolved estimation of the forgone emission reductions without knowing the precise location of the boats that take advantage of the additional lead time. As explained in the economic and environmental impacts analysis prepared for this rule, we estimate that if all the annual emissions for the 600–1,000 kW engines are attributed to Maine, the forgone emissions from Tier 4 relief would amount to about 0.4 percent and 0.1 percent of those state-wide NO_X and PM_{10} emissions, respectively. Similarly, if all the annual emissions for 600–1,000 kW engines are attributed to Georgia, the forgone emissions from Tier 4 relief would amount to about 0.13 percent and

[15] As stated in 40 CFR 1042.615, EPA has determined that engines certified to Tier 4 standards do not have the appropriate physical or performance characteristics to replace uncertified engines or engines certified to emission standards that are less stringent than the Tier 4 standards.

0.03 percent of those state-wide NO_X and PM_{10} emissions, respectively.[16]

VI. Regulatory Alternatives

The proposed rule described the basis for pursuing additional lead time for meeting Tier 4 requirements for certain engines and vessels where it was apparent that there was no feasible path for compliance. The relief provisions in this rule are narrowly crafted to address the concerns communicated by boat builders leading up to the proposed rule. These provisions include a waiver process for vessels meeting the Phase 2 criteria as described in Section III.B for 2024 and beyond. In the proposal, we also requested comment on an alternative approach of adopting a new Tier 4 start date of 2028 for vessels meeting the Phase 2 criteria.

As described in Section V, adding several years of lead time would not be an effective way to support the engine manufacturers' development and certification programs for Tier 4 engines. The waiver process is preferable because it allows us to limit relief in 2024 and later to cases in which there are no suitable engines certified to the Tier 4 standards. If an engine manufacturer certifies an engine model that is suitable for powering vessels that would otherwise meet the specified Phase 2 criteria, it would be appropriate to deny the waiver request.

We have calculated the emission impacts associated with an alternative 2028 Tier 4 start date for vessels meeting the Phase 2 criteria.[17] Adopting this regulatory alternative would have increased the estimated total forgone inventory benefits of the proposal by about 1,760 additional short tons of NO_X and 37 additional short tons of PM_{10} above the estimated inventory increases associated with the final program adopted in this final rule. Using reduced form health benefit per ton values, we estimate that the annual $PM_{2.5}$-related forgone benefits for this regulatory alternative could be up to a high-end estimate of $4.4 million in any given year (2015$, 3% discount rate, mortality effect estimate derived from Lepeule et al., 2012). The total present value of the stream of forgone benefits ranges from $13.5 million to $44.6 million. The estimated cost savings would increase by $3.3 million, using a behavioral modeling approach, or $3.6 million, using a full-cost, pass-through approach (2015$), over the estimated cost savings associated with the final adopted program.

VII. Plans for Further Action

In response to our proposal, we received several comments from industry stakeholders who indicated that relief is also needed for other vessel types. These include catamarans, hovercraft, some types of emergency response boats, and push boats. Specifically, hovercraft have design specifications for lifting the vessel up out of the water that require engines to fall into a narrow range of power, size, and weight. Similarly, catamarans with hydrofoils need to use light-weight components and materials to achieve the lift necessary to operate properly. Also, fire boats and other emergency response vessels sometimes need to achieve very high speeds, which in turn requires very compact and light-weight engines with very high power output. For these and similar applications, boat builders indicated that they may not be able to move ahead with new construction with available Tier 4 engines.

The issues raised by these commenters are complex. It will take some time to carefully consider an appropriate policy direction and, if necessary, prepare a new proposal with specific additional relief provisions. Rather than delay the relief as described in the proposed rule, we will consider the issues raised by these stakeholders separately. As a result, we will continue to consider whether and how to formulate Tier 4 relief provisions for these vessels. We will be reaching out to stakeholders to better understand their concerns and determine whether we can develop a set of narrow qualifying criteria to allow relief where it is needed while continuing to require installation of Tier 4 engines where relief is not needed. The appropriate measure for evaluating the need for relief is whether certified Tier 4 engines will be available with the appropriate power characteristics to meet performance specifications, after accounting for reasonable measures to redesign vessels to account for engines with exhaust aftertreatment.

In this future assessment, we will need to take into consideration currently certified engines and the efforts that engine manufacturers intend to make to certify relevant engines in the foreseeable future. We will need to carefully assess the expected range of available engines, both to determine which vessels warrant relief and to determine how long the relief period should be.

Finally, we will also consider whether further changes to certification requirements are necessary to encourage greater availability of relevant engines. This is of particular concern for engines with total displacement below 20 liters, where the absence of Tier 4 certified engines is most pronounced. In our assessment, we will also consider the progress that engine manufacturers have made toward certifying marine diesel engines to the IMO Tier III or EU Stage V standards. Our assessment may also include consideration of adjusting NO_X, HC, CO, or PM standards, revising the durability testing provisions for certification, and expanding the scope of Tier 4 to apply to engines below 600 kW.

In any future action, we would also consider whether to make further regulatory changes to address the request for a long-term and sustainable set of requirements for lobster boats and similarly affected vessels.

As described in Section V, some operators of river boats continue to be concerned about complying with Tier 4 requirements. These concerns are very different than those that apply to installing Tier 4 engines in high-speed vessels. Rather, boat builders and operators will need time to work out design, installation, and operational issues with newly configured engines in a river environment. We will continue to monitor progress toward compliance for river pushboats that are subject to Tier 4 requirements. We will also learn, along with the industry, how Tier 4 compliance requirements are affecting the ability of operators to safely and effectively deliver products on the inland waterway system.

VIII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

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

This is a significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review. Any changes made in response to OMB recommendations have been documented in the docket.

[16] See ''Final Assessment Analysis: Amendments Related to Marine Diesel Engine Emission Standards,'' EPA memorandum from Jean Marie Revelt, EPA, Kenneth Davidson, PS, and Margaret Zawacki, EE, to Docket EPA–HQ–OAR–2018–0638, August 12, 2020.

[17] See ''Final Assessment Analysis: Amendments Related to Marine Diesel Engine Emission Standards,'' EPA memorandum from Jean Marie Revelt, EPA, Kenneth Davidson, PS, and Margaret Zawacki, EE, to Docket EPA–HQ–OAR–2018–0638, August 12, 2020.

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

This action is considered an Executive Order 13771 deregulatory action. Details on the estimated cost savings of this final rule can be found in EPA's analysis of the projected costs and benefits associated with this action.

C. Paperwork Reduction Act (PRA)

The information collection activities in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 2602.02. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them. OMB has previously approved the information collection activities related to marine diesel engine emission standards in 40 CFR part 1042 under OMB control number 2060–0287.

Information collection is limited to manufacturers of qualifying high-speed vessels requesting a waiver from the Tier 4 standards after the standards restart in model year 2024. We are adopting this as a precaution, in case engine certification and further technology development for installing Tier 4 engines does not allow for complying with standards in 2024. We will protect confidential business information as described in 40 CFR part 2.

Respondents/affected entities: Manufacturers of high-speed vessels.

Respondent's obligation to respond: Response is required to get EPA's approval for a waiver from Tier 4 standards.

Estimated number of respondents: 0.

Frequency of response: There are no recurring responses.

Total estimated burden: 0 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $0 per year, including $0 per year in annualized capital or operation & maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden, or otherwise has a positive economic effect on the small entities subject to the rule. This rule is expected to provide regulatory flexibility to small owners and operators of U.S. vessels. We have therefore concluded that this action will have no net regulatory burden for any directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have tribal implications as specified in Executive Order 13175. This rule will be implemented at the Federal level and affects owners and operators of U.S. vessels. Thus, Executive Order 13175 does not apply to this action.

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

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are described in Section IV.

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

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This action provides relief from current emission standards for a small number of vessels and streamlines the process for certifying engines. None of these changes are expected to significantly affect energy supply, distribution, or use. Section IV describes how we expect this rule to have a small overall environmental impact.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

This action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). Section IV describes how this action will have a very small impact on all populations.

L. Congressional Review Act (CRA)

This action is subject to the CRA, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 1042

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Imports, Labeling, Penalties, Reporting and recordkeeping requirements, Vessels, Warranties.

Andrew Wheeler,

Administrator.

For the reasons set forth above, EPA amends 40 CFR part 1042 as follows:

PART 1042—CONTROL OF EMISSIONS FROM NEW AND IN-USE MARINE COMPRESSION-IGNITION ENGINES AND VESSELS

■ 1. The authority citation for part 1042 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

■ 2. Section 1042.145 is amended by adding paragraphs (k) through (o) to read as follows:

§ 1042.145 Interim provisions.

* * * * *

(k) *Adjusted implementation dates for Tier 4 standards.* Engines and vessels may qualify for delaying the Tier 4

standards specified in § 1042.101 as follows:

(1) The delay is limited to model year 2021 and earlier engines and vessels that meet all the following characteristics:

(i) Category 1 propulsion engines with specific power density above 27.0 kW/liter, up to maximum engine power of 1,400 kW.

(ii) Vessels have total propulsion power at or below 2,800 kW.

(iii) Vessel waterline length is at or below 65 feet.

(iv) Vessels have a maximum speed (in knots) at or above $3.0 \cdot L^{1/2}$, where L is the vessel's waterline length, in feet.

(2) The delay also applies through model year 2023 for engines and vessels that meet all the following characteristics:

(i) Category 1 propulsion engines with specific power density above 35.0 kW/liter, up to maximum engine power of 1,000 kW.

(ii) Vessels have total propulsion power at or below 1,000 kW.

(iii) Vessel waterline length is at or below 50 feet.

(iv) Vessels have a maximum speed (in knots) at or above $3.0 \cdot L^{1/2}$, where L is the vessel's waterline length, in feet.

(v) Vessels have fiberglass or other nonmetal hulls.

(3) Vessel manufacturers must have a contract or purchase agreement signed before the end of the relief period for each vessel produced under this paragraph (k).

(4) Affected engines must instead be certified to the appropriate Tier 3 emission standards specified in § 1042.101. Engine manufacturers may include engine configurations with maximum engine power below 600 kW in the same engine family even if the power density is below the value specified in paragraph (k)(1) or (2) of this section.

(5) If you introduce an engine into U.S. commerce under this section, you must meet the labeling requirements in § 1042.135, but add the following statement instead of the compliance statement in § 1042.135(c)(10):

THIS MARINE ENGINE COMPLIES WITH U.S. EPA TIER 3 EMISSION STANDARDS UNDER 40 CFR 1042.145(k). ANY OTHER INSTALLATION OR USE OF THIS ENGINE MAY BE A VIOLATION OF FEDERAL LAW SUBJECT TO CIVIL PENALTY.

(l) [Reserved]

(m) *Tier 4 waiver.* Starting with model year 2024, vessel manufacturers may request an exemption from the Tier 4 standards as follows:

(1) The subject vessels and engines must meet the qualifications of paragraph (k)(2) of this section.

(2) Vessel manufacturers must send a written request for the exemption to the Designated Compliance Officer. The request must describe efforts taken to identify available engines certified to the Tier 4 standards, describe design efforts for installing engines in the subject vessels, identify the number of vessels needing exempt engines, demonstrate that the vessel cannot meet essential performance specifications using available Tier 4 engines, and state that engine and vessel manufacturers will meet all the terms and conditions that apply. We may approve an exemption from the Tier 4 standards based on the submitted information.

(3) Engine manufacturers may ship exempt engines under this paragraph (m) only after receiving a written request from a vessel manufacturer who has received our written approval to build a specific number of vessels. The prohibitions in 40 CFR 1068.101(a)(1) do not apply to a new engine that is subject to Tier 4 standards, subject to the following conditions:

(i) The engine meets the appropriate Tier 3 emission standards in § 1042.101 consistent with the provisions specified in 40 CFR 1068.265.

(ii) The engine is installed on a vessel consistent with the conditions of this paragraph (m).

(iii) The engine meets the labeling requirements in § 1042.135, with the following statement instead of the compliance statement in § 1042.135(c)(10):

THIS MARINE ENGINE DOES NOT COMPLY WITH CURRENT U.S. EPA EMISSION STANDARDS UNDER 40 CFR 1042.145(m). ANY OTHER INSTALLATION OR USE OF THIS ENGINE MAY BE A VIOLATION OF FEDERAL LAW SUBJECT TO CIVIL PENALTY.

(n) *Assigned deterioration factors.* Engine manufacturers may use assigned deterioration factors for certifying Tier 4 engines with maximum power up to 1,400 kW, as follows:

(1) For engine families that have at least one configuration with maximum engine power at or below 1,400 kW and power density above 30.0 kW/liter, you may use assigned deterioration factors through model year 2024.

(2) For engine families that have at least one configuration with maximum engine power at or below 1,000 kW and power density above 30.0 kW/liter, you may use assigned deterioration factors through model year 2026.

(3) The assigned deterioration factors are multiplicative values of 1.1 for NO_X and 1.4 for HC and CO, and an additive value of 0.003 g/kW-hr for PM, unless we approve your request to use different values. We will approve your proposed values if we determine based on data from similar engines and supporting rationale you submit with your request that they better represent your engines.

(o) *Useful life for light-commercial engines.* You may certify commercial Category 1 engines at or above 600 kW with power density above 45.00 kW/liter to the exhaust emission standards of this part over a full useful life of 10 years or 5,000 hours of operation instead of the useful-life values specified in § 1042.101(e). Engines certified to this shorter useful life must be in their own engine family.

■ 3. Section 1042.505 is amended by revising paragraphs (b) introductory text and (b)(2) to read as follows:

§ 1042.505 Testing engines using discrete-mode or ramped-modal duty cycles.

* * * * *

(b) Measure emissions by testing the engine on a dynamometer with the following duty cycles (as specified) to determine whether it meets the emission standards in § 1042.101 or § 1042.104:

* * * * *

(2) *Duty cycle for engines with high power density.* Except as specified in paragraph (b)(3) of this section, use the 5-mode duty cycle or the corresponding ramped-modal cycle described in paragraph (b) of Appendix II of this part for light-commercial engines and recreational marine engines with maximum engine power at or above 37 kW. You may also use this duty cycle for other commercial engines instead of the duty cycle specified in paragraph (b)(1) of this section if the power density for every configuration in an engine family is above 30.0 kW/liter.

* * * * *

■ 4. Section 1042.901 is amended by adding definitions in alphabetical order for ''Light-commercial marine engine'' and ''Waterline length'' to read as follows:

§ 1042.901 Definitions.

* * * * *

Light-commercial marine engine means a Category 1 propulsion marine engine at or above 600 kW with power density above 45.0 kW/liter that is certified with a shorter useful life based on its high power density.

* * * * *

Waterline length means the horizontal distance measured between perpendiculars taken at the forwardmost and aftermost points on the waterline

corresponding to the deepest operating draft (see ''Length between perpendiculars'' at 46 CFR 175.400). This applies for a worst-case combination of a fully loaded vessel in freshwater in summer.

* * * * *

[FR Doc. 2020–18621 Filed 10–1–20; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 85, No. 192
Friday, October 2, 2020

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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[NRC–2017–0151]

RIN 3150–AK07

Reactor Vessel Material Surveillance Program

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend the reactor vessel material surveillance program requirements for commercial light-water power reactors. This action would amend the requirements associated with the testing of specimens contained within surveillance capsules and reporting the surveillance test results. This action would also clarify the requirements for the design of surveillance programs and the capsule withdrawal schedules for surveillance capsules in reactor vessels purchased after 1982. These changes would reduce regulatory burden, with no effect on public health and safety.

DATES: Submit comments by November 2, 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–2017–0151. 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: Stewart Schneider, Office of Nuclear Material Safety and Safeguards, 301–415–4123, email: *Stewart.Schneider@nrc.gov,* or On Yee, Office of Nuclear Reactor Regulation, telephone: 301–415–1905, email: *On.Yee@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

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I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0151 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–2017–0151.
- *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 ''*ADAMS Public Documents*'' and then 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, at 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–2017–0151 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. Rulemaking Procedure

Because the NRC anticipates that this action will 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 February 1, 2021. However, if the NRC receives significant adverse comments on this proposed rule by November 2, 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 received in response to these proposed revisions 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 procedural information and the regulatory analysis, see the direct final rule published in the Rules and Regulations section of this issue of the **Federal Register**.

III. Background

A. Description of a Reactor Vessel Material Surveillance Program

The reactor vessel and its internal components support and align the fuel assemblies that make up the reactor core and provide a flow path to ensure adequate heat removal from the fuel assemblies. The reactor vessel also provides containment and a floodable volume to maintain core cooling in the event of an accident causing loss of the primary coolant. It is a cylindrical shell with a welded hemispherical bottom head and a removable hemispherical upper head. Some vessel shells were fabricated from curved plates that were joined by longitudinal and circumferential welds. Others were manufactured using forged rings and, therefore, only have circumferential welds that join the rings. These plate and forging materials are referred to as base metals. Maintenance of the structural integrity of the reactor vessel is essential in ensuring plant safety, because there is no redundant system to maintain core cooling in the event of a vessel failure.

One characteristic of reactor vessel steels is that their material properties change as a function of temperature and neutron irradiation. The primary material property of interest for the purposes of reactor vessel integrity is the fracture toughness of the reactor vessel material. Extensive experimental work determined that Charpy impact energy tests, which measure the amount of energy required to fail a small material specimen, can be correlated to changes in fracture toughness of a material. Thus, the Charpy impact specimens [1] from the beltline [2] materials (*i.e.,* base metal, weld metal, and heat-affected zone) became the standard to assess the change in fracture toughness in ferritic steels.

The fracture toughness of reactor vessel materials decreases with decreasing temperature and with increasing irradiation from the reactor. The decrease in fracture toughness due to neutron irradiation is referred to as ''neutron embrittlement.'' The fracture toughness of reactor vessel materials is determined by using fracture toughness curves in the American Society of Mechanical Engineers (ASME) Code, which are indexed to the reference temperature for nil-ductility transition (RT_{NDT}), as specified in ASME Boiler and Pressure Vessel Code, Section II, ''Materials.'' To account for the effects of neutron irradiation, the increase in RT_{NDT} is equated to the increase in the 30 ft-lb index temperature from tests of Charpy-V notch impact specimens irradiated in capsules as a part of the surveillance program. The surveillance program includes Charpy impact specimens of the base and weld metals for the reactor vessel in each surveillance capsule. These surveillance capsules are exposed to the same operating conditions as the reactor vessel, and because the capsules are located closer to the reactor core than the reactor vessel inner diameter, the surveillance specimens are generally exposed to higher neutron irradiation levels than those experienced by the reactor vessel at any given time.

As a result of the surveillance capsule's location within the reactor vessel, the test specimens generally reflect changes in fracture toughness due to neutron embrittlement in advance of what the reactor vessel experiences and provide insight to the future condition of the reactor vessel. Therefore, the NRC instituted reactor vessel material surveillance programs as a requirement of appendix H, ''Reactor Vessel Material Surveillance Program Requirements'' (appendix H), to part 50 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Domestic Licensing of Production and Utilization Facilities,'' so that the placement and testing of Charpy impact specimens in capsules between the inner diameter vessel wall and the core can provide data for assessing and projecting the change in fracture toughness of the reactor vessel.

The purpose for requiring a reactor vessel material surveillance program is to monitor changes in the fracture toughness properties in the beltline region [3] of the reactor vessel and to use this information to analyze the reactor vessel integrity. Surveillance programs are designed not only to examine the current status of reactor vessel material properties but also to predict the changes in these properties resulting from the cumulative effects of neutron irradiation.

The determination as to whether a commercial nuclear power reactor vessel requires a material surveillance program under appendix H to 10 CFR part 50 is made at the time of plant licensing under 10 CFR part 50 or 10 CFR part 52, ''Licenses, Certifications, and Approvals for Nuclear Power Plants.'' If this surveillance program is required, it is designed and implemented at that time using the existing requirements. Certain aspects of the program, such as the specific materials to be monitored, the number of required surveillance capsules to be inserted in the reactor vessel, and the initial capsule withdrawal schedule were designed for the original licensed period of operation (*i.e.,* 40 years). The editions of the ASTM International (ASTM) E 185 which are incorporated by reference in appendix H to 10 CFR part 50 recommend three, four, or five surveillance capsules to be included in the design of the reactor vessel material surveillance programs for the original licensed period of operation, based on the irradiation sensitivity of the material used to fabricate the reactor vessel.[4]

[1] A Charpy impact specimen is a bar of metal, or other material, having a V-groove notch machined across the 10 mm thickness dimension.

[2] A definition of the beltline or beltline region is provided in appendix G to 10 CFR part 50.

[3] NRC Regulatory Issue Summary 2014–11, ''Information on Licensing Applications for Fracture Toughness Requirements for Ferric Reactor Coolant Pressure Boundary Components,'' includes a definition of reactor vessel beltline.

[4] The requirements in appendix H to 10 CFR part 50 are based, in part, on the information contained within ASTM E 185–73, ''Standard Recommended Practice for Surveillance Tests for Nuclear Reactor Vessels;'' ASTM E 185–79, ''Standard Practice for Conducting Surveillance Tests for Light-Water Cooled Nuclear Power Reactor Vessels;'' and ASTM E 185–82, ''Standard Practice for Conducting Surveillance Tests for Light-Water Cooled Nuclear Power Reactor Vessels,'' which are incorporated by reference.

Most plants have included several additional surveillance capsules beyond the number recommended by ASTM E 185. These capsules are referred to as ''standby capsules.'' The surveillance program for each reactor vessel provides assurance that the plant's operating limits (*e.g.,* the pressure-temperature limits) continue to meet the provisions in Appendix G of ASME Boiler and Pressure Vessel Code, Section XI, ''Rules for Inservice Inspection of Nuclear Power Plant Components,'' as required by appendix G, ''Fracture Toughness Requirements,'' to 10 CFR part 50. The program also provides assurance that the reactor vessel material upper shelf energy meets the requirements of appendix G to 10 CFR part 50. These assessments are used to ensure the integrity of the reactor vessel.

In addition to the Charpy impact specimens for determining the embrittlement in the reactor vessel, the surveillance capsules typically contain neutron dosimeters, thermal monitors, and tension specimens.[5] Surveillance capsules may also contain correlation monitor material, which is a material with composition, properties, and response to radiation that have been well-characterized. The overall accuracy of neutron fluence measurements is dependent upon knowledge of the neutron spectrum. Therefore, a variety of neutron detector materials (dosimetry wires) are included in each surveillance capsule and used in the determination of neutron fluence for the vessel. The thermal monitors that are placed in the capsules (*e.g.,* low melting point elements or eutectic alloys) are used to identify the irradiated specimen's maximum exposure temperature.

B. Current Requirements Under Appendix H to 10 CFR part 50

Appendix H to 10 CFR part 50 requires light-water nuclear power reactor licensees to have a reactor vessel material surveillance program to monitor changes in the fracture toughness properties of the reactor vessel materials adjacent to the reactor core in the beltline region. Unless it can be shown that the end of design life neutron fluence is below certain criteria, the NRC requires licensees to implement a materials surveillance program that tests irradiated material specimens that are located in surveillance test capsules in the reactor vessels. The program evaluates changes in material fracture toughness and thereby assesses the integrity of the reactor vessel. For each capsule withdrawal, the test procedures and reporting requirements must meet the requirements of ASTM E 185–82, ''Standard Practice for Conducting Surveillance Tests for Light-Water Cooled Reactor Vessels,'' to the extent practicable for the configuration of the specimens in the capsule.

The design of the surveillance program and the withdrawal schedule must meet the requirements of the edition of ASTM E 185 that is current on the issue date of the ASME Code to which the reactor vessel was purchased. Later editions of ASTM E 185, up to and including those editions through 1982, may be used. Appendix H to 10 CFR part 50 specifically incorporates by reference ASTM E 185–73, ''Standard Recommended Practice for Surveillance Tests for Nuclear Reactor Vessels;'' ASTM E 185–79, ''Standard Practice for Conducting Surveillance Tests for Light-Water Cooled Nuclear Power Reactor Vessels,'' and ASTM E 185–82. In sum, the surveillance program must comply with ASTM E 185, as modified by appendix H to 10 CFR part 50. The number, design, and location of these surveillance capsules within the reactor vessel are established during the design of the program, before initial plant operation.

Appendix H to 10 CFR part 50 also specifies that each capsule withdrawal and subsequent test results must be the subject of a summary technical report to be submitted to the NRC within one year of the date of capsule withdrawal, unless an extension is granted by the Director, Office of Nuclear Reactor Regulation. The NRC uses the results from the surveillance program to assess licensee submittals related to pressure-temperature limits under appendix G to 10 CFR part 50 and to assess pressurized water reactor licensee's compliance with either § 50.61, ''Fracture toughness requirements for protection against pressurized thermal shock events,'' or § 50.61a, ''Alternate fracture toughness requirements for protection against pressurized thermal shock events.''

C. The Need for Rulemaking

When appendix H to 10 CFR part 50 was established as a requirement (38 FR 19012; July 17, 1973), limited information and data were available on the subject of reactor vessel embrittlement. Thus, appendix H to 10 CFR part 50 required the inclusion of a comprehensive collection of specimen types representing the reactor vessel beltline materials in each surveillance capsule. Since 1973, a significant number of surveillance capsules have been withdrawn and tested. Analyses of these results support reconsidering the specimen types required for testing, and the required time for reporting the results from surveillance capsule testing. One outcome of this effort was that some specimen types were found to contribute to the characterization of reactor vessel embrittlement, while others did not. Therefore, the NRC determined that these latter types were unnecessary to meet the objectives of appendix H to 10 CFR part 50 and should no longer be required. Revising appendix H to 10 CFR part 50 to address this situation would reduce the regulatory burden on licensees for data collection, with no effect on public health and safety.

In 1983, appendix H to 10 CFR part 50 was revised to require licensees to submit test results to the NRC within one year of the date of capsule withdrawal, unless an extension is granted by the Director, Office of Nuclear Reactor Regulation (48 FR 24008; May 27, 1983). As stated in the 1983 rulemaking, the reason for the requirement was the need for timely reporting of test results and notification of any problems. At that time, there was a limited amount of data from irradiated materials from which to estimate embrittlement trends of reactor vessels at nuclear power plants, making it important to receive timely reporting of test results.

Licensees that participate in an integrated surveillance program have found it challenging to meet this one-year requirement. This is related to the fact that an integrated surveillance program requires coordination among the multiple licensees participating in the program.[6] A significant number of test specimens have been analyzed since 1983, the results of which support a reduced need for prompt reporting of the test results. Therefore, there is a reduced need for prompt reporting of the test results. Based on this, the NRC has determined that the reporting requirement in appendix H to 10 CFR part 50 should be revised. Extending the reporting period allows for more time for licensee coordination and should eliminate the need for licensees to prepare and submit extension requests and for the NRC to review such

[5] Tension specimens have a standardized sample cross-section, with two shoulders and a gage (section) in between.

[6] Appendix H to 10 CFR part 50 permits the use of an integrated surveillance program (ISP) as an alternative to a plant-specific surveillance program. In an ISP, the representative materials chosen for surveillance of a reactor vessel are irradiated in one or more other reactor vessel vessels that have similar design and operating features. The data obtained from these test specimens may then be used in the analysis of other plants participating in the program.

requests. This revision would have no effect on public health and safety.

D. Regulatory Basis To Support Rulemaking

In January 2019, the Commission issued Staff Requirements Memorandum (SRM)-COMSECY–18–0016, ''Request Commission Approval to Use the Direct Final Rule Process to Revise the Testing and Reporting Requirements in 10 CFR part 50, Appendix H, Reactor Vessel Material Surveillance Program Requirements (RIN 3150–AK07),'' approving publication of the supporting regulatory basis and use of the direct final rule process. On April 3, 2019, the NRC issued the regulatory basis which provides an in-depth discussion on the technical merits of this rulemaking (84 FR 12876).[7] The regulatory basis includes additional information on the regulatory framework, types of reactor vessel material surveillance programs, regulatory topics that initiated this rulemaking effort, and options to address these topics. The regulatory basis shows that there is sufficient justification to proceed with rulemaking to amend appendix H to 10 CFR part 50 to eliminate and reduce certain test specimens and extend the period to submit surveillance capsule reports to the NRC. In addition, in SRM–COMSECY–18–0016, the Commission directed the staff to clarify the requirements for the design of surveillance programs and the withdrawal schedules for reactor vessels purchased after 1982. These revisions would not establish any additional requirements for the current fleet of operating reactors.

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 that also follows other best practices appropriate to the subject or field and the intended audience. 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. Paperwork Reduction Act

This proposed rule contains new or amended information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq). This proposed rule has been submitted to the Office of Management and Budget (OMB) for review and approval of the information collection requirements

Type of submission, new or revision: Revision.

The title of the information collection: Reactor Vessel Material Surveillance Program.

The form number if applicable: NA.

How often the collection is required or requested: On occasion.

Who will be required or asked to respond: Holders of an operating license for commercial light-water power reactors.

An estimate of the number of annual responses: A reduction of 1 response.

The estimated number of annual respondents: A reduction of 1 respondent.

An estimate of the total number of hours needed annually to comply with the information collection requirement or request: An annual reduction of 78 hours of reporting burden.

Abstract: The requirements for a reactor vessel material surveillance program are specified under appendix H to 10 CFR part 50. The NRC requires light-water nuclear power reactor licensees to implement this program when it cannot be shown that the end of design life neutron fluence for the reactor vessel is below certain criteria. This program monitors changes in the fracture toughness properties of the reactor vessel materials adjacent to the reactor core. It involves the testing of irradiated material specimens that are located in surveillance capsules in the reactor vessel. The surveillance test results are used to evaluate the changes in material fracture toughness and thereby assesses the integrity of the reactor vessel.

Appendix H to 10 CFR part 50 requires that within one year of the date of the surveillance capsule withdrawal, a summary technical report be submitted to the NRC that contains the data required by ASTM E 185, and the results of all fracture toughness tests conducted on the beltline materials in the irradiated and unirradiated conditions, unless an extension is granted by the Director, Office of Nuclear Reactor Regulation. At the time this requirement became effective (48 FR 24008; July 26, 1983), there was a limited amount of data from irradiated materials from which to estimate embrittlement trends of reactor vessels at nuclear power plants, making it important to receive timely reporting of test results.

Licensees that participate in an integrated surveillance program have found it challenging to meet this one-year requirement, due to the time needed for coordination among the multiple licensees participating in the program. A significant number of test specimens have been analyzed since 1983, the results of which support the reduced need for prompt reporting of the test results. Based on this finding, the NRC determined that the reporting requirement in appendix H to 10 CFR part 50 should be revised. The NRC is proposing to extend the reporting period from 1 year to 18 months, with the objectives of eliminating the need for licensees to prepare and submit extension requests and for the NRC to review such requests. This revision would have no effect on public health and safety.

Licensees must maintain records and prepare reports to demonstrate their fulfillment of the regulatory requirements related to a reactor vessel material surveillance program. The information collection requirements under this program include:

- Maintenance of records of the test results from this program throughout the life of the reactor vessel.
- Reports of the information specified in ASTM E 185–82.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on January 13, 2020, 85 FR 1825.[8] No comments were received.

The NRC is providing the public a second opportunity to comment on the potential impact of the information collections contained in this proposed rule and on the following issues:

1. Is the proposed information collection necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility?
2. Is the estimate of burden accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques?

A copy of the OMB clearance package and proposed rule is available in ADAMS under Accession Nos. ML20041B864 and ML19184A621, respectively, or may be viewed free of charge at the NRC's PDR, One White Flint North, 11555 Rockville Pike, Room O1–F21, Rockville, MD 20852. You may

[7] A subsequent notification was published on April 12, 2019 (84 FR 14845), to correct the ADAMS accession number for the regulatory basis.

[8] A subsequent notice was published on January 21, 2020 (85 FR 3432), to correct the Docket ID listed in the body of the notice

obtain information and comment submissions related to the OMB clearance package by searching on *https://www.regulations.gov* under Docket ID NRC–2017–0151.

Send comments on any aspect of these proposed information collections, including suggestions for reducing the burden and on the above previously stated issues, by November 2, 2020 to the Information Services Branch (T6–A10M), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by email to *infocollects.resource@nrc.gov* and to the OMB reviewer at: OMB Office of Information and Regulatory Affairs (3150–0011), Attn: Desk Officer for the Nuclear Regulatory Commission, 725 17th Street NW, Washington, DC 20503; email: *oira_submission@omb.eop.gov.* Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

VI. 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 using such a standard is inconsistent with applicable law or otherwise impractical. In this proposed rule, the NRC would amend the reactor vessel materials surveillance program requirements to reduce the regulatory burden for non-safety-significant issues associated with the testing of surveillance capsule specimens and reporting the surveillance test results. It would also clarify the requirements for the design of surveillance programs and the withdrawal schedules for reactor vessels purchased after 1982. Specifically, this proposed rule allows licensees to reduce the testing of some specimens and eliminates the testing of other specimens that were found not to provide meaningful information to assess the integrity of the reactor vessel. It would also extend by 6 months the period for licensees to submit the report of test results to the NRC. The increase in neutron fluence over 6 months is very small, and therefore the projected increase in embrittlement over this period would also be very small. This small impact, in conjunction with the margin of safety which is inherent in the pressure-temperature limit curves, minimizes any impact due to the 6 month increase. This action would not constitute the establishment of new conditions on the ASTM standards that are currently incorporated by reference in appendix H to 10 CFR part 50 nor a standard that contains generally applicable requirements. This action would maintain the use of the ASTM standards that are currently incorporated by reference in appendix H to 10 CFR part 50 but would make optional certain aspects of the ASTM standards that have been determined not to be necessary for safe operation of nuclear power plants.

VII. 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** Citaton
ASME Boiler and Pressure Vessel Code, Section II, ''Materials''	*https://www.asme.org.*
NRC Regulatory Issue Summary 2014–11, ''Information on Licensing Applications for Fracture Toughness Requirements for Ferric Reactor Coolant Pressure Boundary Components,'' October 14, 2014.	ML14149A165.
ASTM E 185-73, ''Standard Recommended Practice for Surveillance Tests for Nuclear Reactor Vessels''	*https://www.astm.org.*
ASTM 185-79, ''Standard Practice for Conducting Surveillance Tests for Light-Water Cooled Nuclear Power Reactor Vessels''.	*https://www.astm.org.*
ASTM E 185-82, ''Standard Practice for Conducting Surveillance Tests for Light-Water Cooled Nuclear Power Reactor Vessels''.	*https://www.astm.org.*
ASME Boiler and Pressure Vessel Code, Section XI, Appendix G, ''Rules for Inservice Inspection of Nuclear Power Plant Components''.	*https://www.asme.org.*
Federal Register notification—''Part 50 Final Rule–Licensing of Production and Utilization Facilities; Fracture Toughness and Surveillance Program Requirements,'' July 17, 1973.	38 FR 19012.
Federal Register notification—''10 CFR Part 50 Final Rule, Fracture Toughness Requirements for Light-Water Nuclear Power Reactors,'' May 27, 1983.	48 FR 24008.
Rulemaking for Appendix H to 10 CFR Part 50, ''Reactor Vessel Material Surveillance Program Requirements—Regulatory Basis,'' April 2019.	ML19038A477.
Federal Register notification—''10 CFR Part 50, Reactor Vessel Material Surveillance Program: Regulatory Basis; Availability,'' April 3, 2019.	84 FR 12876.
Federal Register notification—''10 CFR Part 50, Reactor Vessel Material Surveillance Program: Regulatory Basis; Availability; Correction,'' April 12, 2019.	84 FR 14845.
Staff Requirements Memorandum (SRM)-COMSECY-18-0016, ''Request Commission Approval to Use the Direct Final Rule Process to Revise the Testing and Reporting Requirements in 10 CFR Part 50, Appendix H, Reactor Vessel Material Surveillance Program Requirements (RIN 3150-AK07),'' January 9, 2019.	ML19009A517.
Federal Register notice—''Information Collection: Domestic Licensing of Production and Utilization Facilities; Revision of Existing Information Collection; Request for Comment,'' January 13, 2020.	85 FR 1825.
Federal Register notice—''Information Collection: Domestic Licensing of Production and Utilization Facilities; Correction; Revision of Existing Information Collection; Request for Comment; Correction,'' January 21, 2020.	85 FR 3432.
OMB Supporting Statement for Information Collections Contained in the Appendix H to 10 CFR Part 50, ''Reactor Vessel Material Surveillance Program Requirements, Proposed Rule''.	ML20041B864.

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–2017–0151. 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–2017–0151); (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 50

Administrative practice and procedure, Antitrust, Backfitting, Classified information, Criminal penalties, Education, Fire prevention, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalties, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements, Whistleblowing.

Dated at Rockville, Maryland, this 24th day of September, 2020.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary for the Commission.

[FR Doc. 2020–21506 Filed 10–1–20; 8:45 am]

BILLING CODE 7590–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN 3245–AG89

Small Business Size Standards: Agriculture, Forestry, Fishing and Hunting; Mining, Quarrying, and Oil and Gas Extraction; Utilities; Construction

AGENCY: U.S. Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The U.S. Small Business Administration (SBA) proposes to increase its receipts-based small business size definitions (commonly referred to as ''size standards'') for North American Industry Classification System (NAICS) Sectors related to Agriculture, Forestry, Fishing and Hunting; Mining, Quarrying, and Oil and Gas Extraction; Utilities; and Construction. SBA proposes to increase size standards for 68 industries in those sectors, including 58 industries and 2 subindustries (''exceptions'') in NAICS Sector 11 (Agriculture, Forestry, Fishing and Hunting), 3 industries in Sector 21 (Quarrying, and Oil and Gas Extraction), 3 industries in Sector 22 (Utilities), and 1 industry and 1 subindustry (''exception'') in Sector 23 (Construction). SBA's proposed revisions relied on its recently revised ''Size Standards Methodology'' (Methodology). SBA seeks comments on its proposed changes to size standards in the above sectors, and the data sources it evaluated to develop the proposed size standards.

DATES: SBA must receive comments to this proposed rule on or before December 1, 2020.

ADDRESSES: Identify your comments by RIN 3245–AG89 and submit them by one of the following methods: (1) Federal eRulemaking Portal: *www.regulations.gov.* Follow the instructions for submitting comments; or (2) Mail/Hand Delivery/Courier: Khem R. Sharma, Ph.D., Chief, Office of Size Standards, 409 Third Street SW, Mail Code 6530, Washington, DC 20416.

SBA will post all comments to this proposed rule on *www.regulations.gov.* If you wish to submit confidential business information (CBI) as defined in the User Notice at *www.regulations.gov,* you must submit such information to U.S. Small Business Administration, Khem R. Sharma, Ph.D., Chief, Office of Size Standards, 409 Third Street SW, Mail Code 6530, Washington, DC 20416, or send an email to *sizestandards@sba.gov.* Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review your information and determine whether it will make the information public.

FOR FURTHER INFORMATION CONTACT: Jorge Laboy-Bruno, Ph.D., Economist, Office of Size Standards, (202) 205–6618 or *sizestandards@sba.gov.*

SUPPLEMENTARY INFORMATION: To determine eligibility for Federal small business assistance, SBA establishes small business size definitions (usually referred to as ''size standards'') for private sector industries in the United States. SBA uses two primary measures of business size for size standards purposes: Average annual receipts and average number of employees. SBA uses financial assets for certain financial industries and refining capacity, in addition to employees, for the petroleum refining industry to measure business size. In addition, SBA's Small Business Investment Company (SBIC), Certified Development Company (504), and 7(a) Loan Programs use either the industry-based size standards or tangible net worth and net income based alternative size standards to determine eligibility for those programs.

In September 2010, Congress passed the Jobs Act (Pub. L. 111–240, 124 Stat. 2504, September 27, 2010), (Jobs Act) requiring SBA to review all size standards every five years and make necessary adjustments to reflect current industry and market conditions. In accordance with the Jobs Act, in early 2016 SBA completed the first 5-year review of all size standards—except those for agricultural enterprises for which size standards were previously set by Congress—and made appropriate adjustments to size standards for a number of industries to reflect current industry and Federal market conditions.

During the previous 5-year comprehensive review SBA reviewed the receipts-based size standards for sixteen (16) industries and two (2) exceptions within NAICS Sector 11 (Agriculture, Forestry, Fishing and Hunting); four (4) industries within Sector 21 (Quarrying, and Oil and Gas Extraction), Subsector 213 (Support Activity for Mining); three (3) industries in Sector 22 (Utilities) and thirty-one (31) industries and one (1) exception in Sector 23 (Construction). These reviews of receipts-based size standards occurred during October 2010 to December 2013. SBA's analyses of the relevant industry and Federal contracting data available at that time supported lowering size standards for twenty-eight (28) industries in Sector 23 and four (4) industries and two (2) exceptions in Sector 11. However, taking into consideration economic conditions at the time, SBA decided to either retain all size standards for which the industry analysis suggested a lower size standard at existing levels or bring them up to the relevant common size standard. In the final rules, SBA increased receipts-based size standards for nineteen (19) of all industries reviewed, including eleven (11) industries in Sector 11 (78 FR 37398, June 20, 2013); three (3) industries in Sector 21 (78 FR 37404, June 20, 2013); three (3) industries in Sector 22 (78 FR 77343, December 23, 2013); and one (1) industry and one (1) exception in Sector 23 (78 FR 77334, December 23, 2013). SBA retained the existing size standards for the remaining thirty-six (36) industries and two (2) exceptions in these sectors. Table 1, Size Standards Revisions During the First 5-Year Review, provides a summary of these revisions by NAICS sector.

TABLE 1—SIZE STANDARDS REVISIONS DURING THE FIRST 5-YEAR REVIEW

NAICS sector	Sector name	Number of size standards reviewed	Number of size standards increased	Number of size standards lowered	Number of size standards maintained
11	Agriculture, Forestry, Fishing and Hunting	18	11	0	7
21	Mining, Quarrying, and Oil and Gas Extraction	4	3	0	1
22	Utilities	3	3	0	0
23	Construction	32	2	0	30
All Sectors		57	19	0	38

Currently, there are twenty-seven (27) different size standards levels covering 1,023 NAICS industries and 14 subindustry activities (commonly known as ''exceptions'' in SBA's table of size standards). Sixteen (16) of these size levels are based on average annual receipts, nine (9) are based on average number of employees, and two (2) are based on other measures.

Section 1831 of the National Defense Authorization Act for Fiscal Year 2017 (''NDAA 2017'') (Pub. L. 114–328, December 23, 2016) directed SBA to establish size standards for all agricultural enterprises in the same manner as for other industries and to include them in the 5-year rolling review procedures established under section 1344(a) of the Jobs Act. Accordingly, in this proposed rule, SBA has also reviewed and proposed revisions to size standards for all agricultural industries, including 46 industries that are being reviewed for the first time. As stated above, historically, the size standards for most agricultural industries were established by statute.

SBA also adjusts its monetary-based size standards for inflation at least once every five years. An interim final rule on SBA's latest inflation adjustment to size standards, effective August 19, 2019, was published in the **Federal Register** on July 18, 2019 (84 FR 34261). SBA also updates its size standards every five years to adopt the Office of Management and Budget's (OMB) quinquennial NAICS revisions to its table of small business size standards. Effective October 1, 2017, SBA adopted the OMB's 2017 NAICS revisions to its size standards (82 FR 44886, September 27, 2017).

This proposed rule is one of a series of proposed rules that will review size standards of industries grouped by various NAICS sectors. Rather than review all size standards at one time, SBA is reviewing size standards by grouping industries within various NAICS sectors that use the same size measure (*i.e.,* employees or receipts). In the current review, SBA will review size standards in six (6) groups of NAICS sectors. (In the prior review, SBA reviewed size standards mostly on a sector-by-sector basis.) Once SBA completes its review of size standards for a group of sectors, the Agency issues for public comments a proposed rule to revise size standards for those industries based on the latest available data and other factors deemed relevant by the SBA's Administrator.

Below is a discussion of SBA's revised ''Size Standards Methodology'' (Methodology), available at *www.sba.gov/size,* for establishing, reviewing, or modifying receipts-based size standards that SBA has applied to this proposed rule. SBA examines the structural characteristics of an industry as a basis to assess industry differences and the overall degree of competitiveness of an industry and of firms within the industry. Industry structure is typically examined by analyzing four primary factors—average firm size, degree of competition within an industry, start-up costs and entry barriers, and distribution of firms by size. To assess the ability of small businesses to compete for Federal contracting opportunities under the current size standards, as the fifth primary factor, SBA also examines, for each industry averaging $20 million or more in average annual Federal contract dollars, the small business share in Federal contract dollars relative to the small business share in total industry's receipts. When necessary, SBA also considers other secondary factors that are relevant to the industries and the interests of small businesses, including impacts of size standards changes on small businesses.

Size Standards Methodology

SBA has recently revised its Methodology for establishing, reviewing, or modifying size standards when necessary. See the notification in the April 11, 2019, edition of the **Federal Register** (84 FR 14587). The revised methodology is available on SBA's size standards web page at *www.sba.gov/size.* Prior to finalizing the revised Methodology, SBA issued a notification in the April 27, 2018 edition of the **Federal Register** (83 FR 18468) to solicit comments from the public and notify stakeholders of the proposed changes to the Methodology. SBA considered all public comments in finalizing the revised Methodology. For a summary of comments and SBA's responses, refer to the SBA's April 11, 2019, **Federal Register** notification.

The revised Methodology represents a major change from the previous methodology, which was issued on October 21, 2009 (74 FR 53940). Specifically, in its revised Methodology SBA is replacing the ''anchor'' approach applied in the previous methodology with a ''percentile'' approach for evaluating differences in characteristics among various industries. Under the ''anchor'' approach, SBA generally evaluated the characteristics of individual industries relative to the average characteristics of industries with the anchor size standard to determine whether they should have a higher or a lower size standard than the anchor. In the ''percentile'' approach, SBA ranks each industry among all industries with the same measure of size standards (such as receipts or employees) in terms of four primary industry factors, discussed in the Industry Analysis subsection below. The ''percentile'' approach is explained more fully elsewhere in this proposed rule. For a more detailed explanation please see the revised methodology at *www.sba.gov/size.* Additionally, as the fifth factor, SBA evaluates the difference between the small business share in Federal contract dollars and the small business share in total industry's receipts to compute the size standard for the Federal contracting factor. The overall size standard for an industry is then obtained by averaging all size standards supported by each primary factor. The evaluation of the Federal contracting factor is explained more fully elsewhere in this proposed rule.

SBA does not apply all aspects of its Methodology to all proposed rules because not all features are relevant for

every industry covered by each proposed rule. For example, since all industries covered by this proposed rule have receipts-based size standards, the Methodology described in this proposed rule applies only to establishing, reviewing, or modifying receipts-based size standards. SBA's Methodology is available on its website at *www.sba.gov/size.*

Industry Analysis

Congress granted SBA's Administrator discretion to establish detailed small business size standards (15 U.S.C. 632(a)(2)). Specifically, section 3(a)(3) of the Small Business Act (15 U.S.C. 632(a)(3)) requires that ''. . . the [SBA] Administrator shall ensure that the size standard varies from industry to industry to the extent necessary to reflect the differing characteristics of the various industries and consider other factors deemed to be relevant by the Administrator.'' Accordingly, the economic structure of an industry is the basis for establishing, reviewing, or modifying small business size standards. In addition, SBA considers current economic conditions, its mission and program objectives, the Administration's current policies, impacts on small businesses under current size and proposed or revised size standards, suggestions from industry groups and Federal agencies, and public comments on the proposed rule. SBA also examines whether a size standard based on industry and other relevant data successfully excludes businesses that are dominant in the industry.

The goal of SBA's size standards review is to determine whether its existing small business size standards reflect the current industry structure and Federal market conditions and revise them when the latest available data suggest that revisions are warranted. In the past, SBA compared the characteristics of each industry with the average characteristics of a group of industries associated with the ''anchor'' size standard. For example, in the first 5-year comprehensive review of size standards under the Jobs Act, $7 million (now $8.0 million due to the inflation adjustment in 2019; see 84 FR 34261 (July 18, 2019)) was considered the ''anchor'' for receipts-based size standards and 500 employees was the ''anchor'' for employee-based size standards. If the characteristics of a specific industry under review were similar to the average characteristics of industries in the anchor group, SBA generally adopted the anchor size standard for that industry. If the specific industry's characteristics were significantly different from those in the anchor group, SBA assigned a size standard that was higher or lower than the anchor. To determine a size standard above or below the anchor size standard, SBA evaluated the characteristics of a second comparison group of industries with higher size standards. For industries with receipts-based standards, the second comparison group consisted of industries with size standards between $23 million and $35.5 million, with the weighted average size standard for the group equaling $29 million. For manufacturing industries and other industries with employee-based size standards (except for Wholesale Trade and Retail Trade), the second comparison group included industries with a size standard of 1,000 employees or 1,500 employees, with the weighted average size standard of 1,323 employees. Using the anchor size standard and average size standard for the second comparison group, SBA computed a size standard for an industry's characteristic (factor) based on the industry's position for that factor relative to the average values of the same factor for industries in the anchor and second comparison groups.

Under the ''percentile'' approach, for each industry factor, an industry is ranked and compared with the 20th percentile and 80th percentile values of that factor among the industries sharing the same measure of size standards (*i.e.,* receipts or employees). Combining that result with the 20th percentile and 80th percentile values of size standards among the industries with the same measure of size standards, SBA computes a size standard supported by each industry factor for each industry. In the previous Methodology, comparison industry groups were predetermined independent of the data, while in the revised Methodology they are established using the actual data. A more detailed description of the percentile method is provided in SBA's Methodology, available at *www.sba.gov/size.*

The primary factors that SBA evaluates to examine industry structure include average firm size, startup costs and entry barriers, industry competition, and distribution of firms by size. SBA also evaluates, as an additional primary factor, small business success in receiving Federal contracting assistance under the current size standards. Specifically, for the Federal contracting factor, SBA examines the small business share of Federal contract dollars relative to small business share of total receipts within an industry. These are, generally, the five most important factors SBA examines when establishing, reviewing, or revising a size standard for an industry. However, SBA will also consider and evaluate other secondary factors that it believes are relevant to a particular industry (such as technological changes, growth trends, SBA financial assistance, other program factors). SBA also considers possible impacts of size standard revisions on eligibility for Federal small business assistance, current economic conditions, the Administration's policies, and suggestions from industry groups and Federal agencies. Public comments on proposed rules also provide important additional information. SBA thoroughly reviews all public comments before making a final decision on its proposed revisions to size standards. Below are brief descriptions of each of the five primary factors that SBA has evaluated for each industry being reviewed in this proposed rule. A more detailed description of this analysis is provided in the SBA's Methodology, available at *www.sba.gov/size.*

1. *Average firm size.* SBA computes two measures of average firm size: simple average and weighted average. For industries with receipts-based size standards, the simple average is the total receipts of the industry divided by the total number of firms in the industry. The weighted average firm size is the summation of all the receipts of the firms in an industry multiplied by their share of receipts in the industry. The simple average weighs all firms within an industry equally regardless of their size. The weighted average overcomes that limitation by giving more weight to larger firms. The size standard supported by average firm size is obtained by averaging size standards supported by simple average firm size and weighted average firm size.

If the average firm size of an industry is higher than the average firm size for most other industries, this would generally support a size standard higher than the size standards for other industries. Conversely, if the industry's average firm size is lower than that of most other industries, it would provide a basis to assign a lower size standard as compared to size standards for most other industries.

2. *Startup costs and entry barriers.* Startup costs reflect a firm's initial size in an industry. New entrants to an industry must have sufficient capital and other assets to start and maintain a viable business. If firms entering an industry under review have greater capital requirements than firms in most other industries, all other factors remaining the same, this would be a basis for a higher size standard.

Conversely, if the industry has smaller capital needs compared to most other industries, a lower size standard would be considered appropriate.

Given the lack of actual data on startup costs and entry barriers by industry, SBA uses average assets as a proxy for startup costs and entry barriers. To calculate average assets, SBA begins with the sales to total assets ratio for an industry from the Risk Management Association's Annual Statement Studies, available at *https://rmau.org/.* SBA then applies these ratios to the average receipts of firms in that industry obtained from the Economic Census tabulation. An industry with average assets that are significantly higher than most other industries is likely to have higher startup costs; this in turn will support a higher size standard. Conversely, an industry with average assets that are similar to or lower than most other industries is likely to have lower startup costs; this will support either lowering or maintaining the size standard.

3. *Industry competition.* Industry competition is generally measured by the share of total industry receipts generated by the largest firms in an industry. SBA generally evaluates the share of industry receipts generated by the four largest firms in each industry. This is referred to as the ''4-firm concentration ratio,'' a commonly used economic measure of market competition. Using the 4-firm concentration ratio, SBA compares the degree of concentration within an industry to the degree of concentration of the other industries with the same measure of size standards. If a significantly higher share of economic activity within an industry is concentrated among the four largest firms compared to most other industries, all else being equal, SBA would set a size standard that is relatively higher than for most other industries. Conversely, if the market share of the four largest firms in an industry is appreciably lower than the similar share for most other industries, the industry will be assigned a size standard that is lower than those for most other industries.

4. *Distribution of firms by size.* SBA examines the shares of industry total receipts accounted for by firms of different receipts and employment sizes in an industry. This is an additional factor SBA considers in assessing competition within an industry besides the 4-firm concentration ratio. If the preponderance of an industry's economic activity is attributable to smaller firms, this generally indicates that small businesses are competitive in that industry, which would support adopting a smaller size standard. A higher size standard would be supported for an industry in which the distribution of firms indicates that most of the economic activity is concentrated among the larger firms.

Concentration is a measure of inequality of distribution. To determine the degree of inequality of distribution in an industry, SBA computes the Gini coefficient, using the Lorenz curve. The Lorenz curve presents the cumulative percentages of units (firms) along the horizontal axis and the cumulative percentages of receipts (or other measures of size) along the vertical axis. (For further detail, see SBA's Methodology on its website at *www.sba.gov/size.*) Gini coefficient values vary from zero to one. If receipts are distributed equally among all the firms in an industry, the value of the Gini coefficient will equal zero. If an industry's total receipts are attributed to a single firm, the Gini coefficient will equal one.

SBA compares the degree of inequality of distribution for an industry under review with other industries with the same type of size standards. If an industry shows a higher degree of inequality of distribution (hence a higher Gini coefficient value) compared to most other industries in the group this would, all else being equal, warrant a size standard that is higher than the size standards assigned to most other industries. Conversely, an industry with lower degree of inequality (*i.e.,* a lower Gini coefficient value) than most others will be assigned a lower size standard relative to others.

5. *Federal contracting.* As the fifth factor, SBA examines the success small businesses are having in winning Federal contracts under the current size standard as well as the possible impact a size standard change may have on Federal small business contracting opportunities. The Small Business Act requires the Federal government to ensure that small businesses receive a ''fair proportion'' of Federal contracts. The legislative history also discusses the importance of size standards in Federal contracting. To incorporate the Federal contracting factor in the size standards analysis, SBA evaluates small business participation in Federal contracting in terms of the share of total Federal contract dollars awarded to small businesses relative to the small business share of industry's total receipts. In general, if the share of Federal contract dollars awarded to small businesses in an industry is significantly smaller than the small business share of total industry's receipts, all else remaining the same, a justification would exist for considering a size standard higher than the current size standard. In cases where small business share of the Federal market is already appreciably high relative to the small business share of the overall market, SBA generally assumes that the existing size standard is adequate with respect to the Federal contracting factor.

The disparity between the small business Federal market share and industry-wide small business share may be due to various factors, such as extensive administrative and compliance requirements associated with Federal contracts, the different skill set required to perform Federal contracts as compared to typical commercial contracting work, and the size of Federal contracts. These, as well as other factors, are likely to influence the type of firms within an industry that compete for Federal contracts. By comparing the small business Federal contracting share with the industry-wide small business share, SBA includes in its size standards analysis the latest Federal market conditions.

Besides the impact on Federal contracting, SBA also examines impacts on SBA's loan programs both under the current and revised size standards.

Sources of Industry and Program Data

SBA's primary source of industry data used in this proposed rule for evaluating industry characteristics and developing size standards is a special tabulation of the Economic Census from the U.S. Census Bureau (*www.census.gov/econ/census*). The tabulation based on the 2012 Economic Census is the latest available. The special tabulation provides industry data on the number of firms, number of establishments, number of employees, annual payroll, and annual receipts of companies by Industry (6-digit level), Industry Group (4-digit level), Subsector (3-digit level), and Sector (2-digit level). These data are arrayed by various classes of firms' size based on the overall number of employees and receipts of the entire enterprise (all establishments and affiliated firms) from all industries. The special tabulation also contains information for different levels of NAICS categories on average and median firm size in terms of both receipts and employment, total receipts generated by the four and eight largest firms, the Herfindahl-Hirschman Index (HHI), the Gini coefficient, and size distributions of firms by various receipts and employment size groupings.

In some cases, where data were not available due to disclosure prohibitions in the Census Bureau's tabulation, SBA

either estimated missing values using available relevant data or examined data at a higher level of industry aggregation, such as at the NAICS 2-digit (Sector), 3-digit (Subsector), or 4-digit (Industry Group) level. In some instances, SBA's analysis was based only on those factors for which data were available or estimates of missing values were possible.

To evaluate some industries that are not covered by the Economic Census, SBA used a similar special tabulation of the latest County Business Patterns (CBP) published by the U.S. Census Bureau (*www.census.gov/programs-surveys/cbp.html*). Similarly, to evaluate industries in NAICS Sector 11 that are also not covered by the Economic Census and CBP, SBA evaluated a similar special tabulation based on the 2012 Census of Agriculture (*www.nass.usda.gov*) from the National Agricultural Statistics Service (NASS). Besides the Economic Census, Agricultural Census and CBP tabulations, SBA also evaluates relevant industry data from other sources when necessary, especially for industries that are not covered by the Economic Census or CBP. These include the Quarterly Census of Employment and Wages (QCEW, also known as ES–202 data) (*www.bls.gov/cew/*) and Business Employment Dynamics (BED) data (*www.bls.gov/bdm/*) from the U.S. Bureau of Labor Statistics. Similarly, to evaluate certain financial industries that have assets-based size standards, SBA examines the data from the Statistics on Depository Institutions (SDI) database (*www5.fdic.gov/sdi/main.asp*) of the Federal Deposit Insurance Corporation (FDIC). Finally, to evaluate the capacity component of the Petroleum Refiners (NAICS 324110) size standard, SBA evaluates the petroleum production data from the Energy Information Administration (*www.eia.gov*).

To calculate average assets, SBA used sales to total assets ratios from the Risk Management Association's Annual eStatement Studies, 2016–2018 (*https://rmau.org/*). To evaluate Federal contracting trends and evaluate two exceptions in Sector 11 and one exception in Sector 23, SBA examined the data on Federal prime contract awards from the Federal Procurement Data System—Next Generation (FPDS–NG) (*www.fpds.gov*) for fiscal years 2016–2018. To assess the impact on financial assistance to small businesses, SBA examined its internal data on 7(a) and 504 loan programs for fiscal years 2016–2018. For some portion of impact analysis, SBA also evaluated the data from the System of Award Management (*www.sam.gov*).

Data sources and estimation procedures SBA uses in its size standards analysis are documented in detail in SBA's Methodology, which is available at *www.sba.gov/size.*

Dominance in Field of Operation

Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) defines a small business concern as one that is: (1) Independently owned and operated; (2) not dominant in its field of operation; and (3) within a specific small business definition or size standard established by SBA Administrator. SBA considers as part of its evaluation whether a business concern at a proposed size standard would be dominant in its field of operation. For this, SBA generally examines the industry's market share of firms at the proposed or revised size standard as well as the distribution of firms by size. Market share and size distribution may indicate whether a firm can exercise a major controlling influence on a national basis in an industry where a significant number of business concerns are engaged. If a contemplated size standard includes a dominant firm, SBA will consider a lower size standard to exclude the dominant firm from being defined as small.

Selection of Size Standards

In the 2009 Methodology SBA applied to the first 5-year comprehensive review of size standards, SBA adopted a fixed number of size standards levels as part of its effort to simplify size standards. In response to public comments to the 2009 Methodology white paper, and the 2013 amendment to the Small Business Act (section 3(a)(8)) under section 1661 of the National Defense Authorization Act for Fiscal Year 2013 (''NDAA 2013'') (Pub. L. 112–239, January 2, 2013), in the revised Methodology SBA relaxed the limitation on the number of small business size standards. Specifically, section 1661 of NDAA 2013 states ''SBA cannot limit the number of size standards, and shall assign the appropriate size standard to each industry identified by NAICS.''

In the revised Methodology, SBA calculates a separate size standard for each NAICS industry. However, to account for errors and limitations associated with various data SBA evaluates in the size standards analysis, SBA rounds the calculated size standard value for a receipts-based size standard to the nearest $500,000, except for agricultural industries in Subsectors 111 and 112 for which the calculated size standards will be rounded to the nearest $250,000. This rounding procedure is applied both in calculating a size standard for each of the five primary factors and in calculating the overall size standard for the industry.

As a policy decision, SBA continues to maintain the minimum and maximum levels for both receipts and employee-based size standards. Accordingly, SBA will not generally propose or adopt a size standard that is either below the minimum level or above the maximum, even though the calculations yield values below the minimum or above the maximum. The minimum size standard reflects the size an established small business should be to have adequate capabilities and resources to be able to compete for and perform Federal contracts (but does not account for small businesses that are newly formed or just starting operations). On the other hand, the maximum size standard represents the level above which businesses, if qualified as small, would outcompete much smaller businesses when accessing Federal assistance.

With respect to receipts-based size standards, SBA has established $6 million and $41.5 million, respectively, as the minimum and maximum size standard levels (except for most agricultural industries in NAICS Subsectors 111 and 112). These levels reflect the current minimum of $6.0 million and the current maximum of $41.5 million. The industry data suggests that $6 million minimum and $41.5 million maximum size standards would be too high for agricultural industries. Accordingly, SBA has established $1 million as the minimum size standard and $5 million as the maximum size standard for industries in Subsector 111 (Crop Production) and Subsector 112 (Animal Production and Aquaculture).

Evaluation of Industry Factors

As mentioned earlier, to assess the appropriateness of the current size standards SBA evaluates the structure of each industry in terms of four economic characteristics or factors, namely average firm size, average assets size as a proxy for startup costs and entry barriers, the 4-firm concentration ratio as a measure of industry competition, and size distribution of firms using the Gini coefficient. For each size standard type (*i.e.,* receipts-based or employee-based) SBA ranks industries both in terms of each of the four industry factors and in terms of the existing size standard and computes the 20th percentile and 80th percentile values for both. SBA then evaluates each industry by comparing its value for each industry factor to the 20th percentile and 80th percentile values for the corresponding

factor for industries under a particular type of size standard.

If the characteristics of an industry under review within a particular size standard type are similar to the average characteristics of industries within the same size standard type in the 20th percentile, SBA will consider adopting as an appropriate size standard for that industry the 20th percentile value of size standards for those industries. For each size standard type, if the industry's characteristics are similar to the average characteristics of industries in the 80th percentile, SBA will assign a size standard that corresponds to the 80th percentile in the size standard rankings of industries. A separate size standard is established for each factor based on the amount of differences between the factor value for an industry under a particular size standard type and 20th percentile and 80th percentile values for the corresponding factor for all industries in the same type. Specifically, the actual level of the new size standard for each industry factor is derived by a linear interpolation using the 20th percentile and 80th percentile values of that factor and corresponding percentiles of size standards. Each calculated size standard is bounded between the minimum and maximum size standards levels, as discussed before. As noted earlier, the calculated value for a receipts-based size standard for each industry factor is rounded to the nearest $500,000, except for industries in Subsectors 111 and 112 for which a calculated size standard is rounded to the nearest $250,000.

Table 2, 20th and 80th Percentiles of Industry Factors for Receipts-based Size Standards, shows the 20th percentile and 80th percentile values for average firm size (simple and weighted), average assets size, 4-firm concentration ratio, and Gini coefficient for industries with receipts-based size standards.

TABLE 2—20TH AND 80TH PERCENTILES OF INDUSTRY FACTORS FOR RECEIPTS-BASED SIZE STANDARDS

Industries/percentiles	Simple average receipts size ($ million)	Weighted average receipts size ($ million)	Average assets size ($ million)	4-firm concentration ratio (%)	Gini coefficient
Industries, excluding Subsectors 111 and 112					
20th percentile	0.83	19.42	0.34	7.9	0.686
80th percentile	7.52	830.65	5.19	42.4	0.834
Industries in Subsectors 111 and 112					
20th percentile	0.06	1.48	0.07	1.7	0.608
80th percentile	0.83	13.32	0.88	12.3	0.908

Estimation of Size Standards Based on Industry Factors

An estimated size standard supported by each industry factor is derived by comparing its value for a specific industry to the 20th percentile and 80th percentile values for that factor. If an industry's value for a particular factor is near the 20th percentile value in the distribution, the supported size standard will be one that is close to the 20th percentile value of size standards for industries in the size standards group, which is $8.0 million. If a factor for an industry is close to the 80th percentile value of that factor, it would support a size standard that is close to the 80th percentile value in the distribution of size standards, which is $35.0 million. For a factor that is within, above, or below the 20–80th percentile range, the size standard is calculated using linear interpolation based on the 20th percentile and 80th percentile values for that factor and the 20th percentile and 80th percentile values of size standards.

For example, if an industry's simple average receipts are $1.9 million, that would support a size standard of $12.5 million. According to Table 2, the 20th percentile and 80th percentile values of average receipts are $0.83 million and $7.52 million, respectively. The $1.9 million is 15.9 percent between the 20th percentile value ($0.83 million) and the 80th percentile value ($7.52 million) of simple average receipts (($1.9 million − $0.83 million) ÷ ($7.52 million − $0.83 million) = 0.159 or 15.9%). Applying this percentage to the difference between the 20th percentile value ($8 million) and 80th percentile ($35.0 million) value of size standards and then adding the result to the 20th percentile size standard value ($8.0 million) yields a calculated size standard value of $12.32 million ([{$35.0 million − $8.0 million} * 0.159] + $8.0 million = $12.32 million). The final step is to round the calculated $12.32 million size standard to the nearest $500,000, which in this example yields $12.5 million. This procedure is applied to calculate size standards supported by other industry factors.

Detailed formulas involved in these calculations are presented in SBA's Methodology which is available at *www.sba.gov/size.*

Derivation of Size Standards Based on Federal Contracting Factor

Besides industry structure, SBA also evaluates Federal contracting data to assess the success of small businesses in getting Federal contracts under the existing size standards. For each industry with $20 million or more in annual Federal contract dollars, SBA evaluates the small business share of total Federal contract dollars relative to the small business share of total industry receipts. All other factors being equal, if the share of Federal contracting dollars awarded to small businesses in an industry is significantly less than the small business share of that industry's total receipts, a justification would exist for considering a size standard higher than the current size standard. Conversely, if the small business share of Federal contracting activity is near or above the small business share in total industry receipts, this will support the current size standard.

SBA increases the existing size standards by certain percentages when the small business share of total industry receipts exceeds the small business share of total Federal contract dollars by 10 or more percentage points. Proposed percentage increases generally reflect receipts levels needed to bring the small business share of Federal contracts on par with the small business share of industry receipts. These proposed percentage increases for receipts-based size standards are given in Table 3, Proposed Adjustments to Size Standards Based on Federal Contracting Factor.

TABLE 3—PROPOSED ADJUSTMENTS TO SIZE STANDARDS BASED ON FEDERAL CONTRACTING FACTOR

Size standards	Percentage difference between the small business shares of total Federal contract dollars in an industry and of total industry receipts		
	> − 10%	− 10% to − 30%	< − 30%
Receipts-based standards			
<$15 million	No change	Increase 30%	Increase 60%
$15 million to < $25 million	No change	Increase 20%	Increase 40%
$25 million to < $41.5 million	No change	Increase 15%	Increase 25%

For example, if an industry with the current size standard of $8.0 million had an average of $50 million in Federal contracting dollars, of which 15 percent went to small businesses, and if that small businesses accounted for 40 percent of total receipts of that industry, the small business share of total Federal contract dollars would be 25 percent less than the small business share of total industry receipts (40% − 15%). According to the above rule, the new size standard for the Federal contracting factor for that industry would be set by multiplying the current $8.0 million standard by 1.3 (*i.e.,* 30% increase) and then by rounding the result to the nearest $500,000, yielding a size standard of $10.5 million.

SBA evaluated the small business share of total Federal contract dollars for the thirty-one (31) industries covered by this proposed rule—five (5) in Sector 11, one (1) in Sector 21, three (3) in Sector 22, and twenty-two (22) in Sector 23)—that had $20 million or more in average annual Federal contract dollars during fiscal years 2016–2018. The Federal contracting factor was significant (*i.e.,* the difference between the small business share of total industry receipts and small business share of Federal contracting dollars was 10 percentage points or more) in seven (7) of these industries, prompting an upward adjustment of their existing size standards based on that factor. For the remaining twenty-four (24) industries that averaged $20 million or more in average annual contract dollars, the Federal contracting factor was not significant, and the existing size standard was applied for that factor. For industries with less than $20 million in average annual contract dollars, no size standard was calculated for the Federal contracting factor.

Derivation of Overall Industry Size Standard

The SBA's Methodology presented above results in five separate size standards based on evaluation of the five primary factors (*i.e.,* four industry factors and one Federal contracting factor). SBA typically derives an industry's overall size standard by assigning equal weights to size standards supported by each of these five factors. However, if necessary, SBA's Methodology would allow assigning different weights to some of these factors in response to its policy decisions and other considerations. For detailed calculations, see SBA's Methodology, available on its website at *www.sba.gov/size.*

Calculated Size Standards Based on Industry and Federal Contracting Factors

Table 4, Size Standards Supported by Each Factor for Each Industry (Receipts), below, shows the results of analyses of industry and Federal contracting factors for each industry and subindustry (exception) covered by this proposed rule. NAICS industries in columns 2, 3, 4, 5, 6, 7, and 8 show two numbers. The upper number is the value for the industry or Federal contracting factor shown on the top of the column and the lower number is the size standard supported by that factor. Column 9 shows a calculated new size standard for each industry. This is the average of the size standards supported by each factor, rounded to the nearest $500,000 for non-agriculture industries and rounded to the nearest $250,000 for agriculture industries. Analytical details involved in the averaging procedure are described in SBA's Methodology, which is available at *www.sba.gov/size.* For comparison with the calculated new size standards, the current size standards are in column 10 of Table 4.

TABLE 4—SIZE STANDARDS SUPPORTED BY EACH FACTOR FOR EACH INDUSTRY (RECEIPTS)

[Upper value = calculated factor, lower value = size standard supported]

NAICS code NAICS industry title (1)	Type (2)	Simple average firm size ($ million) (3)	Weighted average firm size ($ million) (4)	Average assets size ($ million) (5)	Four-firm ratio (%) (6)	Gini coefficient (7)	Federal contract factor (%) (8)	Calculated size standard ($ million) (9)	Current size standard ($ million) (10)
111110 Soybean Farming	Factor	$0.2	$0.9	$0.1	0.3	0.663		$2.00	$1.00
	Size Std.	2.25	1.75	1.75	1.50	2.25			
111120 Oilseed (except Soybean) Farming.	Factor	0.3	1.1	0.2	5.5	0.544		2.00	1.00
	Size Std.	2.75	1.75	2.00	2.75	1.25			
111130 Dry Pea and Bean Farming.	Factor	0.3	1.2	0.2	7.5	0.630		2.50	1.00
	Size Std.	2.50	1.75	2.00	3.25	2.00			
111140 Wheat Farming	Factor	0.2	0.9	0.2	0.4	0.610		2.00	1.00
	Size Std.	2.25	1.75	2.25	1.50	1.75			
111150 Corn Farming	Factor	0.4	1.7	0.7	0.2	0.606		2.25	1.00
	Size Std.	2.75	1.75	3.50	1.50	1.75			
111160 Rice Farming	Factor	0.8	1.8	0.5	1.5	0.469		2.25	1.00
	Size Std.	4.00	1.75	3.00	1.75	1.00			
111190 Other Grain Farming (includes NAICS 111191 and 111199).	Factor	0.5	1.8	0.4	0.3	0.567		2.00	1.00
	Size Std.	3.25	1.75	2.75	1.50	1.50			
111211 Potato Farming	Factor	1.6	10.6	1.3	5.8	0.756		3.75	1.00
	Size Std.	5.00	3.75	5.00	2.75	3.00			

TABLE 4—SIZE STANDARDS SUPPORTED BY EACH FACTOR FOR EACH INDUSTRY (RECEIPTS)—Continued

[Upper value = calculated factor, lower value = size standard supported]

NAICS code NAICS industry title	Type	Simple average firm size ($ million)	Weighted average firm size ($ million)	Average assets size ($ million)	Four-firm ratio (%)	Gini coefficient	Federal contract factor (%)	Calculated size standard ($ million)	Current size standard ($ million)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
111219 Other Vegetable (except Potato) and Melon Farming.	Factor	0.3	17.8	0.2	3.5	0.943		3.25	1.00
	Size Std.	2.50	5.00	2.00	2.25	4.50			
111310 Orange Groves	Factor	0.3	12.2	0.4	11.0	0.856		3.50	1.00
	Size Std.	2.50	4.00	2.75	4.00	3.75			
111320 Citrus (except Orange) Groves.	Factor	0.2	11.1	0.3	22.7	0.892		3.75	1.00
	Size Std.	2.25	3.75	2.50	5.00	4.00			
111331 Apple Orchards	Factor	0.3	16.6	0.4	14.4	0.909		4.00	1.00
	Size Std.	2.50	5.00	3.00	4.75	4.25			
111332 Grape Vineyards	Factor	0.4	13.9	0.8	4.1	0.877		3.50	1.00
	Size Std.	2.75	4.25	4.00	2.25	4.00			
111333 Strawberry Farming	Factor	1.2	19.5	1.7	15.1	0.915		4.75	1.00
	Size Std.	5.00	5.00	5.00	5.00	4.25			
111334 Berry (except Strawberry) Farming.	Factor	0.1	7.1	0.2	11.1	0.900		3.25	1.00
	Size Std.	2.00	3.00	2.00	4.00	4.25			
111335 Tree Nut Farming	Factor	0.3	12.0	0.6	4.5	0.893		3.25	1.00
	Size Std.	2.50	4.00	3.25	2.50	4.00			
111336 Fruit and Tree Nut Combination Farming.	Factor	0.5	16.5	1.0	31.0	0.955		4.50	1.00
	Size Std.	3.00	5.00	4.50	5.00	4.75			
111339 Other Noncitrus Fruit Farming.	Factor	0.1	6.8	0.2	7.8	0.869		3.00	1.00
	Size Std.	2.00	2.75	2.00	3.25	4.00			
111410 Food Crops Grown Under Cover (includes NAICS 111411 and 111419).	Factor	0.5	29.1	0.2	19.6	0.950		4.00	1.00
	Size Std.	3.25	5.00	2.25	5.00	4.50			
111421 Nursery and Tree Production.	Factor	0.2	7.6	0.1	2.5	0.894		2.75	1.00
	Size Std.	2.25	3.00	2.00	2.00	4.25			
111422 Floriculture Production.	Factor	0.3	12.8	0.2	5.8	0.878		3.25	1.00
	Size Std.	2.75	4.25	2.25	2.75	4.00			
111910 Tobacco Farming	Factor	0.2	1.5	0.2	3.9	0.666		2.25	1.00
	Size Std.	2.25	1.75	2.00	2.25	2.25			
111920 Cotton Farming	Factor	0.5	7.2	0.5	6.6	0.572		2.75	1.00
	Size Std.	3.25	3.00	3.00	3.00	1.50			
111930 Sugarcane Farming	Factor	2.6	34.0	2.4	28.5	0.719		4.50	1.00
	Size Std.	5.00	5.00	5.00	5.00	2.75			
111940 Hay Farming	Factor	0.0	1.5	0.0	1.7	0.840		2.25	1.00
	Size Std.	1.75	1.75	1.50	1.75	3.75			
111990 All Other Crop Farming (includes NAICS 111991, 111992 and 111998).	Factor	0.1	4.6	0.0	1.7	0.973	−20.6	2.25	1.00
	Size Std.	1.75	2.50	1.75	1.75	4.75	1.25		
112111 Beef Cattle Ranching and Farming.	Factor	0.1	3.1	0.1	1.0	0.859		2.25	1.00
	Size Std.	1.75	2.00	1.75	1.50	3.75			
112112 Cattle Feedlots	Factor	2.8	63.3	2.0	3.9	0.907		19.50	8.00
	Size Std.	16.00	9.50	17.00	6.00	41.50			
112120 Dairy Cattle and Milk Production.	Factor	0.9	9.5	1.5	1.3	0.697		3.25	1.00
	Size Std.	4.50	3.50	5.00	1.75	2.50			
112210 Hog and Pig Farming.	Factor	1.0	11.4	0.8	2.7	0.803		3.50	1.00
	Size Std.	5.00	3.75	4.00	2.00	3.50			
112310 Chicken Egg Production.	Factor	0.3	17.8	0.3	4.9	0.936		15.50	16.50
	Size Std.	6.00	8.00	7.50	6.00	41.50			
112320 Broilers and Other Meat Type Chicken Production.	Factor	1.5	6.0	1.0	2.8	0.386		3.00	1.00
	Size Std.	5.00	2.75	4.50	2.00	1.00			
112330 Turkey Production	Factor	2.3	8.6	1.4	4.2	0.554		3.25	1.00
	Size Std.	5.00	3.25	5.00	2.25	1.25			
112340 Poultry Hatcheries	Factor	10.7	19.6	6.7	5.9	0.493		3.50	1.00
	Size Std.	5.00	5.00	5.00	2.75	1.00			
112390 Other Poultry Production.	Factor	0.1	6.2	0.1	11.0	0.931		3.25	1.00
	Size Std.	2.00	2.75	1.75	4.00	4.50			
112410 Sheep Farming	Factor	0.0	3.1	0.0	13.4	0.906		3.00	1.00
	Size Std.	1.50	2.00	1.50	4.50	4.25			
112420 Goat Farming	Factor	0.0	0.2	0.0	4.2	0.836		2.25	1.00
	Size Std.	1.50	1.50	1.50	2.25	3.75			
112500 Aquaculture (includes NAICS 112511, 112512 and 112519).	Factor	0.4	7.2	0.4	8.9	0.816		3.25	1.00
	Size Std.	2.75	3.00	2.75	3.50	3.50			
112910 Apiculture	Factor	0.0	0.7	0.0	6.5	0.882		2.75	1.00
	Size Std.	1.75	1.50	1.75	3.00	4.00			
112920 Horses and Other Equine Production.	Factor	0.0	1.0	0.0	3.7	0.900		2.50	1.00
	Size Std.	1.50	1.75	1.50	2.25	4.25			
112930 Fur-Bearing Animal and Rabbit Production.	Factor	0.0	1.6	0.0	48.9	0.894		3.25	1.00
	Size Std.	1.75	1.75	1.50	5.00	4.25			
112990 All Other Animal Production.	Factor	0.1	5.2	0.1	5.1	0.959	−6.9	2.50	1.00
	Size Std.	1.75	2.50	1.75	2.50	4.75	1.00		

TABLE 4—SIZE STANDARDS SUPPORTED BY EACH FACTOR FOR EACH INDUSTRY (RECEIPTS)—Continued

[Upper value = calculated factor, lower value = size standard supported]

NAICS code NAICS industry title	Type	Simple average firm size ($ million)	Weighted average firm size ($ million)	Average assets size ($ million)	Four-firm ratio (%)	Gini coefficient	Federal contract factor (%)	Calculated size standard ($ million)	Current size standard ($ million)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
113110 Timber Tract Operations.	Factor	1.8	19.4	1.0	29.6	0.749	.....	16.50	12.00
	Size Std.	12.00	8.00	11.50	25.00	19.50			
113210 Forest Nurseries and Gathering Forest Products.	Factor	1.4	12.5	0.7	39.2	0.748	.....	18.00	12.00
	Size Std.	10.00	8.00	10.00	32.50	19.50			
114111 Finfish Fishing	Factor	1.8	72.7	2.3	30.5	0.789	.....	20.50	22.00
	Size Std.	12.00	10.00	18.50	25.50	26.50			
114112 Shellfish Fishing	Factor	0.8	18.5	0.6	25.9	0.700	.....	12.50	6.00
	Size Std.	8.00	8.00	9.00	22.00	10.50			
114119 Other Marine Fishing.	Factor	0.8	6.6	0.7	.....	0.707	.....	10.00	8.00
	Size Std.	8.00	7.50	10.00		12.00			
114210 Hunting and Trapping.	Factor	0.6	9.8	0.5	.....	0.666	.....	7.50	6.00
	Size Std.	7.00	7.50	9.00		6.00			
115111 Cotton Ginning	Factor	4.3	10.0	3.3	10.2	0.541	.....	14.00	12.00
	Size Std.	22.00	7.50	24.50	10.00	6.00			
115112 Soil Preparation, Planting, and Cultivating.	Factor	1.5	13.6	0.8	7.9	0.684	10.3	8.50	8.00
	Size Std.	10.50	8.00	10.50	8.00	7.50	8.00		
115113 Crop Harvesting, Primarily by Machine.	Factor	1.7	9.5	1.0	18.3	0.704	.....	12.00	8.00
	Size Std.	11.50	7.50	11.50	16.00	11.50			
115114 Postharvest Crop Activities (except Cotton Ginning).	Factor	9.4	191.4	6.3	24.1	0.754	.....	27.50	30.00
	Size Std.	41.50	13.50	41.00	20.50	20.50			
115115 Farm Labor Contractors and Crew Leaders.	Factor	1.8	15.3	1.0	.....	0.727	.....	12.50	16.50
	Size Std.	12.00	8.00	12.00		15.50			
115116 Farm Management Services.	Factor	1.3	10.5	0.7	17.9	0.743	.....	13.50	8.00
	Size Std.	10.00	7.50	10.00	16.00	18.50			
115210 Support Activities for Animal Production.	Factor	0.6	24.8	0.3	.....	0.724	−8.9	9.50	8.00
	Size Std.	7.00	8.00	7.50		15.00	8.00		
115310 Support Activities for Forestry.	Factor	0.9	11.3	0.4	12.6	0.723	21.3	10.00	8.00
	Size Std.	8.00	7.50	8.00	11.50	14.50	8.00		
115310 Except, Forest Fire Suppression.	Factor	3.7	198.9	1.6	27.6	0.867	74.7	23.5	20.5
	Size Std.	19.5	17.5	15.0	23.5	41.0	20.5		
115310 Except Fuels Management Services.	Factor	3.7	198.9	1.6	27.6	0.867	74.7	23.5	20.5
	Size Std.	19.5	17.5	15.0	23.5	41.0	20.5		
213112 Support Activities for Oil and Gas Operations.	Factor	11.5	4,184.6	9.6	34.2	0.849	10.1	38.0	41.5
	Size Std.	41.5	41.5	41.5	28.5	37.5	41.5		
213113 Support Activities for Coal Mining.	Factor	7.2	41.0	5.6	20.5	0.749	.....	24.0	22.0
	Size Std.	34.0	8.5	37.0	18.0	19.5			
213114 Support Activities for Metal Mining.	Factor	12.2	236.0	9.4	54.8	0.823	.....	36.0	22.0
	Size Std.	41.5	15.0	41.5	41.5	33.0			
213115 Support Activities for Nonmetallic Minerals (except Fuels) Mining.	Factor	2.8	32.1	2.2	34.3	0.708	.....	18.0	8.0
	Size Std.	16.0	8.5	18.5	28.5	12.0			
221310 Water Supply and Irrigation Systems.	Factor	2.9	1,023.6	9.6	49.9	0.834	−17.0	36.0	30.0
	Size Std.	16.5	41.5	41.5	41.0	35.0	34.5		
221320 Sewage Treatment Facilities.	Factor	3.6	142.2	18.2	55.0	0.824	−6.9	31.0	22.0
	Size Std.	19.5	12.0	41.5	41.5	33.0	22.0		
221330 Steam and Air-Conditioning Supply.	Factor	43.3	176.2	24.0	60.3	0.678	21.4	26.5	16.5
	Size Std.	41.5	13.0	41.5	41.5	6.5	16.5		
236115 New Single-Family Housing Construction (except For-Sale Builders).	Factor	1.3	30.8	0.7	2.6	0.667	.....	8.0	39.5
	Size Std.	10.0	8.5	9.5	6.0	6.0			
236116 New Multifamily Housing Construction (except For-Sale Builders).	Factor	10.9	121.7	3.6	9.4	0.782	−3.8	25.5	39.5
	Size Std.	41.5	11.5	26.5	9.0	25.5	39.5		
236117 New Housing For-Sale Builders.	Factor	5.2	1,172.3	3.5	19.9	0.818	.....	27.5	39.5
	Size Std.	26.0	41.5	25.5	17.5	32.0			
236118 Residential Remodelers.	Factor	0.7	34.6	0.2	3.4	0.667	−62.6	13.5	39.5
	Size Std.	7.5	8.5	7.0	6.0	6.0	41.5		
236210 Industrial Building Construction.	Factor	10.2	351.6	3.5	17.7	0.830	17.0	29.0	39.5
	Size Std.	41.5	19.0	25.5	15.5	34.0	39.5		
236220 Commercial and Institutional Building Construction.	Factor	8.3	515.4	2.6	5.0	0.802	9.4	25.5	39.5
	Size Std.	38.5	24.5	20.5	6.0	29.0	39.5		
237110 Water and Sewer Line and Related Structures Construction.	Factor	4.1	98.2	2.0	6.5	0.756	−4.1	20.0	39.5
	Size Std.	21.0	10.5	17.5	7.0	21.0	39.5		
237120 Oil and Gas Pipeline and Related Structures Construction.	Factor	22.8	715.1	10.4	20.8	0.806	4.4	33.0	39.5
	Size Std.	41.5	31.0	41.5	18.0	30.0	39.5		
237130 Power and Communication Line and Related Structures Construction.	Factor	9.3	647.7	4.2	18.5	0.824	1.4	31.0	39.5
	Size Std.	41.5	29.0	30.0	16.0	33.0	39.5		
237210 Land Subdivision	Factor	2.7	42.4	6.8	8.1	0.782	.....	22.0	30.0
	Size Std.	15.5	9.0	41.5	8.0	25.5			

TABLE 4—SIZE STANDARDS SUPPORTED BY EACH FACTOR FOR EACH INDUSTRY (RECEIPTS)—Continued

[Upper value = calculated factor, lower value = size standard supported]

NAICS code NAICS industry title	Type	Simple average firm size ($ million)	Weighted average firm size ($ million)	Average assets size ($ million)	Four-firm ratio (%)	Gini coefficient	Federal contract factor (%)	Calculated size standard ($ million)	Current size standard ($ million)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
237310 Highway, Street, and Bridge Construction.	Factor	12.3	285.7	6.2	6.9	0.779	24.8	28.5	39.5
	Size Std.	41.5	17.0	40.5	7.0	25.0	39.5		
237990 Other Heavy and Civil Engineering Construction.	Factor	7.4	458.2	3.9	20.6	0.825	7.8	29.5	39.5
	Size Std.	34.5	22.5	28.0	18.0	33.0	39.5		
237990 Except Dredging and Surface Cleanup Activities.	Factor	42.6	384.2	21.3	55.4	0.744	6.2	32.5	30.0
	Size Std	41.5	20.0	41.5	41.5	18.5.0	30.0		
238110 Poured Concrete Foundation and Structure Contractors.	Factor	1.7	53.3	0.6	4.9	0.731	−10.3	12.5	16.5
	Size Std.	11.5	9.0	9.5	6.0	16.0	20.0		
238120 Structural Steel and Precast Concrete Contractors.	Factor	3.1	38.3	1.3	7.1	0.720	26.9	13.0	16.5
	Size Std.	17.0	8.5	13.5	7.5	14.0	16.5		
238130 Framing Contractors.	Factor	0.8	19.0	0.2	5.0	0.707	.....	8.5	16.5
	Size Std.	8.0	8.0	7.5	6.0	12.0			
238140 Masonry Contractors.	Factor	1.0	17.1	0.3	3.1	0.717	−4.8	10.5	16.5
	Size Std.	8.5	8.0	8.0	6.0	13.5	16.5		
238150 Glass and Glazing Contractors.	Factor	1.7	16.8	0.6	5.2	0.674	.....	8.0	16.5
	Size Std.	11.5	8.0	9.5	6.0	6.0			
238160 Roofing Contractors	Factor	1.7	35.2	0.6	4.4	0.694	12.0	10.0	16.5
	Size Std.	11.5	8.5	9.0	6.0	9.5	16.5		
238170 Siding Contractors	Factor	0.7	10.5	0.2	3.1	0.655	.....	7.0	16.5
	Size Std.	7.5	7.5	7.5	6.0	6.0			
238190 Other Foundation, Structure, and Building Exterior Contractors.	Factor	1.6	34.7	0.5	9.9	0.732	−10.2	13.0	16.5
	Size Std.	11.0	8.5	9.0	9.5	16.5	20.0		
238210 Electrical Contractors and Other Wiring Installation Contractors.	Factor	2.0	164.4	0.7	5.1	0.767	−1.7	13.5	16.5
	Size Std.	12.5	13.0	10.0	6.0	22.5	16.5		
238220 Plumbing, Heating, and Air-Conditioning Contractors.	Factor	1.7	123.8	0.5	4.1	0.737	24.0	12.0	16.5
	Size Std.	11.5	11.5	9.0	6.0	17.5	16.5		
238290 Other Building Equipment Contractors.	Factor	4.4	453.7	1.5	24.7	0.775	22.5	19.5	16.5
	Size Std.	22.5	22.5	14.0	21.0	24.0	16.5		
238310 Drywall and Insulation Contractors.	Factor	1.7	59.3	0.5	6.0	0.746	.....	11.5	16.5
	Size Std.	11.5	9.5	9.0	6.5	19.0			
238320 Painting and Wall Covering Contractors.	Factor	0.6	60.6	0.2	6.9	0.697	0.4	10.0	16.5
	Size Std.	7.0	9.5	7.0	7.0	10.0	16.5		
238330 Flooring Contractors.	Factor	0.9	22.4	0.3	5.0	0.718	12.3	10.5	16.5
	Size Std.	8.5	8.0	7.5	6.0	14.0	16.5		
238340 Tile and Terrazzo Contractors.	Factor	0.7	10.4	0.3	3.4	0.695	.....	7.5	16.5
	Size Std.	7.5	7.5	7.5	6.0	9.5			
238350 Finish Carpentry Contractors.	Factor	0.7	15.1	0.2	2.2	0.686	.....	7.5	16.5
	Size Std.	7.5	8.0	7.0	6.0	8.0			
238390 Other Building Finishing Contractors.	Factor	1.4	18.1	0.5	5.1	0.705	−13.9	11.0	16.5
	Size Std.	10.5	8.0	8.5	6.0	11.5	20.0		
238910 Site Preparation Contractors.	Factor	2.0	39.3	0.9	2.1	0.733	19.4	12.0	16.5
	Size Std.	12.5	8.5	11.0	6.0	16.5	16.5		
238990 All Other Specialty Trade Contractors.	Factor	1.4	113.9	0.5	7.8	0.703	−24.4	11.5	16.5
	Size Std.	10.0	11.0	9.0	8.0	11.0	20.0		

Methodology for Agricultural Size Standards

Forty-six industries in Subsectors 111 and 112 currently have the same $1 million receipts-based size standard. These industries previously had a $750,000 receipts-based size standard, which was established directly by Congress in section 806 of the Small Business Reauthorization Act of 2000, Appendix I, Public Law 106–554, 114 Stat. 2763, December 21, 2000). Effective August 19, 2019, that size standard was raised to $1 million by the interim final rule adjusting all monetary size standards for inflation (published in the **Federal Register** on July 18, 2019, (84 FR 34261)). NDAA 2017 directed SBA to establish the size standards for those industries in the same manner that the Agency establishes the size standards for other industries and to include them in the 5-year rolling review under the Jobs Act. Accordingly, in this proposed rule, SBA has evaluated those industries using the same industry and Federal contracting factors that it uses in evaluating characteristics of all other industries and their size standards. However, the industry data from the 2012 Agricultural Census tabulation reveals that firms in agricultural industries are much smaller than those in all other industries with receipts-based size standards. Therefore, as stated earlier, based on the data, SBA has established $1 million and $5 million as the minimum and maximum receipts-based size standard levels, respectively, for agricultural industries, as opposed to $6 million as the minimum and $41.5 million as the maximum receipts-based size standard levels for all other industries. Similarly, SBA rounds a calculated receipts-based size standard for agricultural industries to the nearest $250,000 instead of rounding it to the nearest $500,000 as for other industries.

Of the 46 NAICS 6-digit industries in Subsectors 111 and 112, the special tabulation of the 2012 Census of Agriculture provided data for 36 industries at the NAICS 6-digit level. Of the remaining ten (10), seven (7) were aggregated at three different 5-digit NAICS levels and three (3) were aggregated at one 4-digit NAICS level. SBA ranked these 40 industry categories (*i.e.,* thirty-six (36) 6-digit, three (3) 3-digit, and one (1) 4-digit) in terms of each industry factor and obtained the 20th percentile an 80th percentile values for each factor. However, since all those industries currently have the same $1 million size standard, SBA cannot compute the 20th percentile and 80th percentile values from existing size standards as for other industries. Given the $1 million minimum and $5 million maximum size standard levels and calculated size standards being rounded to the nearest $250,000, SBA derived all possible size standards levels (*e.g.,* $1 million, $1.25 million, $1.5 million . . . $4.75 million, and $5 million). Based on these levels, SBA computed $1.75 million as the 20th percentile and $4.25 million as 80th percentile values of size standards for agricultural industries. Combining these results with the 20th percentile and 80th percentile values of industry factors, SBA computed a size standard for each factor for each industry. These results are provided in Table 4, above.

For the 10 industries for which the data did not exist at the 6-digit NAICS level, SBA estimated the size standard at the 5- or 4-digit NAICS level at which the data were available and applied the same results to the relevant 6-digit NAICS levels. These results are shown, below, in Table 5, Calculated Agricultural Size Standards at the 4- or 5-Digit NAICS Level Matched to the 6-Digit Level.

TABLE 5—CALCULATED AGRICULTURAL SIZE STANDARDS AT THE 4- OR 5-DIGIT NAICS LEVEL MATCHED TO THE 6-DIGIT LEVEL

4- or 5-digit NAICS code/title	Calculated size standard ($ million) (see Table 4)	6-digit NAICS code/title	Calculated size standard ($ million)
11119 Other Grain Farming	$2.0	111191 Oilseed and Grain Combination Farming	$2.0
		111199 All Other Grain Farming	2.0
11141 Food Crops Grown Under Cover	4.0	111411 Mushroom Production	4.0
		111419 Other Food Crops Grown Under Cover	4.0
11199 All Other Crop Farming	2.25	111991 Sugar Beet Farming	2.25
		111992 Peanut Farming	2.25
		111998 All Other Miscellaneous Crop Farming	2.25
1125 Aquaculture	3.25	112511 Finfish Farming and Fish Hatcheries	3.25
		112512 Shellfish Farming	3.25
		112519 Other Aquaculture	3.25

Evaluation of Size Standards for Subindustry Categories or ''Exceptions''

In accordance with SBA's approach to evaluating size standards for subindustry categories (or ''exceptions''), SBA has evaluated the three (3) exceptions covered by this rule using the procedures described in the revised SBA's Methodology. The results of that analysis are discussed in the following two subsections.

Forest Fire Suppression and Fuel Management Services

Forest Fire Suppression and Fuels Management Services are subindustry categories or exceptions under NAICS 115310 (Support Activities for Forestry) with the current size standard of $20.5 million in average annual receipts. In 2003, SBA established a different size standard for these subindustry activities (68 FR 33348 (June 4, 2003)). In 2013, as part of the first 5-year review of size standards under the Jobs Act, SBA initially maintained $17.5 million as the size standard for these exceptions (78 FR 37398 (June 20, 2013)), and subsequently, as part of the adjustment to monetary-based size standards for inflation, the Agency increased the size standard from $17.5 million to $19 million (79 FR 33647 (June 12, 2014)), and in the fiscal year 2019 the size standard was adjusted from $19 million to $20.5 million (84 FR 34261 (July 18, 2019)).

The data from the Census Bureau's and NASS' special tabulations are limited to the 6-digit NAICS industry level, and hence, do not provide separate data to evaluate a size standard at the subindustry level. As such, SBA relied upon data from other sources to evaluate the current $20.5 million size standard for both exceptions.

Firms engaged in the Forest Fire Suppression and Fuels Management Services subindustries were identified from the contracting data reported in FPDS–NG during fiscal years 2016–2018. Specifically, the contracts under Forest Fire Suppression and Fuels Management Services exceptions can be identified as those classified within NAICS 115310 under the Product Service Code (PSC) F003 (Natural Resources/Conservation—Forest-Range Fire Suppression/Presuppression). SBA also evaluated the contract data from the USDA Forest Service National Interagency Fire Center (*https://www.fs.fed.us/managing-land/fire* and *http://www.fs.fed.us/business/incident/vipr.php*). SBA also evaluated the description of requirements of the contracts for Forest Fire Suppression and Fuels Management Services in FPDS–NG to identify principal activities related to forest fire suppression and fuel management services and to differentiate them from other support activities for forestry. SBA identified activities associated with specialized crews, equipment and engines with trained personnel that are critical to perform the tasks of suppressing or managing fires as principal activities and other activities, such as leases of equipment, machinery and transportation vehicles, or provision of services that do not require specialized personnel or training as supporting activities. Since most firms involved in Fire Suppression Services were also found to be involved in Fuels Management Services and vice versa, SBA analyzed the two as one subindustry category.

Finally, SBA obtained receipts and employment data for the fiscal years 2016–2018 from FPDS–NG and from the System for Award Management (SAM) to develop industry and Federal contracting factors for evaluating the size standard for the two exceptions. SBA chose firms with receipts greater than zero and less than $1 billion. Firms with receipts greater than $1 billion are

outliers and their revenues would skew the data. Similarly, firms with receipts at or below zero have insignificant contributions to total Federal contract dollars obligated to the industry. Table 4, above, shows the results from the analysis of these subindustries, which supported a $23.5 million size standard as compared to the current $20.5 million. Given the inherent uncertainty of occurrences of forest fires and recent surges in forest fire incidents and extended fire seasons, SBA believes that contracting officers need to have flexibility to be able to hire enough small businesses, especially in the worst-case scenario. SBA estimates that in a very busy season, it is not implausible to assume 120 days of 14 hours shifts. Assuming an average price of $43 dollars per person per hour, a total amount of about $6 million could be awarded to a firm with an average number of 4 crews. In the case of firms with 15 crews, the amount could reach $22.0 million. Both numbers include only payments to firefighters for direct fire suppression activities; in other words, here we did not consider in the analysis additional payments, such as payments for fire engines, water tenders, etc. With this reality in mind, SBA proposes to increase the size standard for the Forest Fire Suppression and Fuels Management Services exceptions to $25 million, above the current size standard of $20.5 million and the calculated size standard of $23.5 million and seeks comments on this proposal.

Dredging and Surface Cleanup Activities

The Dredging and Surface Cleanup Activities (Dredging) size standard is an exception established by SBA within the 6-digit NAICS code 237990 (Other Heavy and Civil Engineering Construction). As stated previously, the data from the Census Bureau's special tabulation of the Economic Census is limited to the 6-digit NAICS industry level, and hence, does not provide separate data at the subindustry level to evaluate exceptions. Accordingly, SBA relied upon the data from other sources to evaluate the current $30.0 million size standard for Dredging.

SBA identified firms engaged in the Dredging subindustry using the contract awards data within NAICS 237990 in FPDS–NG for fiscal years 2016–2018. Specifically, dredging contracts were identified as those classified under one of the following Product Service Codes (PSCs): C1KF—Architect and Engineering Construction—Dredging Facilities; M1KF—Operation of Dredging Facilities; X1KF—Lease/Rental of Dredging Facilities; Y1KF—Construction of Dredging Facilities; Z1KF—Maintenance of Dredging Facilities; Z2KF—Repair or alternation of Dredging Facilities; and 1955—Dredges. SBA obtained receipts and employment data for the identified Dredging firms from the System for Award Management (SAM) and FPDS–NG to develop industry and Federal contracting factors for Dredging. SBA excluded from the analysis firms for which Dredging Federal contracts dollars accounted for a very small percentage of their average annual receipts. SBA also excluded from the analysis contracts awarded under PSCs C1KF and X1KF and firms receiving such contracts as contract dollars under those PSCs were very small. After these exclusions, SBA evaluated the data for a total of 100 Dredging firms that have received Federal contracts under NAICS 237990 and the above PSCs during fiscal years 2016–2018.

SBA also looked at the Dredging contracting information from the US Army Corps of Engineers' Navigation and Civil Works Decision Support Center (NDC) (*https://www.iwr.usace.army.mil/About/Technical-Centers/NDC-Navigation-and-Civil-Works-Decision-Support/*), as well as the annual reports from Dredging Contractors of America (DCA) (*www.dredgingcontractors.org*). However, those sources do not provide information on business size and seem to include a smaller number of dredging firms as compared to the number of Dredging firms found in FPDS–NG. SBA's analysis included a vast majority of all firms found in the NDC and DCA reports, except a few that received contracts in industries other than NAICS 237990 or in PSCs other than those described above.

Table 4, above, shows the results from the analysis of the Dredging subindustry that support raising the current $30.0 million size standard for the Dredging exception to $33.0 million. As also shown in Table 4, the results for overall NAICS 237990 yields a smaller calculated size standard of $29.5 million as compared to the current standard of $39.5 million. Thus, the analytical results from the latest available industry and Federal contracting data seem to suggest that a separate size standard is still warranted for Dredging. Historically, the Dredging exception size standard has been lower than the overall NAICS 237990 size standard, but the latest results suggest otherwise. As such, in this proposed rule, SBA is proposing to retain current size standard for the overall NAICS 237990 and increase the size standard of the Dredging subindustry to $33.0 million and seeking comment on the proposal. Additionally, SBA is seeking comments on whether Dredging and Surface Cleanup Activities should continue to be treated as an exception or on whether it should be eliminated and subject to the same overall NAICS 237990 size standard.

Summary of Calculated Size Standards

Of the one hundred (100) industries and three (3) subindustries (exceptions) reviewed in this proposed rule, the results from analyses of the latest available data on the five primary factors from Table 4, Size Standards Supported by Each Factor for Each Industry (millions of dollars), above, would support increasing size standards for sixty-five (65) industries and three (3) subindustries, and decreasing size standards for thirty-five (35) industries. Table 6, Summary of Calculated Size Standards, summarizes these results by NAICS sector.

TABLE 6—SUMMARY OF CALCULATED SIZE STANDARDS

NAICS sector	Sector name	Number of size standards reviewed	Number of size standards increased	Number of size standards decreased	Number of size standards unchanged
11	Agriculture, Forestry, Fishing and Hunting	64	60	4	0
21	Mining, Quarrying, and Oil and Gas Extraction	4	3	1	0
22	Utilities	3	3	0	0
23	Construction	32	2	30	0
All Sectors		103	68	35	0

Evaluation of SBA Loan Data

Before proposing or deciding on an industry's size standard revision, SBA also considers the impact of size standards revisions on SBA's loan programs. Accordingly, SBA examined its internal 7(a) and 504 loan data for fiscal years 2016–2018 to assess whether the calculated size standards in Table 4 (above) need further adjustments to ensure credit opportunities for small businesses through those programs. For the industries reviewed in this rule, the data shows that it is mostly businesses much smaller than the current or proposed size standards that receive SBA's 7(a) and 504 loans. For example, for industries covered by this rule, more than 95.6 percent of 7(a) and 504 loans in fiscal years 2016–2018 went to businesses below the current or proposed size standards.

Proposed Changes to Size Standards

Based on the analytical results in Table 4 and considerations of impacts of calculated size standards in terms of access by currently small businesses to SBA's loans, as discussed above, of a total of one hundred three (103) industries or subindustries (exceptions) with receipts-based size standards in Sectors 11, 21, 22 and 23 that are covered by this rule, and considering the current situation due to the COVID–19 related national emergency and its impacts on small businesses and the overall economy, SBA proposes to increase size standards for 68 industries or subindustries, and retain the current size standards for the remaining 35 industries.

Special Considerations

On March 13, 2020, the ongoing Coronavirus Disease 2019 (COVID–19) was declared a pandemic of enough severity and magnitude to warrant an emergency declaration for all states, territories, and the District of Columbia. With the COVID–19 emergency, many small businesses nationwide are experiencing economic hardship as a direct result of the Federal, State, and local public health measures that are being taken to minimize the public's exposure to the virus. These measures, some of which are government-mandated, are being implemented nationwide and include the closures of restaurants, bars, and gyms. In addition, based on the advice of public health officials, other measures, such as keeping a safe distance from others or even stay-at-home orders, are being implemented, resulting in a dramatic decrease in economic activity as the public avoids malls, retail stores, and other businesses.

The Coronavirus Aid, Relief, and Economic Security Act (the CARES Act or the Act) (Pub. L. 116–136) was signed on March 27, 2020, to provide emergency assistance and health care response for individuals, families, and businesses affected by the coronavirus pandemic. Section 1102 of the Act temporarily permits SBA to guarantee 100 percent of 7(a) loans under a new program titled the Paycheck Protection Program (PPP). Section 1106 of the Act provides for forgiveness of up to the full principal amount of qualifying loans guaranteed under the PPP. The PPP and loan forgiveness are intended to provide economic relief to small businesses nationwide adversely impacted under the COVID–19. On April 24, 2020, additional funding for the CARES Act, including for the PPP, was provided.

The Agency is following closely the development of the pandemic and the economic situation and recovery. The consequence of the initial response of the public to the COVID–19 pandemic as well as the different measures taken by the Government to contain it (*e.g.* stay at home orders, social distancing, etc.) have resulted in the present economic decline. A variety of economic indicators such as the Gross Domestic Product (GDP) and the unemployment rate shows that this recession is significantly worse than any other recession since World War II. The GDP decreased nearly 5 percent, and the Personal consumption in goods and services decreased 6.8 percent in the first quarter of 2020; in May 2020, personal income decreased 4.2 percent and the unemployment rate increased from 3.5 percent in February 2020 to 11.1 percent in June 2020, and, also for the month of June 2020, Non-farm payroll decreased by 15 million since February 2020. Specifically for the sectors evaluated in this proposed rule, more recent data in June 2020 shows that the unemployment rate for Agriculture and related private wage and salary workers was 5.4 percent, but the sector of Mining, quarrying, and oil and gas extraction shows an unemployment rate of 17.8 percent and the construction sector, 10.1 percent. In June 2019, the unemployment rates for these sectors were 5.9, 3.2 and 4 percent, respectively. The latest Federal Reserve Board's Monetary Policy Report shows that in general the most impacted firms in these sectors are small businesses.[1]

Accordingly, in view of above impacts on small businesses from the COVID–19 pandemic and Federal government efforts to provide relief to small businesses and support to the overall economy, SBA proposes to adopt increases to size standards for 68 industries and retain the current size standards for 35 industries for which analytical results suggested their size standards could be lowered.

The proposed size standards are presented in Table 7, Proposed Size Standards Revisions. Also presented in Table 7 are current and calculated size standards for comparison.

TABLE 7—PROPOSED SIZE STANDARDS REVISIONS

NAICS code	NAICS industry title	Current size standard ($ million)	Calculated size standard ($ million)	Proposed size standard ($ million)
111110	Soybean Farming	$1.0	$2.0	$2.0
111120	Oilseed (except Soybean) Farming	1.0	2.0	2.0
111130	Dry Pea and Bean Farming	1.0	2.5	2.5
111140	Wheat Farming	1.0	2.0	2.0
111150	Corn Farming	1.0	2.25	2.25
111160	Rice Farming	1.0	2.25	2.25
111191	Oilseed and Grain Combination Farming	1.0	2.0	2.0
111199	All Other Grain Farming	1.0	2.0	2.0

[1] Board of Governors of the Federal Reserve System (June 2020), Monetary Policy Report, p. 24 (see *https://www.federalreserve.gov/monetarypolicy/files/20200612_mprfullreport.pdf*) and U.S. Census Bureau's Small Business Pulse Survey (*https://portal.census.gov/pulse/data).* The latest is a recent survey created by the Census Bureau to provide high-frequency, detailed information on participation in small business-specific initiatives such as the PPP.

TABLE 7—PROPOSED SIZE STANDARDS REVISIONS—Continued

NAICS code	NAICS industry title	Current size standard ($ million)	Calculated size standard ($ million)	Proposed size standard ($ million)
111211	Potato Farming	1.0	3.75	3.75
111219	Other Vegetable (except Potato) and Melon Farming	1.0	3.25	3.25
111310	Orange Groves	1.0	3.5	3.5
111320	Citrus (except Orange) Groves	1.0	3.75	3.75
111331	Apple Orchards	1.0	4.0	4.0
111332	Grape Vineyards	1.0	3.5	3.5
111333	Strawberry Farming	1.0	4.75	4.75
111334	Berry (except Strawberry) Farming	1.0	3.25	3.25
111335	Tree Nut Farming	1.0	3.25	3.25
111336	Fruit and Tree Nut Combination Farming	1.0	4.5	4.5
111339	Other Noncitrus Fruit Farming	1.0	3.0	3.0
111411	Mushroom Production	1.0	4.0	4.0
111419	Other Food Crops Grown Under Cover	1.0	4.0	4.0
111421	Nursery and Tree Production	1.0	2.75	2.75
111422	Floriculture Production	1.0	3.25	3.25
111910	Tobacco Farming	1.0	2.25	2.25
111920	Cotton Farming	1.0	2.75	2.75
111930	Sugarcane Farming	1.0	4.5	4.5
111940	Hay Farming	1.0	2.25	2.25
111991	Sugar Beet Farming	1.0	2.25	2.25
111992	Peanut Farming	1.0	2.25	2.25
111998	All Other Miscellaneous Crop Farming	1.0	2.25	2.25
112111	Beef Cattle Ranching and Farming	1.0	2.25	2.25
112112	Cattle Feedlots	8.0	19.5	19.5
112120	Dairy Cattle and Milk Production	1.0	3.25	3.25
112210	Hog and Pig Farming	1.0	3.5	3.5
112310	Chicken Egg Production	16.5	15.5	16.5
112320	Broilers and Other Meat Type Chicken Production	1.0	3.0	3.0
112330	Turkey Production	1.0	3.25	3.25
112340	Poultry Hatcheries	1.0	3.5	3.5
112390	Other Poultry Production	1.0	3.25	3.25
112410	Sheep Farming	1.0	3.0	3.0
112420	Goat Farming	1.0	2.25	2.25
112511	Finfish Farming and Fish Hatcheries	1.0	3.25	3.25
112512	Shellfish Farming	1.0	3.25	3.25
112519	Other Aquaculture	1.0	3.25	3.25
112910	Apiculture	1.0	2.75	2.75
112920	Horses and Other Equine Production	1.0	2.5	2.5
112930	Fur-Bearing Animal and Rabbit Production	1.0	3.25	3.25
112990	All Other Animal Production	1.0	2.5	2.5
113110	Timber Tract Operations	12.0	16.5	16.5
113210	Forest Nurseries and Gathering of Forest Products	12.0	18.0	18.0
114111	Finfish Fishing	22.0	20.5	22.0
114112	Shellfish Fishing	6.0	12.5	12.5
114119	Other Marine Fishing	8.0	10.0	10.0
114210	Hunting and Trapping	6.0	7.5	7.5
115111	Cotton Ginning	12.0	14.0	14.0
115112	Soil Preparation, Planting, and Cultivating	8.0	8.5	8.5
115113	Crop Harvesting, Primarily by Machine	8.0	12.0	12.0
115114	Postharvest Crop Activities (except Cotton Ginning)	30.0	27.5	30.0
115115	Farm Labor Contractors and Crew Leaders	16.50	12.5	16.5
115116	Farm Management Services	8.0	13.5	13.5
115210	Support Activities for Animal Production	8.0	9.5	9.5
115310	Support Activities for Forestry	8.0	10.0	10.0
Except	Fire Suppression Services	20.5	23.5	25.0
Except	Fuels Management Services	20.5	23.5	25.0
213112	Support Activities for Oil and Gas Operations	41.5	38.0	41.5
213113	Support Activities for Coal Mining	22.0	24.0	24.0
213114	Support Activities for Metal Mining	22.0	36.0	36.0
213115	Support Activities for Nonmetallic Minerals (except Fuels) Mining	8.0	18.0	18.0
221310	Water Supply and Irrigation Systems	30.0	36.0	36.0
221320	Sewage Treatment Facilities	22.0	31.0	31.0
221330	Steam and Air-Conditioning Supply	16.5	26.5	26.5
236115	New Single-Family Housing Construction (except For-Sale Builders)	39.5	8.0	39.5
236116	New Multifamily Housing Construction (except For-Sale Builders)	39.5	25.5	39.5
236117	New Housing For-Sale Builders	39.5	27.5	39.5
236118	Residential Remodelers	39.5	13.5	39.5
236210	Industrial Building Construction	39.5	29.0	39.5
236220	Commercial and Institutional Building Construction	39.5	25.5	39.5

TABLE 7—PROPOSED SIZE STANDARDS REVISIONS—Continued

NAICS code	NAICS industry title	Current size standard ($ million)	Calculated size standard ($ million)	Proposed size standard ($ million)
237110	Water and Sewer Line and Related Structures Construction	39.5	20.0	39.5
237120	Oil and Gas Pipeline and Related Structures Construction	39.5	33.0	39.5
237130	Power and Communication Line and Related Structures Construction	39.5	31.0	39.5
237210	Land Subdivision	30.0	22.0	30.0
237310	Highway, Street, and Bridge Construction	39.5	28.5	39.5
237990	Other Heavy and Civil Engineering Construction	39.5	29.5	39.5
Except	Dredging and Surface Clean-Up Activities	30.0	32.5	32.5
238110	Poured Concrete Foundation and Structure Contractors	16.5	12.5	16.5
238120	Structural Steel and Precast Concrete Contractors	16.5	13.0	16.5
238130	Framing Contractors	16.5	8.5	16.5
238140	Masonry Contractors	16.5	10.5	16.5
238150	Glass and Glazing Contractors	16.5	8.0	16.5
238160	Roofing Contractors	16.5	10.0	16.5
238170	Siding Contractors	16.5	7.0	16.5
238190	Other Foundation, Structure, and Building Exterior Contractors	16.5	13.0	16.5
238210	Electrical Contractors and Other Wiring Installation Contractors	16.5	13.5	16.5
238220	Plumbing, Heating, and Air-Conditioning Contractors	16.5	12.0	16.5
238290	Other Building Equipment Contractors	16.5	19.5	19.5
238310	Drywall and Insulation Contractors	16.5	11.5	16.5
238320	Painting and Wall Covering Contractors	16.5	10.0	16.5
238330	Flooring Contractors	16.5	10.5	16.5
238340	Tile and Terrazzo Contractors	16.5	7.5	16.5
238350	Finish Carpentry Contractors	16.5	7.5	16.5
238390	Other Building Finishing Contractors	16.5	11.0	16.5
238910	Site Preparation Contractors	16.5	12.0	16.5
238990	All Other Specialty Trade Contractors	16.5	11.5	16.5

Table 8, Summary of Proposed Size Standards Revisions by Sector, below, summarizes the proposed changes to size standards by NAICS sector.

TABLE 8—SUMMARY OF PROPOSED SIZE STANDARDS REVISIONS BY SECTOR

NAICS Sector	Sector name	Size standards increased	Size standards lowered	Size standards maintained
11	Agriculture, Forestry, Fishing and Hunting	60	0	4
21	Mining, Quarrying, and Oil and Gas Extraction	3	0	1
22	Utilities	3	0	0
23	Construction	2	0	30
All Sectors		68	0	35

Evaluation of Dominance in Field of Operation

SBA has determined that for the industries which it has evaluated in this proposed rule, no individual firm at or below the proposed size standard would be large enough to dominate its field of operation. At the proposed size standards levels, if adopted, the small business share of total industry receipts among those industries would be, on average, 1.1 percent, varying from 0.003 percent to 30.5 percent. These market shares effectively preclude a firm at or below the proposed size standards from exerting control on any of the industries.

Alternatives Considered

By law, SBA is required to develop numerical size standards for establishing eligibility for Federal small business assistance programs and to review every five years all size standards and make necessary adjustments to reflect the current industry structure and Federal market conditions. Other than varying the levels of size standards by industry and changing the measures of size standards (*e.g.,* using annual receipts vs. the number of employees), no practical alternatives exist to the systems of numerical size standards.

The proposal is to increase size standards where the data suggested increases are warranted, and to retain, in response to COVID–19 emergency and resultant economic impacts on small businesses, all current size standards where the data suggested lowering is appropriate.

Nonetheless, SBA considered two other alternatives. Alternative option one was to propose changes exactly as suggested by the analytical results. Alternative option two was to retain all current size standards.

Alternative option one would cause a substantial number of currently small businesses to lose their small business status and hence to lose their access to Federal small business assistance, especially small business set-aside contracts and SBA's financial assistance in some cases. During the first 5-year review of size standards, some commenters had expressed concerns

about SBA's policy of not lowering size standards based on the analytical results.

As part of option one, SBA also considered increasing 68 size standards as suggested by the analytical results and mitigating the impact of the decreases to size standards by adjusting the calculated sizes considering the impact on small business access to Federal contracting and loans. However, in the present situation with the global COVID–19 pandemic resulting in high levels of risk and dramatic reductions in economic activity of unprecedented nature, SBA presents the impacts of adopting the analytical results without adjustment in alternative option one and proposes to retain all size standards for which the evaluation of principal factors suggested reductions, and to adopt only the increases suggested by the evaluation. SBA will adopt this approach temporarily and may reevaluate this approach as the economic situation evolves.

Under option two, given the current COVID–19 Pandemic, SBA considered retaining the current level of all size standards even though the current analysis may suggest changing them. SBA considers that the option of retaining all size standards at this moment provides the opportunity to reassess the economic situation once the economic recovery starts. Under this option, as the current situation develops, SBA will be able to assess new data available on economic indicators, federal procurement, and SBA loans as well, before adopting changes to size standards. However, SBA is not adopting option two because the Regulatory Impact Analysis shows that retaining all size standards at their current levels is more onerous for the small businesses than the option of adopting 68 increases and retaining 35 size standards. Additionally, SBA regards size standards evaluation of 46 agricultural industries for the first time as one of the most important contributions of our current comprehensive size standards review, and postponing the adoption of the calculated size standards should be detrimental for the small businesses within those industries. Finally, given the inherent uncertainty of occurrences of fires, the recent surges in forest fire incidents and the extended fire seasons, SBA believes that not proposing the increases in size standards for the NAICS 115310 in general and its two exceptions will adversely affect the availability of small businesses for these tasks, especially in the worst-case scenarios. SBA may reevaluate this approach as the current economic situation evolves.

Request for Comments

SBA invites public comments on this proposed rule, especially on the following issues:

1. SBA seeks feedback on whether SBA's proposal to increase 68 size standards and retain 35 size standards is appropriate given the results from the latest available industry and Federal contracting data of each industry and subindustry (exception) reviewed in this proposed rule, along with ongoing uncertainty and dramatic contraction in economic activity due to the global COVID–19 pandemic. SBA also seeks suggestions, along with supporting facts and analysis, for alternative standards, if they would be more appropriate than the proposed size standards.

2. SBA also seeks comments on whether SBA should not lower any size standards in view of COVID–19 pandemic and its adverse impacts on small businesses as well as on the overall economic situation when analytical results suggest some size standards could be lowered. SBA believes that lowering size standards under the current economic environment would run counter to what Congress and the Federal government are doing to aid and provide relief to the nation's small businesses impacted by the COVID–19 pandemic.

3. Given the uncertainty produced by the global COVID–19 pandemic and the economic consequences, SBA would like to receive comments from the public on the possibility of lowering size standards while mitigating the consequences of the lower standards, instead of not lowering any size standards.

4. In accordance with NDAA 2017, in this proposed rule, SBA has evaluated 46 agricultural industries for which the size standards were previously established directly by Congress and proposed a new size standard for each of those industries. SBA seeks comments on the methodology and data sources it used to develop such proposed standards as well as on the appropriateness of the proposed size standards levels.

5. In calculating the overall industry size standard, SBA has assigned equal weight to each of the five primary factors in all industries and subindustries covered by this proposed rule. SBA seeks feedback on whether it should assign equal weight to each factor or on whether it should give more weight to one or more factors for certain industries or subindustries. Recommendations to weigh some factors differently than others should include suggested weights for each factor along with supporting facts and analysis.

6. For evaluating the size standards for the Forest Fire Suppression and Fuel Management Services subindustries (''exceptions'') within NAICS 115310, SBA used PSC F003 (Forest/Range Fire Suppression/Presuppression Services) within NAICS 115310 in FPDS–NG to identify firms engaged in the Forest Fire Suppression and Fuel Management Services exceptions during fiscal years 2016–2018. Using the receipts and employment data for those firms, SBA analyzed the industry and Federal contracting factors for these subindustries. SBA seeks suggestions or comments on data sources it used and its proposal to increase the current $20.5 million size standard for both exceptions to $25 million even if the analysis supported an increase to $23.5 million. SBA is also interested in comments on the possible elimination of the Forest Fire Suppression and Fuel Management Services as ''exceptions'' to NAICS 115310, and the application of the same general size standard for NAICS 115310. Comments on applying the same NAICS 115310 size standard for Forest Fire Suppression and Fuel management Services should address why the same size standard is more suitable than separate size standards for Forest Fire Suppression and Fuel Management Services or why firms engaged in Forest Fire Suppression and Fuel Management Services should continue to be treated as separate activities from the rest of NAICS 115310 for SBA's size standards purposes.

7. For evaluating the size standard for the Dredging and Surface Cleanup Activities (Dredging), a subindustry (''exception'') category within NAICS code 237990, SBA used relevant PSCs within NAICS code 237990 to identify Dredging contracts in FPDS–NG and firms receiving such contracts during fiscal years 2016–2018. Using the receipts and employment data for those firms from FPDS–NG, SBA analyzed the industry and Federal contracting factor for this subindustry. SBA seeks suggestions or comments on the use of the data sources and the proposed size standard. SBA is also interested in comments on the elimination of the subindustry category for Dredging, and the application of the same size standard as for overall NAICS 237990. Comments on applying the same NAICS 237990 size standard for Dredging should address the basis for why that industry size standard is more suitable than a specific dredging subindustry size standard or why dredging firms

should continue to be evaluated as a discrete subindustry for SBA's size standards purposes.

8. In addition to comments on its proposal to increase the size standard for the Dredging exception from the current $30.0 million to $33.0 million, SBA also seeks comments regarding the requirement for a dredging concern to qualify as small on a Federal procurement that it or its similarly situated subcontractors must perform at least 40 percent of the volume dredged with its own equipment or equipment owned by another small dredging concern (*see* Footnote 2 in 13 CFR 121.201). This requirement has been in SBA's small business size regulations since 1974 (see 30 FR 24669, July 5, 1974 and 39 FR 31302, August 28, 1974) and was interpreted by SBA's Office of Hearings and Appeals to encompass subcontractors in *Size Appeal of U.S. Army Corps of Engineers,* SBA No. SIZ–5915 (2018). This proposed rule retains the requirement set forth in Footnote 2 in order to ensure that small Dredging firms or their similarly situated subcontractors perform a significant and meaningful portion of a Dredging project set aside for small business. However, SBA requests comments as to whether that footnote is still necessary. Comments pertaining to this requirement should address: (1) Whether there continues to be a need to retain the current 40 percent equipment requirement under current industry practices; (2) whether the 40 percent equipment requirement should be revised, and if so, the rationale for an alternative percentage; and (3) whether a different and more verifiable requirement based on an alternative measure (such as value of contract or personnel involved) may achieve the same objective of ensuring that small businesses perform significant and meaningful work on dredging contracts set aside for small businesses.

9. Finally, SBA seeks comments on data sources it used to examine industry and Federal market conditions, as well as suggestions on relevant alternative data sources that the Agency should evaluate in reviewing or modifying size standards for industries covered by this proposed rule.

Public comments on the above issues are very valuable to SBA for validating its proposed size standards revisions in this proposed rule. Commenters addressing size standards for a specific industry or a group of industries should include relevant data and/or other information supporting their comments. If comments relate to the application of size standards for Federal procurement programs, SBA suggests that commenters provide information on the size of contracts in their industries, the size of businesses that can undertake the contracts, start-up costs, equipment and other asset requirements, the amount of subcontracting, other direct and indirect costs associated with the contracts, the use of mandatory sources of supply for products and services, and the degree to which contractors can mark up those costs.

Compliance With Executive Orders 12866 and 13771, the Regulatory Flexibility Act (5 U.S.C. 601–612), Executive Orders 13563, 12988, and 13132, and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this proposed rule is a significant regulatory action for purposes of Executive Order 12866. Accordingly, in the next section SBA provides a Regulatory Impact Analysis of this proposed rule, including: (1) A statement of the need for the proposed action, (2) an examination of alternative approaches, and (3) an evaluation of the benefits and costs—both quantitative and qualitative—of the proposed action and the alternatives considered. However, this rule is not a ''major rule'' under the Congressional Review Act, 5 U.S.C. 800.

Regulatory Impact Analysis

1. What is a need for this regulatory action?

Under the Small Business Act (Act) (15 U.S.C. 632(a)), SBA's Administrator is responsible for establishing small business size definitions (or ''size standards'') and ensuring that such definitions vary from industry to industry to reflect differences among various industries. The Jobs Act requires SBA to review every five years all size standards and make necessary adjustments to reflect current industry and Federal market conditions. This proposed rule is part of the second 5-year review of size standards in accordance with the Jobs Act. The first 5-year review of size standards was completed in early 2016. Such periodic reviews of size standards provide SBA with an opportunity to incorporate ongoing changes to industry structure and Federal market environment into size standards and to evaluate the impacts of prior revisions to size standards on small businesses. This also provides SBA with an opportunity to seek and incorporate public input to the size standards review and analysis. SBA believes that proposed size standards revisions for industries being reviewed in this rule will make size standards more reflective of the current economic characteristics of businesses in those industries and the latest trends in Federal marketplace.

SBA's mission is to aid and assist small businesses through a variety of financial, procurement, business development and counseling, and disaster assistance programs. To determine the actual intended beneficiaries of these programs, SBA establishes numerical size standards by industry to identify businesses that are deemed small.

The proposed revisions to the existing size standards for 103 industries in NAICS Sectors 11, 21, 22 and 23 are consistent with SBA's statutory mandates to help small businesses grow and create jobs and to review and adjust size standards every five years. This regulatory action promotes the Administration's goals and objectives as well as meets the SBA's statutory responsibility. One of SBA's goals in support of promoting the Administration's objectives is to help small businesses succeed through fair and equitable access to capital and credit, Federal Government contracts and purchases, and management and technical assistance. Reviewing and modifying size standards, when appropriate, ensures that intended beneficiaries are able to access Federal small business programs that are designed to assist them to become competitive and create jobs.

2. What are the potential benefits and costs of this regulatory action?

OMB directs agencies to establish an appropriate baseline to evaluate any benefits, costs, or transfer impacts of regulatory actions and alternative approaches considered. The baseline should represent the agency's best assessment of what the world would look like absent the regulatory action. For a new regulatory action promulgating modifications to an existing regulation (such as modifying the existing size standards), a baseline assuming no change to the regulation (*i.e.,* making no changes to current size standards) generally provides an appropriate benchmark for evaluating benefits, costs, or transfer impacts of proposed regulatory changes and their alternatives.

Proposed Changes to Size Standards

Based on the results from analysis of latest industry and Federal contracting data, as well as consideration of impact of size standards changes on small businesses and significant adverse impacts of the COVID–19 emergency on small businesses and the overall

economic activity, of the total of 103 industries in Sectors 11, 21, 22 and 23 that have receipts-based size standards, SBA proposes to increase size standards for 68 industries (including exceptions), and maintain current size standards for the remaining 35 industries.

The Baseline

For purposes of this regulatory action, the baseline represents maintaining the ''status quo,'' *i.e.,* making no changes to the current size standards. Using the number of small businesses and levels of benefits (such as set-aside contracts, SBA's loans, disaster assistance, etc.) they receive under the current size standards as a baseline, one can examine the potential benefits, costs and transfer impacts of proposed changes to size standards on small businesses and on the overall economy.

Based on the 2012 Economic Census (the latest available), of a total of about 2.7 million businesses in industries in Sectors 11, 21, 22, and 23 for which SBA proposes to increase their receipts-based size standards, 96.9 percent are considered small under the current size standards. That percentage varies from 95.5 percent in Sector 21 to 98.5 percent in Sector 23. Based on the data from FPDS–NG for fiscal years 2016–2018, about 17,300 unique firms in those industries received at least one Federal contract during that period, of which 86.4 percent were small under the current size standards. A total of $30.2 billion in average annual contract dollars were awarded to businesses in those industries during the period of evaluation, and 51.2 percent of the dollars awarded went to small businesses. For these sectors, providing contract dollars to small business through set asides is quite important. From the total small business contract dollars awarded during the period considered, 83.4 percent were awarded through various small business set-aside programs and 16.6 percent were awarded through non-set aside contracts. Based on the SBA's internal data on its loan programs for fiscal years 2016–2018, small businesses in those industries received, on an annual basis, a total of nearly 8,300 7(a) and 504 loans in that period, totaling about $2.4 billion, of which 89 percent was issued through the 7(a) program and 11 percent was issued through the 504/CDC program. During fiscal years 2016–2018, small businesses in those industries also received 318 loans through the SBA's Economic Injury Disaster Loan (EIDL) program, totaling about $25.0 million on an annual basis. Table 9, Baseline for All Industries, below, provides these baseline results by sector.

TABLE 9—BASELINE FOR ALL INDUSTRIES

	Sector 11	Sector 21	Sector 22	Sector 23	Total
Baseline All Industries (current size standards)	64	4	3	32	103
Total firms (Economic Census)	2,122,631	8,196	3,673	587,173	2,721,673
Total small firms under current size standards (Economic Census)	2,046,316	7,828	3,586	578,430	2,636,160
Small firms as % of total firms	96.4	95.5	97.6	98.5	96.9
Total contract dollars ($ million) (FPDS–NG FY2016–2018)	$591.2	$90.0	$311.1	$29,178	$30,170.0
Total small business contract dollars under current standards ($ million) (FPDS–NG FY2016–2018)	$459.1	$31.3	$67.0	$14,879	$15,436.4
Small business dollars as % of total dollars (FPDS–NG FY2016–2018)	77.6	34.8	21.5	51.0	51.2
Total No. of unique firms getting contracts (FPDS–NG FY2016–2018)	3,557	298	624	13,290	17,300
Total No. of unique small firms getting small business contracts (FPDS–NG FY2016–2018)	3,174	221	488	11,422	14,933
Small business firms as % of total firms	89.2	74.2	78.2	85.9	86.4
No. of 7(a) and 504/CDC loans (FY2016–2018)	843	73	36	7,334	8,286
Amount of 7(a) and 504 loans ($ million) (FY2016–2018)	$620.7	$34.2	$6.5	$1,705.3	$2,366.7
No. of EIDL loans (FY2016–2018)	90	3	3	222	318
Amount of EIDL loans ($ million) (FY2016–2018)	$5.6	$0.6	$0.7	$18.0	$25.0

Increases to Size Standards

As stated above, of 103 receipts-based size standards in Sectors 11, 21, 22 and 23 that are reviewed in this rule, based on the results from analyses of latest industry and Federal market data as well as impacts of size standards changes on small businesses, SBA proposes to increase 68 size standards. Below are descriptions of the benefits, costs and transfer impacts of these proposed increases to size standards.

Benefits of Increases to Size Standards

The most significant benefit to businesses from proposed increases to size standards is gaining eligibility for Federal small business assistance programs or retaining that eligibility for a longer period. These include SBA's business loan programs, EIDL program, and Federal procurement programs intended for small businesses. Federal procurement programs provide targeted, set-aside opportunities for small businesses under SBA's various business development and contracting programs. These include the 8(a)/BD(business development) Program, the Small Disadvantaged Businesses (SDB) Program, the Historically Underutilized Business Zones (HUBZone) Program, the Women-Owned Small Businesses (WOSB) Program, the Economically Disadvantaged Women-Owned Small Businesses (EDWOSB) Program, and the Service-Disabled Veteran-Owned Small Businesses (SDVOSB) Program.

Besides set-aside contracting and financial assistance discussed above, small businesses also benefit through reduced fees, less paperwork, and fewer compliance requirements that are available to small businesses through Federal government. However, SBA has no data to estimate the number of small businesses receiving such benefits.

Based on the 2012 Economic Census (latest available), SBA estimates that in 68 industries in NAICS Sectors 11, 21, 22 and 23 for which it has proposed to increase size standards, more than 49,400 firms (see Table 10, below) not small under the current size standards will become small under the proposed

size standards increases and therefore become eligible for these programs. That represents about 2.4 percent of all firms classified as small under the current size standards in industries for which SBA has proposed increasing size standards. If adopted, proposed size standards would result in an increase to the small business share of total receipts in those industries from 35.6 percent to 55.2 percent.

With more businesses qualifying as small under the proposed increases to size standards, Federal agencies will have a larger pool of small businesses from which to draw for their small business procurement programs. Growing small businesses that are close to exceeding the current size standards will be able to retain their small business status for a longer period under the higher size standards, thereby enabling them to continue to benefit from the small business programs.

Based on the FPDS–NG data for fiscal years 2016–2018, SBA estimates that about 90 firms that are active in Federal contracting in those industries would gain small business status under the proposed size standards. Based on the same data, SBA estimates that those newly qualified small businesses under the proposed increases to size standards, if adopted, could receive Federal small business contracts totaling about $9.8 million annually. That represents a 1.6 percent increase to small business dollars from the sector baseline.

The added competition from more businesses qualifying as small can result in lower prices to the government for procurements set aside or reserved for small businesses, but SBA cannot quantify this impact. Costs could be higher when full and open contracts are awarded to HUBZone businesses that receive price evaluation preferences. However, with agencies likely setting aside more contracts for small businesses in response to the availability of a larger pool of small businesses under the proposed increases to size standards, HUBZone firms might actually end up getting more set-aside contracts and fewer full and open contracts, thereby resulting in some cost savings to agencies. While SBA cannot estimate such costs savings as it is impossible to determine the number and value of unrestricted contracts to be otherwise awarded to HUBZone firms will be awarded as set-asides, such cost savings are likely to be relatively small as only a small fraction of full and open contracts are awarded to HUBZone businesses.

Under SBA's 7(a) and 504 loan programs, based on the data for fiscal years 2016–2018, SBA estimates up to about 21 7(a) and 504 loans totaling about $14.4 million could be made to these newly qualified small businesses in those industries under the proposed size standards. That represents a 0.6 percent increase to the loan amount compared to the Group baseline.

Newly qualified small businesses will also benefit from the SBA's EIDL program. Since the benefit provided through this program is contingent on the occurrence and severity of a disaster in the future, SBA cannot make a meaningful estimate of this impact. However, based on the historical trends of the EIDL data, SBA estimates that, on an annual basis, the newly defined small businesses under the proposed increases to size standards, if adopted, could receive four (4) EIDL loans, totaling about $0.5 million. Additionally, the newly defined small businesses would also benefit through reduced fees, less paperwork, and fewer compliance requirements that are available to small businesses through the Federal government, but SBA has no data to quantify this impact. Table 10, Impacts of Proposed Increases to Size Standards, provides these results by NAICS sector.

TABLE 10—IMPACTS OF PROPOSED INCREASES TO SIZE STANDARDS

	Sector 11	Sector 21	Sector 22	Sector 23	Total
No. of industries with proposed increases to size standards	60	3	3	2	68
Total current small businesses in industries with Proposed increases to size standards (Economic Census 2012)	2,016,066	536	3,586	5,413	2,025,601
Additional firms qualifying as small under proposed standards (2012 Economic Census)	49,352	21	9	34	49,415
Percentage of additional firms qualifying as small relative to current small businesses in industries with proposed increases to size standards	2.4%	3.9%	0.2%	0.6%	2.4%
No. of current unique small firms getting small business contracts in industries with proposed increases to size standards (FPDS–NG FY2016–2018) [1]	3,143	171	488	576	4,346
Additional small business firms getting small business status (FPDS–NG FY2016–2018)	66	1	12	12	88
% increase to small businesses relative to current unique small firms getting small business contracts in industries with proposed increases to size standards (FPDS–NG FY2016–2018) [1]	2.1%	0.6%	2.5%	2.1%	2.0%
Total small business contract dollars under current standards in industries with proposed increases to size standards ($ million) (FPDS–NG FY2016–2018)	$455.7	$4.5	$67.0	$90.8	$618.0
Estimated small business dollars available to newly qualified small firms (Using avg dollars obligated to SBs) ($ million) (FPDS–NG FY 2016–2018) [1]	$5.1	$0.2	$2.7	$1.8	$9.8
% increase to small business dollars relative to total small business contract dollars under current standards in industries with proposed increases to size standards	1.1	5.1	4.1	2.0	1.26
Total no. of 7(a) and 504 loans to small business in industries with proposed increases to size standards (FY2016–2018)	779	4	36	96	915
Total amount of 7(a) and 504 loans to small businesses in industries with proposed increases to size standards ($ million) (FY2016–2018)	$582.5	$1.5	$6.5	$33.7	$624.3

TABLE 10—IMPACTS OF PROPOSED INCREASES TO SIZE STANDARDS—Continued

	Sector 11	Sector 21	Sector 22	Sector 23	Total
Estimated no. of 7(a) and 504 loans to newly qualified small firms	18	1	1	1	21
Estimated 7(a) and 504 loan amount to newly qualified small firms ($ million)	$13.5	$0.4	$0.2	$0.4	$14.4
% increase to 7(a) and 504 loan amount relative to the total amount of 7(a) and 504 loans in industries with proposed increases to size standards	2.3	25.0	2.8	1.0	2.3
Total no. of EIDL loans to small businesses in industries with proposed increases to size standards (FY2016–2018)	73	0	3	3	79
Total amount of EIDL loans to small businesses in industries with proposed increases to size standards ($ million) (FY2016–2018)	$4.7	$0.0	$0.7	$0.3	$5.8
Estimated no. of EIDL loans to newly qualified small firms	2	0	1	1	4
Estimated EIDL loan amount to newly qualified small firms ($ million)	$0.13	$0.0	$0.3	$0.10	$0.5
% increase to EIDL loan amount relative to the total amount of EIDL loans in industries with proposed increases to size standards	2.3	0.0	33.3	33.3	8.2

1. Additional dollars are calculated multiplying average small business dollars obligated per DUNS times change in number of firms. Numbers of firms are calculated using the SBA current size standard, not the contracting officer's size designation.
2. Total impact represents total unique number of firms impacted to avoid double counting as some firms are participating in more than one industry.

Costs of Increases to Size Standards

Besides having to register in SAM to be able to participate in Federal contracting and update the SAM profile annually, small businesses incur no direct costs to gain or retain their small business status as a result of increases to size standards. All businesses willing to do business with the Federal government must register in SAM and update their SAM profiles annually, regardless of their size status. SBA believes that a vast majority of businesses that are willing to participate in Federal contracting are already registered in SAM and update their SAM profiles annually. More importantly, this proposed rule does not establish the new size standards for the very first time; rather it intends to modify the existing size standards in accordance with a statutory requirement and the latest data and other relevant factors.

To the extent that the newly qualified small businesses could become active in Federal procurement, the proposed increases to size standards, if adopted, may entail some additional administrative costs to the government as a result of more businesses qualifying as small for Federal small business programs. For example, there will be more firms seeking SBA's loans, more firms eligible for enrollment in the Dynamic Small Business Search (DSBS) database or in *certify.sba.gov,* more firms seeking certification as 8(a)/BD or HUBZone firms or qualifying for small business, SDB, WOSB, EDWOSB, and SDVOSB status, and more firms applying for SBA's 8(a)/BD and all small business mentor-protégé programs. With an expanded pool of small businesses, it is likely that Federal agencies would set aside more contracts for small businesses under the proposed increases to size standards. One may surmise that this might result in a higher number of small business size protests and additional processing costs to agencies. However, the SBA's historical data on size protests shows that the number of size protests decreased following the increases to receipts-based size standards as part of the first 5-year review of size standards. Specifically, on an annual basis, the number of size protests fell from about 600 during fiscal years 2011–2013 (review of most receipts-based size standards was completed by the end of FY 2013), as compared to about 500 during fiscal years 2014–2016 when size standards increases were in effect. That represents a 17 percent decline. Among those newly defined small businesses seeking SBA's loans, there could be some additional costs associated with verification of their small business status. However, small business lenders have an option of using the tangible net worth and net income based alternative size standard instead of using the industry-based size standards to establish eligibility for SBA's loans. For these reasons, SBA believes that these added administrative costs will be minor because necessary mechanisms are already in place to handle these added requirements.

Additionally, some Federal contracts may possibly have higher costs. With a greater number of businesses defined as small due to the proposed increases to size standards, Federal agencies may choose to set aside more contracts for competition among small businesses only instead of using a full and open competition. The movement of contracts from unrestricted competition to small business set-aside contracts might result in competition among fewer total bidders, although there will be more small businesses eligible to submit offers under the proposed size standards. However, the additional costs associated with fewer bidders are expected to be minor since, by law, procurements may be set aside for small businesses under the 8(a)/BD, SDB, HUBZone, WOSB, EDWOSB, or SDVOSB programs only if awards are expected to be made at fair and reasonable prices.

Costs may also be higher when full and open contracts are awarded to HUBZone businesses that receive price evaluation preferences. However, with agencies likely setting aside more contracts for small businesses in response to the availability of a larger pool of small businesses under the proposed increases to size standards, HUBZone firms might actually end up getting fewer full and open contracts, thereby resulting in some cost savings to agencies. However, such cost savings are likely to be minimal as only a small fraction of unrestricted contracts are awarded to HUBZone businesses.

Transfer Impacts of Increases to Size Standards

The proposed increases to size standards, if adopted, may result in some redistribution of Federal contracts between the newly qualified small businesses and large businesses and between the newly qualified small businesses and small businesses under the current standards. However, it would have no impact on the overall economic activity since total Federal contract dollars available for businesses to compete for will not change with changes to size standards. While SBA cannot quantify with certainty the actual outcome of the gains and losses from the redistribution contracts among different groups of businesses, it can identify several probable impacts in qualitative terms. With the availability of a larger pool of small businesses under the proposed increases to size standards, some unrestricted Federal contracts which would otherwise be awarded to large businesses may be set aside for small businesses. As a result, large businesses may lose some Federal contracting opportunities. Similarly, some small businesses under the current size standards may obtain a fewer set aside contracts due to the increased competition from more advanced businesses qualifying as small under the proposed increases to size standards. This impact may be offset by a greater number of procurements being set aside for all small businesses. With larger businesses qualifying as small under the higher size standards, smaller small businesses could face some disadvantage in competing for set aside contracts against their larger counterparts. However, SBA cannot quantify these impacts.

3. What alternatives have been considered?

Under OMB Circular A–4, SBA is required to consider regulatory alternatives to the proposed changes in the proposed rule. In this section, SBA describes and analyzes two such alternatives to the proposed rule. Alternative Option One to the proposed rule, a more stringent alternative to the proposed rule, would propose adopting size standards based solely on the analytical results. In other words, the size standards of 68 industries for which the analytical results suggest raising size standards would be raised. However, the size standards of 35 industries for which the analytical results suggest lowering size standards would be lowered. Alternative Option Two would propose retaining all size standards for all industries, given the uncertainty generated by the ongoing COVID–19 pandemic. Below, SBA discusses and presents the net impacts of each option.

Alternative Option One: Consider Adopting All Calculated Size Standards

As discussed elsewhere in this proposed rule, Alternative Option One would cause a substantial number of currently small businesses to lose their small business status and hence to lose their access to Federal small business assistance, especially small business set-aside contracts and SBA's financial assistance in some cases. These consequences could be mitigated. For example, in response to the 2008 Financial Crisis and economic conditions that followed, SBA adopted a general policy in the first 5-year comprehensive size standards review to not lower any size standard (except to exclude one or more dominant firms) even when the analytical results suggested the size standard should be lowered. Currently, because of the economic challenges presented by the COVID–19 pandemic and the measures taken to protect public health, SBA has decided to propose the same general policy of not lowering size standards in the ongoing second 5-year comprehensive size standards review as well.

The primary benefit of adopting this alternative is that SBA's procurement, management, technical and financial assistance resources would be targeted to the most appropriate beneficiaries of such programs according to the analytical results. Adopting the size standards suggested by the analytical results would also promote consistency with analytical results in SBA's exercise of its authority to determine size standards. SBA seeks public comment on the impact of adopting the size standard as suggested by the analytical results.

As explained in the Size Standards Methodology White Paper, in addition to adopting all results of the primary analysis, SBA evaluates other relevant factors as needed such as the impact of the reductions or increases of size standards on the distribution of contracts awarded to small businesses, and may adopt different results with the intention of mitigating potential negative impacts.

We have discussed already the benefits and costs of increasing 68 size standards. Below we discuss the benefits and costs of decreasing 35 size standards.

Benefits of Decreases to Size Standards

The most significant benefit to businesses from decreases to size standards when the SBA's analysis suggests such decreases is to ensure that size standards are more reflective of latest industry structure and Federal market trends and that Federal small business assistance is more effectively targeted to its intended beneficiaries. These include SBA's loan programs, EIDL program, and Federal procurement programs intended for small businesses. Federal procurement programs provide targeted, set-aside opportunities for small businesses under SBA's business development programs, such as small business, 8(a)/BD, SDB HUBZone, WOSB, EDWOSB, and SDVOSB programs. The adoption of smaller size standards when the results support them diminishes the risk of awarding contracts to firms which are not small anymore.

Decreasing size standards may reduce the administrative costs of the government, because the risk of awarding contracts to other than small businesses may diminish when the size standards reflect better the structure of the market. The risks of providing SBA's loans to firms that are not needing them the most, or allowing firms that are not eligible for small business set-asides or to participate on the SBA procurement programs will provide for a better chance for smaller firms to grow and benefit from the opportunities available on the Federal market, and strengthen the small business industrial base for the Federal Government.

Costs of Decreases to Size Standards

With fewer businesses qualifying as small under the decreases to size standards, Federal agencies will have a smaller pool of small businesses from which to draw for their small business procurement programs. For example, in Option One, during fiscal years 2016–2018, agencies awarded, on an annual basis, about $14,818 million in small business contracts in those 35 industries for which this Option considered decreasing size standards. Table 11 below shows that lowering 35 size standards would reduce Federal contract dollars awarded to small businesses by $865.4 million or about 5.8 percent relative to the baseline level, of which 99 percent are accounted for by the Construction Sector (NAICS 23). Because of the importance of the construction sector for Federal procurement and the immediate impact on businesses that will see their status as small changed relatively fast, SBA would adopt mitigating measures to reduce the negative impact under the assumptions of Option One. SBA could adopt one or more of the following three actions: (1) To accept decreases in size standards as suggested by the analytical

results, (2) to decrease size standards by a smaller amount than the calculated threshold, and (3) to retain the size standards at their current levels.

Nevertheless, since Federal agencies are still required to meet the statutory small business contracting goal of 23 percent, actual impacts on the overall set aside activity is likely to be smaller as agencies are likely to award more set aside contracts to small businesses that continue to remain small under the reduced size standards.

With fewer businesses qualifying as small, the decreased competition can also result in higher prices to the Government for procurements set aside or reserved for small businesses, but SBA cannot quantify this impact. However, SBA estimates an almost null impact or non-significant reduction in dollars obligated to small businesses, if mitigation measures are adopted. Decreases to size standards would have a very minor impact on small businesses applying for SBA's 7(a) and 504 loans because a vast majority of such loans are issued to businesses that are far below the reduced size standards. For example, based on the loan data for fiscal years 2016–2018, Option One estimates that about 71 7(a) and 504 loans with total amounts of $16.8 million could not be made to those small businesses that would lose eligibility under the reduced size standards (before mitigation). That represents about one (1.0) percent decrease of the loan amounts compared to the baseline. Table 11, Impacts of Decreases to Size Standards Under Alternative Option One, below, shows these results by sector. However, the actual impact could be much less as businesses losing small business eligibility under the decreases to industry based size standards could still qualify for SBA's loans under the tangible net worth and net income based alternative size standard.

Businesses losing small business status would also be impacted in terms of access to loans through SBA's EIDL program. However, SBA expects such impact to be minimal as only a small number of businesses in those industries received such loans during fiscal years 2016–2018. Additionally, all those businesses were below the reduced size standards. Since this program is contingent on the occurrence and severity of a disaster in the future, SBA cannot make a meaningful estimate of this impact.

Small businesses becoming other than small if size standards were decreased might lose benefits through reduced fees, less paperwork, and fewer compliance requirements that are available to small businesses through Federal government, but SBA has no data to quantify this impact. However, if agencies determine that SBA's size standards do not adequately serve such purposes, they can establish a different size standard with an approval from SBA if they are required to use SBA's size standards for their programs.

TABLE 11—IMPACTS OF DECREASES TO SIZE STANDARDS UNDER ALTERNATIVE OPTION ONE

	Sector 11	Sector 21	Sector 22	Sector 23	Total
No. of industries for which SBA considered decreasing size standards (2012 Economic Census)	4	1	0	30	35
Total current small businesses in industries for which SBA considered decreasing size standards (EC 2012)	30,250	7,292	0	573,017	610,559
Estimated no. of firms losing small status for which SBA considered decreasing size standards (EC 2012)	17	16	0	5,479	5,512
% of Firms losing small status relative to current small businesses in industries for which SBA considered decreasing size standards	0.1	0.2	0.0	1.0	0.9
No. of current unique small firms getting small business contracts in industries for which SBA considered decreasing size standards (FPDS–NG FY2016–2018) [1]	33	50	0	11,087	11,157
Estimated number of small business firms that would have lost small business status in the decreases that SBA considered	0	2	0	518	518
% decrease to small business firms relative to current unique small firms getting small business contracts in industries for which SBA considered decreasing size standards (FPDS–NG FY2016–2018) [1]	0	4.0	0	4.7	4.6
Total small business contract dollars under current size standards in industries for which SBA considered decreasing size standards ($ million) (FPDS–NG FY2016–2018)	$3.3	$26.9	$0	$14,790	$14,818
Estimated small business dollars not available to firms losing small business status (Using avg dollars obligated to SBs) ($ million) [1] (FPDS–NG FY 2016–2018)	$0	$1.1	$0	$864.4	$865.4
% decrease to small business dollars relative to total small business contract dollars under current size standards in industries for which SBA considered decreasing size standards	0	4.1	0	5.8	5.8
Total no. of 7(a) and 504 loans to small businesses in industries for which SBA considered decreasing size standards (FY2016–2018)	64	69	0	7,328	7,371
Total amount of 7(a) and 504 loans to small businesses in industries for which SBA considered decreasing size standards ($ million) (FY2016–2018)	$38.2	$32.7	$0.0	$1,671.5	$1,742.4
Estimated no. of 7(a) and 504 loans not available to firms that would have lost small business status	1	0	0	70	71
Estimated 7(a) and 504 loan amount not available to firms that would have lost small status ($ million)	$0.6	$0.0	$0.0	$16.2	$16.8

TABLE 11—IMPACTS OF DECREASES TO SIZE STANDARDS UNDER ALTERNATIVE OPTION ONE—Continued

	Sector 11	Sector 21	Sector 22	Sector 23	Total
% decrease to 7(a) and 504 loan amount relative to the total amount of 7(a) and 504 loans in industries for which SBA considered decreasing size standards	1.6%	0.0%	0.0%	1.0%	1.0%
Total no. of EIDL loans to small businesses in industries for which SBA considered decreasing size standards (FY2016–2018)	17	3	0	219	239
Total amount of EIDL loans to small businesses in industries for which SBA considered decreasing size standards ($ million) (FY2016–2018)	$0.9	$0.6	$0.0	$17.8	$19.2
Estimated no. of EIDL loans not available to firms that would have lost small business status	-1	0	0	−3	−4
Estimated EIDL loan amount not available to firms that would have lost small business status ($ million)	−$0.1	$0.0	$0.0	−$0.2	$0
% decrease to EIDL loan amount relative to the baseline	5.9%	0.0%	0.0%	1.4%	1.5%

1. Additional dollars are calculated multiplying average small business dollars obligated per DUNS times change in number of firms.
2. Total impact represents total unique industries impacted to avoid double counting as some industries have large firms gaining small business status and small firms extending small business status.

Transfer Impacts of Decreases to Size Standards

If the size standards were decreased under Alternative Option One, it may result in a redistribution of Federal contracts between small businesses losing their small business status and large businesses and between small businesses losing their small business status and small businesses remaining small under the reduced size standards. However, as under the proposed increases to size standards, it would have no impact on the overall economic activity since total Federal contract dollars available for businesses to compete for will stay the same. While SBA cannot estimate with certainty the actual outcome of the gains and losses among different groups of businesses from contract redistribution resulting from decreases to size standards, it can identify several probable impacts. With a smaller pool of small businesses under the decreases to size standards, some set-aside Federal contracts to be otherwise awarded to small businesses may be competed in unrestricted basis. As a result, large businesses may have more Federal contracting opportunities. However, because agencies are still required by law to award 23 percent of dollars to small businesses, SBA expects the movement of set-aside contracts to unrestricted competition to be limited. For the same reason, small businesses remaining small under the reduced size standards are likely to obtain more set aside contracts due to the reduced competition from fewer businesses qualifying as small under the decreases to size standards. With some larger small businesses losing small business status under the decreases to size standards, smaller small businesses would likely become more competitive in obtaining set aside contracts. However, SBA cannot quantify these impacts.

Net Impact of Alternative Option One

To estimate the net impacts of Alternative Option One, SBA followed the same methodology used to evaluate the impacts of the proposed size standards (see Table 10 above). However, under Alternative Option One, SBA used the calculated size standards instead of the proposed ones to determine the impacts of changes to current thresholds. The impact of the increases of the calculated size standards were already shown in Table 10 above. Table 11 (above) and Table 12, Net Impacts of Size Standards Changes under Alternative Option One, below, present the impact of the decreases of size standards and the net impact of adopting the calculated results under Alternative Option One, respectively.

Based on the 2012 Economic Census, SBA estimates that in 103 industries in NAICS Sectors 11, 21, 22 and 23 for which the analytical results suggested to change size standards, about 43,900 firms (see Table 12, below), would become small under the Option One. That represents about 1.7 percent of all firms classified as small under the current size standards.

Based on the FPDS–NG data for fiscal years 2016–2018, SBA estimates that about 433 active firms in Federal contracting in those industries would lose small business status under Option One, most of them from the Construction Sector. This represents a decrease of about 2.9 percent of the total number of small businesses participating in Federal contracting under the current size standards. Based on the same data, SBA estimates that about $855.6 million of Federal procurement dollars would not be available to firms losing their small status. This represents a decrease of 5.5 percent from the Group's baseline. Again, a large amount of the loses are accounted for by the Construction Sector.

Based on the SBA's loan data for fiscal years 2016–2018, the total number of 7(a) and 504 loans may decrease by about 50 loans, and the loan amounts by about $2.4 million. This represents a 0.1 percent decrease of the loan amounts relative to the Group baseline.

Firms' Participation under the SBA's EIDL program will be affected as well. Since the benefit provided through this program is contingent on the occurrence and severity of a disaster in the future, SBA cannot make a meaningful estimate of this impact. However, based on the historical trends of the EIDL data, SBA estimates that, on an annual basis, the net impact of the Option One on additional firms is zero, and additional loans amounts total about $0.18 million for the Group relative to the baseline. Table 12, below, provides these results by NAICS sector.

TABLE 12—NET IMPACTS OF SIZE STANDARDS CHANGES UNDER ALTERNATIVE OPTION ONE

	Sector 11	Sector 21	Sector 22	Sector 23	Total
No. of industries with proposed changes to size standards	64	4	3	32	103

TABLE 12—NET IMPACTS OF SIZE STANDARDS CHANGES UNDER ALTERNATIVE OPTION ONE—Continued

	Sector 11	Sector 21	Sector 22	Sector 23	Total
Total no. of small business under the current size standards (2012 Economic Census)	2,046,316	7,828	3,586	578,430	2,636,160
Additional firms qualifying as small under proposed size standards (2012 Economic Census)	49,335	5	9	−5,445	43,902
% of additional firms qualifying as small relative to total current small businesses	2.4%	0.1%	0.2%	−0.9%	1.7%
No. of current unique small firms getting small business contracts (FPDS–NG FY2016–2018) [1]	3,174	221	488	11,422	14,933
Additional small firms getting small business status (FPDS–NG FY2016–2018)	64	−1	12	−505	−433
% increase to small firms relative to current unique small firms getting small business contracts (FPDS–NG FY2016–2018) [1]	2.0	−0.5	2.5	−4.4	−2.9
Total small business contract dollars under current size standards ($ million) (FPDS–NG FY 2016–2018)	459.1	31.3	67.0	14,879.0	15,436.4
Estimated small business dollars available to newly qualified small firms ($ million) (FPDS–NG FY 2016–2018) [1]	5.1	−0.9	2.7	−862.6	−855.6
% increase to dollars relative to total small business contract dollars under current size standards	1.1	−2.8	4.1	−5.8	−5.5
Total no. of 7(a) and 504 loans to small businesses (FY2016–2018)	843	73	36	7,334	8,286
Total amount of 7(a) and 504 loans to small businesses (FY2016–2018)	$620.7	$34.2	$6.5	$1,705.3	$2,366.7
Estimated no. of additional 7(a) and 504 loans to newly qualified small firms	17	1	1	−69	−50
Estimated additional 7(a) and 504 loan amount to newly qualified small firms ($ million)	$12.9	$0.4	$0.2	−$15.8	−$2.4
% increase to 7(a)and 504 loan amount relative to the total amount of 7(a) and 504 loans to small businesses	2.1%	1.1%	2.8%	−0.93%	−0.1%
Total no. of EIDL loans to small businesses (FY2016–2018)	90	3	3	222	318
Total amount of EIDL loans to small businesses (FY2016–2018)	$5.6	$0.6	$0.7	$18.0	$25.0
Estimated no. of additional EIDL loans to newly qualified small firms	1	0	1	−2	0
Estimated additional EIDL loan amount to newly qualified small firms ($ million)	$0.08	$0.0	$0.2	−$0.1	$0.18
% increase to EIDL loan amount relative to the total amount of EIDL loans to small businesses	1.4%	0.0%	33.3%	−0.8%	0.7%

[1] Additional dollars are calculated multiplying average small business dollars obligated per DUNS times change in number of firms.
[2] Total impact represents total unique industries impacted to avoid double counting as some industries have large firms gaining small business status and small firms extending small business status.

Alternative Option Two: To Retain All Current Size Standards

Under this option, given the current COVID–19 pandemic, as discussed elsewhere, SBA considered retaining the current levels of all size standards even though the analytical results may suggest changing them. SBA considers that the option of retaining all size standards at this moment provides the opportunity to reassess the economic situation once the economic recovery starts. Under this option, as the current situation develops, SBA will be able to assess new data available on economic indicators, federal procurement, and SBA loans as well. SBA estimates a net impact of zero for this option, when compared to the baseline. However, if we compare the proposal of increasing 68 size standards and retaining 35 with this alternative approach, the benefits for small businesses of adopting the proposal will not be attained, because of which SBA is not proposing the Alternative Option Two.

Executive Order 13771

SBA has determined, subject to the approval of the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB), that this proposed rule is not subject to the requirements of E.O. 13771, because most of the rule's impacts are income transfers between small and other than small businesses. According to the E.O. 13771 guidance in OMB M–17–21, dated April 5, 2017 (''E.O. 13771 Guidance''), ''transfers'' are not covered by E.O. 13771. The E.O. 13771 Guidance also states that ''in some cases, [transfer rules] may impose requirements apart from transfers, or transfers may distort markets causing inefficiencies. In those cases, the actions would need to be offset to the extent they impose more than de minimis costs.'' SBA estimates that this rulemaking would impose only de minimis costs on small businesses and would result in negligible compliance costs. Thus, SBA has determined that this rulemaking is exempt from the requirements of E.O. 13771. Details on the estimated costs of this proposed rule can be found in the Regulatory Impact Analysis above.

Initial Regulatory Flexibility Analysis

According to the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, when an agency issues a rulemaking, it must prepare a regulatory flexibility analysis to address the impact of the rule on small entities.

This proposed rule, if adopted, may have a significant impact on a substantial number of small businesses in the industries covered by this proposed rule. As described above, this rule may affect small businesses seeking

Federal contracts, loans under SBA's 7(a), 504 and EIDL Programs, and assistance under other Federal small business programs.

Immediately below, SBA sets forth an initial regulatory flexibility analysis (IRFA) of this proposed rule addressing the following questions: (1) What is the need for and objective of the rule;? (2) What are SBA's description and estimate of the number of small businesses to which the rule will apply;? (3) What are the projected reporting, record keeping, and other compliance requirements of the rule;? (4) What are the relevant Federal rules that may duplicate, overlap, or conflict with the rule;? and (5) What alternatives will allow the Agency to accomplish its regulatory objectives while minimizing the impact on small businesses?

1. What is the need for and objective of the rule?

Changes in industry structure, technological changes, productivity growth, mergers and acquisitions, and updated industry definitions have changed the structure of many the industries covered by this proposed rule. Such changes can be enough to support revisions to current size standards for some industries. Based on the analysis of the latest data available, SBA believes that the revised standards in this proposed rule more appropriately reflect the size of businesses that need Federal assistance. The 2010 Jobs Act also requires SBA to review all size standards and make necessary adjustments to reflect market conditions.

2. What are SBA's description and estimate of the number of small businesses to which the rule will apply?

Based on data from the 2012 Economic Census, SBA estimates that there are about 2.02 million small firms covered by this rulemaking under industries with proposed changes to size standards. If the proposed rule is adopted in its present form, SBA estimates that an additional 49,415 businesses will become small.

3. What are the projected reporting, record keeping and other compliance requirements of the rule?

The proposed size standard changes impose no additional reporting or record keeping requirements on small businesses. However, qualifying for Federal procurement and a number of other programs requires that businesses register in SAM and self-certify that they are small at least once annually. Therefore, businesses opting to participate in those programs must comply with SAM requirements. There are no costs associated with SAM registration or certification. Changing size standards alters the access to SBA's programs that assist small businesses but does not impose a regulatory burden because they neither regulate nor control business behavior.

4. What are the relevant Federal rules, which may duplicate, overlap or conflict with the rule?

Under section 3(a)(2)(C) of the Small Business Act, 15 U.S.C. 632(a)(2)(c), Federal agencies must use SBA's size standards to define a small business, unless specifically authorized by statute to do otherwise. In 1995, SBA published in the **Federal Register** a list of statutory and regulatory size standards that identified the application of SBA's size standards as well as other size standards used by Federal agencies (60 FR 57988 (November 24, 1995)). SBA is not aware of any Federal rule that would duplicate or conflict with establishing size standards.

However, the Small Business Act and SBA's regulations allow Federal agencies to develop different size standards if they believe that SBA's size standards are not appropriate for their programs, with the approval of SBA's Administrator (13 CFR 121.903). The Regulatory Flexibility Act authorizes an Agency to establish an alternative small business definition, after consultation with the Office of Advocacy of the U.S. Small Business Administration (5 U.S.C. 601(3)).

5. What alternatives will allow the Agency to accomplish its regulatory objectives while minimizing the impact on small entities?

By law, SBA is required to develop numerical size standards for establishing eligibility for Federal small business assistance programs. Other than varying size standards by industry and changing the size measures, no practical alternative exists to the systems of numerical size standards.

However, SBA considered two alternatives to its proposal to increase 68 size standards and maintain 35 size standards at their current levels. The first alternative SBA considered was adopting size standards based solely on the analytical results. In other words, the size standards of 68 industries for which the analytical results suggest raising size standards would be raised. However, the size standards of 35 industries for which the analytical results suggest lowering size standards would be lowered. This would cause a significant number of small businesses to lose their small business status, especially in the construction sector. Under the second alternative, in view of the COVID–19 pandemic, SBA considered retaining all size standards at the current levels, even though the analytical results may suggest increasing 68 size standards and decreasing 35. Retaining all size standards at their current levels would be more onerous for the small businesses than the option of adopting 68 increases and retaining the rest of size standards. Additionally, for the first time, SBA evaluated 46 agricultural industries in this proposed rule, and postponing the adoption of the calculated size standards would be detrimental for the small businesses within these industries.

Executive Order 13563

Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. A description of the need for this regulatory action and benefits and costs associated with this action including possible distributional impacts that relate to Executive Order 13563 is included above in the Regulatory Impact Analysis under Executive Order 12866. Additionally, Executive Order 13563, section 6, calls for retrospective analyses of existing rules.

The review of size standards in the industries covered by this proposed rule is consistent with section 6 of Executive Order 13563 and the 2010 Jobs Act which requires SBA to review all size standards and make necessary adjustments to reflect market conditions. Specifically, the 2010 Jobs Act requires SBA to review at least one-third of all size standards during every 18-month period from the date of its enactment (September 27, 2010) and to review all size standards not less frequently than once every five years, thereafter. SBA had already launched a comprehensive review of size standards in 2007. In accordance with the Jobs Act, SBA completed the comprehensive review of the small business size standard for each industry, except those for agricultural enterprises previously set by Congress, and made appropriate adjustments to size standards for a number of industries to reflect current Federal and industry market conditions. The first comprehensive review was completed in 2015. Prior to 2007, the last time SBA conducted a comprehensive review of all size standards was during the late 1970s and early 1980s.

SBA issued a White Paper entitled ''Size Standards Methodology'' and published a notice in the April 11, 2019, edition of the **Federal Register** (84 FR 14587) to advise the public that the document is available for public review and comments. The ''Size Standards Methodology'' White Paper explains

how SBA establishes, reviews, and modifies its receipts-based and employee-based small business size standards. SBA gave appropriate consideration to all input, suggestions, recommendations, and relevant information obtained from industry groups, individual businesses, and Federal agencies in developing size standards for those industries covered by this proposed rule.

Executive Order 12988

This action meets applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have retroactive or preemptive effect.

Executive Order 13132

For purposes of Executive Order 13132, SBA has determined that this proposed rule will not have substantial, direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, SBA has determined that this proposed rule has no federalism implications warranting preparation of a federalism assessment.

Paperwork Reduction Act

For the purpose of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA has determined that this rule will not impose any new reporting or record keeping requirements.

List of Subjects in 13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Individuals with disabilities, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth in the preamble, SBA proposes to amend 13 CFR part 121 as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

■ 1. The authority citation for part 121 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 636(a)(36), 662, and 694a(9); Pub. L. 116–136, Section 1114.

■ 2. In § 121.201 amend the table ''Small Business Size Standards by NAICS Industry'' as follows:

■ a. Revise Subsector 111, entries ''112111'', ''112112'', ''112120'', ''112210'', ''112320'' through ''112340'', ''112390'', ''112410'', ''112420'', ''112511'', ''112512'', ''112519'', ''112910'' through ''112930'', ''112990'', ''113110'', ''113210'', ''114112'', ''114119'', ''114210'', entries ''115111'' through ''115113'', ''115116'', ''115210'' ''115310'', ''115310 first and second sub-entry'', entries ''213113'' through ''213115'', ''221310'' through ''221330'', ''237990'', ''237990 sub-entry'', and ''238290'';

■ b. Revise footnote 2;

■ c. Redesignate footnote 17 as footnote 1;

■ d. Redesignate footnote 20 as footnote 15;

■ e. Redesignate footnote 19 as footnote 17;

■ f. Revise Editorial Note 1; and

■ g. Remove Editorial Note 2.

The revisions read as follows:

§ 121.201 What size standards has SBA identified by North American Industry Classification System codes?

* * * * *

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
	Sector 11—Agriculture, Forestry, Fishing and Hunting Subsector 111—Crop Production		
111110	Soybean Farming	$2.0	
111120	Oilseed (except Soybean) Farming	2.0	
111130	Dry Pea and Bean Farming	2.5	
111140	Wheat Farming	2.0	
111150	Corn Farming	2.25	
111160	Rice Farming	2.25	
111191	Oilseed and Grain Combination Farming	2.0	
111199	All Other Grain Farming	2.0	
111211	Potato Farming	3.75	
111219	Other Vegetable (except Potato) and Melon Farming	3.25	
111310	Orange Groves	3.5	
111320	Citrus (except Orange) Groves	3.75	
111331	Apple Orchards	4.0	
111332	Grape Vineyards	3.5	
111333	Strawberry Farming	4.75	
111334	Berry (except Strawberry) Farming	3.25	
111335	Tree Nut Farming	3.25	
111336	Fruit and Tree Nut Combination Farming	4.5	
111339	Other Noncitrus Fruit Farming	3.0	
111411	Mushroom Production	4.0	
111419	Other Food Crops Grown Under Cover	4.0	
111421	Nursery and Tree Production	2.75	
111422	Floriculture Production	3.25	
111910	Tobacco Farming	2.25	
111920	Cotton Farming	2.75	
111930	Sugarcane Farming	4.5	
111940	Hay Farming	2.25	
111991	Sugar Beet Farming	2.25	
111992	Peanut Farming	2.25	
111998	All Other Miscellaneous Crop Farming	2.25	

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
	Subsector 112—Animal Production and Aquaculture		
112111	Beef Cattle Ranching and Farming	2.25	
112112	Cattle Feedlots	19.5	
112120	Dairy Cattle and Milk Production	3.25	
112210	Hog and Pig Farming	3.5	
*	* * * * *	*	*
112320	Broilers and Other Meat Type Chicken Production	3.0	
112330	Turkey Production	3.25	
112340	Poultry Hatcheries	3.5	
112390	Other Poultry Production	3.25	
112410	Sheep Farming	3.0	
112420	Goat Farming	2.25	
112511	Finfish Farming and Fish Hatcheries	3.25	
112512	Shellfish Farming	3.25	
112519	Other Aquaculture	3.25	
112910	Apiculture	2.75	
112920	Horses and Other Equine Production	2.5	
112930	Fur-Bearing Animal and Rabbit Production	3.25	
112990	All Other Animal Production	2.5	
	Subsector 113—Forestry and Logging		
113110	Timber Tract Operations	16.5	
113210	Forest Nurseries and Gathering of Forest Products	18.0	
*	* * * * *	*	*
	Subsector 114—Fishing, Hunting and Trapping		
*	* * * * *	*	*
114112	Shellfish Fishing	12.5	
114119	Other Marine Fishing	10.0	
114210	Hunting and Trapping	7.5	
	Subsector 115—Support Activities for Agriculture and Forestry		
115111	Cotton Ginning	14.0	
115112	Soil Preparation, Planting, and Cultivating	8.5	
115113	Crop Harvesting, Primarily by Machine	12.0	
*	* * * * *	*	*
115116	Farm Management Services	13.5	
115210	Support Activities for Animal Production	9.5	
115310	Support Activities for Forestry	10.0	
115310 (Exception 1)	Forest Fire Suppression [1]	25.0 [1]	
115310 (Exception 2)	Fuels Management Services [1]	25.0 [1]	
	Sector 21—Mining, Quarrying, and Oil and Gas Extraction		
*	* * * * *	*	*
	Subsector 213—Support Activities for Mining		
*	* * * * *	*	*
213113	Support Activities for Coal Mining	24.0	
213114	Support Activities for Metal Mining	36.0	
213115	Support Activities for Nonmetallic Minerals (except Fuels) Mining	18.0	
	Sector 22—Utilities **Subsector 221—Utilities**		
*	* * * * *	*	*
221310	Water Supply and Irrigation Systems	36.0	
221320	Sewage Treatment Facilities	31.0	

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
221330	Steam and Air-Conditioning Supply	26.5	
	Sector 23—Construction **Subsector 236—Construction of Buildings**		
*	* * * * *	*	*
	Subsector 237—Heavy and Civil Engineering Construction		
*	* * * * *	*	*
237990	Other Heavy and Civil Engineering Construction	39.5	
237990 (Exception)	Dredging and Surface Cleanup Activities [2]	33.0 [2]	
	Subsector 238—Specialty Trade Contractors		
*	* * * * *	*	*
238290	Other Building Equipment Contractors	19.5	
*	* * * * *	*	*
511210	Software Publishers [15]	41.5 [15]	
*	* * * * *	*	*
	Sector 92—Public Administration [17]		
*	* * * * *	*	*

Footnotes

[1] *NAICS code 115310*—Support Activities for Forestry: Forest Fire Suppression and Fuels Management Services are two components of Support Activities for Forestry. Forest Fire Suppression includes establishments which provide services to fight forest fires. These firms usually have fire-fighting crews and equipment. Fuels Management Services firms provide services to clear land of hazardous materials that would fuel forest fires. The treatments used by these firms may include prescribed fire, mechanical removal, establishing fuel breaks, thinning, pruning, and piling.

[2] *NAICS code 237990*—Dredging: To be considered small for purposes of Government procurement, a firm or its similarly situated subcontractors must perform at least 40 percent of the volume dredged with its own equipment or equipment owned by another small dredging concern.

[15] NAICS code 511210—For purposes of Government procurement, the purchase of software subject to potential waiver of the nonmanufacturer rule pursuant to § 121.1203(d) should be classified under this NAICS code.

[17] NAICS Sector 92—Small business size standards are not established for this sector. Establishments in the Public Administration sector are Federal, State, and local government agencies which administer and oversee government programs and activities that are not performed by private establishments. Concerns performing operational services for the administration of a government program are classified under the NAICS private sector industry based on the activities performed. Similarly, procurements for these types of services are classified under the NAICS private sector industry that best describes the activities to be performed. For example, if a government agency issues a procurement for law enforcement services, the requirement would be classified using one of the NAICS industry codes under NAICS industry 56161, Investigation, Guard, and Armored Car Services.

* * * * *

Editorial Note: For **Federal Register** citations affecting § 121.201, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.govinfo.gov.*

Jovita Carranza,

Administrator.

[FR Doc. 2020–21589 Filed 10–1–20; 8:45 am]

BILLING CODE 8026–03–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0857; Project Identifier MCAI–2020–00707–A]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Limited Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2014–25–04, which applies to all Pilatus Aircraft Limited (Pilatus) Models PC–6, PC–6–H1, PC–6–H2, PC–6/350, PC–6/350–H1, PC–6/350–H2, PC–6/A, PC–6/A–H1, PC–6/A–H2, PC–6/B–H2, PC–6/B1–H2, PC–6/B2–H2, PC–6/B2–H4, PC–6/C–H2, and PC–6/C1–H2 airplanes. AD 2014–25–04 requires incorporating revised airworthiness limitations into the aircraft maintenance manual (AMM). Since the FAA issued AD 2014–25–04, the FAA has determined that new or more restrictive airworthiness limitations are necessary for the stabilizer trim actuator, fuselage wing fittings, and wing-to-fuselage fittings. This proposed AD would require revising the airworthiness limitation section of the existing maintenance manual or instructions for continued airworthiness to incorporate new airworthiness limitations, and performing an eddy current inspection of the fuselage wing fittings and wing to fuselage fittings. 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 16, 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 Pilatus Aircraft Ltd., Customer Support General Aviation, CH–6371 Stans, Switzerland; telephone: +41 848 24 7 365; email: *Techsupport@pilatus-aircraft.com;* internet: *https://www.pilatus-aircraft.com/en.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

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–2020–0857; 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: Doug Rudolph, Aerospace Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0857; Project Identifier MCAI–2020–00707–A'' 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 proposal.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Doug Rudolph, Aerospace Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Discussion

The FAA issued AD 2014–25–04, Amendment 39–18045 (79 FR 73803, December 12, 2014) (''AD 2014–25–04''), for all Pilatus Models PC–6, PC–6–H1, PC–6–H2, PC–6/350, PC–6/350–H1, PC–6/350–H2, PC–6/A, PC–6/A–H1, PC–6/A–H2, PC–6/B–H2, PC–6/B1–H2, PC–6/B2–H2, PC–6/B2–H4, PC–6/C–H2, and PC–6/C1–H2 airplanes. AD 2014–25–04 requires incorporating revised airworthiness limitations into the AMM for your FAA-approved maintenance program. AD 2014–25–04 resulted from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The FAA issued AD 2014–25–04 to address new life limits for the fire extinguisher, which are required to ensure the continued operational safety of the affected airplanes.

Actions Since AD 2014–25–04 Was Issued

Since the FAA issued AD 2014–25–04, the European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, superseded its MCAI and issued EASA AD No. 2018–0285, dated December 20, 2018, which was superseded with EASA AD No. 2020–0120, dated May 27, 2020 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''). The MCAI corrects an unsafe condition for all Pilatus Models PC–6, PC–6–H1, PC–6–H2, PC–6/350, PC–6/350–H1, PC–6/350–H2, PC–6/A, PC–6/A–H1, PC–6/A–H2, PC–6/B–H2, PC–6/B1–H2, PC–6/B2–H2, PC–6/B2–H4, PC–6/C–H2, and PC–6/C1–H2 airplanes. The MCAI states that Pilatus has revised the airworthiness limitations section for the subject airplanes to introduce new data modules for two existing mandatory inspection tasks, the inspection of fuselage wing fittings and the inspection of wing to fuselage fittings. According to EASA, the new data modules require non-destructive visual and eddy current inspections in place of the previous requirement for a fluorescent dye-penetrant method.

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–2020–0857.

The FAA has determined that new and more restrictive airworthiness limitations, new life limits, and new inspection procedures are necessary, including for the stabilizer trim actuator and attachments, fuselage wing fittings, and wing-to-fuselage fittings. The FAA is proposing this AD to address reduced airplane controllability due to possible loss of structural integrity of certain parts.

Related Service Information Under 1 CFR Part 51

Pilatus has issued PC–6 Airworthiness Limitations Document Number 02334, Revision 9, dated March 6, 2020; and Section 04–00–00, Airworthiness Limitations of Chapter 04, Airworthiness Limitations, of the Pilatus PC–6 Aircraft Maintenance

Manual Document Number 01975, Revision 29, dated February 28, 2020. This service information contains airworthiness limitations for the stabilizer trim actuator, fuselage wing fittings, and wing-to-fuselage fittings. These documents are distinct since they apply to different airplane models.

Pilatus also issued Section 53–00–01, Chapter 53, Fuselage, and Section 57–00–03, Chapter 57, Wings, of the Pilatus PC–6 Aircraft Maintenance Manual Document Number 01975, Revision 29, dated February 28, 2020; and Appendix K and Appendix L of PC–6 Airworthiness Limitations Document Number 02334, Revision 9, dated March 6, 2020. This service information contains procedures for repetitive eddy current inspections of the fuselage wing fittings and wing-to-fuselage fittings.

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

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 and service information 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 on other products of the same type design.

Proposed Requirements of This NPRM

This proposed AD would retain none of the requirements of AD 2014–25–04. This proposed AD would require revising the airworthiness limitation section of the existing maintenance manual or instructions for continued airworthiness to incorporate new airworthiness limitations. The revised limitations include an eddy current inspection of the fuselage wing fittings and wing-to-fuselage fittings. This proposed AD would also require performing the eddy current inspection of the fuselage wing fittings and wing-to-fuselage fittings first within 1,100 hours time-in-service or 12 months, and thereafter at the intervals specified in the revised limitations.

This proposed AD would require revisions to the airworthiness limitations section of an operator's maintenance documents to include new inspections. Compliance with the airworthiness limitations section is required by 14 CFR 91.403(c).

Costs of Compliance

The FAA estimates that this proposed AD would affect 30 airplanes of U.S. registry. The FAA also estimates that it would take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, the FAA estimates the cost of this AD on U.S. operators would be $2,550, or $85 per product.

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:

■ a. Removing Airworthiness Directive (AD) 2014–25–04, Amendment 39–18045 (79 FR 73803, December 12, 2014); and

■ b. Adding the following new AD:

Pilatus Aircraft Limited: Docket No. FAA–2020–0857; Project Identifier MCAI–2020–00707–A.

(a) Comments Due Date

The FAA must receive comments by November 16, 2020.

(b) Affected ADs

This AD replaces AD 2014–25–04, Amendment 39–18045 (79 FR 73803, December 12, 2014) (''AD 2014–25–04'').

(c) Applicability

This AD applies to Pilatus Aircraft Limited Models PC–6, PC–6–H1, PC–6–H2, PC–6/350, PC–6/350–H1, PC–6/350–H2, PC–6/A, PC–6/A–H1, PC–6/A–H2, PC–6/B–H2, PC–6/B1–H2, PC–6/B2–H2, PC–6/B2–H4, PC–6/C–H2, and PC–6/C1–H2 airplanes, all serial numbers, certificated in any category.

Note 1 to paragraph (c): These airplanes may also be identified as Fairchild Republic Company airplanes, Fairchild Industries airplanes, Fairchild Heli Porter airplanes, or Fairchild-Hiller Corporation airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by a determination that new and more restrictive airworthiness limitations, new life limits, and new inspection procedures are necessary. The FAA is issuing this AD to address reduced airplane controllability due to possible loss of structural integrity of certain parts.

(f) Airworthiness Limitations Revision

Unless already done, before further flight, comply with the actions specified in paragraphs (f)(1) through (3) of this AD.

(1) For Models PC–6/B2–H2 and PC–6/B2–H4 airplanes, revise the airworthiness limitations section (ALS) of the existing maintenance manual or instructions for continued airworthiness (ICA) for your airplane as follows:

(i) Replace Section 04–00–00 with Section 04–00–00, Airworthiness Limitations, of Chapter 04, Airworthiness Limitations, of the

Pilatus PC–6 Aircraft Maintenance Manual Document Number 01975, Revision 29, dated February 28, 2020.

(ii) Add Section 53–00–01, Chapter 53, Fuselage, of the Pilatus PC–6 Aircraft Maintenance Manual Document Number 01975, Revision 29, dated February 28, 2020.

(iii) Add Section 57–00–03, Chapter 57, Wings, of the Pilatus PC–6 Aircraft Maintenance Manual Document Number 01975, Revision 29, dated February 28, 2020.

(2) For all airplanes specified in paragraph (c) of this AD except Models PC–6/B2–H2 and PC–6/B2–H4 airplanes, revise the ALS of the existing maintenance manual or ICA for your airplane as follows:

(i) Replace the ALS with the Airworthiness Limitations Section of Pilatus PC–6 Airworthiness Limitations Document Number 02334, Revision 9, dated March 6, 2020.

(ii) Add Appendix K of Pilatus PC–6 Airworthiness Limitations Document Number 02334, Revision 9, dated March 6, 2020.

(iii) Add Appendix L of Pilatus PC–6 Airworthiness Limitations Document Number 02334, Revision 9, dated March 6, 2020.

(3) For all airplanes specified in paragraph (c) of this AD, after revising the ALS as required by paragraphs (f)(1) and (2) of this AD, remove from service each part that has reached or exceeded its new life limit.

(g) One-Time Eddy Current Inspection

Unless already done, within 1,100 hours time-in-service after the effective date of this AD or within 12 months after the effective date of this AD, whichever occurs first, perform an eddy current inspection of each fuselage wing fitting and each wing to fuselage fitting using the procedures specified in paragraphs (f)(1)(ii) and (iii) of this AD, or paragraphs (f)(2)(ii) and (iii) of this AD, as applicable to your airplane. Thereafter, repeat the eddy current inspection of each fuselage wing fitting and each wing to fuselage fitting at the intervals specified in the ALS identified in paragraph (f)(1)(i) or (f)(2)(i), as applicable to your airplane.

(h) No Alternative Actions or Intervals

After the ALS has been revised as required by paragraph (f) of this AD, no alternative inspection intervals or procedures may be approved, except as provided in paragraph (i) of this AD.

(i) Other FAA AD Provisions

Alternative Methods of Compliance (AMOCs): The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to Doug Rudolph, Aerospace Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) European Union Aviation Safety Agency (EASA) AD No. 2018–0285, dated December 20, 2018, and EASA AD No. 2020–0120, dated May 27, 2020, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0857.

(2) For more information about this AD, contact Doug Rudolph, Aerospace Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.*

(3) For service information identified in this AD, contact Pilatus Aircraft Ltd., Customer Support General Aviation, CH–6371 Stans, Switzerland; telephone: +41 848 24 7 365; email: *Techsupport@pilatus-aircraft.com;* internet: *https://www.pilatus-aircraft.com/en.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued on September 25, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–21794 Filed 10–1–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0664; Airspace Docket No. 20–ACE–15]

RIN 2120–AA66

Proposed Revocation and Amendment of Class E Airspace; Orange City, and Le Mars, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to remove the Class E airspace extending upward from 700 feet above the surface at Orange City Municipal Airport, Orange City, IA and amend the Class E airspace extending upward from 700 feet above the surface at the Le Mars Municipal Airport, Le Mars, IA. The FAA is proposing this action; as the result of an airspace review caused by the decommissioning of the Orange City (ORC) non-directional beacon (NDB), and the Automated Weather Observing System (AWOS) navigation aids, and the closure of the Orange City Municipal Airport.

DATES: Comments must be received on or before November 16, 2020.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2020–0664; Airspace Docket No. 20–ACE–15, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

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

revoke the Class E airspace extending upward from 700 feet above the surface at Orange City Municipal Airport, Orange City, IA, and amend the Class E airspace the Class E airspace at Le Mars Municipal Airport, Le Mars, IA, to support instrument flight rule operations at this airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2020–0664/Airspace Docket No. 20–ACE–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 notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *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 the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

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 is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by:

Removing Class E airspace extending upward from 700 feet above the surface at Orange City Municipal Airport, Orange City, IA, as the instrument procedures at this airport have been cancelled and the airport closed, so the airspace is no longer required;

And removing the Orange City Municipal Airport; exclusionary language from the Le Mars Municipal Airport, Le Mars, IA, airspace legal description.

Class E airspace designations are published in paragraph 6005 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 designation listed in this document will be published subsequently in the Order.

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

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

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

* * * * *

ACE IA E5 Orange City, IA [Removed]

* * * * *

ACE IA E5 Le Mars, IA [Amended]

Le Mars Municipal Airport, IA

(Lat. 42°46′41″ N., long. 96°11′37″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Le Mars Municipal Airport.

Issued in Fort Worth, Texas, on September 28, 2020.

Steven T. Phillips,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2020–21782 Filed 10–1–20; 8:45 am]

BILLING CODE 4910–13–P

SURFACE TRANSPORTATION BOARD

49 CFR Part 1201

[Docket No. EP 763]

Montana Rail Link, Inc.—Petition for Rulemaking—Classification of Carriers

AGENCY: Surface Transportation Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Surface Transportation Board (STB or Board) proposes to modify the thresholds for classifying rail carriers.

DATES: Comments are due by November 2, 2020. Reply comments are due by December 1, 2020.

ADDRESSES: Comments and replies may be filed with the Board via e-filing on the Board's website at *www.stb.gov* and will be posted to the Board's website.

FOR FURTHER INFORMATION CONTACT: Amy Ziehm at (202) 245–0391. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Under 49 CFR part 1201, General Instructions section 1–1(a), rail carriers are grouped into one of three classes for purposes of accounting and reporting. The classification of rail carriers is also used in a variety of other contexts, including differentiating the legal standards and procedures that apply to certain transactions subject to Board licensing, *see, e.g.,* 49 U.S.C. 10902, 11324, 11325, and prescribing labor protection conditions, *see, e.g.,* 49 U.S.C. 10903(b)(2), 11326, among others.

The class to which any rail carrier belongs is determined by its annual operating revenues after application of a revenue deflator adjustment. Section 1–1(b)(1). Currently, Class I carriers have annual operating revenues of $504,803,294 or more, Class II carriers have annual operating revenues of less than $504,803,294 and more than $40,384,263, and Class III carriers have annual operating revenues of $40,384,263 or less, all when adjusted for inflation. Section 1–1(a) (setting thresholds unadjusted for inflation); *Indexing the Annual Operating Revenues of R.Rs.,* EP 748 (STB served June 10, 2020) (calculating revenue deflator factor and publishing thresholds adjusted for inflation based on 2019 data).[1] The revenue classification levels for railroads set forth at 49 CFR part 1201, General Instructions section 1–1(a) were adopted in 1992 by the Board's predecessor, the Interstate Commerce Commission. *Mont. Rail Link, Inc. & Wis. Cent. Ltd., Joint Pet. for Rulemaking with respect to 49 CFR part 1201* (*1992 Rulemaking*), 57 FR 27184 (June 18, 1992), 8 I.C.C.2d 625 (1992).

Background

On February 14, 2020, Montana Rail Link, Inc. (MRL), filed a petition for rulemaking to amend the Board's rail carrier classification regulations. In its petition, MRL requests that the Board increase the revenue threshold for Class I carriers to $900 million. (Pet. 1.) MRL contends that it continues to be a regional railroad operationally and economically but may exceed the Class I revenue threshold within two years. (*Id.*) Citing principles drawn from the *1992 Rulemaking,* in which the revenue thresholds were last raised, MRL asks that the Board address ''whether a regional carrier such as MRL should be treated as a Class I carrier, taking into account (1) the financial and operational differences between MRL and existing Class I carriers, and (2) the cost-benefit analysis of imposing Class I requirements on MRL.'' (*Id.* at 12.)

MRL argues that, from an operational standpoint, it is clearly different from a typical Class I carrier because of its heavy dependence on a single Class I interchange partner and because of the regional nature of its operations, with approximately 95% of its mainline track located in Montana. (*Id.* at 5–6.) From a financial standpoint, MRL also notes, among other things, that the average operating revenue for Class I railroads in 2018 was more than 27 times MRL's total revenue for that year and that the operating revenue for even the smallest Class I railroad was about 3.5 times the total revenue of MRL. (*Id.* at 8.) MRL contends that treating a regional railroad like MRL, with its operational and financial characteristics, as a Class I carrier would impose significant burdens on MRL with no offsetting public benefit. (*Id.* at 12.)

MRL submitted eight letters in support of its petition.[2] No replies to MRL's petition were received.

On May 14, 2020, the Board initiated a rulemaking proceeding to consider MRL's petition and consider issues related to the Class I carrier revenue threshold determination. The Board invited ''comment about whether it should amend 49 CFR part 1201, General Instructions section 1–1(a), to increase the revenue threshold for Class I carriers, and, if so, whether $900 million or another amount would be appropriate.'' *Mont. Rail Link, Inc.—Pet. for Rulemaking—Classification of Carriers,* 85 FR 30680 (May 20, 2020), EP 763, slip op. at 2 (STB served May 14, 2020).

The Board received two comments in response to its May 14, 2020 decision. On June 15, 2020, the American Short Line and Regional Railroad Association (ASLRRA) filed a comment in support of MRL's petition, and Transportation Trades Department, AFL–CIO (TTD) filed a comment opposing MRL's petition. MRL filed a reply on July 2, 2020.

ASLRRA supports MRL's petition, arguing that Class II railroads such as MRL are distinctly different from Class I railroads and that, in addition to many operational differences, there is a massive revenue gap between the largest Class II and the smallest Class I railroad. (ASLRRA Comment 2–3.) ASLRRA argues that MRL and similarly situated Class II railroads should continue to be classified in their current category, as the accounting, financial, and other burdens imposed on a Class II carrier by becoming a Class I carrier would outweigh any resulting benefits. (*Id.* at 3–4.) In addition to the cost of preparing the reports,[3] ASLRRA notes that reclassifying MRL and other similarly situated railroads as Class I carriers would unnecessarily deprive them of the benefit of the Short Line Rehabilitation Tax Credit, which has provided MRL almost $3 million per year in additional funds to invest in infrastructure, and the Railroad Industry Agreement, which provides a mechanism for the railroads to work together to increase rail traffic. (*Id.* at 4.)

TTD, a coalition of 33 affiliate unions, opposes MRL's petition and requests that the Board not increase the Class I threshold. (TTD Comment 1.) TTD contends that increasing the Class I threshold could prevent MRL employees from benefiting from labor protective conditions that would apply if MRL were to become a Class I and

[1] The railroad revenue deflator formula is based on the Railroad Freight Price Index developed by the Bureau of Labor Statistics. The formula is as follows: Current Year's Revenues × (1991 Average Index/Current Year's Average Index). 49 CFR part 1201, Note A. Each year, the Board calculates the annual revenue deflator factor and publishes the updated railroad revenue thresholds for each class of carrier in a decision and on its website.

[2] Letters of support were from the Montana Contractors' Association, Montana Agricultural Business Association, Montana Grain Elevator Association, Montana Petroleum Association, Inc., Montana Taxpayers Association, Montana Chamber of Commerce, Treasure State Resources Association, and Montana Wood Products Association.

[3] In its petition, MRL estimates it would have to expend at least $150,000 annually to prepare the required reports, in addition to the costs associated with converting its accounting system, training employees, and maintaining and recording the reports. (Pet. 9.)

engage in a transaction with a Class III railroad. (*See id.* at 1–2.) Additionally, TTD contends that MRL has not shown that raising the threshold is appropriate or necessary or that classification as a Class I would be overly burdensome. (*Id.* at 1.) TTD also disagrees with MRL's assertion that the ICC intended the *1992 Rulemaking* to prevent large regional railroads from becoming Class I railroads. (*Id.* at 2.) TTD asks that, if the Board grants MRL's petition, it adopt ''unique conditions'' for MRL; specifically, TTD requests that, if the Board finds it necessary to relieve MRL of financial reporting requirements, it nevertheless should apply the labor protective arrangements that would otherwise apply if MRL were to become a Class I railroad under the current threshold. (*Id.*)

In its reply, MRL reiterates that its operating and financial profiles are distinct from those of the current Class I carriers (noting, for example, that in 2018 it operated only about 720 miles of mainline track, nearly all of which is in one state, whereas the smallest current Class I carrier operated 3,397 miles of track across 10 states and two countries) and that significant burdens would be imposed on MRL if the threshold is not increased, while limited, if any, benefits would accrue to the public. (MRL Reply 2, 5.) Further, MRL notes that the petition has received no opposition from any shipper, shipper organization, or governmental entity. (*Id.* at 5.) MRL also argues that the petition has not received ''broad-based opposition'' from labor organizations. (*Id.*)[4] Regarding TTD's concern that MRL's proposal would keep its employees from benefiting from labor protective conditions, (*see* TTD Comment 1–2), MRL argues that the rail carrier classification system was established for the purpose of implementing accounting and reporting requirements and that TTD offers no rationale to support treating MRL as a Class I carrier for purposes of labor protections. (MRL Reply 3, 4.)

Proposed Amendments

The agency ''has broad discretion to require rail carriers to report financial and operating data, and to prescribe an underlying accounting system to produce that information.'' *1992 Rulemaking,* 8 I.C.C.2d at 631; *see also* 49 U.S.C. 11144, 11145, 11161–64. As noted above, the Board's classification of rail carriers affects the degree to which they must file annual, quarterly, and other operational reports and is relevant in other regulatory contexts as well. *See 1992 Rulemaking,* 8 I.C.C.2d at 631–32: 49 CFR parts 1201, 1241–1250.

After reviewing the petition and comments, the Board will propose amendments to its rail carrier classification regulations. The proposed amendments would raise the Class I revenue threshold from $504,803,294 (as adjusted for inflation) to $900 million and have the effect of excluding MRL (and other similarly situated carriers) from Class I status unless they have met the proposed revenue threshold for three years.

In proposing the amendments, the Board has considered ASLRRA's and MRL's arguments that the operational characteristics of regional railroads, like MRL, significantly differentiate it from the Class Is. For example, ASLRRA argues that small railroads are largely dependent on their Class I interchange partners for revenue, power, and car supply. (ASLRRA Comment 2.) This is true for MRL, which states that its only interchange partner is BNSF Railway Company (BNSF) and that approximately 84% of MRL's total revenue is generated from traffic interchanged with BNSF and ancillary services MRL performs for BNSF and 96% of MRL's non-switching traffic is subject to rates set by BNSF. (MRL Reply 2.) ASLRRA also contends that smaller railroads are often dependent upon a limited market and a traffic base that may be non-diversified. (ASLRRA Comment 3.) This characteristic also appears to apply to MRL, as a majority of its traffic consists of only three commodities. (MRL Reply 2.) Based on the record to date, it does appear that regional railroads, such as MRL, even with revenues approaching the current threshold, function more like significant Class II carriers and do not possess the comparative attributes of Class I carriers.

Moreover, MRL provides a persuasive argument that the benefits of certain Class II carriers becoming Class I carriers under the Board's existing revenue thresholds would not outweigh the burdens that would be imposed on the newly classified carriers. (Pet. 8–9 (arguing that the same reasons that led the ICC in the *1992 Rulemaking* to increase the Class I threshold to prevent regional railroads from becoming Class I carriers still apply today).) Should a regional carrier, such as MRL, become a Class I carrier pursuant to the current threshold, several significant accounting and financial reporting requirements would begin to apply even though the carrier's revenues would still be many hundreds of millions of dollars less, and its operations far more limited, than those of the smallest Class I carrier. (*See id.* (arguing that the key burden on MRL, if it were to become a Class I carrier, is the financial reporting); *see also* MRL Reply 2–3.) While the accounting and financial reporting required of Class I carriers is critical to the Board's regulatory framework, it is not apparent that additional reporting by carriers with MRL's characteristics is warranted,[5] particularly when the regulatory impact to such carriers extends beyond the Board's regulations. (*See, e.g.,* ASLRRA Comment 4.) Therefore, the Board proposes to increase the Class I revenue threshold at this time in order to preserve an appropriate distinction between Class I and II railroads.[6]

MRL has requested that the Board set an amended Class I threshold of $900 million, and no commenter has raised specific concerns with the $900 million figure. The Board proposes $900 million as a reasonable demarcation between Class I railroads and Class II railroads as it is sufficiently above the current Class II annual revenue level and below the revenue level of the smallest Class I carrier to maintain an appropriate division between the two classes of carriers for the foreseeable future.

TTD is concerned that MRL employees would lose the potential benefit of eligibility for the labor protective conditions available to employees of Class I carriers if the Class

[4] MRL states that TTD only represents approximately 11.5% of MRL's employees. (MRL Reply 1.)

[5] Traditionally, the agency has not found the need to collect accounting and reporting information from regional and smaller railroads to the same extent as the Class I rail carriers, all of which have much larger networks and different operational and financial characteristics. *See, e.g., Calculation of Variable Costs in Rate Complaint Proceedings involving Non-Class I R.Rs.,* 6 S.T.B. 798, 799 (2003); *Elimination of Accounting & Reporting Requirements of Class II R.Rs.,* No. 37614, slip op. at 2 (ICC served Feb. 25, 1982); *Reduction of Accounting & Reporting Requirements,* No. 37523, slip op. at 2 (ICC served Dec. 15, 1980). Consistent with these findings, the burden of additional reporting by carriers with MRL's characteristics is not justified by any potential use of that information from analysis, monitoring, and other purposes.

[6] In 2001, the Board declined to increase the Class I revenue threshold in response to a request by Wisconsin Central Ltd.'s parent company. *Proposal to Require Consol. Reporting by Commonly Controlled R.Rs.,* 5 S.T.B. 1050 (2001). As MRL observed, (*see* Pet. 5 n.1), the key reason the Board rejected Wisconsin Central's request was Wisconsin Central's subsequent acquisition by Canadian National, which was already a Class I carrier. Although in that decision the Board also noted briefly that financial reporting for larger carriers, like Wisconsin Central, would be reasonable and not unduly burdensome, *see Proposal to Require Consolidated Reporting,* 5 S.T.B. at 1054–55, in this proceeding MRL has provided its own arguments—described above—regarding the relative burdens of accounting and financial reporting between Class I and Class II carriers and has identified burdens beyond such reporting.

I threshold is raised. (TTD Comment 1–2.) However, if the threshold is raised, MRL employees would suffer no loss of eligibility for labor protection compared to the status quo; they would continue to qualify for the same level of protection—that available to employees of Class II carriers—as they have for decades. TTD's comments to date have not persuaded the Board that this continued level of labor protection would be insufficient if MRL's annual revenues were between the current threshold and the proposed threshold of $900 million. In addition, TTD's suggestion that the Board adopt ''unique conditions'' for MRL would not establish a more appropriate demarcation between Class I and Class II carriers generally.

The proposed amendment to 49 CFR part 1201, General Instructions § 1–l(a) would increase the revenue threshold for Class I carriers to $900 million.[7] The proposal would not materially change the current threshold between Class II and Class III carriers but would merely restate it in 2019 dollars.[8] As a result, Class I carriers would be those with annual operating revenues of $900 million or more; Class II carriers would be those with annual operating revenues of less than $900 million but in excess of $40.4 million; and Class III carriers would be those with annual operating revenues of $40.4 million or less. The proposal also would amend Note A to replace the 1991 Average Index with the 2019 Average Index, as the new threshold levels would be calculated in 2019 dollars.

The Board seeks comment on the proposed amendments discussed above. Interested persons may comment on the proposed amendments by November 2, 2020; replies to comments may be filed by December 1, 2020.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, generally requires a description and analysis of new rules that would have a significant economic impact of a substantial number of small entities. In drafting a rule, an agency is required to: (1) Assess the effect that its regulation will have on small entities; (2) analyze effective alternatives that may minimize a regulation's impact; and (3) make the analysis available for public comment. Sections 601–604. In its notice of proposed rulemaking, the agency must either include an initial regulatory flexibility analysis, section 603(a), or certify that the proposed rule would not have a ''significant impact on a substantial number of small entities.'' Section 605(b).

Because the goal of the RFA is to reduce the cost to small entities of complying with federal regulations, the RFA requires an agency to perform a regulatory flexibility analysis of small entity impacts only when a rule directly regulates those entities. In other words, the impact must be a direct impact on small entities ''whose conduct is circumscribed or mandated'' by the proposed rule. *White Eagle Coop.* v. *Conner,* 553 F.3d 467, 480 (7th Cir. 2009).

The Board's proposed changes to its regulations here are intended to update the Board's class classifications and do not mandate or circumscribe the conduct of small entities. For the purpose of RFA analysis for rail carriers subject to the Board's jurisdiction, the Board defines a ''small business'' as only including those rail carriers classified as Class III rail carriers under 49 CFR part 1201, General Instructions section 1–1. *See Small Entity Size Standards Under the Regulatory Flexibility Act,* 81 FR 42566 (June 30, 2016), EP 719 (STB served June 30, 2016) (with the Board Member Begeman dissenting). With respect to the Class III thresholds, no substantive changes are being made, as the Board is only updating the regulations to reflect the Class III threshold in 2019 dollars (rounded) as opposed to 1991 dollars. Therefore, the Board certifies under 5 U.S.C. 605(b) that these proposed rules, if promulgated, would not have a significant economic impact on a substantial number of small entities within the meaning of RFA.

Paperwork Reduction Act

The Board's proposal does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521.

List of Subjects in 49 CFR Part 1201

Railroads, Uniform System of Accounts.

It is ordered:

1. The Board proposes to amend its rules as set forth in this decision. Notice of the proposed rules will be published in the **Federal Register**.

2. Comments are due by November 2, 2020. Reply comments are due by December 1, 2020.

3. A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration.

4. This decision is effective on its service date.

Decided: September 28, 2020.

By the Board, Board Members Begeman, Fuchs, and Oberman.

Jeffrey Herzig,

Clearance Clerk.

For the reasons set forth in the preamble, the Surface Transportation Board proposes to amend title 49, chapter X, part 1201 of the Code of Federal Regulations as follows:

PART 1201—RAILROAD COMPANIES

■ 1. The authority citation for part 1201 continues to read as follows:

Authority: 49 U.S.C. 11142 and 11164.

Subpart A—Uniform System of Accounts

■ 2. In the General Instructions in subpart A, section 1–1(a) and Note A to section 1–1 are revised to read as follows:

General Instructions

1–1 *Classification of carriers.* (a) For purposes of accounting and reporting, carriers are grouped into the following three classes:

Class I: Carriers having annual carrier operating revenues of $900 million or more after applying the railroad revenue deflator formula shown in Note A.

Class II: Carriers having annual carrier operating revenues of less than $900 million but in excess of $40.4 million after applying the railroad revenue deflator formula shown in Note A.

Class III: Carriers having annual carrier operating revenues of $40.4 million or less after applying the railroad revenue deflator formula shown in Note A.

* * * * *

Note A: The railroad revenue deflator formula is based on the Railroad Freight Price Index developed by the Bureau of Labor Statistics. The formula is as follows:

Current Year's Revenues × (2019 Average Index/Current Year's Average Index)

* * * * *

[FR Doc. 2020–21859 Filed 10–1–20; 8:45 am]

BILLING CODE 4915–01–P

[7] Instruction section 1–1(a) currently defines Class I carriers as those with annual operating revenues of $250 million or more after applying the railroad revenue deflator formula shown in Note A, which, as noted above, is $504,803,294 or more in 2019 dollars.

[8] Instruction section 1–1(a) currently defines Class II carriers as those with annual operating revenues of less than $250 million but in excess of $20 million and Class III carriers as those with annual operating revenues of $20 million or less, in both cases after applying the railroad revenue deflator formula shown in Note A. The current Class II/Class III threshold, in 2019 dollars, is $40,384,263, which the proposed rule would round to $40.4 million.

Notices

Federal Register

Vol. 85, No. 192

Friday, October 2, 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

Forest Service

Warm Springs, North River, and Glenwood-Pedlar Ranger Districts, George Washington National Forest; Highland, Bath, and Augusta Counties, Virginia; Marlinton Ranger District, Monongahela National Forest; Pocahontas County, West Virginia, Atlantic Coast Pipeline and Supply Header Supplemental Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Withdrawal of notice of intent to prepare a supplementary environmental impact statement.

SUMMARY: The USDA Forest Service Monongahela (MNF) and George Washington National Forests (GWNF) are withdrawing the Notice of Intent (NOI) to prepare a Supplemental Environmental Impact Statement (SEIS) for the Atlantic Coast Pipeline (ACP) and Supply Header project. The original NOI was published in the **Federal Register** on June 11, 2020.

FOR FURTHER INFORMATION CONTACT: For inquiries about this notice, please contact Nadine Siak for the GWNF at: *SM.FS.GWJNF-PA@usda.gov* or leave a voicemail at 1–888–603–0261, or Kelly Bridges for the MNF at: *kelly.bridges@usda.gov* or 304–635–4432.

SUPPLEMENTARY INFORMATION: Dominion Energy Transmission, Inc. on behalf of Atlantic Coast Pipeline LLC (Atlantic), has withdrawn the Application for Transportation and Utility Systems and Facilities on Federal Lands that was previously submitted for the ACP. Atlantic will no longer be moving forward with the ACP which crossed approximately 20.1 miles of lands in the MNF and GWNF. The original NOI for this project was published in the **Federal Register** on June 11, 2020 (85 FR 35634). Atlantic will coordinate with the Forest Service regarding restoration associated with the November 2017 Record of Decision for ACP. For more detailed information on the background and history of the ACP project, see the project website at: *https://www.fs.usda.gov/detail/gwj/home/?cid=stelprd3824603.*

Jacqueline Emanuel,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2020–21865 Filed 10–1–20; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Minnesota Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights and the Federal Advisory Committee Act that the Minnesota Advisory Committee (Committee) will hold a meeting via teleconference on Tuesday, October 6, 2020 at 12:00 p.m. Central Time, the purpose of the meeting is to elect officers and to vote whether to continue the ongoing research project or take up a new topic.

DATES: The meeting will be held on Tuesday, October 6, 2020 at 12:00 p.m. Central Time.

Public Call Information: Dial: 800–353–6461, Conference ID: 6656784.

FOR FURTHER INFORMATION CONTACT: David Barreras, Designated Federal Official, at *dbarreras@usccr.gov* or 202–499–4066.

SUPPLEMENTARY INFORMATION: Members of the public may listen to the discussion. This meeting is available to the public through the call in information listed above. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement to the Committee as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to *dbarreras@uccr.gov* in the Regional Program Unit Office/Advisory Committee Management Unit. Persons who desire additional information may contact the Regional Program Unit at 202–499–4066.

Records generated from this meeting may be inspected and reproduced at the Chicago office, as they become available, both before and after the meeting. Records of the meeting will be available via *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzm3AAA* under the Commission on Civil Rights, Minnesota Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Program Unit at the above email or phone number.

Agenda:

I. Welcome, Roll Call, and Chair's Comments

II. Committee Discussion

III. Public Comment

IV. 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 immediacy of the subject matter.

Dated: September 28, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–21788 Filed 10–1–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–34–2020]

Foreign-Trade Zone (FTZ) 102—St. Louis, Missouri; Authorization of Production Activity; H–J Enterprises, Inc./H–J International, Inc. (Electrical Transformer Components and Kits); High Ridge, Missouri

On June 1, 2020, H–J Enterprises, Inc./H–J International, Inc. (H–J) submitted a notification of proposed production activity to the FTZ Board for its facilities within Subzone 102E, in High Ridge, Missouri.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (85 FR 35260–35261, June 9, 2020). On September 29, 2020, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: September 29, 2020.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2020–21824 Filed 10–1–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–35–2020]

Foreign-Trade Zone (FTZ) 105—Providence, Rhode Island; Authorization of Production Activity; Night Vision Technology Solutions, LLC; (Night Vision Camera Systems); Jamestown, Rhode Island

On May 29, 2020, Night Vision Technology Solutions, LLC submitted a notification of proposed production activity to the FTZ Board for its facility within Subzone 105B, in Jamestown, Rhode Island.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (85 FR 35261, June 9, 2020). On September 28, 2020, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: September 28, 2020.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2020–21825 Filed 10–1–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–979]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2017–2018

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

SUMMARY: The Department of Commerce (Commerce) continues to find that manufacturers/exporters of crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells), from the People's Republic of China (China) sold solar cells in the United States at less than normal value during the period of review (POR) December 1, 2017 through November 30, 2018.

DATES: Applicable October 2, 2020.

FOR FURTHER INFORMATION CONTACT: Jeff Pedersen, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2769.

SUPPLEMENTARY INFORMATION:

Background

On February 10, 2020, Commerce published in the **Federal Register** the preliminary results of the 2017–2018 administrative review of the antidumping duty order on solar cells from the China.[1] For events subsequent to the *Preliminary Results, see* Commerce's Issues and Decision Memorandum.[2] The final weighted-average dumping margins are listed below in the ''Final Results of Review'' section of this notice.

On April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days,[3] thereby extending the deadline for these results until July 28, 2020. On July 21, 2020, Commerce tolled all for all preliminary and final results in administrative reviews by an additional 60 days,[4] thereby extending the deadline for these final results until September 28, 2020.

Scope of the Order

The merchandise covered by this order is crystalline silicon photovoltaic cells, and modules, laminates, and panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels and building integrated materials.[5] Merchandise covered by this order is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 8501.61.0000, 8507.20.80, 8541.40.6015, 8541.40.6020, 8541.40.6025, 8541.40.6030, 8541.40.6035, 8541.40.6045, and 8501.31.8000. Although these HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by parties in this review are addressed in the Issues and Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, follows as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The paper and electronic versions of the Issues and Decision Memorandum are identical in content.

[1] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2017–2018,* 85 FR 7531 (February 10, 2020) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the 2017–2018 Antidumping Duty Administrative Review of Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, From the People's Republic of China'' (Issues and Decision Memorandum), dated concurrently with, and hereby adopted by, this notice.

[3] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID–19,'' dated April, 24, 2020.

[4] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews,'' dated July 21, 2020.

[5] For a complete description of the scope of the order, *see* Issues and Decision Memorandum.

Affiliation and Single Entity Determination

We preliminarily found that Risen Energy Co., Ltd. (Risen Energy); Risen Energy (Changzhou) Co., Ltd. (Changzhou); Risen (Wuhai) New Energy Co., Ltd. (Wuhai); Zhejiang Twinsel Electronic Technology Co., Ltd. (Twinsel); Risen (Luoyang) New Energy Co., Ltd. (Luoyang); Jiujiang Shengchao Xinye Technology Co., Ltd. (Jiujiang); Jiujiang Shengzhao Xinye Trade Co., Ltd. Ruichang Branch (Jiujiang Ruichang Branch); and Risen Energy (HongKong) Co., Ltd. (Hong Kong Risen) (collectively, Risen) are affiliated pursuant to section 771(33)(E) and (F) of the Tariff Act of 1930, as amended (the Act), and that all of these companies should be treated as a single entity pursuant to 19 CFR 351.401(f)(1)–(2). We also found that Trina Solar Co., Ltd. (formerly, Changzhou Trina Solar Energy Co., Ltd.) (TCZ); Trina Solar (Changzhou) Science and Technology Co., Ltd. (TST); Changzhou Trina Hezhong Photoelectric Co., Ltd. (THZ); Yancheng Trina Guoneng Photovoltaic Technology Co., Ltd (formerly, Yancheng Trina Solar Energy Technology Co., Ltd.) (TYC); Changzhou Trina Solar Yabang Energy Co., Ltd. (TYB); Turpan Trina Solar Energy Co., Ltd. (TLF); Hubei Trina Solar Energy Co., Ltd. (THB); and Trina Solar (Hefei) Science and Technology Co., Ltd. (THFT) (collectively Trina) are affiliated pursuant to sections 771(33)(E) of the Act and all of these companies should be treated as a single entity pursuant to 19 CFR 351.401(f)(1)–(2). No interested party commented on these treatments, and these findings remain unchanged for these final results.

Final Determination of No Shipments

In the *Preliminarily Results,* we found no evidence calling into question the no-shipment claims of the following companies: BYD (Shangluo) Industrial Co., Ltd.; LERRI Solar Technology Co., Ltd.; Ningbo ETDZ Holdings, Ltd.; Sumec Hardware & Tools Co., Ltd.; and Sunpreme Solar Technology (Jiaxing) Co., Ltd. No parties commented on this preliminary decision. For the final results of review, we continue to find that these companies had no shipments of subject merchandise to the United States during the POR.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* and for the reasons explained in the Issues and Decision Memorandum, we made revisions to our preliminary calculations of the weighted-average dumping margins for the mandatory respondents, Risen and Trina, which also resulted in a revision of the dumping margin for the separate rate respondents.

Separate Rates

In the *Preliminary Results,* we found that evidence provided by Trina, Risen, and 16 other companies/company groups supported finding an absence of both *de jure* and *de facto* government control, and, therefore, we preliminarily granted a separate rate to each of these companies/company groups. We received no comments since the issuance of the *Preliminary Results* regarding our determination that these 18 companies/company groups are eligible for a separate rate. Therefore, for the final results, we find that 18 entities are eligible for separate rates. Commerce assigned a dumping margin to the separate rate companies that it did not individually examine, but which demonstrated their eligibility for a separate rate, based on the mandatory respondents' dumping margins.

Final Results of Review

We are assigning the following dumping margins to the firms listed below for the period December 1, 2017 through November 30, 2018:

Producers/exporters	Weighted-average dumping margin (percent)
Trina Solar Co., Ltd./Trina Solar (Changzhou) Science and Technology Co., Ltd./Yancheng Trina Guoneng Photovoltaic Technology Co., Ltd./Changzhou Trina Solar Yabang Energy Co., Ltd./Turpan Trina Solar Energy Co., Ltd./Hubei Trina Solar Energy Co., Ltd./Trina Solar (Hefei) Science and Technology Co., Ltd./Changzhou Trina Hezhong Photoelectric Co., Ltd	50.33
Risen Energy Co. Ltd./Risen (Wuhai) New Energy Co., Ltd./Zhejiang Twinsel Electronic Technology Co., Ltd./Risen (Luoyang) New Energy Co., Ltd./Jiujiang Shengchao Xinye Technology Co., Ltd./Jiujiang Shengzhao Xinye Trade Co., Ltd./Ruichang Branch, Risen Energy (HongKong) Co., Ltd	106.39
Review-Specific Average Rate Applicable to the Following Companies [6]	
Anji DaSol Solar Energy Science & Technology Co., Ltd	68.93
Canadian Solar International Limited/Canadian Solar Manufacturing (Changshu), Inc./Canadian Solar Manufacturing (Luoyang) Inc./CSI Cells Co., Ltd./CSI–GCL Solar Manufacturing (YanCheng) Co., Ltd./CSI Solar Power (China) Inc. (Canadian Solar)	68.93
JA Solar Technology Yangzhou Co., Ltd	68.93
Jiawei Solarchina Co., Ltd	68.93
JingAo Solar Co., Ltd	68.93
Jinko Solar Co., Ltd. (Jinko)	68.93
Jinko Solar Import and Export Co., Ltd. (Jinko I&E)	68.93
Jinko Solar International Limited (Jinko Int'l)	68.93
Shanghai BYD Co., Ltd	68.93
Shanghai JA Solar Technology Co., Ltd	68.93
Shenzhen Portable Electronic Technology Co., Ltd	68.93
Shenzhen Sungold Solar Co., Ltd	68.93
Wuxi Tianran Photovoltaic Co., Ltd	68.93
Yingli Energy (China) Company Limited/Baoding Tianwei Yingli New Energy Resources Co., Ltd./Tianjin Yingli New Energy Resources Co., Ltd./Hengshui Yingli New Energy Resources Co., Ltd./Lixian Yingli New Energy Resources Co., Ltd./Baoding Jiasheng Photovoltaic Technology Co., Ltd./Beijing Tianneng Yingli New Energy Resources Co., Ltd./Hainan Yingli New Energy Resources Co., Ltd./Shenzhen Yingli New Energy Resources Co., Ltd	68.93
Zhejiang Jinko Solar Co., Ltd	68.93
Zhejiang Sunflower Light Energy Science & Technology Limited Liability Company	68.93

Commerce's policy regarding conditional review of the China-wide entity applies to this administrative review.[7] Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity, and we did not self-initiate a review of the entity, the entity is not under review, and the entity's dumping margin (*i.e.,* 238.95 percent) is not subject to change as a result of this review.[8]

Assessment

We will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review. We intend to issue assessment instructions to CBP 15 days after the publication date of these final results of review. In accordance with 19 CFR 351.212(b)(1), we are calculating importer- or customer-specific assessment rates for the merchandise subject to this review. For any individually examined respondent whose weighted-average dumping margin is above *de minimis* (*i.e.,* 0.50 percent), we will calculate importer- or customer-specific assessment rates for merchandise subject to this review. Where the respondent reported reliable entered values, we calculated importer- or customer-specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to the importer or customer and dividing this amount by the total entered value of the sales to the importer or customer.[9] Where we calculated an importer- or customer-specific weighted-average dumping margin by dividing the total amount of dumping for reviewed sales to the importer or customer by the total sales quantity associated with those transactions, we will direct CBP to assess importer- or customer-specific assessment rates based on the resulting per-unit rates.[10] Where an importer- or customer- specific *ad valorem* or per-unit rate is greater than *de minimis,* we will instruct CBP to collect the appropriate duties at the time of liquidation. Where either the respondent's weighted average dumping margin is zero or *de minimis,* or an importer or customer-specific *ad valorem* or per-unit rate is zero or *de minimis,* we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[11]

For merchandise whose sale/entry was not reported in the U.S. sales database submitted by an exporter individually examined during this review, but that entered under the case number of that exporter (*i.e.,* at the individually-examined exporter's cash deposit rate), we will instruct CBP to liquidate such entries at the China-wide rate. Additionally, if we determine that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number will be liquidated at the China-wide rate.[12]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice in the **Federal Register**, as provided by section 751(a)(2)(C) of the Act: (1) For the exporters listed in the table in the ''Final Results of Review'' section above, the cash deposit rate will be the rate listed for each exporter in the table, except if the rate is zero or *de minimis* (*i.e.,* less than 0.5 percent), then the cash deposit rate will be zero; (2) for previously investigated Chinese and non-Chinese exporters that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate previously established for the China-wide entity (*i.e.,* 238.95 percent); and (4) for all non-China exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied the non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure

We intend to disclose the calculations performed for these final results within five days of publication of this notice in the **Federal Register** in accordance with 19 CFR 351.224(b).

Notification to Importers

This notice also serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: September 28, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Discussion of the Issues
Comment 1. Unreported Factors of Production for Purchased Solar Cells and Modules

[6] This rate is based on the rates for the respondents that were selected for individual review, excluding rates that are zero, *de minimis,* or based entirely on facts available. *See* section 735(c)(5)(A) of the Act. *See* Memorandum, ''Final Results of the Antidumping Duty Administrative Review of Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Calculation of the Cash Deposit Rate for Non-Reviewed Companies,'' dated concurrently with this notice.

[7] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963, 65969–70 (November 4, 2013).

[8] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015–2016,* 83 FR 35616 (July 27, 2018).

[9] *See* 19 CFR 351.212(b)(1).

[10] *Id.*

[11] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101, 8103 (February 14, 2012).

[12] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011), for a full discussion of this practice.

Comment 2. The Appropriate Surrogate Value for Silver Paste
Comment 3. The Appropriate Surrogate Value for Solar Glass
Comment 4. The Appropriate Surrogate Country
Comment 5. The Appropriate Surrogate Value for Ocean Freight
Comment 6. Selection of Surrogate Financial Statements
Comment 7. The Appropriate Surrogate Value for Aluminum Frames
Comment 8. The Appropriate Surrogate Value for Junction Boxes
Comment 9. The Appropriate Surrogate Value for Backsheet
Comment 10. The Appropriate Surrogate Value for Ethylene Vinyl Acetate (EVA) Sheet
Comment 11. Adjusting the Surrogate Financial Ratio Calculations
Comment 12. Error in Calculating Market Economy Purchase Prices
Comment 13. Error in Calculating the International Freight Surrogate Value
Comment 14. Error in Calculating the Domestic Brokerage and Handling Surrogate Value
Comment 15. Failure to Adjust the U.S. Price for Subsidies
V. Recommendation

[FR Doc. 2020–21823 Filed 10–1–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Advisory Committee on Supply Chain Competitiveness: Notice of Public Meetings

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

ACTION: Notice of open meetings.

SUMMARY: This notice sets forth the schedule and proposed topics of discussion for upcoming public meetings of the Advisory Committee on Supply Chain Competitiveness (Committee).

DATES: The meetings will be held on October 22, 2020, from 10:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m., Eastern Daylight Time (EDT).

ADDRESSES: The meetings will be held via Webex.

FOR FURTHER INFORMATION CONTACT: Richard Boll, Office of Supply Chain, Professional & Business Services (OSCPBS), International Trade Administration. Email: *richard.boll@trade.gov*. Telephone: 571–331–0098.

SUPPLEMENTARY INFORMATION:

Background: The Committee was established under the discretionary authority of the Secretary of Commerce and in accordance with the Federal Advisory Committee Act (5 U.S.C. App.). It provides advice to the Secretary of Commerce on the necessary elements of a comprehensive policy approach to supply chain competitiveness and on regulatory policies and programs and investment priorities that affect the competitiveness of U.S. supply chains. For more information about the Committee visit: *https://www.trade.gov/acscc*.

Matters to be considered: Committee members are expected to continue to discuss the major competitiveness-related topics raised at the previous Committee meetings, including trade and competitiveness; freight movement and policy; trade innovation; regulatory issues; finance and infrastructure; and workforce development. The Committee's subcommittees will report on the status of their work regarding these topics. The agenda may change to accommodate other Committee business. The Office of Supply Chain, Professional & Business Services will post the final detailed agenda on its website, *https://www.trade.gov/acscc,* at least one week prior to the meeting.

The meetings will be open to the public and press on a first-come, first-served basis. Space is limited. Please contact Richard Boll, at *richard.boll@trade.gov,* for participation information if you wish to participate.

Interested parties may submit written comments to the Committee at any time before and after the meeting. Parties wishing to submit written comments for consideration by the Committee in advance of this meeting email them to *richard.boll@trade.gov*.

For consideration during the meetings, and to ensure transmission to the Committee prior to the meetings, comments must be received no later than 5:00 p.m. EST on October 15, 2020. Comments received after October 15, 2020, will be distributed to the Committee, but may not be considered at the meetings. The minutes of the meetings will be posted on the Committee website within 60 days of the meeting.

Eugene Alford,

Co-DFO, ACSCC, Office of Supply Chain, Professional and Business Services.

[FR Doc. 2020–21847 Filed 10–1–20; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

Minority Business Development Agency

President's Advisory Commission on Asian Americans and Pacific Islanders

AGENCY: Minority Business Development Agency, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The President's Advisory Commission on Asian Americans and Pacific Islanders (AAPI Commission) will convene an open meeting to discuss issues related to the draft Commission report to the President. This meeting is open to the public and interested persons may listen to the teleconference by using the call-in number and pass code provided below (see **ADDRESSES**).

DATES: This meeting will be held on Thursday, October 8, 2020, from 4:00 p.m. to 6:00 p.m., Eastern Time (ET).

ADDRESSES: This meeting will be held by teleconference on Thursday, October 8, 2020. Advance registration is required to access the teleconference. Interested persons may register at URL: *https://www.mbda.gov/page/third-open-meeting-presidents-advisory-commission-aapis.* Access to the teleconference will be shared the day prior to the open meeting; participants can sign on beginning at 3:45 p.m., ET.

FOR FURTHER INFORMATION CONTACT: For information regarding the teleconference, please contact Ms. Tina Wei Smith, Executive Director, Office of the White House Initiative on Asian Americans and Pacific Islanders; telephone (202) 482–1375; email: *whiaapi@doc.gov.*

SUPPLEMENTARY INFORMATION:

Background. The President, through Executive Order 13872 (May 13, 2019), re-established the President's Advisory Commission on Asian Americans and Pacific Islanders to advise the President, through the Secretary of Commerce and the Secretary of Transportation. The AAPI Advisory Commission provides advice to the President on executive branch efforts to broaden access of AAPI communities, families and businesses to economic resources and opportunities that empower AAPIs to improve the quality of their lives, raise the standard of living in their communities and families, and more fully participate in the U.S. economy.

Public Participation. In accordance with Section 10(a)(2) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), this notice is the public announcement of the Commission's intent to hold a teleconference on

October 8, 2020. This meeting is open to the public and interested persons may listen to the teleconference by registering using the link provided above and using the call-in number and passcode to be sent to each registrant the day prior to the meeting (see **ADDRESSES**). Prospective agenda items for the meeting include a deliberation of the draft Commission report to the President, discussion regarding ratification of the report, administrative tasks and such other Commission business as may arise during the meeting. The Commission welcomes interested persons to submit written comments at any time before or after the meeting to the Office of the White House Initiative on Asian Americans and Pacific Islanders (see **FOR FURTHER INFORMATION CONTACT**). To facilitate distribution of written comments to Commission members prior to the meeting, the Commission suggests that comments be submitted by facsimile or by email no later than October 5, 2020. The Commission will reserve a portion of the meeting to receive pertinent oral comments from members of the public.

Copies of the Commission open meeting minutes will be made available to the public.

Josephine Arnold,

Chief Counsel, Minority Business Development Agency.

[FR Doc. 2020–21874 Filed 10–1–20; 8:45 am]

BILLING CODE 3510–21–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Establishment of the Civilian Innovation Advisory Board and Call for Nominations

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of establishment and call for nominations to serve on the Civilian Innovation Advisory Board.

SUMMARY: The Secretary of Commerce (Secretary), announces the establishment of the Civilian Innovation Advisory Board (The Board) in accordance with the Federal Advisory Committee Act of 1972 (FACA), as amended, and the Secretary of Commerce (Secretary), a discretionary advisory committee. The Board shall provide independent advice and recommendations to the Secretary of Commerce and, upon request, to the Administrator of the General Services Administration (GSA) on issues relevant to the Federal Government's engagement and support of technological innovation, and the incorporation and adoption of emerging technologies and innovative means to address critical technological challenges facing the Federal Government in its provision of services to the public, within the framework of applicable national policies.

The National Institute of Standards and Technology (NIST or Institute) through the Department of Commerce (DoC) invites and requests nominations of individuals for appointment to the Board. NIST will consider nominations received in response to this notice for appointment to the Board, in addition to nominations already received. Registered Federal lobbyists may not serve on NIST Federal Advisory Committees in an individual capacity.

DATES: Nominations for the Board will be accepted on an ongoing basis and will be considered as and when vacancies arise effective October 1, 2020.

ADDRESSES: Please submit nominations to Alicia Chambers, Committee Liaison Officer, National Institute of Standards and Technology, 100 Bureau Drive, MS 1000, Gaithersburg, MD 20899. Nominations may also be submitted via email to *Alicia.Chambers@nist.gov*.

FOR FURTHER INFORMATION CONTACT: Jason Boehm, Director of Program Coordination Office, National Institute of Standards and Technology, 100 Bureau Drive, MS 100, Gaithersburg, MD 20899. His email is *Jason.Boehm@nist.gov,* and phone number is 301–975–8678.

SUPPLEMENTARY INFORMATION:

Committee Information:

The Civilian Innovation Advisory Board (Board) is established pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Objectives and Duties: The Board shall provide independent advice and recommendations through the Director of NIST to the Secretary and, upon request, through the Director of Technology Transformation Services (TTS) to the Administrator of GSA. Such advice and recommendations shall address strengthening the civilian Federal Government's ability to engage with and support American innovation and the ability of the Federal Government to incorporate and apply innovative and emerging technological means to streamline organizational structure and process issues, modernize business and functional concepts, and accelerate the development and procurement of technology applications to enhance the Federal Government's service to the public. The Board shall provide recommendations and strategies to enable the Federal Government to adopt and keep pace with industry.

In developing its recommendations, the Board shall identify critical advances in emerging technology, management, and IT service delivery that should be developed, piloted, or adopted within the Federal Government. These may include advances that are responsive to the rapidly evolving digital marketplace and approaches to accelerating the introduction and use of emerging technologies and approaches for governance, procurement, and management processes for Federal civilian IT systems, applications, services, and infrastructure. The Board shall submit a report to the Secretary, through the Director of NIST, providing its recommendations within two years from its establishment.

Membership

The Board shall be composed of no more than 15 members. The members must possess some or all of the following:

(a) Proven track record of sound judgment in leading or governing large, complex private sector corporations or organizations;

(b) demonstrated performance in identifying and adopting new technology innovations into the operations of large organizations in either the public or private sector; and

(c) demonstrated performance in developing new technology concepts.

The Board members will be authorized by the Department of Commerce to serve for three-year terms, and in accordance with DOC policies and procedures, including the limit to six years of consecutive service. Members of the Board who are not full-time or permanent part-time Federal officers or employees will be appointed to serve as special government employee (SGE) members. Members of the Board who are full-time or permanent part-time Federal officers or employees will be appointed pursuant to 41 CFR 102–3.130(h) to serve as regular government employee (RGE) members. No member, unless authorized by the Secretary of Commerce, may serve more than two consecutive terms of service on the Board, to include its subcommittees.

Members shall be selected solely on the basis of established records of distinguished service; and shall be eminent in fields such as business, research, new product development, engineering, workforce development, education, management consulting,

environment, and international relations.

Consistent with DOC policy, the Director of NIST, may appoint the Board Chair from among the Board membership approved in accordance with policy and procedures and, in doing so, shall determine the term of service for the Board Chair, which shall not exceed the member's approved term of service.

All Board members will be reimbursed for travel and per diem as it pertains to official business of the Board. Board members will serve without compensation.

The Director of NIST on behalf of the Secretary of Commerce, and pursuant to DOC policies and procedures, may appoint, as deemed necessary, non-voting subject matter experts (SMEs) to assist the Board or its subcommittees on an ad hoc basis. These non-voting SMEs are not members of the Board or its subcommittees and will not engage or participate in any deliberations by the Board or its subcommittees. These non-voting SMEs, if not full-time or permanent part-time Federal officers or employees, will be appointed pursuant to 5 U.S.C. 3109 on an intermittent basis to address specific issues under consideration by the Board.

Members shall not reference or otherwise utilize their membership on the Board in connection with public statements made in their personal capacities without a disclaimer that the views expressed are their own and do not represent the views of the IAB, NIST or the Department of Commerce.

Miscellaneous

Meetings will be conducted at least twice a year in selected locations across the country.

1. Generally, Board meetings are open to the public.

Nomination Information:

1. Nominations are sought from all fields described above.

2. Nominees should have established records of distinguished service and shall be eminent in fields such as business, research, new product development, engineering, labor, education, management consulting, environment and international relations. The category (field of eminence) for which the candidate is qualified should be specified in the nomination letter. Nominations for a particular category should come from organizations or individuals within that category. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on Federal advisory boards and Federal employment. In addition, each nomination letter should state that the candidate agrees to the nomination, acknowledges the responsibilities of serving on the Board, and will actively participate in good faith in the tasks of the Board.

3. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse Board membership.

Kevin Kimball,

NIST Chief of Staff.

[FR Doc. 2020–21834 Filed 10–1–20; 8:45 am]

BILLING CODE 3510–13–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to the Procurement List.

SUMMARY: The Committee is proposing to add products to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: Comments must be received on or before: November 1, 2020.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 603–2117, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following products are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Products

NSN(s)—Product Name(s):

7930–00–NIB–2207—Disinfectant, Hard-Surface, Ready-To-Use, 32 oz Spray Bottle

7930–00–NIB–2208—Disinfectant, Hard-Surface, Ready-To-Use, 1 Gallon Bottle

Mandatory Source of Supply: Lighthouse for the Blind and Visually Impaired, San Francisco, CA

Mandatory For: Total Government Requirement

Contracting Activity: Federal Acquisition Service, GSA/FSS Greater Southwest Acquisiti

Michael R. Jurkowski,

Deputy Director, Business & PL Operations.

[FR Doc. 2020–21833 Filed 10–1–20; 8:45 am]

BILLING CODE 6353–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 10:30 a.m. EDT, Tuesday, October 6, 2020.

PLACE: Virtual meeting.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') will hold this meeting to consider the following matters:

- *Final Rule:* Amendments to Compliance Requirements for Commodity Pool Operators on Form CPO–PQR; and
- *Memorandum of Understanding:* MOU Between the CFTC and the Office of Financial Research Regarding the Sharing of Data and Information Collected on Form CPO–PQR.

The agenda for this meeting will be available to the public and posted on the Commission's website at *https://www.cftc.gov.* Instructions for public access to the live feed of the meeting will also be posted on the Commission's website. In the event that the time, date, or place of this meeting changes, an announcement of the change, along with the new time, date, or place of the meeting, will be posted on the Commission's website.

CONTACT PERSON FOR MORE INFORMATION: Christopher Kirkpatrick, Secretary of the Commission, 202–418–5964.

Authority: 5 U.S.C. 552b.

Dated: September 29, 2020.

Christopher Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2020–21912 Filed 9–30–20; 11:15 am]

BILLING CODE 6351–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

Agency Information Collection Activities: Notice of Office of Management and Budget Approval of Information Collection Requirements

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice of approval of information collection requirements.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Consumer Financial Protection (Bureau) is announcing Office of Management and Budget (OMB) approval of new information collection requirements contained in a final rule published in the **Federal Register** on July 22, 2020 (85 FR 44382), regarding Payday, Vehicle Title, and Certain High-Cost Installment Loans. See the **SUPPLEMENTARY INFORMATION** section below for additional information about this OMB approval.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of these information collection requests is available at *www.reginfo.gov.* Requests for additional information should be directed to Darrin King, PRA Officer, at (202) 435–9575, or email: *CFPB_PRA@cfpb.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*) the Bureau may not conduct or sponsor, and, notwithstanding any other provision of law, a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. On July 22, 2020, the Bureau published a final rule in the **Federal Register** titled ''Payday, Vehicle Title, and Certain High-Cost Installment Loans.'' The final rule to amend its regulations governing payday, vehicle title, and certain high-cost installment loans. Specifically, the final rule revokes provisions of those regulations that: Provide that it is an unfair and abusive practice for a lender to make a covered short-term or longer-term balloon-payment loan, including payday and vehicle title loans, without reasonably determining that consumers have the ability to repay those loans according to their terms; prescribe mandatory underwriting requirements for making the ability-to-repay determination; exempt certain loans from the mandatory underwriting requirements; and establish related definitions, reporting, recordkeeping, and compliance date requirements. The Bureau's OMB control number for 12 CFR part 1041 is 3170–0071. Pursuant to 5 CFR 1320.11(h), the Bureau submitted the final rule with an information collection request (ICR) to OMB on July 8, 2020, and OMB approved this ICR on September 24, 2020. In accordance with the PRA and 5 CFR 1320.11(k), the Bureau hereby announces OMB approval of the revised information collection requirements as contained in the subject final rule which will be effective October 20, 2020.

Dated: September 29, 2020.

Darrin King,

Paperwork Reduction Act Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2020–21812 Filed 10–1–20; 8:45 am]

BILLING CODE 4810–AM–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2010–0053]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Safety Standard for Multi-Purpose Lighters

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995, the Consumer Product Safety Commission (CPSC or Commission) announces that the Commission has submitted to the Office of Management and Budget (OMB) a request for extension of approval of a collection of information associated with the Safety Standard for Multi-Purpose Lighters. OMB previously approved the collection of information under control number 3041–0130. OMB's most recent extension of approval will expire on October 31, 2020. On July 23, 2020, the CPSC published a notice in the **Federal Register** to announce the agency's intention to seek extension of approval of the collection of information. The Commission received no comments. Therefore, by publication of this notice, the Commission announces that CPSC has submitted to the OMB a request for extension of approval of this collection of information, without change.

DATES: Submit written or electronic comments on the collection of information by November 2, 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. In addition, written comments that are sent to OMB also should be submitted electronically at: *http://www.regulations.gov,* under Docket No. CPSC–2010–0053.

FOR FURTHER INFORMATION CONTACT: Cynthia Gillham, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7791, or by email to: *cgillham@cpsc.gov.*

SUPPLEMENTARY INFORMATION: On July 23, 2020, CPSC published a notice in the **Federal Register** to announce the agency's intention to seek extension of approval of the collection of information. (85 FR 44526). The Commission received no comments. Accordingly, CPSC seeks to renew the following currently approved collection of information:

Title: Safety Standard for Multi-Purpose Lighters.

OMB Number: 3041–0130.

Type of Review: Renewal of collection.

Frequency of Response: On occasion.

Affected Public: Manufacturers and importers of multi-purpose lighters.

Estimated Number of Respondents: 62 firms will test, on average, 2 models per firm.

Estimated Time per Response: 50 hours per model, including testing, recordkeeping, data maintenance, and submitting records requested by CPSC.

Total Estimated Annual Burden: 6,200 hours (62 firms x 2 models x 50 hours).

General Description of Collection: The Commission issued a safety standard for multi-purpose lighters (16 CFR part 1212) in 1999. The standard includes requirements that manufacturers (including importers) of multi-purpose lighters issue certificates of compliance based on a reasonable testing program. The standard also requires that manufacturers and importers maintain certain records. Respondents must comply with these testing, certification, and recordkeeping requirements for multi-purpose lighters.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2020–21844 Filed 10–1–20; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2010–0054]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Procedures for Export of Noncomplying Products

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995, the Consumer Product Safety Commission (CPSC or Commission) announces that the Commission has submitted to the Office of Management and Budget (OMB) a request for extension of approval of a collection of information relating to the procedures for the export of noncomplying products. OMB previously approved the collection of information under control number 3041–0003. OMB's most recent extension of approval will expire on October 31, 2020. On July 23, 2020, CPSC published a notice in the **Federal Register** to announce the agency's intention to seek extension of approval of the collection of information. The Commission received no substantive comments. Therefore, by publication of this notice, the Commission announces that CPSC has submitted to the OMB a request for extension of approval of this collection of information, without change.

DATES: Submit written or electronic comments on the collection of information by November 2, 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. In addition, written comments that are sent to OMB also should be submitted electronically at: *http://www.regulations.gov,* under Docket No. CPSC–2010–0054.

FOR FURTHER INFORMATION CONTACT: Cynthia Gillham, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7791, or by email to: *cgillham@cpsc.gov*.

SUPPLEMENTARY INFORMATION: On July 23, 2020, the CPSC published a notice in the **Federal Register** to announce the agency's intention to seek extension of approval of the collection of information. (85 FR 44527). The Commission received no substantive comments. Accordingly, CPSC seeks to renew the following currently approved collection of information:

Title: Procedures for the Export of Noncomplying Products.

OMB Number: 3041–0003.

Type of Review: Renewal of collection.

Frequency of Response: On occasion..

Affected Public: Exporters of products that do not comply with Commission requirements

Estimated Number of Respondents: 7 exporters will file approximately 9 notifications.

Estimated Time per Response: 1 hour per notification.

Total Estimated Annual Burden: 9 hours (9 notifications × 1 hour).

General Description of Collection: The Commission has procedures that exporters must follow to notify the Commission of the exporter's intent to export products that are banned or fail to comply with an applicable CPSC safety standard, regulation, or statute. Respondents must comply with the requirements in 16 CFR part 1019 and file a statement with the Commission in accordance with these requirements.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission

[FR Doc. 2020–21841 Filed 10–1–20; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Policy Board; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Policy, Department of Defense (DoD).

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense Policy Board (DPB) will take place.

DATES: Closed to the public Tuesday, October 6, 2020 from 8:00 a.m. to 5:00 p.m. and Wednesday, October 7, 2020 from 8:00 a.m. to 12:00 p.m.

ADDRESSES: The closed meeting will be held at The Pentagon, 2000 Defense Pentagon, Washington, DC 20301–2000.

FOR FURTHER INFORMATION CONTACT: Ms. Monica Bacheler, (703) 571–9234 (Voice), 703–697–8606 (Facsimile), *monica.t.bacheler.civ@mail.mil* (Email). Mailing address is 2000 Defense Pentagon, Washington, DC 20301–2000.

SUPPLEMENTARY INFORMATION: Due to circumstances beyond the control of the Department of Defense and the Designated Federal Officer, the Defense Policy Board was unable to provide public notification required by 41 CFR 102–3.150(a) concerning the meeting of October 6 through 7, 2020 of the Defense Policy Board. Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) (5 U.S.C., App.), the Government in the Sunshine Act (5 U.S.C. 552b), and Title 41 Code of Federal Regulations (CFR), Sections 102–3.140 and 102–3.150.

Purpose of the Meeting: To obtain, review, and evaluate classified information related to the DPB's mission to advise on (a) issues central to strategic DoD planning; (b) policy implications of U.S. force structure and force modernization and on DoD's ability to execute U.S. defense strategy; (c) U.S. regional defense policies; and (d) other research and analysis of topics raised by the Secretary of Defense, the Deputy Secretary of Defense, or the Under Secretary of Defense for Policy.

Agenda: On October 6–7, 2020 the DPB will have classified discussions on the development of a long-term China strategy and to review the NDAA mandated study on ''Deterrence in Space.'' Topics and speakers include (1) an intel community briefing from the CIA; (2) a China operations briefing from select experts; (3) a briefing on the broader strategic challenges from select experts; (4) a competitive strategy discussion by the Office of Net Assessment; (5) Policy perspectives from the Acting Assistant Secretary of Defense for Indo-Pacific Security Affairs and the Assistant Secretary of Defense for Strategy, Plans, and Capabilities; and (6) a review of the NDAA ''Deterrence in Space'' study.

Meeting Accessibility: In accordance with section 10(d) of the FACA, and 41 CFR 102–3.155, the DoD has determined that this meeting shall be closed to the public. The Under Secretary of Defense (Policy), in consultation with the DoD FACA Attorney, has determined in writing that this meeting be closed to the public because the discussions fall under the purview of Section 552b(c)(1) of the Sunshine Act and are so inextricably intertwined with unclassified material that they cannot

reasonably be segregated into separate discussions without disclosing classified material.

Written Statements: In accordance with Section 10(a)(3) of the FACA and 41 CFR 102–3.105(j) and 102–3.140(c), the public or interested organizations may submit written statements to the membership of the DPB at any time regarding its mission or in response to the stated agenda of a planned meeting. Written statements should be submitted to the DPB's Designated Federal Officer (DFO), which is listed in this notice or can be obtained from the GSA's FACA Database—*http://www.facadatabase.gov/.* Written statements that do not pertain to a scheduled meeting of the DPB may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting, then these statements must be submitted no later than five business days prior to the meeting in question. The DFO will review all submitted written statements and provide copies to all members.

Dated: September 25, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2020–21860 Filed 10–1–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Inland Waterways Users Board Meeting Notice

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of open Federal advisory committee virtual meeting.

SUMMARY: The Department of the Army is publishing this notice to announce the Federal advisory committee online virtual meeting of the U.S. Army Corps of Engineers, Inland Waterways Users Board (Board). This meeting is open to the public. For additional information about the Board, please visit the committee's website at *http://www.iwr.usace.army.mil/Missions/Navigation/InlandWaterwaysUsersBoard.aspx.*

DATES: The Army Corps of Engineers, Inland Waterways Users Board will conduct an online virtual meet from 9:00 a.m. to 1:00 p.m. EDT on October 30, 2020.

ADDRESSES: Online Virtual Meeting. The Inland Waterways Users Board will be an online virtual meeting. The online virtual meeting can be accessed at *https://usace.webex.com/meet/ndc.nav,* Public Call-in: USA Toll-Free 866–434–5269, USA Caller Paid/International Toll: 216–706–7005 Access Code: 4935871, Security Code 1234.

FOR FURTHER INFORMATION CONTACT: Mr. Mark R. Pointon, the Designated Federal Officer (DFO) for the committee, in writing at the Institute for Water Resources, U.S. Army Corps of Engineers, ATTN: CEIWR–GM, 7701 Telegraph Road, Casey Building, Alexandria, VA 22315–3868; by telephone at 703–428–6438; and by email at *Mark.Pointon@usace.army.mil.* Alternatively, contact Mr. Steven D. Riley, an Alternate Designated Federal Officer (ADFO), in writing at the Institute for Water Resources, U.S. Army Corps of Engineers, ATTN: CEIWR–NDC, 7701 Telegraph Road, Casey Building, Alexandria, VA 22315–3868; by telephone at 703–659–3097; and by email at *Steven.D.Riley@usace.army.mil.*

SUPPLEMENTARY INFORMATION: The committee meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

Purpose of the Meeting: The Board is chartered to provide independent advice and recommendations to the Secretary of the Army on construction and rehabilitation project investments on the commercial navigation features of the inland waterways system of the United States. At this meeting, the Board will receive briefings and presentations regarding the investments, projects and status of the inland waterways system of the United States and conduct discussions and deliberations on those matters. The Board is interested in written and verbal comments from the public relevant to these purposes.

Agenda: At this meeting the agenda will include the status of FY 2021 funding for inland and coastal Navigation; status of the Inland Waterways Trust Fund (IWTF); status of the inland waterways Capital Investment Strategy activities; status of the ongoing construction activities for Olmsted Locks and Dam Project, the Monongahela River Locks and Dams 2, 3, and 4 Project, the Chickamauga Lock Project and the Kentucky Lock Project; Update for Inner Harbor Navigation Canal (IHNC) Lock; Outcome of the 2020 Illinois Waterway Closure; and Discussion of the Merits of different Acquisition Methods for Construction.

Availability of Materials for the Meeting. A copy of the agenda or any updates to the agenda for the October 30, 2020 virtual meeting will be available. The final version will be available at the virtual meeting. All materials will be posted to the website after the meeting.

Public Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.1 65, and subject to the availability of space, this virtual meeting is open to the public. Registration of members of the public who wish to participate in the virtual meeting will begin at 8:15 a.m. on the day of the meeting. Participation is on a first-to-arrive basis. Any interested person may participate in the meeting, file written comments or statements with the committee, or make verbal comments during the virtual public meeting, at the times, and in the manner, permitted by the committee, as set forth below.

Special Accommodations: Individuals requiring any special accommodations related to the virtual public meeting or seeking additional information about the procedures, should contact Mr. Pointon, the committee DFO, or Mr. Riley, an ADFO, at the email addresses or telephone numbers listed in the **FOR FURTHER INFORMATION CONTACT** section, at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Written Comments or Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the Board about its mission and/or the topics to be addressed in this virtual public meeting. Written comments or statements should be submitted to Mr. Pointon, the committee DFO, or Mr. Riley, a committee ADFO, via electronic mail, the preferred mode of submission, at the addresses listed in the **FOR FURTHER INFORMATION CONTACT** section in the following formats: Adobe Acrobat or Microsoft Word. The comment or statement must include the author's name, title, affiliation, address, and daytime telephone number. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the committee DFO or ADFO at least five (5) business days prior to the meeting so that they may be made available to the Board for its consideration prior to the meeting. Written comments or statements received after this date may not be provided to the Board until its next meeting. Please note that because the

Board operates under the provisions of the Federal Advisory Committee Act, as amended, all written comments will be treated as public documents and will be made available for public inspection.

Verbal Comments: Members of the public will be permitted to make verbal comments during the virtual public meeting only at the time and in the manner allowed herein. If a member of the public is interested in making a verbal comment at the open virtual meeting, that individual must submit a request, with a brief statement of the subject matter to be addressed by the comment, at least three business (3) days in advance to the committee DFO or ADFO, via electronic mail, the preferred mode of submission, at the addresses listed in the **FOR FURTHER INFORMATION CONTACT** section. The committee DFO and ADFO will log each request to make a comment, in the order received, and determine whether the subject matter of each comment is relevant to the Board's mission and/or the topics to be addressed in this public meeting. A 15-minute period near the end of the meeting will be available for verbal public comments. Members of the public who have requested to make a verbal comment and whose comments have been deemed relevant under the process described above, will be allotted no more than three (3) minutes during this period, and will be invited to speak in the order in which their requests were received by the DFO and ADFO.

Thomas P. Smith,

Chief, Operations and Regulatory Division, Directorate of Civil Works, U.S. Army Corp of Engineers.

[FR Doc. 2020–21762 Filed 10–1–20; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Availability of and Request for Comment on an Interim Report for the Buffalo Bayou and Tributaries, Texas Resiliency Study

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of availability and request for comment.

SUMMARY: The US Army Corps of Engineers (USACE) requests comments on the alternatives considered to date by the Buffalo Bayou and Tributaries, Texas Resiliency Study (BBTRS) to help inform the Study Team's recommendation to the Chief of Engineers on reducing the flood risk along Buffalo Bayou and its tributaries in Harris and Fort Bend counties, Texas. An Interim Report has been prepared to document alternatives considered to date. The Interim Report, which does not include recommendations or decisions, is being published to solicit input from the public. Seeking this public input prior to identifying a preferred alternative will help ensure the analysis of a complex problem—and ultimately decisions—are effective, responsive, sustainable and understood by the region's communities.

DATES: Written comments on the Interim Report must be received by email or post-marked by November 2, 2020.

ADDRESSES: The Interim Report and additional pertinent information about the- study can be found at: *https://www.swg.usace.army.mil/Missions/Projects/Buffalo-Bayou-and-Tributaries-Resiliency-Study/.*

Interested persons may submit written comments by email to *BBTRS@usace.army.mil* or by mail to: USACE, Galveston District, Attn: BBTRS, P.O. Box 1229, Galveston, TX 77553–1229.

FOR FURTHER INFORMATION CONTACT: Ms. Melinda Fisher, USACE, Regional Planning and Environmental Center, at 918–669–7423 or *BBTRS@usace.army.mil.*

SUPPLEMENTARY INFORMATION:

1. Introduction and Background. USACE, in partnership with the Harris County Flood Control District (HCFCD), as the non-Federal sponsor, began a feasibility study in 2018 to identify, evaluate, and recommend actions to reduce flood risks along Buffalo Bayou and its tributaries, both upstream and downstream of Addicks and Barker dams. The study will also complete a Dam Safety Modification Evaluation on Addicks and Barker dams. The BBTRS is authorized under Section 216 of the Flood Control Act of 1970 (Pub. L. 91–611) and existing project authority. Section 216 authorizes USACE to review a completed navigation, flood risk reduction, water supply, or related project due to significantly changed physical or economic conditions, and to report to Congress with recommendations regarding modification of the project's structures or operation, and for improving the quality of the environment in the overall public interest.

Existing flood risk management (FRM) projects in the watersheds include the Buffalo Bayou and Tributaries, Texas Project (Project), which was authorized by Congress in the 1930s for the purpose of providing flood control for the City of Houston and Port of Houston. In the 1940s, Addicks and Barker Dams were constructed and a portion of Buffalo Bayou was straightened as part of the completed Project. Since Project completion, a number of physical improvements and operational changes have been made to attempt to mitigate changing conditions within Addicks, Barker, Buffalo Bayou and surrounding watersheds. However, the watersheds continue to experience major flood events, most recently and most significantly Hurricane Harvey in 2017. These flood events, combined with documented increases in precipitation frequencies, continued urbanization of the watersheds, and the potential for flooding events in the future, indicate the Project may need to be modified to further mitigate flood risks.

The study will evaluate ways to reduce flooding in three watersheds—Addicks Reservoir, Barker Reservoir, and Buffalo Bayou—focusing on areas upstream and downstream of Addicks and Barker dams and along Buffalo Bayou. A portion of Cypress Creek Watershed is being considered because overflow from this watershed contributes to flooding in the Addicks Reservoir Watershed. Brays Bayou and White Oak Bayou could be affected by actions benefiting Buffalo Bayou, so impacts to these watersheds will be evaluated. The scope of the study does not include identifying ways to lower flood risk in the lower Cypress Creek, Brays Bayou or White Oak Bayou watersheds.

Since the public scoping meetings held in May 2019 and a newsletter sent in January 2020, the alternatives (potential ways to address the problems) have evolved based on the preliminary results of modeling the physical and economic performance of these actions. The study team used this information to advance the evaluation of several alternatives, remove some from further consideration and add some additional measures for more detailed consideration. To explain this updated information and present the focused array of alternatives, the Study Team is adding a step to the process: release of an Interim Report for public review and comment.

Note: This is not a Notice of Availability associated with the release of a Draft Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act. This is an interim step intended to gather public feedback before a Draft EIS is released.

2. *Interim Report.* The Study Team prepared this Report to present preliminary findings and a focused array of alternatives considered to date that manage risk and reduce damages under existing and future conditions.

The report describes the process to identify and screen potential measures to address the problems and meet the purpose and need of the study. The report also describes engineering, economic, social, and environmental analyses conducted to date; it does not identify a preferred alternative nor does it make any recommendations or decisions.

The Interim Report identifies three main problems in the study area—upstream risks to life safety and property when inflows exceed reservoir capacity, dam safety risks if a dam component were to fail during a flood, and downstream risks to life safety and property when flows exceed channel capacity. To address each of these concerns, a number of structural and non-structural measures were considered including but not limited to: Bypass channels, new reservoirs, detention ponds, tunnels, dredging of existing detention ponds and reservoirs, spillway modifications, levees/floodwalls, channel modifications, property acquisition, changes in operations, structure modifications, and prairie/wetland restoration. The Study Team screened an initial array of measures based on technical feasibility, performance, cost, and benefits. Eight alternatives are identified in the interim report as the focused array. These include:

- *No Action.* No Federal action is taken to reduce future flood risks. This alternative serves as the baseline condition to compare the action alternatives' benefits and costs and is required by policy.
- *FRM Alternative 2: Cypress Creek Reservoir.* This alternative investigates the feasibility of increasing storage capacity in the upper watersheds through construction of a third reservoir in the vicinity of the Harris-Waller County line in the far western part of the study area.
- *FRM Alternative 6: Buffalo Bayou Channel Improvements.* This alternative facilitates more efficient conveyance of water by widening and deepening Buffalo Bayou, while preserving or enhancing the natural characteristics of the aquatic and riparian ecosystem.
- *FRM Alternative 7: Non-Structural Only.* This alternative utilizes actions that reduce human exposure and vulnerability to flooding, but does not attempt to change the hazard. Property acquisition along Buffalo Bayou would lower the risk to lives and properties downstream during all precipitation events, while also allowing for non-damaging larger releases from the reservoirs during more severe events.
- *FRM Alternative 8: Combination Plan.* This alternative utilizes a combination of FRM Alternative 2 and 6, which includes construction of a third reservoir and channel improvements to Buffalo Bayou.
- *Dam Safety (DS) Alternative 4: Tolerable Risk.* This alternative increases the spillway capacity and prevents overtopping by reinforcing all four spillways of Addicks and Barker dams. The north spillways would be removed and replaced with stepped roller compacted concrete (RCC) and the south spillways would be replaced with articulated concrete block.
- *DS Alternative 5: Tolerable Risk + As Low as Reasonably Practicable.* This alternative is similar to DS Alternative 4, except that all four spillways would be removed and replaced with stepped RCC.
- *System Operations.* This alternative involves acquiring additional lands to efficiently and safely operate the reservoirs given the changed circumstances. A range of reservoir elevations are being considered and could extend from current Federally-owned government land to elevation 112 at Addicks Reservoir and elevation 105 at Barker Reservoir. This would involve acquisition of between 14,868 and 24,707 tracts of land and involve relocation of 10,606 to 21,302 residential properties and 259 to 492 commercial properties.

3. *Public Participation.* USACE and HCFCD are committed to proactively informing and engaging with the community and stakeholders to reach effective and implementable flood risk management solutions. These agencies intend for public review of the Interim Report to provide input on the alternatives and the complexity of developing solutions. Public and resource agency feedback on the Interim Report will inform the next level of evaluation to identify a Tentatively Selected Plan (TSP). The TSP may be a single alternative or comprised of several alternatives from the focused array under consideration.

Solicitation of Comments: The USACE is soliciting comments on the Interim Report from the public, Federal, State, and local agencies, elected officials, Tribal Nations, and other interested parties. The public comment period will begin [DATE OF PUBLICATION] and written comments may be submitted by email or through postal mail at the addresses provided above.

Meetings: Due to the ''Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Outbreak'' issued on March 13, 2020, no in-person meetings will be held. The USACE will host informational sharing sessions intended to provide an overview of the report and findings to date. The study website provides the dates and times of the information sessions, as well as up-to-date access details.

4. Identification of Tentatively Selected Plan and Availability of Draft EIS. Depending on input received on the Interim Report, USACE estimates issuing a Draft Feasibility Report and Draft Environmental Impact Statement for public review and comment in early 2021. At that time, USACE will provide a 45-day public review period, in accordance with the National Environmental Policy Act (NEPA). USACE will notify all interested agencies, organizations, and individuals of the availability of the draft document at that time.

Christopher G. Beck,

Brigadier General, U.S. Army, Commanding.

[FR Doc. 2020–21763 Filed 10–1–20; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2020–SCC–0159]

Agency Information Collection Activities; Comment Request; Vocational Rehabilitation Program Corrective Action Plan (CAP)

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

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before December 1, 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–0159. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when

requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave, SW, LBJ, Room 6W208D, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Joseph Doney, 202–245–7526.

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: Vocational Rehabilitation Program Corrective Action Plan (CAP).

OMB Control Number: 1820–0694.

Type of Review: Extension without change of a currently approved collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 60.

Total Estimated Number of Annual Burden Hours: 975.

Abstract: Section 107 of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended by Title IV of the Workforce Innovation and Opportunity Act (WIOA), requires the Commissioner of the Rehabilitation Services Administration (RSA) to conduct annual reviews and periodic on-site monitoring of the vocational rehabilitation (VR) program to determine whether a state agency is complying substantially with the provisions of its State Plan under section 101 of the Rehabilitation Act and with the evaluation standards and performance indicators established under section 106 of the Rehabilitation Act subject to the performance accountability provisions described in Section 116(b) of WIOA. To fulfill its monitoring responsibility, RSA reviews a maximum of 15 VR agencies in each Federal fiscal year. In order to resolve findings of non-compliance, RSA requires that VR agencies develop a Corrective Action Plan (CAP). The CAP must contain the specific steps that the agency will take to resolve each finding, timelines for the completion of each step and methods for evaluating that the findings have been resolved. RSA requires the agency to report progress toward completion of the CAP on a quarterly basis.

Dated: September 29, 2020.

Kate Mullan,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2020–21797 Filed 10–1–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 15–62–LNG]

Texas LNG Brownsville LLC; Application To Amend Export Term Through December 31, 2050, for Existing Non-Free Trade Agreement Authorization

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice (Notice) of receipt of an application (Application), filed on September 23, 2020, by Texas LNG Brownsville LLC (Texas LNG). Texas LNG seeks to amend the export term set forth in its current authorization to export liquefied natural gas (LNG) to non-free trade agreement countries, DOE/FE Order No. 4489, to a term ending on December 31, 2050. Texas LNG filed the Application under the Natural Gas Act (NGA) and DOE's policy statement entitled, ''Extending Natural Gas Export Authorizations to Non-Free Trade Agreement Countries Through the Year 2050'' (Policy Statement). Protests, motions to intervene, notices of intervention, and written comments on the requested term extension are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, October 19, 2020.

ADDRESSES:

Electronic Filing by email: fergas@hq.doe.gov.

Regular Mail: U.S. Department of Energy (FE–34) Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375.

Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.): U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Beverly Howard or Amy Sweeney, U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–9387; (202) 586–2627, *Beverly.howard@hq.doe.gov* or *amy.sweeney@hq.doe.gov.*

Cassandra Bernstein or Edward Toyozaki, U.S. Department of Energy (GC–76), Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, Room 6D–033, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–9793; (202) 586–0126, *cassandra.bernstein@hq.doe.gov* or *edward.toyozaki@hq.doe.gov*

SUPPLEMENTARY INFORMATION:

On February 10, 2020, in Order No. 4489, DOE/FE authorized Texas LNG to export domestically produced LNG in a volume equivalent to 204.4 billion cubic feet per year of natural gas, pursuant to NGA section 3(a), 15 U.S.C. 717b(a).[1] Texas LNG is authorized to export this LNG by vessel from the proposed Texas

[1] *Texas LNG Brownsville LLC,* DOE/FE Order No. 4489, FE Docket No. 15–62–LNG, Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations (Feb. 10, 2020).

LNG Brownsville LLC Liquefied Natural Gas Export Project to be located at the Port of Brownsville, Texas, to any country with which the United States has not entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (non-FTA countries) for a 20-year term. In the Application,[2] Texas LNG asks DOE to extend its current export term to a term ending on December 31, 2050, as provided in the Policy Statement.[3] Additional details can be found in the Application, posted on the DOE/FE website at: *https://www.energy.gov/sites/prod/files/2020/09/f79/Texas%20LNG%20Brownsville%20LLC%202050%20Application.pdf.*

DOE/FE Evaluation

In the Policy Statement, DOE adopted a term through December 31, 2050 (inclusive of any make-up period), as the standard export term for long-term non-FTA authorizations.[4] As the basis for its decision, DOE considered its obligations under NGA section 3(a), the public comments supporting and opposing the proposed Policy Statement, and a wide range of information bearing on the public interest.[5] DOE explained that, upon receipt of an application under the Policy Statement, it would conduct a public interest analysis of the application under NGA section 3(a). DOE further stated that ''the public interest analysis will be limited to the application for the term extension—meaning an intervenor or protestor may challenge the requested extension but not the existing non-FTA order.'' [6]

Accordingly, in reviewing Texas LNG's Application, DOE/FE will consider any issues required by law or policy under NGA section 3(a), as informed by the Policy Statement. To the extent appropriate, DOE will consider the study entitled, *Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports* (2018 LNG Export Study),[7] DOE's response to public comments received on that Study,[8] and the following environmental documents:

- *Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States,* 79 FR 48132 (Aug. 15, 2014); [9]
- *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States,* 79 FR 32260 (June 4, 2014); [10] and
- *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update,* 84 FR 49278 (Sept. 19, 2019), and DOE/FE's response to public comments received on that study.[11]

Parties that may oppose the Application should address these issues and documents in their comments and/or protests, as well as other issues deemed relevant to the Application.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable, addressing the Application. Interested parties will be provided 15 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, or notices of intervention. The public previously was given an opportunity to intervene in, protest, and comment on Texas LNG's long-term non-FTA application. Therefore, DOE will not consider comments or protests that do not bear directly on the requested term extension.

Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) Emailing the filing to *fergas@hq.doe.gov,* with FE Docket No. 15–62–LNG in the title line; (2) mailing an original and three paper copies of the filing to the Office of Regulation, Analysis, and Engagement at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Regulation, Analysis, and Engagement at the address listed in **ADDRESSES**. All filings must include a reference to FE Docket No. 15–62–LNG. PLEASE NOTE: If submitting a filing via email, please include all related documents and attachments (*e.g.,* exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

A decisional record on the Application will be developed through responses to this Notice by parties, including the parties' written comments and replies thereto. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The Application is available for inspection and copying in the Office of Regulation, Analysis, and Engagement docket room, Room 3E–042, 1000 Independence Avenue, SW, Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The Application and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going to the following DOE/FE Web address:

[2] Texas LNG Brownsville LLC, Application to Amend Export Term for Existing Long-Term Authorization(s) Through December 31, 2050, FE Docket No. 15–62–LNG (Sept. 23, 2020). Texas LNG's request regarding its FTA authorization is not subject to this Notice. *See* 15 U.S.C. 717b(c).

[3] U.S. Dep't of Energy, Extending Natural Gas Export Authorizations to Non-Free Trade Agreement Countries Through the Year 2050; Notice of Final Policy Statement and Response to Comments, 85 FR 52237 (Aug. 25, 2020) [hereinafter Policy Statement].

[4] *See id.,* 85 FR 52247.

[5] *See id.,* 85 FR 52247.

[6] *Id.,* 85 FR 52247.

[7] *See* NERA Economic Consulting, Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports (June 7, 2018), *available at: https://www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf.*

[8] U.S. Dep't of Energy, Study on Macroeconomic Outcomes of LNG Exports: Response to Comments Received on Study; Notice of Response to Comments, 83 FR 67251 (Dec. 28, 2018).

[9] The Addendum and related documents are available at: *http://energy.gov/fe/draft-addendum-environmental-review-documents-concerning-exports-natural-gas-united-states.*

[10] The 2014 Life Cycle Greenhouse Gas Report is available at: *http://energy.gov/fe/life-cycle-greenhouse-gas-perspective-exporting-liquefied-natural-gas-united-states.*

[11] U.S. Dep't of Energy, Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update—Response to Comments, 85 FR 72 (Jan. 2, 2020). The 2019 Update and related documents are available at: *https://fossil.energy.gov/app/docketindex/docket/index/21.*

http://www.fe.doe.gov/programs/gasregulation/index.html.

Signed in Washington, DC, on September 28, 2020.

Amy Sweeney,

Director, Office of Regulation, Analysis, and Engagement, Office of Fossil Energy.

[FR Doc. 2020–21804 Filed 10–1–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 12–97–LNG]

Cheniere Marketing, LLC and Corpus Christi Liquefaction, LLC; Application To Amend Export Term Through December 31, 2050, for Existing Non-Free Trade Agreement Authorization

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice (Notice) of receipt of an application (Application), filed on September 3, 2020, by Cheniere Marketing, LLC and Corpus Christi Liquefaction, LLC (collectively, CMI). CMI seeks to amend the export term set forth in its current authorization to export liquefied natural gas (LNG) to non-free trade agreement countries, DOE/FE Order No. 3638, to a term ending on December 31, 2050. CMI filed the Application under the Natural Gas Act (NGA) and DOE's policy statement entitled, ''Extending Natural Gas Export Authorizations to Non-Free Trade Agreement Countries Through the Year 2050'' (Policy Statement). Protests, motions to intervene, notices of intervention, and written comments on the requested term extension are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, October 19, 2020.

ADDRESSES:

Electronic Filing by email: fergas@hq.doe.gov.

Regular Mail: U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375.

Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.): U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Benjamin Nussdorf or Amy Sweeney, U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–7893; (202) 586–2627, *benjamin.nussdorf@hq.doe.gov* or *amy.sweeney@hq.doe.gov*.

Cassandra Bernstein or Edward Toyozaki, U.S. Department of Energy (GC–76), Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, Room 6D–033, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–9793; (202) 586–0126, *cassandra.bernstein@hq.doe.gov* or *edward.toyozaki@hq.doe.gov*.

SUPPLEMENTARY INFORMATION: On May 12, 2015, in Order No. 3638, DOE/FE authorized CMI to export domestically produced LNG in a volume equivalent to 767 billion cubic feet per year (Bcf/yr) of natural gas, pursuant to NGA section 3(a), 15 U.S.C. 717b(a).[1] CMI is authorized to export this LNG by vessel from the Corpus Christi LNG Terminal near Corpus Christi, Texas, in San Patricio and Nueces Counties, to any country with which the United States has not entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (non-FTA countries) for a 20-year term. In the Application,[2] CMI asks DOE to extend its current export term to a term ending on December 31, 2050, as provided in the Policy Statement.[3] Additional details can be found in the Application, posted on the DOE/FE website at: *https://www.energy.gov/sites/prod/files/2020/09/f78/CMI%20DOE%20Filing%20Package%209-3-2020.pdf*.

DOE/FE Evaluation

In the Policy Statement, DOE adopted a term through December 31, 2050 (inclusive of any make-up period), as the standard export term for long-term non-FTA authorizations.[4] As the basis for its decision, DOE considered its obligations under NGA section 3(a), the public comments supporting and opposing the proposed Policy Statement, and a wide range of information bearing on the public interest.[5] DOE explained that, upon receipt of an application under the Policy Statement, it would conduct a public interest analysis of the application under NGA section 3(a). DOE further stated that ''the public interest analysis will be limited to the application for the term extension—meaning an intervenor or protestor may challenge the requested extension but not the existing non-FTA order.'' [6]

Accordingly, in reviewing CMI's Application, DOE/FE will consider any issues required by law or policy under NGA section 3(a), as informed by the Policy Statement. To the extent appropriate, DOE will consider the study entitled, *Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports* (2018 LNG Export Study),[7] DOE's response to public comments received on that Study,[8] and the following environmental documents:

- *Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States,* 79 FR 48132 (Aug. 15, 2014); [9]
- *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States,* 79 FR 32260 (June 4, 2014); [10] and
- *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States:*

[1] *Cheniere Marketing, LLC and Corpus Christi Liquefaction, LLC,* DOE/FE Order No. 3638, FE Docket No. 12–97–LNG, Final Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Proposed Corpus Christi Liquefaction Project to be Located in Corpus Christi, Texas, to Non-Free Trade Agreement Nations (May 12, 2015), *reh'g denied,* DOE/FE Order No. 3638–A (May 26, 2016).

[2] Cheniere Marketing, LLC and Corpus Christi Liquefaction, LLC, Application to Amend Export Term for Existing Long-Term Authorizations Through December 31, 2050, FE Docket Nos. 12–97–LNG, *et al.* (Sept. 3, 2020). CMI's request regarding its FTA authorizations are not subject to this Notice. *See* 15 U.S.C. 717b(c).

[3] U.S. Dep't of Energy, Extending Natural Gas Export Authorizations to Non-Free Trade Agreement Countries Through the Year 2050; Notice of Final Policy Statement and Response to Comments, 85 FR 52237 (Aug. 25, 2020) [hereinafter Policy Statement].

[4] *See id.,* 85 FR 52247.

[5] *See id.,* 85 FR 52247.

[6] *Id.,* 85 FR 52247.

[7] *See* NERA Economic Consulting, Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports (June 7, 2018), *available at: https://www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf.*

[8] U.S. Dep't of Energy, Study on Macroeconomic Outcomes of LNG Exports: Response to Comments Received on Study; Notice of Response to Comments, 83 FR 67251 (Dec. 28, 2018).

[9] The Addendum and related documents are available at: *http://energy.gov/fe/draft-addendum-environmental-review-documents-concerning-exports-natural-gas-united-states.*

[10] The 2014 Life Cycle Greenhouse Gas Report is available at: *http://energy.gov/fe/life-cycle-greenhouse-gas-perspective-exporting-liquefied-natural-gas-united-states.*

2019 Update, 84 FR 49278 (Sept. 19, 2019), and DOE/FE's response to public comments received on that study.[11] Parties that may oppose the Application should address these issues and documents in their comments and/or protests, as well as other issues deemed relevant to the Application.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable, addressing the Application. Interested parties will be provided 15 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, or notices of intervention. The public previously was given an opportunity to intervene in, protest, and comment on CMI's long-term non-FTA application. Therefore, DOE will not consider comments or protests that do not bear directly on the requested term extension.

Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) Emailing the filing to *fergas@hq.doe.gov,* with FE Docket No. 12–97–LNG in the title line; (2) mailing an original and three paper copies of the filing to the Office of Regulation, Analysis, and Engagement at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Regulation, Analysis, and Engagement at the address listed in **ADDRESSES**. All filings must include a reference to FE Docket No. 12–97–LNG. PLEASE NOTE: If submitting a filing via email, please include all related documents and attachments (*e.g.,* exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

A decisional record on the Application will be developed through responses to this Notice by parties, including the parties' written comments and replies thereto. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The Application is available for inspection and copying in the Office of Regulation, Analysis, and Engagement docket room, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The Application and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going to the following DOE/FE Web address: *http://www.fe.doe.gov/programs/gasregulation/index.html.*

Signed in Washington, DC, on September 29, 2020.

Amy Sweeney,

Director, Office of Regulation, Analysis, and Engagement, Office of Fossil Energy.

[FR Doc. 2020–21850 Filed 10–1–20; 8:45 am]

BILLING CODE 6450–01–P

[11] U.S. Dep't of Energy, Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update—Response to Comments, 85 FR 72 (Jan. 2, 2020). The 2019 Update and related documents are available at: *https://fossil.energy.gov/app/docketindex/docket/index/21.*

DEPARTMENT OF ENERGY

[FE Docket No. 18–144–LNG]

ECA Liquefaction, S. de R.L. de C.V.; Application To Amend Export Term Through December 31, 2050, for Existing Non-Free Trade Agreement Authorization

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice (Notice) of receipt of an application (Application), filed on September 18, 2020, by ECA Liquefaction, S. de R.L. de C.V. (ECA Liquefaction). ECA Liquefaction seeks to amend the export term set forth in its current authorization, DOE/FE Order No. 4364, to a term ending on December 31, 2050. Under Order No. 4364, ECA Liquefaction is authorized to re-export U.S.-sourced natural gas in the form of liquefied natural gas (LNG) from its proposed Mid-Scale Project to be located in Mexico to non-free trade agreement countries. ECA Liquefaction filed the Application under the Natural Gas Act (NGA) and DOE's policy statement entitled, ''Extending Natural Gas Export Authorizations to Non-Free Trade Agreement Countries Through the Year 2050'' (Policy Statement). Protests, motions to intervene, notices of intervention, and written comments on the requested term extension are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, October 19, 2020.

ADDRESSES:

Electronic Filing by email: fergas@hq.doe.gov.

Regular Mail: U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375.

Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.): U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Benjamin Nussdorf or Amy Sweeney, U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–7893; (202) 586–2627, *benjamin.nussdorf@hq.doe.gov* or *amy.sweeney@hq.doe.gov.*

Cassandra Bernstein or Edward Toyozaki, U.S. Department of Energy (GC–76), Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, Room 6D–033, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–9793; (202) 586–0126,

cassandra.bernstein@hq.doe.gov or *edward.toyozaki@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: DOE/FE issued Order No. 4364 to Energía Costa Azul, S. de R.L. de C.V. on March 29, 2019, and subsequently approved the transfer of the order to the current authorization holder, ECA Liquefaction.[1] Under Order No. 4364, ECA Liquefaction is authorized to re-export U.S.-sourced natural gas in the form of LNG in a volume equivalent to 161 billion cubic feet per year of natural gas, pursuant to NGA section 3(a), 15 U.S.C. 717b(a). ECA Liquefaction is authorized to re-export this LNG by vessel from the proposed ECA Mid-Scale Project, to be located north of Ensenada, Baja California, Mexico, to any country with which the United States has not entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (non-FTA countries) for a 20-year term. In the Application,[2] ECA Liquefaction asks DOE to extend its current export term to a term ending on December 31, 2050, as provided in the Policy Statement.[3] Additional details can be found in the Application, posted on the DOE/FE website at: *https://www.energy.gov/sites/prod/files/2020/09/f79/ECA%20Liquefaction%20-%20Application%20for%20Term%20Extensions%2018-144-LNG.pdf.*

DOE/FE Evaluation

In the Policy Statement, DOE adopted a term through December 31, 2050 (inclusive of any make-up period), as the standard export term for long-term non-FTA authorizations.[4] As the basis for its decision, DOE considered its obligations under NGA section 3(a), the public comments supporting and opposing the proposed Policy Statement, and a wide range of information bearing on the public interest.[5] DOE explained that, upon receipt of an application under the Policy Statement, it would conduct a public interest analysis of the application under NGA section 3(a). DOE further stated that ''the public interest analysis will be limited to the application for the term extension—meaning an intervenor or protestor may challenge the requested extension but not the existing non-FTA order.''[6]

Accordingly, in reviewing ECA Liquefaction's Application, DOE/FE will consider any issues required by law or policy under NGA section 3(a), as informed by the Policy Statement. To the extent appropriate, DOE will consider the study entitled, *Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports* (2018 LNG Export Study),[7] DOE's response to public comments received on that Study,[8] and the following environmental documents:

- *Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States,* 79 FR 48132 (Aug. 15, 2014);[9]
- *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States,* 79 FR 32260 (June 4, 2014);[10] and
- *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update,* 84 FR 49278 (Sept. 19, 2019), and DOE/FE's response to public comments received on that study.[11]

Parties that may oppose the Application should address these issues and documents in their comments and/or protests, as well as other issues deemed relevant to the Application.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable, addressing the Application. Interested parties will be provided 15 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, or notices of intervention. The public previously was given an opportunity to intervene in, protest, and comment on ECA Liquefaction's long-term non-FTA application. Therefore, DOE will not consider comments or protests that do not bear directly on the requested term extension.

Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) Emailing the filing to *fergas@hq.doe.gov,* with FE Docket No. 18–144–LNG in the title line; (2) mailing an original and three paper copies of the filing to the Office of Regulation, Analysis, and Engagement at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Regulation, Analysis, and Engagement at the address listed in **ADDRESSES**. All filings must include a reference to FE Docket No. 18–144–LNG. PLEASE NOTE: If submitting a filing via email, please include all related documents and attachments (*e.g.,* exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to

[1] *ECA Liquefaction, S. de R.L. de C.V.,* DOE/FE Order No. 4364, FE Docket No. 18–144–LNG, Opinion and Order Granting Long-Term Authorization to Re-Export U.S.-Sourced Natural Gas in the Form of Liquefied Natural Gas from Mexico to Non-Free Trade Agreement Countries (ECA Mid-Scale Project) (Mar. 29, 2019), *amended by* DOE/FE Order No. 4364–A (Oct. 7, 2019) (transferring authorization from Energía Costa Azul, S. de R.L. de C.V. to ECA Liquefaction, S. de R.L. de C.V.).

[2] ECA Liquefaction, S. de R.L. de C.V., Application to Amend Export Term for Existing Long-Term Authorizations Through December 31, 2050, FE Docket No. 18–144–LNG (Sept. 18, 2020). ECA Liquefaction is currently authorized under a separate order (DOE/FE Order No. 4317) to export domestically produced natural gas to Mexico and to re-export the natural gas in the form of LNG to FTA countries. ECA Liquefaction's request regarding its FTA authorization is not subject to this Notice. *See* 15 U.S.C. 717b(c).

[3] U.S. Dep't of Energy, Extending Natural Gas Export Authorizations to Non-Free Trade Agreement Countries Through the Year 2050; Notice of Final Policy Statement and Response to Comments, 85 FR 52237 (Aug. 25, 2020) [hereinafter Policy Statement].

[4] *See id.,* 85 FR 52247.

[5] *See id.,* 85 FR 52247.

[6] *Id.,* 85 FR 52247.

[7] *See* NERA Economic Consulting, Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports (June 7, 2018), *available at: https://www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf.*

[8] U.S. Dep't of Energy, Study on Macroeconomic Outcomes of LNG Exports: Response to Comments Received on Study; Notice of Response to Comments, 83 FR 67251 (Dec. 28, 2018).

[9] The Addendum and related documents are available at: *http://energy.gov/fe/draft-addendum-environmental-review-documents-concerning-exports-natural-gas-united-states.*

[10] The 2014 Life Cycle Greenhouse Gas Report is available at: *http://energy.gov/fe/life-cycle-greenhouse-gas-perspective-exporting-liquefied-natural-gas-united-states.*

[11] U.S. Dep't of Energy, Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update—Response to Comments, 85 FR 72 (Jan. 2, 2020). The 2019 Update and related documents are available at: *https://fossil.energy.gov/app/docketindex/docket/index/21.*

ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

A decisional record on the Application will be developed through responses to this Notice by parties, including the parties' written comments and replies thereto. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The Application is available for inspection and copying in the Office of Regulation, Analysis, and Engagement docket room, Room 3E–042, 1000 Independence Avenue, SW, Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The Application and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going to the following DOE/FE Web address: *http://www.fe.doe.gov/programs/gasregulation/index.html*.

Signed in Washington, DC, on September 29, 2020.

Amy Sweeney,

Director, Office of Regulation, Analysis, and Engagement, Office of Fossil Energy.

[FR Doc. 2020–21846 Filed 10–1–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 18–145–LNG]

Energía Costa Azul, S. de R.L. de C.V.; Application To Amend Export Term Through December 31, 2050, for Existing Non-Free Trade Agreement Authorization

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice (Notice) of receipt of an application (Application), filed on September 18, 2020, by Energía Costa Azul, S. de R.L. de C.V. (ECA). ECA seeks to amend the export term set forth in its current authorization, DOE/FE Order No. 4365, to a term ending on December 31, 2050. Under Order No. 4365, ECA is authorized to re-export U.S.-sourced natural gas in the form of liquefied natural gas (LNG) from its proposed Large-Scale Project to be located in Mexico to non-free trade agreement countries. ECA filed the Application under the Natural Gas Act (NGA) and DOE's policy statement entitled, ''Extending Natural Gas Export Authorizations to Non-Free Trade Agreement Countries Through the Year 2050'' (Policy Statement). Protests, motions to intervene, notices of intervention, and written comments on the requested term extension are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, October 19, 2020.

ADDRESSES:

Electronic Filing by email: fergas@hq.doe.gov.

Regular Mail: U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375.

Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.): U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Benjamin Nussdorf or Amy Sweeney, U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–7893; (202) 586–2627, *benjamin.nussdorf@hq.doe.gov* or *amy.sweeney@hq.doe.gov*.

Cassandra Bernstein or Edward Toyozaki, U.S. Department of Energy (GC–76), Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, Room 6D–033, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–9793; (202) 586–0126, *cassandra.bernstein@hq.doe.gov* or *edward.toyozaki@hq.doe.gov*.

SUPPLEMENTARY INFORMATION: On March 29, 2019, in Order No. 4365, DOE/FE authorized ECA to re-export U.S.-sourced natural gas in the form of LNG in a volume equivalent to 475 billion cubic feet per year of natural gas, pursuant to NGA section 3(a), 15 U.S.C. 717b(a).[1] ECA is authorized to re-export this LNG by vessel from the proposed ECA Large-Scale Project, to be located north of Ensenada, Baja California, Mexico, to any country with which the United States has not entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (non-FTA countries) for a 20-year term. In the Application,[2] ECA asks DOE to extend its current export term to a term ending on December 31, 2050, as provided in the Policy Statement.[3] Additional details can be found in the Application,[4] posted on the DOE/FE website at: *https://www.energy.gov/sites/prod/files/2020/09/f79/Energia%20Costa%20Azul%20-%20Application%20for%20Term%20Extensions%2018-145-LNG.pdf*.

DOE/FE Evaluation

In the Policy Statement, DOE adopted a term through December 31, 2050 (inclusive of any make-up period), as the standard export term for long-term non-FTA authorizations.[5] As the basis for its decision, DOE considered its obligations under NGA section 3(a), the public comments supporting and opposing the proposed Policy Statement, and a wide range of information bearing on the public interest.[6] DOE explained that, upon receipt of an application under the Policy Statement, it would conduct a public interest analysis of the application under NGA section 3(a). DOE further stated that ''the public

[1] *Energía Costa Azul, S. de R.L. de C.V.,* DOE/FE Order No. 4365, FE Docket No. 18–145–LNG, Opinion and Order Granting Long-Term Authorization to Re-Export U.S-Sourced Natural Gas in the Form of Liquefied Natural Gas from Mexico to Non-Free Trade Agreement Countries (ECA Large-Scale Project) (Mar. 29, 2019).

[2] Energía Costa Azul, S. de R.L. de C.V., Application to Amend Export Term for Existing Long-Term Authorizations Through December 31, 2050, FE Docket No. 18–145–LNG (Sept. 18, 2020). ECA is currently authorized under a separate order (DOE/FE Order No. 4318) to export domestically produced natural gas to Mexico and to re-export the natural gas in the form of LNG to FTA countries. ECA's request regarding its FTA authorization is not subject to this Notice. *See* 15 U.S.C. 717b(c).

[3] U.S. Dep't of Energy, Extending Natural Gas Export Authorizations to Non-Free Trade Agreement Countries Through the Year 2050; Notice of Final Policy Statement and Response to Comments, 85 FR 52237 (Aug. 25, 2020) [hereinafter Policy Statement].

[4] DOE/FE notes that the Application inadvertently references DOE/FE Order Nos. 4364 and 4317 (orders issued to ECA's affiliate for the ECA Mid-Scale Project in FE Docket No. 18–144–LNG) in certain places, such as in the chart on page 4. However, ECA's existing orders in this proceeding, FE Docket No. 18–145–LNG, are DOE/FE Order No. 4365 (non-FTA) and Order No. 4318 (FTA), as indicated elsewhere in the Application. As stated above, only ECA's non-FTA authorization, DOE/FE Order No. 4365, is subject to this Notice.

[5] *See* Policy Statement, 85 FR 52247.

[6] *See id.,* 85 FR 52247.

interest analysis will be limited to the application for the term extension—meaning an intervenor or protestor may challenge the requested extension but not the existing non-FTA order.'' [7]

Accordingly, in reviewing ECA's Application, DOE/FE will consider any issues required by law or policy under NGA section 3(a), as informed by the Policy Statement. To the extent appropriate, DOE will consider the study entitled, *Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports* (2018 LNG Export Study),[8] DOE's response to public comments received on that Study,[9] and the following environmental documents:

- *Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States,* 79 FR 48132 (Aug. 15, 2014); [10]
- *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States,* 79 FR 32260 (June 4, 2014); [11] and
- *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update,* 84 FR 49278 (Sept. 19, 2019), and DOE/FE's response to public comments received on that study.[12]

Parties that may oppose the Application should address these issues and documents in their comments and/or protests, as well as other issues deemed relevant to the Application.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

[7] *Id.,* 85 FR 52247.

[8] *See* NERA Economic Consulting, Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports (June 7, 2018), *available at: https://www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf.*

[9] U.S. Dep't of Energy, Study on Macroeconomic Outcomes of LNG Exports: Response to Comments Received on Study; Notice of Response to Comments, 83 FR 67251 (Dec. 28, 2018).

[10] The Addendum and related documents are available at: *http://energy.gov/fe/draft-addendum-environmental-review-documents-concerning-exports-natural-gas-united-states.*

[11] The 2014 Life Cycle Greenhouse Gas Report is available at: *http://energy.gov/fe/life-cycle-greenhouse-gas-perspective-exporting-liquefied-natural-gas-united-states.*

[12] U.S. Dep't of Energy, Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update—Response to Comments, 85 FR 72 (Jan. 2, 2020). The 2019 Update and related documents are available at: *https://fossil.energy.gov/app/docketindex/docket/index/21.*

Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable, addressing the Application. Interested parties will be provided 15 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, or notices of intervention. The public previously was given an opportunity to intervene in, protest, and comment on ECA's long-term non-FTA application. Therefore, DOE will not consider comments or protests that do not bear directly on the requested term extension.

Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) Emailing the filing to *fergas@hq.doe.gov,* with FE Docket No. 18–145–LNG in the title line; (2) mailing an original and three paper copies of the filing to the Office of Regulation, Analysis, and Engagement at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Regulation, Analysis, and Engagement at the address listed in **ADDRESSES**. All filings must include a reference to FE Docket No. 18–145–LNG. PLEASE NOTE: If submitting a filing via email, please include all related documents and attachments (*e.g.,* exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

A decisional record on the Application will be developed through responses to this Notice by parties, including the parties' written comments and replies thereto. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The Application is available for inspection and copying in the Office of Regulation, Analysis, and Engagement docket room, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The Application and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going to the following DOE/FE Web address: *http://www.fe.doe.gov/programs/gasregulation/index.html.*

Signed in Washington, DC, on September 29, 2020.

Amy Sweeney,

Director, Office of Regulation, Analysis, and Engagement, Office of Fossil Energy.

[FR Doc. 2020–21849 Filed 10–1–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 19–134–LNG]

Commonwealth LNG, LLC; Application To Amend Requested Export Term in Pending Long-Term Application Through December 31, 2050

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice (Notice) of receipt of an application (Application), filed on September 11, 2020, by Commonwealth LNG, LLC (Commonwealth). Commonwealth seeks to amend the export term set forth in its pending application requesting authorization to export liquefied natural gas (LNG) to non-free trade agreement countries to a term ending on December 31, 2050. Commonwealth filed the Application under the Natural Gas Act (NGA) and DOE's policy statement entitled, ''Extending Natural Gas Export Authorizations to Non-Free Trade Agreement Countries Through the Year 2050'' (Policy Statement). Protests, motions to intervene, notices of intervention, and written comments on the requested term extension are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable,

requests for additional procedures, and written comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, October 19, 2020.

ADDRESSES:

Electronic Filing by email fergas@hq.doe.gov.

Regular Mail

U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375.

Hand Delivery or Private Delivery Services (*e.g.,* FedEx, UPS, etc.)

U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Benjamin Nussdorf or Amy Sweeney, U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–7893; (202) 586–2627, *benjamin.nussdorf@hq.doe.gov* or *amy.sweeney@hq.doe.gov.*

Cassandra Bernstein or Edward Toyozaki, U.S. Department of Energy (GC–76), Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, Room 6D–033, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–9793; (202) 586–0126, *cassandra.bernstein@hq.doe.gov* or *edward.toyozaki@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

On October 16, 2019, Commonwealth filed an application with DOE/FE requesting long-term, multi-contract authorization to export domestically produced LNG in a volume equivalent to 441.4 billion cubic feet per year of natural gas, pursuant to NGA section 3(a), 15 U.S.C. 717b(a).[1] Commonwealth seeks to export this LNG by vessel from the proposed Commonwealth LNG Facility to be located in Cameron Parish, Louisiana, to any country with which the United States has not entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (non-FTA countries) for a 20-year term. In this Application,[2] Commonwealth asks to amend the export term requested in its pending non-FTA application to a term ending on December 31, 2050, as provided in the Policy Statement.[3] Additional details can be found in the Application, posted on the DOE/FE website at: *https://www.energy.gov/sites/prod/files/2020/09/f78/Commonwealth%20DOE%20Amendment%20Application.pdf.*

Because the Application requests a material change to Commonwealth's pending application, DOE is publishing this notice in the **Federal Register** to provide the public with an opportunity to intervene, comment, and/or protest the requested extended export term.[4]

DOE/FE Evaluation

In the Policy Statement, DOE adopted a term through December 31, 2050 (inclusive of any make-up period), as the standard export term for long-term non-FTA authorizations.[5] As the basis for its decision, DOE considered its obligations under NGA section 3(a), the public comments supporting and opposing the proposed Policy Statement, and a wide range of information bearing on the public interest.[6] DOE explained that, upon receipt of an application under the Policy Statement, it would conduct a public interest analysis of the application (or amended application) under NGA section 3(a).[7]

Accordingly, in reviewing Commonwealth's Application, DOE/FE will consider any issues required by law or policy under NGA section 3(a), as informed by the Policy Statement. To the extent appropriate, DOE will consider the study entitled, *Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports* (2018 LNG Export Study),[8] DOE's response to public comments received on that Study,[9] and the following environmental documents:

- *Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States,* 79 FR 48132 (Aug. 15, 2014);[10]
- *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States,* 79 FR 32260 (June 4, 2014);[11] and
- *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update,* 84 FR 49278 (Sept. 19, 2019), and DOE/FE's response to public comments received on that study.[12]

Parties that may oppose the Application should address these issues and documents in their comments and/or protests as they relate to the amendment of the requested export term only, as well as any other issues deemed relevant to the requested term extension.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable, addressing the Application. Interested parties will be provided 15 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, or notices of intervention. The public previously was given an opportunity to intervene in, protest, and comment on Commonwealth's pending long-term non-FTA application. Therefore, DOE will not consider comments or protests that do not bear directly on Commonwealth's amendment to the requested export term.

Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention. The filing of comments or a protest with

[1] Commonwealth LNG, LLC, FE Docket No. 19–134–LNG, Application for Long-Term Authorization to Export Liquefied Natural Gas to Free Trade Agreement Nations and Non-Free Trade Agreement Nations (Oct. 16, 2019).

[2] Commonwealth LNG, LLC, Application to Amend Export Term in Pending Long-Term Application Through December 31, 2050, FE Docket No. 19–134–LNG (Sept. 11, 2020).

[3] U.S. Dep't of Energy, Extending Natural Gas Export Authorizations to Non-Free Trade Agreement Countries Through the Year 2050; Notice of Final Policy Statement and Response to Comments, 85 FR 52237 (Aug. 25, 2020) [hereinafter Policy Statement].

[4] *See* 10 CFR 590.204(a).

[5] *See* Policy Statement, 85 FR 52247.

[6] *See id.,* 85 FR 52247.

[7] *Id.,* 85 FR 52247.

[8] *See* NERA Economic Consulting, Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports (June 7, 2018), *available at: https://www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf.*

[9] U.S. Dep't of Energy, Study on Macroeconomic Outcomes of LNG Exports: Response to Comments Received on Study; Notice of Response to Comments, 83 FR 67251 (Dec. 28, 2018).

[10] The Addendum and related documents are available at: *http://energy.gov/fe/draft-addendum-environmental-review-documents-concerning-exports-natural-gas-united-states.*

[11] The 2014 Life Cycle Greenhouse Gas Report is available at: *http://energy.gov/fe/life-cycle-greenhouse-gas-perspective-exporting-liquefied-natural-gas-united-states.*

[12] U.S. Dep't of Energy, Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update—Response to Comments, 85 FR 72 (Jan. 2, 2020). The 2019 Update and related documents are available at: *https://fossil.energy.gov/app/docketindex/docket/index/21.*

respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) Emailing the filing to *fergas@hq.doe.gov,* with FE Docket No. 19–134–LNG in the title line; (2) mailing an original and three paper copies of the filing to the Office of Regulation, Analysis, and Engagement at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Regulation, Analysis, and Engagement at the address listed in **ADDRESSES**. All filings must include a reference to FE Docket No. 19–134–LNG. **PLEASE NOTE:** If submitting a filing via email, please include all related documents and attachments (*e.g.,* exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

A decisional record on the Application will be developed through responses to this Notice by parties, including the parties' written comments and replies thereto. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The Application is available for inspection and copying in the Office of Regulation, Analysis, and Engagement docket room, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The Application and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going to the following DOE/FE Web address: *http://www.fe.doe.gov/programs/gasregulation/index.html.*

Signed in Washington, DC, on September 28, 2020.

Amy Sweeney,

Director, Office of Regulation, Analysis, and Engagement, Office of Fossil Energy.

[FR Doc. 2020–21761 Filed 10–1–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–2977–000]

ORNI 34 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 ORNI 34 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 19, 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 28, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–21827 Filed 10–1–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–2979–000]

Catalyst Power & Gas 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 Catalyst Power & Gas 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 19, 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 28, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–21829 Filed 10–1–20; 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 Number: PR20–73–000.
Applicants: DTE Gas Company.
Description: Tariff filing per 284.123(b),(e)/: DTE Gas Operating Statement Update to be effective 10/1/2020.
Filed Date: 9/23/2020.
Accession Number: 202009235044.
Comments/Protests Due: 5 p.m. ET 10/14/2020.

Docket Numbers: RP20–1208–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 092420 Negotiated Rates—Castleton Commodities Merchant Trading L.P. R–4010–24 to be effective 11/1/2020.
Filed Date: 9/24/20.
Accession Number: 20200924–5023.
Comments Due: 5 p.m. ET 10/6/20.

Docket Numbers: RP20–1209–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 092420 Negotiated Rates—Citadel Energy Marketing LLC R–7705–02 to be effective 11/1/2020.
Filed Date: 9/24/20.
Accession Number: 20200924–5024.
Comments Due: 5 p.m. ET 10/6/20.

Docket Numbers: RP20–1210–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 092420 Negotiated Rates—Citadel Energy Marketing LLC R–7705–03 to be effective 11/1/2020.
Filed Date: 9/24/20.
Accession Number: 20200924–5033.
Comments Due: 5 p.m. ET 10/6/20.

Docket Numbers: RP20–1211–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 092420 Negotiated Rates—DTE Energy Trading, Inc. R–1830–14 to be effective 11/1/2020.
Filed Date: 9/24/20.
Accession Number: 20200924–5038.
Comments Due: 5 p.m. ET 10/6/20.

Docket Numbers: RP20–1212–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 092420 Negotiated Rates—Mercuria Energy America, LLC R–7540–02 to be effective 11/1/2020.
Filed Date: 9/24/20.
Accession Number: 20200924–5041.
Comments Due: 5 p.m. ET 10/6/20.

Docket Numbers: RP20–1213–000.
Applicants: Southwest Gas Transmission Company.
Description: § 4(d) Rate Filing: Cover Page Contact Information- Address Change to be effective 9/28/2020.
Filed Date: 9/24/20.
Accession Number: 20200924–5052.
Comments Due: 5 p.m. ET 10/6/20.

Docket Numbers: RP20–1214–000.
Applicants: Enable Mississippi River Transmission, LLC.
Description: § 4(d) Rate Filing: 2020 MRT Annual Fuel Filing to be effective 11/1/2020.
Filed Date: 9/24/20.
Accession Number: 20200924–5131.
Comments Due: 5 p.m. ET 10/6/20.

Docket Numbers: RP20–1215–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: Compliance filing AGT 2020 OFO Penalty Disbursement Report.
Filed Date: 9/24/20.
Accession Number: 20200924–5138.
Comments Due: 5 p.m. ET 10/6/20.

Docket Numbers: RP20–1216–000.
Applicants: Enable Mississippi River Transmission, LLC.
Description: Annual Penalty Revenue Credit Report of Enable Mississippi River Transmission, LLC under RP20–1216.
Filed Date: 9/24/20.
Accession Number: 20200924–5146.
Comments Due: 5 p.m. ET 10/6/20.

Docket Numbers: RP20–1217–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: § 4(d) Rate Filing: Rate Schedule SS–2 Tracker Filing eff September 1, 2020 and October 1, 2020 to be effective 9/1/2020.
Filed Date: 9/25/20.
Accession Number: 20200925–5006.
Comments Due: 5 p.m. ET 10/7/20.

Docket Numbers: RP20–1218–000.
Applicants: ANR Pipeline Company.
Description: § 4(d) Rate Filing: SENA Negotiated Rate Agreement to be effective 11/1/2017.
Filed Date: 9/25/20.
Accession Number: 20200925–5011.
Comments Due: 5 p.m. ET 10/7/20.

Docket Numbers: RP20–1219–000.
Applicants: Gulf South Pipeline Company, LLC.
Description: § 4(d) Rate Filing: Non-conforming Agmt Filing (FPL 52990) to be effective 11/1/2020.
Filed Date: 9/25/20.
Accession Number: 20200925–5018.
Comments Due: 5 p.m. ET 10/7/20.

Docket Numbers: RP20–1221–000.
Applicants: Trunkline Gas Company, LLC.
Description: Compliance filing Annual Report of Flow Through filed 9–25–20.
Filed Date: 9/25/20.
Accession Number: 20200925–5052.
Comments Due: 5 p.m. ET 10/7/20.

Docket Numbers: RP20–1224–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rates—Chevron 911109 Releases eff 10–01–2020 to be effective 10/1/2020.
Filed Date: 9/25/20.
Accession Number: 20200925–5084.
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 28, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–21831 Filed 10–1–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1818–022; ER10–1817–021.

Applicants: Southwestern Public Service Company, Public Service Company of Colorado.

Description: Notice of Change in Status of Public Service Company of Colorado, et al.

Filed Date: 9/25/20.

Accession Number: 20200925–5168.

Comments Due: 5 p.m. ET 10/16/20.

Docket Numbers: ER19–106–003.

Applicants: Birdsboro Power LLC.

Description: Notice of Non-Material Change in Status of Birdsboro Power LLC.

Filed Date: 9/28/20.

Accession Number: 20200928–5075.

Comments Due: 5 p.m. ET 10/19/20.

Docket Numbers: ER19–1074–006; ER11–3942–024; ER19–1075–006; ER19–529–006; ER12–645–023; ER20–1806–001.

Applicants: Brookfield Energy Marketing Inc., Brookfield Energy Marketing LP, Brookfield Renewable Energy Marketing US, Brookfield Renewable Trading and Marketing, California Ridge Wind Energy LLC, Catalyst Old River Hydroelectric Limited.

Description: Notice of Non-Material Change in Status of Brookfield Energy Marketing Inc., et. al.

Filed Date: 9/25/20.

Accession Number: 20200925–5199.

Comments Due: 5 p.m. ET 10/16/20.

Docket Numbers: ER20–1537–001; ER20–1538–001.

Applicants: RE Mustang Two Whirlaway LLC, RE Mustang Two Barbaro LLC.

Description: Notice of Non-Material Change in Status of RE Mustang Two Barbaro LLC, et al.

Filed Date: 9/25/20.

Accession Number: 20200925–5179.

Comments Due: 5 p.m. ET 10/16/20.

Docket Numbers: ER20–2771–000.

Applicants: Guzman Western Slope LLC.

Description: Supplement to August 28, 2020 Guzman Western Slope LLC tariff filing.

Filed Date: 9/25/20.

Accession Number: 20200925–5172.

Comments Due: 5 p.m. ET 10/5/20.

Docket Numbers: ER20–3000–000.

Applicants: New York Independent System Operator, Inc., Niagara Mohawk Power Corporation.

Description: § 205(d) Rate Filing: Joint NYISO and NMPC 205 filing re: SA 2556 Darby Solar to be effective 9/17/2020.

Filed Date: 9/28/20.

Accession Number: 20200928–5005.

Comments Due: 5 p.m. ET 10/19/20.

Docket Numbers: ER20–3001–000.

Applicants: New York Independent System Operator, Inc., Niagara Mohawk Power Corporation.

Description: § 205(d) Rate Filing: SGIA (SA 2557) among NYISO, NMPC and Branscomb Solar, LLC to be effective 9/17/2020.

Filed Date: 9/28/20.

Accession Number: 20200928–5006.

Comments Due: 5 p.m. ET 10/19/20.

Docket Numbers: ER20–3004–000.

Applicants: Hardin Solar Holdings LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 11/28/2020.

Filed Date: 9/28/20.

Accession Number: 20200928–5018.

Comments Due: 5 p.m. ET 10/19/20.

Docket Numbers: ER20–3005–000.

Applicants: Grand Ridge Energy IV LLC.

Description: Tariff Cancellation: Administrative Cancellation of eTariff Record to be effective 11/28/2020.

Filed Date: 9/28/20.

Accession Number: 20200928–5019.

Comments Due: 5 p.m. ET 10/19/20.

Docket Numbers: ER20–3006–000.

Applicants: Grand Ridge Energy V LLC.

Description: Tariff Cancellation: Administrative Cancellation of eTariff Record to be effective 11/28/2020.

Filed Date: 9/28/20.

Accession Number: 20200928–5025.

Comments Due: 5 p.m. ET 10/19/20.

Docket Numbers: ER20–3007–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original ISA, Service Agreement No. 5763; Queue No. AD1–033 to be effective 9/1/2020.

Filed Date: 9/28/20.

Accession Number: 20200928–5031.

Comments Due: 5 p.m. ET 10/19/20.

Docket Numbers: ER20–3008–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Revisions to Modify Schedule 1–A and Formula Rate Template to be effective 1/1/2021.

Filed Date: 9/28/20.

Accession Number: 20200928–5051.

Comments Due: 5 p.m. ET 10/19/20.

Docket Numbers: ER20–3009–000.

Applicants: GridLiance Heartland LLC.

Description: Compliance filing: GLH Order No. 864 Compliance Filing to be effective 11/1/2020.

Filed Date: 9/28/20.

Accession Number: 20200928–5074.

Comments Due: 5 p.m. ET 10/19/20.

Docket Numbers: ER20–3010–000.

Applicants: AEP Texas Inc.

Description: § 205(d) Rate Filing: AEPTX-Taylor EC-Golden Spread EC 6th A&R Interconnection Agreement to be effective 9/21/2020.

Filed Date: 9/28/20.

Accession Number: 20200928–5077.

Comments Due: 5 p.m. ET 10/19/20.

Docket Numbers: ER20–3011–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original ISA, Service Agreement No. 5757; Queue No. AC1–161 to be effective 8/28/2020.

Filed Date: 9/28/20.

Accession Number: 20200928–5094.

Comments Due: 5 p.m. ET 10/19/20.

Docket Numbers: ER20–3012–000.

Applicants: GridLiance Heartland LLC.

Description: Compliance filing: ER19–2092 Order 845 Compliance Filing to be effective 11/1/2020.

Filed Date: 9/28/20.

Accession Number: 20200928–5109.

Comments Due: 5 p.m. ET 10/19/20.

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 28, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–21830 Filed 10–1–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP20–525–000]

Columbia Gas Transmission, LLC; Notice of Request Under Blanket Authorization

Take notice that on September 21, 2020, Columbia Gas Transmission, LLC, 700 Louisiana Street, Houston, Texas 77002–2700, filed in Docket No. CP20–525–000 a prior notice request pursuant to section 157.205 and 157.213 of the Commission's regulations under the Natural Gas Act, for authorization to construct and operate one new injection/withdrawal storage well and related pipelines and appurtenances in Columbia's Lucas Storage Field in Richland County, Ohio (Lucas 12617 New Well Project). Columbia states that the proposed well will have no impact on how the Lucas Storage Field is operated. There will be no change in the certificated physical parameters of the field, including existing boundary, total inventory, reservoir pressure, reservoir and buffer boundaries, or the certificated storage capacity, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The filing is available for review on the Commission's website web 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, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TYY, (202) 502–8659. 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.

Any questions concerning this application should be directed to Sorana Linder, Director, Modernization & Certificates, Columbia Gas Transmission, LLC, 700 Louisiana Street, Suite 700, Houston, Texas 77002–2700, at (832) 320–5209 or *sorana_linder@tcenergy.com.*

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenter's will be placed on the Commission's environmental mailing list and will be notified of any meetings associated with the Commission's environmental review process. Environmental commenter's will not be required to serve copies of filed documents on all other parties. However, the non-party commenters, will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFile'' link at *http://www.ferc.gov.* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Dated: September 28, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–21845 Filed 10–1–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–2978–000]

Catalyst Power REPCo 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 Catalyst Power REPCo 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 19, 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 28, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–21828 Filed 10–1–20; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9053–2]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS)

Filed September 21, 2020 10 a.m. EST Through September 28, 2020 10 a.m. EST

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

EIS No. 20200195, Draft, USFS, NM, Integrated Non-Native Invasive Plant Management, *Comment Period Ends:* 12/01/2020, *Contact:* Peggy Luensmann 575–434–7200.

EIS No. 20200196, Final, FTA, CA, Final Environmental Impact Statement/Final Environmental Impact Report (Vol 1) for the East San Fernando Valley Transit Corridor Project, Review Period Ends: 11/02/2020, *Contact:* Ms. Charlene Lee Lorenzo 213–202–3952.

Amended Notice:

EIS No. 20200165, Draft, USFS, ID, Stibnite Gold Project, *Comment Period Ends:* 10/28/2020, *Contact:* Brian Harris 208–634–6945. Revision to FR Notice Published 8/21/2020; Extending the Comment Period from 10/13/2020 to 10/28/2020.

EIS No. 20200176, Final, USACE, FL, Lake Okeechobee Watershed Restoration Project, Review Period Ends: 10/28/2020, *Contact:* Dr. Gretchen Ehlinger 904–232–1682. Revision to FR Notice Published 08/28/2020; Extending the Comment Period from 09/28/2020 to 10/28/2020.

Dated: September 28, 2020.

Cindy S. Barger,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2020–21796 Filed 10–1–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[CERCLA–10–2020–0142; FRL–10014–61–Region 10]

Proposed CERCLA Administrative Settlement; Spokane Recycling Company

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), notice is hereby given of a proposed administrative settlement for recovery of past and projected future response costs concerning the Former Kaiser Smelter Site, Mead, Washington, with the following settling party: Spokane Recycling Company. The settlement requires the settling party to pay 50% of the net sales proceeds of the sale of the Property or $325,000, whichever is less to EPA to be used to conduct or finance response actions undertaken at the Site or to be transferred by EPA to the Hazardous Substance Superfund. The settlement includes a covenant not to sue the settling party. For thirty (30) days following the date of publication of this document, the Agency will receive written comments relating to the settlement. The Agency will consider all comments and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available electronically for public inspection at *https://www.regulations.gov.*

DATES: Comments must be submitted on or before November 2, 2020.

ADDRESSES: The proposed settlement is available electronically for public inspection at *https://semspub.epa.gov/src/collections/10/AR/WAN001020091.* Submit your comments, identified by EPA Docket No. CERCLA–10–2020–0142, by one of the following methods:

- *https://www.regulations.gov.* Follow on-line instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (''CBI'') or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video,

etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

• *Email:* Brooks Stanfield, Federal On-SceneCoordinator, at *stanfield.brooks@epa.gov.*

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

Instructions: Direct your comments to EPA Docket No. CERCLA–10–2020–0142. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *https://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *https://www.regulations.gov* or email. The *https://www.regulations.gov* website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *https://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *https://semspub.epa.gov/src/collections/10/AR/WAN001020091* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available electronically in *https://semspub.epa.gov/src/collections/10/AR/WAN001020091.*

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

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

FOR FURTHER INFORMATION CONTACT: Brooks Stanfield, Federal On-Scene Coordinator, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Suite 155, 13–J07, Seattle, WA 98101, (206) 553–4432, email: *stanfield.brooks@epa.gov;* and/or Kristin Leefers, Assistant Regional Counsel, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Suite 155, M/S: 11–C07, Seattle, WA 98101, (206) 553–1532, email: *leefers.kristin@epa.gov.*

SUPPLEMENTARY INFORMATION: This settlement is entered into pursuant to the authority under section 122(h)(1) of CERCLA, 42 U.S.C. 9622(h)(1), to settle claims under section 107 of CERCLA, 42 U.S.C. 9607, with the prior written approval of the Attorney General. The settlement agreement requires the settling party to pay 50% of the net sales proceeds of the sale of the Property or $325,000, whichever is less to EPA to be used to conduct or finance response actions undertaken at the Site or to be transferred by EPA to the Hazardous Substance Superfund. The settlement also includes a covenant not to sue the settling party pursuant to sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a).

Authority: 42 U.S.C. 9601–9657.

Dated: September 28, 2020.

Calvin Terada,

Division Director, Superfund and Emergency Management Division, Region 10.

[FR Doc. 2020–21802 Filed 10–1–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OLEM–2019–0540 FRL–10015–15–OLEM]

Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or Superfund, Section 128(a); Notice of Grant Funding Guidance for State and Tribal Response Programs for Fiscal Year 2021

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, authorizes a noncompetitive $50 million grant program to establish or enhance state and tribal response programs. These response programs generally address the assessment, cleanup, and redevelopment of brownfields sites and other sites with actual or perceived contamination. For Fiscal Year (FY) 2021, the Environmental Protection Agency (EPA) will consider grant requests up to a maximum of $1.0 million per state or tribe. This document announces the availability of guidance that will assist states and tribes in the development and submission of funding requests and these funds.

DATES: The FY 2021 section 128(a) grant funding guidance is applicable as of October 2, 2020, and EPA Regional offices will accept requests for section 128(a) noncompetitive grant awards through December 11, 2020.

FOR FURTHER INFORMATION CONTACT: Melissa Papasavvas, Office of Brownfields and Land Revitalization, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number (202) 566–0435.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be affected by this action if you administer a State or Tribal response program that oversees assessment and cleanup activities at brownfield sites across the country. Note: the CERCLA definition of ''State''

includes US Territories and the District of Columbia (CERCLA section 101(27)).

B. How can I get copies of the grant funding guidance and other related information?

1. Docket. The docket for this action, identified by docket identification (ID) number EPA–HQ–OLEM–2019–0540, is available online at *https://www.regulations.gov.*

2. EPA website. To access the FY21 section 128(a) grant funding guidance on EPA's website, please go to *https://www.epa.gov/brownfields/types-brownfields-grant-funding.*

II. Authority

CERCLA Section 128(a) (42 U.S.C. 9628(a)) authorizes a noncompetitive $50 million grant program to ''establish or enhance'' state and tribal response programs. CERCLA section 128(a)(1)(B)(ii)(III) authorizes a noncompetitive $1.5 million grant program to assist small communities, Indian tribes, rural areas, or disadvantaged areas to carry out activities outlined in CERCLA section 104(k)(7) (42 U.S.C. 9604(k)(7)) (*i.e.,* providing training, research, and technical assistance to individuals and organizations, as appropriate, to facilitate the inventory of brownfields sites, site assessments, remediation of brownfield sites, community involvement, or site preparation).

III. Background

1. General. State and tribal response programs oversee assessment and cleanup activities at brownfield sites across the country. The depth and breadth of these programs vary. Some focus on CERCLA-related activities, while others are multi-faceted, addressing sites regulated by both CERCLA and the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*). Many states also offer accompanying financial incentive programs to spur cleanup and redevelopment. In enacting the Small Business Liability Relief and Brownfields Revitalization Act (Pub. L. 107–118, 115 Stat. 2356), which added section 128 to CERCLA, Congress recognized the value of state and tribal response programs in cleaning up and redeveloping brownfield sites. Section 128(a) strengthens EPA's partnerships with states and tribes and recognizes their response programs' critical role in overseeing cleanups.

Section 128(a) response program grants are funded with categorical State and Tribal Assistance Grant (STAG) appropriations. Categorical grants are issued by Congress to fund state and local governments for narrowly defined purposes. This funding is intended for those states and tribes that have the required management and administrative capacity within their government to administer a federal grant. The primary goal of this funding is to ensure that state and tribal response programs include, or are taking reasonable steps to include, certain elements of an environmental response program and that the program establishes and maintains a public record of sites addressed.

Section 128(a) cooperative agreements are awarded and administered by the EPA regional offices. Generally, these response programs address the assessment, cleanup, and redevelopment of brownfields sites and other sites with actual or perceived contamination. Subject to the availability of funds, EPA regional personnel will provide technical assistance to states and tribes as they apply for and carry out section 128(a) cooperative agreements.

2. Catalogue of Federal Domestic Assistance (CFDA) and EPA Funding Opportunity Number (FON). The CFDA entry for the section 128(a) State and Tribal Response Program cooperative agreements is 66.817. The FON for FY 2021 section 128(a) funds is EPA–CEP–02. This grant program is eligible to be included in state and tribal Performance Partnership Grants under 40 CFR part 35 Subparts A and B, with the following exceptions: Funds used to capitalize a revolving loan fund for brownfield remediation under CERCLA section 104(k)(3); funds received for a Small Technical Assistance Grant under CERLCA section 128(a)(I)(B)(ii)(III); and funds used to purchase environmental insurance or developing a risk sharing pool, an indemnity pool, or insurance mechanism to provide financing for response actions under a State or Tribal response program.

3. Application period. Requests for funding should be sent to the appropriate Regional EPA contact and will be accepted from October 2, 2020 through December 11, 2020. Requests EPA Regional offices receive after December 11, 2020 will not be considered for FY 2021 funding. States or tribes that do not submit the request in the appropriate manner may forfeit their ability to receive funds. First time requestors are strongly encouraged to contact their respective Regional EPA Brownfields contacts, identified in Table 1, prior to submitting their funding request. EPA will consider funding requests up to a maximum of $1.0 million per state or tribe for FY 2021.

Requests submitted by the December 11, 2020 request deadline are preliminary; final cooperative agreement work plans and budgets will be negotiated with the EPA regional offices once final funding allocation determinations are made. As in previous years, EPA will place special emphasis on reviewing a cooperative agreement recipient's use of prior section 128(a) funding in making allocation decisions, and unexpended balances are subject to 40 CFR 35.118 and 40 CFR 35.518 to the extent consistent with this guidance. EPA will also prioritize funding for recipients establishing their response programs.

TABLE 1—EPA REGIONAL BROWNFIELDS CONTACTS FOR STATE AND TRIBAL RESPONSE PROGRAMS

Region	State	Tribal
1. CT, ME, MA, NH, RI, VT	AmyJean McKeown, 5 Post Office Square, Suite 100 (OSRR07–2) Boston, MA 02109–3912, Phone (617) 918–1248 Fax (617) 918–1294.	AmyJean McKeown, 5 Post Office Square, Suite 100 (OSRR07–2) Boston, MA 02109–3912, Phone (617) 918–1248 Fax (617) 918–1294.
2. NJ, NY, PR, VI	John Struble, 290 Broadway, 25th Floor, New York, NY 10007–1866, Phone (212) 637–4291 Fax (212) 637–3083.	John Struble, 290 Broadway, 25th Floor, New York, NY 10007–1866, Phone (212) 637–4291 Fax (212) 637–3083.
3. DE, DC, MD, PA, VA, WV	Mike Taurino, 1650 Arch Street (3HS51), Philadelphia, PA 19103, Phone (215) 814–3371 Fax (215) 814–3274.	Mike Taurino, 1650 Arch Street (3HS51), Philadelphia, PA 19103, Phone (215) 814–3371 Fax (215) 814–3274.
4. AL, FL, GA, KY, MS, NC, SC, TN	Cindy Nolan, 61 Forsyth Street, S.W, 10TH FL (9T25) Atlanta, GA 30303–8960, Phone (404) 562–8425 Fax (404) 562–8788.	Cindy Nolan, 61 Forsyth Street, S.W, 10TH FL (9T25) Atlanta, GA 30303–8909, Phone (404) 562–8425 Fax (404) 562–8788.

TABLE 1—EPA REGIONAL BROWNFIELDS CONTACTS FOR STATE AND TRIBAL RESPONSE PROGRAMS—Continued

Region	State	Tribal
5. IL, IN, MI, MN, OH, WI	Keary Cragan, 77 West Jackson Boulevard (SB–5J) Chicago, IL 60604–3507, Phone (312) 353–5669 Fax (312) 692–2161.	Rosita Clarke, 77 West Jackson Boulevard (SB–5J) Chicago, IL 60604–3507, Phone (312) 886–7251 Fax (312) 697–2075.
6. AR, LA, NM, OK, TX	Ana Esquivel, 1201 Elm Street, Suite 500, Dallas, Texas 75270–2102, Phone (214) 665–3163 Fax (214) 665–6660.	Elizabeth Reyes, 1201 Elm Street, Suite 500, Dallas, Texas 75270–2102, Phone (214) 665–2194 Fax (214) 665–6660.
7. IA, KS, MO, NE	Susan Klein, 11201 Renner Boulevard (LCRD/BSPR)Lenexa KS 66219, Phone (913) 551–7786.	Jennifer Morris, 11201 Renner Boulevard ((LCRD/BSPR) Lenexa KS 66219, Phone (913) 551–7341.
8. CO, MT, ND, SD, UT, WY	Christina Wilson, 1595 Wynkoop Street (8LCR–BR) Denver, CO 80202–1129, Phone (303) 312–6706 Fax (303) 312–6065.	Melisa Devincenzi, 1595 Wynkoop Street (8LCR–BR) Denver, CO 80202–1129, Phone (303) 312–6377 Fax (303) 312–6962.
9. AZ, CA, HI, NV, AS, GU, MP	Jose Garcia, Jr., 600 Wilshire Blvd, Suite 1460, Los Angeles, CA 90017, Phone (213) 244–1811 Fax (213) 244–1850.	Jose Garcia, Jr., 600 Wilshire Blvd, Suite 1460, Los Angeles, CA 90017, Phone (213) 244–1811 Fax (213) 244–1850.
10. AK, ID, OR, WA	Madison Sanders-Curry, 1200 Sixth Ave, Suite 155 (mail code 15–H04), Seattle, WA 98101, Phone (206 553–1889 Fax 206 553–8581.	Madison Sanders-Curry, 1200 Sixth Ave, Suite 155 (mail code 15–H04), Seattle, WA 98101, Phone (206) 553–1889 Fax (206) 553–8581.

Authority: 42 U.S.C. 9628(a).

Dated: September 22, 2020.

David Lloyd,

Director, Office of Brownfields and Land Revitalization.

[FR Doc. 2020–21255 Filed 10–1–20; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[FRS 17104]

Open Commission Meeting, Wednesday September 30, 2020

September 23, 2020.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wednesday, September 30, 2020, which is scheduled to commence at 10:30 a.m. Due to the current COVID–19 pandemic and related agency telework and headquarters access policies, this meeting will be in a wholly electronic format and will be open to the public on the internet via live feed from the FCC's web page at *www.fcc.gov/live* and on the FCC's YouTube channel.

ITEM NO.	BUREAU	SUBJECT
1	Wireless Tele–Communcations	TITLE: Facilitating Shared Use in the 3.1–3.55 GHz Band (WT Docket No. 19–348). SUMMARY: The Commission will consider a Report and Order that would remove the existing non-federal allocations from the 3.3–3.55 GHz band as an important step toward making 100 megahertz of spectrum in the 3.45–3.55 GHz band available for commercial use, including 5G, throughout the contiguous United States. The Commission will also consider a Further Notice of Proposed Rulemaking that would propose to add a co-primary, non-federal fixed and mobile (except aeronautical mobile) allocation to the 3.45–3.55 GHz band as well as service, technical, and competitive bidding rules for flexible-use licenses in the band.
2	Wireless Tele–Communications.	TITLE: Expanding Access to and Investment in the 4.9 GHz Band (WT Docket No. 07–100) SUMMARY: The Commission will consider a Sixth Report and Order that would expand access to and investment in the 4.9 GHz (4940–4990 MHz) band by providing states the opportunity to lease this spectrum to commercial entities, electric utilities, and others for both public safety and non-public safety purposes. The Commission also will consider a Seventh Further Notice of Proposed Rulemaking that would propose a new set of licensing rules and seek comment on ways to further facilitate access to and investment in the band.
3	International	TITLE: Improving Transparency and Timeliness of Foreign Ownership Review Process (IB Docket No. 16–155). SUMMARY: The Commission will consider a Report and Order that would improve the timeliness and transparency of the process by which it seeks the views of Executive Branch agencies on any national security, law enforcement, foreign policy, and trade policy concerns related to certain applications filed with the Commission.
4	Wireline Competition	TITLE: Promoting Caller ID Authentication to Combat Spoofed Robocalls (WC Docket No. 17–97) SUMMARY: The Commission will consider a Report and Order that would continue its work to implement the TRACED Act and promote the deployment of caller ID authentication technology to combat spoofed robocalls.
5	Public Safety and Homeland Security.	TITLE: Combating 911 Fee Diversion (PS Docket Nos. 20–291, 09–14). SUMMARY: The Commission will consider a Notice of Inquiry that would seek comment on ways to dissuade states and territories from diverting fees collected for 911 to other purposes.

ITEM NO.	BUREAU	SUBJECT
6	Media	TITLE: Modernizing Cable Service Change Notifications (MB Docket No. 19–347); Modernization of Media Regulation Initiative (MB Docket No. 17–105) SUMMARY: The Commission will consider a Report and Order that would modernize requirements for notices cable operators must provide subscribers and local franchising authorities.
7	Media	TITLE: Eliminating Records Requirements for Cable Operator Interests in Video Programming (MB Docket No. 20–35); Modernization of Media Regulation Initiative (MB Docket No. 17–105). SUMMARY: The Commission will consider a Report and Order that would eliminate the requirement that cable operators maintain records in their online public inspection files regarding the nature and extent of their attributable interests in video programming services.
8	Consumer & Governmental Affairs.	TITLE: Reforming IP Captioned Telephone Service Rates and Service Standards (CG Docket Nos. 13–24, 03–123). SUMMARY: The Commission will consider a Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking that would set compensation rates for Internet Protocol Captioned Telephone Service (IP CTS), deny reconsideration of previously set IP CTS compensation rates, and propose service quality and performance measurement standards for captioned telephone services.
9	Enforcement	TITLE: Enforcement Item. SUMMARY: The Commission will consider an enforcement action.

The meeting will be webcast with open captioning at: *www.fcc.gov/live.* Open captioning will be provided as well as a text only version on the FCC website. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted but may be impossible to fill. Send an email to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530.

Additional information concerning this meeting may be obtained from the Office of Media Relations, (202) 418–0500. Audio/Video coverage of the meeting will be broadcast live with open captioning over the internet from the FCC Live web page at *www.fcc.gov/live.*

The Federal Communications Commission will hold an Open Meeting on Tuesday, June 9, 2020, which is scheduled to commence at 10:30 a.m. Due to the current COVID–19 pandemic and related agency telework and headquarters access policies, this meeting will be in a wholly electronic format and will be open to the public on the internet via live feed from the FCC's web page at *www.fcc.gov/live* and on the FCC's YouTube channel.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2020–21776 Filed 10–1–20; 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 19, 2020.

A. Federal Reserve Bank of Atlanta (Kathryn Haney, Assistant Vice President) 1000 Peachtree Street NE, Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *L. Jackson McConnell, Jr., individually, Jenelle B. McConnell, individually, The L. Jackson McConnell, Jr. Family Trust, The Mary Margaret McConnell Trust, The Lawson C. McConnell Trust, and the Pinnacle Bank Employee Stock Ownership Plan, L. Jackson McConnell, Jr., as trustee of all trusts and the plan, all of Elberton, Georgia; The Kathleen L. Korotzer Family Trust, Kathleen L. Korotzer, as trustee, Turner J. Korotzer, individually, and Nicholas C. Korotzer, individually, all of Orinda, California; The Alice M. Eberhardt Revocable Trust and The Linton W. Eberhardt, III Revocable Trust, Alice M. Eberhardt and Laura E. Still, as co-trustees of both trusts, and The Laura E. Stille Revocable Trust, Laura E. Stille, as trustee, all of Spartanburg, South Carolina; and Linton Eberhardt, IV, individually, of Atlanta, Georgia;* as a group acting in concert to retain voting shares of Pinnacle Financial Corporation and thereby indirectly retain voting shares of Pinnacle Bank, both of Elberton, Georgia.

Board of Governors of the Federal Reserve System, September 29, 2020.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2020–21856 Filed 10–1–20; 8:45 am]

BILLING CODE 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 16, 2020.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *The Nathan & Shirley Rothner Family Trust II, Evanston, Illinois, Eric A. Rothner, Chicago, Illinois, trustee; and the Rachel Rothner Accumulation Trust II, the Melissa Rothner Accumulation Trust II, the William Rothner Accumulation Trust II, the Daniel Rothner Accumulation Trust II, the Adam Vales Accumulation Trust II, the Kimberly Vales Accumulation Trust II, and the Kathryn Vales Accumulation Trust II, all of Evanston, Illinois, Gale F. Rothner, Chicago, Illinois, and David M. Aronin, Skokie, Illinois, co-trustees;* to join Eric A. Rothner and form the Rothner Family Control Group, a group acting in concert to retain 100 percent of the voting shares of Brickyard Bancorp, Inc., and thereby indirectly control Brickyard Bank, both of Lincolnwood, Illinois.

Board of Governors of the Federal Reserve System, September 28, 2020.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2020–21791 Filed 10–1–20; 8:45 am]

BILLING CODE P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') requests that the Office of Management and Budget (''OMB'') extend for an additional three years the current Paperwork Reduction Act (''PRA'') clearance for the information collection requirements contained in its Trade Regulation Rule on Disclosure Requirements and Prohibitions Concerning Franchising (''Franchise Rule'' or ''Rule''). That clearance expires on October 31, 2020.

DATES: Comments must be submitted by November 2, 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 Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Christine M. Todaro, Attorney, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Room 8607, Washington, DC 20580, (202) 326–3711, *ctodaro@ftc.gov.*

SUPPLEMENTARY INFORMATION:

Title: Franchise Rule, 16 CFR part 436.

OMB Control Number: 3084–0107.

Type of Review: Revision of a currently approved collection.

Affected Public: Private Sector: Businesses and other for-profit entities.

Abstract: The Franchise Rule ensures that consumers who are considering a franchise investment have access to the material information they need to make an informed investment decision and compare different franchise offerings. The Rule requires franchisors to furnish prospective purchasers with a Franchise Disclosure Document (''FDD'') that provides information relating to the franchisor, its business, the nature of the proposed franchise, and any representations by the franchisor about financial performance regarding actual or potential sales, income, or profits made to a prospective franchise purchaser. The Rule also requires that franchisors maintain records to facilitate enforcement of the Rule.[1] The franchisor must preserve materially different copies of its FDD for 3 years, as well as information that provides a reasonable basis for any financial performance representation it elects to make.

Estimated Annual Burden Hours: 16,750.

Estimated Annual Labor Costs: $1,037,125.

Estimated non-labor costs: $7,250,000.

Request for Comment:

On April 7, 2020, the Commission sought comment on the information collection requirements associated with the Franchise Rule. 85 FR 19479 (Apr. 7, 2020). No relevant comments were received. Pursuant to the OMB regulations, 5 CFR part 1320, the FTC is providing this second opportunity for public comment while seeking OMB approval to renew clearance for the Rule's information collection requirements.

Your comment—including your name and your state—will be placed on the public record of this proceeding. Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone'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, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which is . . . privileged or confidential'' as provided in 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). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns devices, manufacturing processes, or customer names.

Josephine Liu,

Assistant General Counsel for Legal Counsel.

[FR Doc. 2020–21786 Filed 10–1–20; 8:45 am]

BILLING CODE 6750–01–P

[1] The Rule was amended in 2007 to conform its disclosure requirements with the disclosure format accepted by 15 states that have franchise registration or disclosure laws. *See* 72 FR 15444 (Mar. 30, 2007). The amended Rule has significantly minimized any compliance burden beyond what is required by state law.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Breast Cancer in Young Women (ACBCYW); Meeting

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC announces the following meeting for the Advisory Committee on Breast Cancer in Young Women (ACBCYW). This meeting is open to the public, limited only by audio and web conference lines (100 audio and web conference lines available). The public is welcome to listen to the meeting by accessing the teleconference and web conference information below. Online Registration Required: All ACBCYW Meeting participants must register for the meeting online at least 5 business days in advance at *https://www.cdc.gov/cancer/breast/what_cdc_is_doing/conference.htm.* Please complete all the required fields before submitting your registration and submit no later than November 16, 2020.

DATES: The meeting will be held on November 20, 2020, from 8:00 a.m. to 1:00 p.m., EST.

ADDRESSES: The teleconference access is 1–888–606–5944, and the passcode is 8340472. The web conference access is *https://adobeconnect.cdc.gov/rwa641n3jrry/.*

FOR FURTHER INFORMATION CONTACT: Jeremy McCallister, Designated Federal Officer, National Center for Chronic Disease Prevention and Health Promotion, CDC, 5770 Buford Highway, NE, Mailstop S107–4, Atlanta, Georgia 30341, Telephone (404) 639–7989, Fax (770) 488–4760, Email: *acbcyw@cdc.gov.*

SUPPLEMENTARY INFORMATION: *Purpose:* The committee provides advice and guidance to the Secretary, HHS; the Assistant Secretary for Health; and the Director, CDC, regarding the formative research, development, implementation and evaluation of evidence-based activities designed to prevent breast cancer (particularly among those at heightened risk) and promote the early detection and support of young women who develop the disease. The advice provided by the Committee will assist in ensuring scientific quality, timeliness, utility, and dissemination of credible appropriate messages and resource materials.

Matters to be Considered: The agenda will include discussions on current topics related to breast cancer in young women. These will include Mental/Behavioral Health, Sexual Health, Genetics and Genomics, and Provider Engagement. Agenda items are subject to change as priorities dictate.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2020–21848 Filed 10–1–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices: Notice of Charter Renewal

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of charter renewal.

SUMMARY: This gives notice under the Federal Advisory Committee Act of October 6, 1972, that the Advisory Committee on Immunization Practices, Centers for Disease Control and Prevention, Department of Health and Human Services, has been renewed for a 2-year period through April 1, 2022.

FOR FURTHER INFORMATION CONTACT: Amanda Cohn, M.D., Designated Federal Officer, Advisory Committee on Immunization Practices, Centers for Disease Control and Prevention, Department of Health and Human Services, 1600 Clifton Road NE, Mailstop H24–8, Atlanta, Georgia 30329–4027, telephone (404) 639–6039, or fax (404) 315–4679.

SUPPLEMENTARY INFORMATION: The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2020–21851 Filed 10–1–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Statement of Organization, Functions, and Delegations of Authority

AGENCY: Office on Trafficking in Persons, Administration for Children and Families, HHS.

ACTION: Notice.

SUMMARY: Statement of Organizations, Functions, and Delegations of Authority. The Administration for Children and Families (ACF) is restructuring the Office on Trafficking in Persons (OTIP) within the Office of the Assistant Secretary for Children and Families, ACF, into three divisions—Prevention, Protection, and Research and Policy—that report to the OTIP Director.

FOR FURTHER INFORMATION CONTACT: Katherine Chon, Director, Office on Trafficking in Persons, Administration for Children and Families, 330 C Street SW, Washington, DC 20202; (202) 401–9372.

SUPPLEMENTARY INFORMATION: This notice amends Part K of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (DHSS), Administration for Children and Families (ACF), Office on Trafficking in Persons (OTIP). The Office of the Assistant Secretary for Children and Families established OTIP by an amendment to the Statement of Organization for ACF published at 80 FR 33269, June 11, 2015. The amendment added OTIP as a new office under the Office of the Assistant Secretary for Children and Families. OTIP is responsible for developing and implementing programs that assist both foreign and domestic victims of human trafficking as well as implementing anti-trafficking legislation, appropriations, and Administration-driven priorities. OTIP executes its mission through grant and contract awards and by leveraging government and public-private partnerships. OTIP executes these responsibilities with a combination of federal and contract staff, and

occasional graduate-level interns. Since its inception in June 2015, OTIP's responsibilities have expanded exponentially driven by new statutory requirements, increased appropriations, Executive Order directives, Administration-driven priorities, and emerging issues in the anti-trafficking field that have necessitated an increase in inter- and intra-agency collaboration.

The changes announced herein describe the restructuring of OTIP within the Office of the Assistant Secretary for Children and Families, ACF, into three divisions—Prevention, Protection, and Research and Policy—that report to the OTIP Director.

I. Under Chapter KA.20, the Office on Trafficking in Persons Makes the Following Changes

KA.10 E. Organization. The Office on Trafficking in Persons (KAI): OTIP has the following three strategic goals: Establish a cohesive national human trafficking victim service delivery system; develop a culture of data-informed anti-trafficking programming and policymaking; and integrate survivor-informed anti-trafficking efforts into HHS prevention strategies. OTIP implements numerous legislatively mandated programs and policies to combat human trafficking. OTIP's activities are authorized by federal statutes including, but not limited to, the Trafficking Victims Protection Act, as amended and reauthorized; the Justice for Victims of Trafficking Act; the Preventing Sex Trafficking and Strengthening Families Act; the Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act; and the Stop, Observe, Ask, and Respond to Health and Wellness Act (or the SOAR to Health and Wellness Act).

The OTIP Director reports to the Assistant Secretary, ACF. The Director provides strategic leadership and direction on anti-trafficking programs and policies, anti-trafficking prevention efforts, building health and human service capacity to respond to human trafficking, strategies to increase victim identification and access to services, and strengthen the long-term health and well-being outcomes of survivors of human trafficking. OTIP is responsible for the overall leadership of anti-trafficking programs and services under the purview of ACF, including, but not limited to, developing and implementing programs that assist both foreign and domestic victims of human trafficking as well as implementing anti-trafficking statutory, appropriations, and Administration-driven priorities.

OTIP has the following three divisions: Protection (victim assistance), Prevention (capacity building, prevention, and public awareness), and Research and Policy. A description of each of the proposed divisions follows.

Protection Division

The Protection Division is comprised of OTIP's victim service and assistance activities. It includes the Trafficking Victim Assistance Program, the Domestic Victims of Human Trafficking Programs, the Child Eligibility and Adult Certification programs, Child Victim Coordination Activities, and the National Human Trafficking Hotline. Through a combination of grant activities and internal direct services, OTIP assists adult and minor, foreign and domestic victims of severe forms of trafficking in persons and participates in intra- and inter-agency coordination efforts to inform anti-trafficking program and policy development to improve our response to victims and efficiency in federally supported programming.

Prevention Division

The Prevention Division develops cutting-edge training and technical assistance, promotes survivor engagement, raises public awareness, facilitates regional outreach and coordination, and disseminates prevention education resources with the ultimate goal of assisting communities and programs in building capacity to effectively identify victims, implement trafficking prevention efforts, and coordinate education and outreach efforts. The Division oversees the National Human Trafficking Training and Technical Assistance Center, prevention education programming and the National Prevention Action Plan, the SOAR to Health and Wellness program, and the Look Beneath the Surface Public Awareness Campaign and Communication that includes OTIP's website content and conference and meeting planning and representation.

Research and Policy Division

The Research and Policy Division is responsible for the identification, coordination, and implementation of the anti-trafficking research agenda and policy development activities. The Division coordinates program evaluation and research, prepares documentation to comply with regulatory requirements, reviews and analyzes proposed legislation, develops and tracks program performance metrics, represents OTIP at internal and external data and policy events, provides technical support for data collection efforts, guides the development of program information systems, prepares annual and ad hoc reports and informational materials, and ensures program development is evidence-based and theory-driven through research and evaluation efforts.

Linda K. Hitt,

Executive Secretariat Certifying Officer.

[FR Doc. 2020–21807 Filed 10–1–20; 8:45 am]

BILLING CODE 4184–47–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–D–2382]

Opioid Use Disorder: Endpoints for Demonstrating Effectiveness of Drugs for Treatment; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance for industry entitled ''Opioid Use Disorder: Endpoints for Demonstrating Effectiveness of Drugs for Treatment.'' This guidance addresses clinical endpoints acceptable to demonstrate effectiveness of drugs for treatment of opioid use disorder. This guidance addresses comments received for and finalizes the draft guidance of the same name issued August 7, 2018.

DATES: The announcement of the guidance is published in the **Federal Register** on October 2, 2020.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact

information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–D–2382 for ''Opioid Use Disorder: Endpoints for Demonstrating Effectiveness of Drugs for Treatment.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Silvana Borges, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 3200, Silver Spring, MD 20993–0002, 301–796–0963.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a final guidance for industry entitled ''Opioid Use Disorder: Endpoints for Demonstrating Effectiveness of Drugs for Treatment.'' This guidance addresses clinical endpoints acceptable to demonstrate effectiveness of drugs for treatment of opioid use disorder.

This guidance finalizes the draft guidance of the same name issued August 7, 2018 (83 FR 38699). All the public comments received on the draft guidance have been considered and the guidance has been revised as appropriate in response to such comments along with a few editorial changes.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Opioid Use Disorder: Endpoints for Demonstrating Effectiveness of Drugs for Treatment.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014.

III. Electronic Access

Persons with access to the internet may obtain the guidance at either *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs* or *https://www.regulations.gov.*

Dated: September 29, 2020.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2020–21826 Filed 10–1–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0386]

Agency Information Collection Activities; Proposed Collection; Comment Request; Orphan Drugs

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection associated with Orphan Drug provisions of the Federal Food, Drug, and Cosmetic Act (FD&C Act) and implementing regulations.

DATES: Submit either electronic or written comments on the collection of information by December 1, 2020.

ADDRESSES: You may submit comments as follows. Please note that late,

untimely filed comments will not be considered. Electronic comments must be submitted on or before December 1, 2020. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of December 1, 2020. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2014–N–0386 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Orphan Drugs.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Orphan Drugs; 21 CFR Part 316

OMB Control Number 0910–0167—Revision

This information collection supports FDA regulations implementing sections 525, 526, 527, and 528 of the FD&C Act, as well as related guidance. Sections 525, 526, 527, and 528 pertain to the development of drugs for rare diseases or conditions, including biological products and antibiotics, otherwise known or referred to as ''Orphan Drugs.'' Specifically, section 525 of the FD&C Act (21 U.S.C. 360aa) requires written recommendations on studies required for approval of a marketing application for a drug for a rare disease or condition. The information collection in 21 CFR 316.10, 316.12, and 316.14 is approved under OMB control numbers 0910–0001 and 0910–0014. Section 526 of the FD&C Act (21 U.S.C. 360bb) provides for designation of drugs as orphan drugs when certain conditions are met; section 527 (21 U.S.C. 360cc) provides conditions under which a sponsor of an approved orphan drug enjoys exclusive FDA marketing approval for that drug for the orphan indication for a period of 7 years; and finally, section 528 (21 U.S.C. 360dd) is

intended to encourage sponsors to make investigational orphan drugs available for treatment of persons in need on an open protocol basis before the drug has been approved for general marketing. Open protocols may permit patients who are not part of the formal clinical investigation to obtain treatment where adequate supplies exist and no alternative effective therapy is available.

We have issued regulations in part 316 (21 CFR part 316) to implement the Orphan Drug provisions of the FD&C Act and to set forth procedures and requirements related to requesting recommendations for investigations of drugs for rare diseases or conditions; requesting designation of a drug for a rare disease or condition; or requesting exclusive approval for a drug for a rare disease or condition. To assist respondents and consistent with 21 CFR part 316.50, our Office of Orphan Products Development (OOPD) maintains and makes publicly available guidance documents that apply to the Orphan Drug provisions of the FD&C Act and regulations in part 316. The list is maintained on the internet and guidance documents are issued in accordance with our Good Guidance Practice regulations in 21 CFR part 10.115 which provide for public comment at any time. Accordingly, we are revising the information collection to include Agency guidance. The document entitled, ''Guidance for Industry, Researchers, Patient Groups, and Food and Drug Administration Staff on Meetings With the Office of Orphan Products Development,'' provides recommendations to industry, researchers, patient groups, and other stakeholders interested in requesting a meeting, including a teleconference, with OOPD on issues related to orphan drug designation requests, humanitarian use device designation requests, rare pediatric disease designation requests, funding opportunities through the Orphan Products Grants Program and the Pediatric Device Consortia Grants Program, and orphan product patient related topics of concern. It is also intended to assist OOPD staff in addressing such meeting requests. This guidance describes procedures for requesting, preparing, scheduling, conducting, and documenting such meetings, and discusses background information we recommend be included in such requests. Information collection attendant to recommendations in the guidance are currently approved under OMB control number 0910–0787, however for efficiency of Agency operations we are consolidating it into this related information collection. The guidance is available at *https://www.fda.gov/media/92815/download.*

The FDA Orphan Drug Designation Request Form (Form FDA 4035) is intended to benefit sponsors who desire to seek orphan designation of drugs intended for rare diseases or conditions from only FDA. The form is a simplified method for sponsors to provide only information required by 21 CFR 316.20 for FDA to make a decision.

During this public health emergency associated with the COVID–19 pandemic, the OOPD is providing sponsors with increased flexibility for submission of orphan drug designation requests and related submissions (amendments, annual reports, etc.). During this public health emergency, orphan drug designation, humanitarian use device designation, and rare pediatric disease designation requests and submissions may be submitted electronically by email to the OOPD. When transmitting information to the Orphan Drug Designation Program via email, please utilize the mailbox *orphan@fda.hhs.gov.* The use of automated read receipt is recommended to avoid the need to call to verify receipt of the email. Sponsors and others who plan to email information to FDA that is considered to be private, sensitive, proprietary, or commercial confidential are strongly encouraged to send it from an FDA secured email address so the transmission is encrypted. The OOPD will assume that the addresses of emails received or email addresses provided as a point of contact are FDA secure when responding to those email addresses.

We estimate the burden of the information collection as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section	Number of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
Content and format of a request for designation; request for verification of status; amendment to designation	534	1.25	668	135	90,180
§§ 316.20, 316.21, 316.26 (Form FDA 4035)	534	1.25	668	32	21,376
§ 316.22; Notifications of changes in agents	132	1	70	2	264
§ 316.24(a); Deficiency letters and granting orphan-drug designation	20	1	20	2	40
§ 316.27; Submissions to change ownership of orphan-drug designation	104	1	104	5	520
§ 316.30; Annual reports	744	1	744	3	2,232
§ 316.36; Assurance of the availability of sufficient quantities of the orphan drug; holder's consent for the approval of other marketing applications for the same drug	1	3	3	15	45
Guidance Recommendations: Meeting requests to OOPD and related submission packages	2,508	1	2,508	3.595	9,016
Total					123,623

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on our evaluation, we have adjusted the currently approved burden estimate we attribute to information collection activities associated with our Orphan Drug program to reflect an increase in submissions.

Dated: September 28, 2020.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2020–21843 Filed 10–1–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–D–1497]

Bladder Cancer: Developing Drugs and Biologics for Adjuvant Treatment; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Bladder Cancer: Developing Drugs and Biologics for Adjuvant Treatment.'' This draft guidance provides recommendations to sponsors regarding the development of drugs and biologics (referred to as drugs in this document) for the adjuvant treatment of muscle-invasive bladder cancer. The draft guidance includes recommendations regarding eligibility criteria, choice of comparator, follow up imaging assessments, determination of disease recurrence, analyses of disease-free survival, and interpretation of trial results. This draft guidance is intended to facilitate the development of drugs for the adjuvant treatment of bladder cancer.

DATES: Submit either electronic or written comments on the draft guidance by December 1, 2020 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2020–D–1497 for ''Bladder Cancer: Developing Drugs and Biologics for Adjuvant Treatment.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)). Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research (CDER), Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002 or to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. The draft guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 240–402–8010. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Julia Beaver, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 2100, Silver Spring, MD 20993–0002, 240–402–0489 or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled

''Bladder Cancer: Developing Drugs and Biologics for Adjuvant Treatment.'' This draft guidance provides recommendations to sponsors regarding the development of drugs regulated by the CDER and CBER for the adjuvant treatment of muscle-invasive bladder cancer. The draft guidance includes recommendations regarding eligibility criteria, choice of comparator, follow up imaging assessments, determination of disease recurrence, analyses of disease-free survival (DFS), and interpretation of trial results. Although FDA may consider endpoints other than DFS for the adjuvant treatment of muscle-invasive bladder cancer, this guidance is focused on cancer trials with DFS as the primary efficacy endpoint.

Adjuvant muscle-invasive bladder cancer clinical trials are an active area of research. There is significant variability in the design, conduct, and analysis of these trials, including the eligibility criteria, radiological disease assessments, the definition of disease recurrence, and the date used to define the DFS endpoint in these trials. Consistency in these aspects within and across trials may facilitate interpretation of trial results. These issues were discussed at an FDA-National Cancer Institute public workshop held on November 28, 2017. This draft guidance provides recommendations on these issues to facilitate adjuvant muscle-invasive bladder cancer clinical trials.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Bladder Cancer: Developing Drugs and Biologics for Adjuvant Treatment.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014; the collections of information in 21 CFR part 314 have been approved under OMB control number 0910–0001; and the collections of information in 21 CFR part 601 have been approved under 0910–0338.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances,* or *https://www.regulations.gov.*

Dated: September 28, 2020.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2020–21839 Filed 10–1–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–D–1496]

Renal Cell Carcinoma: Developing Drugs and Biologics for Adjuvant Treatment; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Renal Cell Carcinoma: Developing Drugs and Biologics for Adjuvant Treatment.'' This draft guidance provides recommendations to sponsors regarding the development of drugs and biologics (referred to as drugs in this document) for the adjuvant treatment of renal cell carcinoma. The draft guidance includes recommendations regarding eligibility criteria, choice of comparator, followup imaging assessments, determination of disease recurrence, analyses of disease-free survival, and interpretation of trial results. This draft guidance is intended to facilitate the development of drugs for the adjuvant treatment of renal cell carcinoma.

DATES: Submit either electronic or written comments on the draft guidance by December 1, 2020 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2020–D–1496 for ''Renal Cell Carcinoma: Developing Drugs and Biologics for Adjuvant Treatment.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the

claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002 or to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. The draft guidance may also be obtained by mail by calling the Center for Biologics Evaluation and Research at 1–800–835–4709 or 240–402–8010. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Julia Beaver, Center for Drug Evaluation and Research (CDER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 2100, Silver Spring, MD 20993–0002, 240–402–0489 or Stephen Ripley, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Renal Cell Carcinoma: Developing Drugs and Biologics for Adjuvant Treatment.'' This draft guidance provides recommendations to sponsors regarding the development of drugs regulated by CDER and CBER for the adjuvant treatment of renal cell carcinoma. The draft guidance includes recommendations regarding eligibility criteria, choice of comparator, followup imaging assessments, determination of disease recurrence, analyses of disease-free survival (DFS), and interpretation of trial results. Although FDA may consider endpoints other than DFS for the adjuvant treatment of renal cell carcinoma, this guidance is focused on clinical trials with DFS as the primary efficacy endpoint.

Adjuvant renal cell carcinoma clinical trials are an active area of research. There is significant variability in the design, conduct, and analysis of these trials, including the eligibility criteria, radiological disease assessments, the definition of disease recurrence, and the date used to define the DFS endpoint in these trials. Consistency in these aspects within and across trials may facilitate interpretation of trial results. These issues were discussed at an FDA-National Cancer Institute public workshop held on November 28, 2017. This draft guidance provides recommendations on these issues to facilitate adjuvant renal cell carcinoma clinical trials.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Renal Cell Carcinoma: Developing Drugs and Biologics for Adjuvant Treatment.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved FDA collections of information. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014; the collections of information in 21 CFR part 314 have been approved under OMB control number 0910–0001; and the collections of information in 21 CFR part 601 have been approved under 0910–0338.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances,* or *https://www.regulations.gov.*

Dated: September 28, 2020.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2020–21840 Filed 10–1–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of Class Deviation From Competition Requirements for HRSA–15–021: Quality Improvement Capacity for Impact Project

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: HRSA is providing supplemental funding for one year to the current recipients of HRSA–15–021, Quality Improvement Capacity for Impact Project.

FOR FURTHER INFORMATION CONTACT: Austin Demby, Ph.D., MPH, Acting Director,

Office of Global Health, Office of the Administrator, HRSA, 5600 Fishers Lane, 09N09, Rockville, MD 20857, Phone: (301) 443–0581, Email: *ademby@hrsa.gov.*

SUPPLEMENTARY INFORMATION:

Recipients of the Award: The Regents of the University of California San Francisco (UCSF–U1NHA31422) and the Trustees of Columbia University in the City of New York (ICAP–U1NHA28555).

Amount of Award: HRSA has awarded two grants totaling $6 million noted in Table 1.

Period of Supplemental Funding: September 30, 2020—September 29, 2021,

CFDA Number: 93.266

TABLE 1—RECIPIENTS AND AWARD AMOUNTS

Grant number	Award recipient name	Extension length	Award amount
UCSF–U1NHA31422	The Regents of the University of California San Francisco.	1 Year	$4,000,000
ICAP–U1NHA28555	Trustees of Columbia University in the City of New York.	1 Year	2,000,000

Justification: The purpose of these cooperative agreements is to save lives, prevent HIV infections, and accelerate progress toward achieving HIV/AIDS epidemic control in more than 50 countries around the world. Recipients have completed certain project activities, but evaluation and transition to scale-up has been interrupted by the COVID–19 pandemic and associated country-specific restrictions. This notice extends the current project period for HRSA–15–021, Quality Improvement Capacity for Impact Project, by one year until September 29, 2021, to ensure the orderly conclusion of these projects while facilitating virtual stakeholder engagement during the COVID–19 pandemic.

Authority: United States President's Emergency Plan for AIDS Relief authorized by Public Law 108–25 (the United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003) [22 U.S.C. 7601, *et seq.*]; and Public Law 110–293 (the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008), as reauthorized and amended by Public Law 113–56 (the President's Emergency Plan for AIDS Relief Stewardship and Oversight Act of 2013). See, *e.g.,* 22 U.S.C. 7603 and 22 U.S.C. 2151b–2(b)(1)(B), 2151b–2(c)(1), and 2151b–2(d)(6)(G)(ii).

Thomas J. Engels,

Administrator.

[FR Doc. 2020–21778 Filed 10–1–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Recharter for the Council on Graduate Medical Education

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice of recharter.

SUMMARY: In accordance with the Federal Advisory Committee Act, HHS is hereby giving notice that the Council on Graduate Medical Education (COGME) has been rechartered. The effective date of the renewed charter is September 30, 2020.

FOR FURTHER INFORMATION CONTACT: Shane Rogers, Designated Federal Official (DFO), Division of Medicine and Dentistry, Bureau of Health Workforce, HRSA. Anyone requesting information may reach Mr. Rogers by mail at 5600 Fishers Lane, 15N142, Rockville, Maryland 20857; by phone at 301–443–5260; or by email at *SRogers@hrsa.gov*

SUPPLEMENTARY INFORMATION: COGME makes recommendations to the Secretary of HHS (Secretary) and Congress on matters specified by section 762 of Title VII of the Public Health Service (PHS) Act. Issues addressed by COGME include (1) the supply and distribution of physicians in the United States; (2) current and future shortages or excesses of physicians in medical and surgical specialties and subspecialties; (3) issues relating to foreign medical school graduates; (4) appropriate federal policies with respect to the matters specified in (1), (2), and (3) above, including policies concerning changes in the financing of undergraduate and graduate medical education (GME) programs and changes in the types of medical education training in GME programs; (5) appropriate efforts to be carried out by hospitals, schools of medicine, schools of osteopathic medicine, and accrediting bodies with respect to the matters specified in (1), (2), and (3) above, including efforts for changes in undergraduate and GME programs; and (6) deficiencies in, and needs for improvements in, existing databases concerning the supply and distribution of, and postgraduate training programs for, physicians in the United States and steps that should be taken to eliminate those deficiencies. Not later than September 30, 2023, and not less than every 5 years thereafter, COGME shall submit a report with recommendations to the Secretary, and to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives. Additionally, COGME encourages entities providing GME to conduct activities to voluntarily achieve the recommendations of COGME; and develops, publishes, and implements performance measures, develops and publishes guidelines for longitudinal evaluations, and recommends appropriation levels for certain programs under Title VII of the PHS Act.

The renewed charter for COGME was approved on September 30, 2020, which will also stand as the filing date. Recharter of the COGME gives authorization for the Council to operate until September 30, 2022.

A copy of the COGME charter is available on the COGME website at *https://www.hrsa.gov/sites/default/files/hrsa/advisory-committees/graduate-medical-edu/cogme-charter.pdf.* A copy of the charter also can be obtained by accessing the FACA database that is maintained by the Committee Management Secretariat under the General Services Administration. The website address for the FACA database is *http://www.facadatabase.gov/.*

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2020–21773 Filed 10–1–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice That HRSA Will Not Fund HRSA–20–083: Quality Improvement Solutions for Sustained Epidemic Control Project

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: HRSA has decided not to provide funding for HRSA–20–083 *Quality Improvement Solutions for Sustained Epidemic Control Project,*

supported by the President's Emergency Plan for AIDS Relief (PEPFAR).

FOR FURTHER INFORMATION CONTACT: Austin Demby, Ph.D., MPH, Acting Director, Office of Global Health, Office of the Administrator, HRSA, 5600 Fishers Lane, 09N09, Rockville, MD 20857, Phone: (301) 443–0581, Email: *ademby@hrsa.gov.*

SUPPLEMENTARY INFORMATION:

Justification: HRSA has decided not to award funding under HRSA–20–083, Quality Improvement Solutions for Sustained Epidemic Control Project, which was published in Fiscal Year 2020. HRSA will consider the needs of the government and the program, and may publish an updated project Notice of Funding Opportunity for a new competitive cycle in Fiscal Year 2021.

Authority: United States PEPFAR authorized by Public Law 108–25 (the United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003) [22 U.S.C. 7601, *et seq.*]; and Public Law 110–293 (the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008), as reauthorized and amended by Public Law 113–56 (the PEPFAR Stewardship and Oversight Act of 2013). See, *e.g.,* 22 U.S.C. 7603 and 22 U.S.C. 151b–2(b)(1)(B), 2151b–2(c)(1), and 2151b–2(d)(6)(G)(ii).

Thomas J. Engels,

Administrator.

[FR Doc. 2020–21779 Filed 10–1–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; 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/or contract proposals 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 Child Health and Human Development Special Emphasis Panel; Genomic Predictors of Pregnancy Loss.

Date: November 20, 2020.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Child Health and Human Development, 6710B Rockledge Drive, Bethesda, MD 20892 (Video Assisted Meeting).

Contact Person: Peter Zelazowski, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6710B Rockledge Drive, Bethesda, MD 20892–7510, 301–435–6902, *peter.zelazowski@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.865, Research for Mothers and Children, National Institutes of Health, HHS)

Dated: September 29, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–21863 Filed 10–1–20; 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 28, 2020.

Time: 12:00 p.m. to 3:00 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 (Virtual Meeting).

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 28, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–21770 Filed 10–1–20; 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 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 Clinical and Basic Science Review Committee.

Date: November 5–6, 2020.

Time: 11:00 a.m. to 7:00 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: Keith A Mintzer, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Suite 207–G, Bethesda, MD 20892–7924, (301) 827–7949, *mintzerk@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 29, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–21862 Filed 10–1–20; 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 PAR Panel: Early and Late Stage Clinical Trials for the Spectrum of Alzheimer's Disease and Age-related Cognitive Decline.

Date: October 27, 2020.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Unja Hayes, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–6830, *unja.hayes@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Cardiac Contractility, Hypertrophy, and Failure.

Date: October 29–30, 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: Abdelouahab Aitouche, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4222, MSC 7814 Bethesda, MD 20892, 301–435–2365, *aitouchea@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Interdisciplinary Molecular Sciences and Training.

Date: October 30, 2020.

Time: 9:00 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: John Harold Laity, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–402–8254, *john.laity@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel PAR Panel: Research to Improve Native American Health.

Date: October 30, 2020.

Time: 11:00 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: Pia Kristina Peltola, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–435–1266, *pia.peltola@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 28, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–21771 Filed 10–1–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Meeting of the National Vaccine Advisory Committee

AGENCY: Office of Infectious Disease and HIV/AIDS Policy, Public Health Service, Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) is hereby giving notice that the National Vaccine Advisory Committee (NVAC) will hold a virtual meeting. The meeting will be open to the public and public comment will be heard during the meeting.

DATES: The meeting will be held October 16, 2020. The confirmed meeting times and agenda will be posted on the NVAC website at *http://www.hhs.gov/nvpo/nvac/meetings/index.html* as soon as they become available.

ADDRESSES: Instructions regarding attending this meeting will be posted online at: *http://www.hhs.gov/nvpo/nvac/meetings/index.html* at least one week prior to the meeting. Pre-registration is required for those who wish to attend the meeting or participate in public comment. Please register at *http://www.hhs.gov/nvpo/nvac/meetings/index.html.*

FOR FURTHER INFORMATION CONTACT: Ann Aikin, Acting Designated Federal Officer, at the Office of Infectious Disease and HIV/AIDS Policy, U.S. Department of Health and Human Services, Mary E. Switzer Building, Room L618, 330 C Street SW, Washington, DC 20024. Email: *nvac@hhs.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 2101 of the Public Health Service Act (42 U.S.C. 300aa–1), the Secretary of HHS was mandated to establish the National Vaccine Program to achieve optimal prevention of human infectious diseases through immunization and to achieve optimal prevention against adverse reactions to vaccines. The NVAC was established to provide advice and make recommendations to the Director of the National Vaccine Program on matters related to the Program's responsibilities. The Assistant Secretary for Health serves as Director of the National Vaccine Program.

During the October 2020 NVAC meeting, the committee will discuss responses to a charge on COVID–19 vaccination and may vote on sending these responses forward to the Director of the National Vaccine Program. Please note that agenda items are subject to change, as priorities dictate. Information on the final meeting agenda will be posted prior to the meeting on the NVAC website: *http://www.hhs.gov/nvpo/nvac/index.html.*

Members of the public will have the opportunity to provide comment at the NVAC meeting during the public comment period designated on the agenda. Public comments made during the meeting will be limited to three minutes per person to ensure time is allotted for all those wishing to speak. Individuals are also welcome to submit written comments. Written comments should not exceed three pages in length. Individuals submitting written comments should email their comments to *nvac@hhs.gov* at least five business days prior to the meeting.

Dated: September 23, 2020.

Ann Aikin,

Acting Designated Federal Official, Office of the Assistant Secretary for Health.

[FR Doc. 2020–21803 Filed 10–1–20; 8:45 am]

BILLING CODE 4150–44–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2020–0617]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0030

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0030, Oil and Hazardous Materials Transfer Procedures; without change.

Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before December 1, 2020.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2020–0617] to the Coast Guard using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public participation and request for comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. Consistent with the requirements of Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs, and Executive Order 13777, Enforcing the Regulatory Reform Agenda, the Coast Guard is also requesting comments on the extent to which this request for information could be modified to reduce the burden on respondents.

In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2020–0617], and must be received by December 1, 2020.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Information Collection Request

Title: Oil and Hazardous Materials Transfer Procedures.

OMB Control Number: 1625–0030.

Summary: Vessels with a capacity of 250 barrels or more of oil or hazardous materials must develop and maintain transfer procedures. Transfer procedures provide basic safety information for operating transfer systems with the goal of pollution prevention.

Need: Title 46 U.S.C. 70034 authorizes the Coast Guard to prescribe regulations related to the prevention of pollution. Title 33 CFR part 155 prescribes pollution prevention regulations including those related to transfer procedures.

Forms: Not applicable.

Respondents: Operators of certain vessels.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has increased from 149 hours to 151 hours a year due to an increase in the estimated annual number of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: September 29, 2020.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2020–21864 Filed 10–1–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2020–0619]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0057

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0057, Small Passenger Vessels; without change. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before December 1, 2020.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2020–0619] to the Coast Guard using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public participation and request for comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), ATTN: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. Consistent with the requirements of Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs, and Executive Order 13777, Enforcing the Regulatory Reform Agenda, the Coast Guard is also requesting comments on the extent to which this request for information could be modified to reduce the burden on respondents.

In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2020–0619], and must be received by December 1, 2020.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Information Collection Request

Title: Small Passenger Vessels—Title 46 CFR Subchapters K and T.

OMB Control Number: 1625–0057.

Summary: The information requirements are necessary for the proper administration and enforcement of the program on safety of commercial vessels as it affects small passenger vessels. The requirements affect small passenger vessels (under 100 gross tons) that carry more than 6 passengers.

Need: Under the authority of 46 U.S.C. 3305 and 3306, the Coast Guard prescribed regulations for the design, construction, alteration, repair and operation of small passenger vessels to secure the safety of individuals and property on board. The Coast Guard uses the information in this collection to ensure compliance with the requirements.

Forms:

- CG–841, Certificate of Inspection
- CG–854, Temporary Certificate of Inspection
- CG–948, Permit to Proceed to Another Port for Repairs
- CG–949, Permit to Carry Excursion Party
- CG–5256, U.S. Coast Guard Inspected Small Passenger Vessel [sticker]

Respondents: Owners and operators of small passenger vessels.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has increased from 397,124 hours to 404,595 hours a year due to an increase in the estimated annual number of respondents.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: September 29, 2020.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2020–21867 Filed 10–1–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2020–0616]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0017

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0017, Various International Agreement Safety Certificates and Documents; without change. Our ICR describes the information we seek to

collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before December 1, 2020.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2020–0616] to the Coast Guard using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public participation and request for comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: COMMANDANT (CG–6P), ATTN: PAPERWORK REDUCTION ACT MANAGER, U.S. COAST GUARD, 2703 MARTIN LUTHER KING JR. AVE. SE, STOP 7710, WASHINGTON, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. Consistent with the requirements of Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs, and Executive Order 13777, Enforcing the Regulatory Reform Agenda, the Coast Guard is also requesting comments on the extent to which this request for information could be modified to reduce the burden on respondents.

In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2020–0616], and must be received by December 1, 2020.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Information Collection Request

Title: Various International Agreement Safety Certificates and Documents.

OMB Control Number: 1625–0017.

Summary: These Coast Guard-issued forms are used as evidence of compliance with the International Convention for Safety of Life at Sea, 1974 (SOLAS) by certain U.S. vessels on international voyages. Without the proper certificates or documents, a U.S. vessel could be detained in a foreign port.

Need: SOLAS applies to all mechanically propelled cargo vessels of 500 or more gross tons (GT), and to all mechanically propelled passenger vessels carrying more than 12 passengers that engage in international voyages. SOLAS and title 46 CFR 2.01–25 list certificates and documents that may be issued to vessels.

Forms:

- CG–967, Exemption Certificate
- CG–968, Passenger Ship Safety Certificate
- CG–968A, Record of Equipment for the Passenger Ship Safety Certificate (Form P)
- CG–969, Notice of Completion of Examination for Safety Certificate
- CG–3347, Cargo Ship Safety Equipment Certificate
- CG–3347B, Record of Equipment for the Cargo Ship Safety Equipment Certificate (Form E)
- CG–4359, Cargo Ship Safety Construction Certificate
- CG–4360, International Ship Security Certificate
- CG–4361, Interim International Ship Security Certificate
- CG–5643, Safety Management Certificate
- CG–5679, High-Speed Craft Safety Certificate
- CG–5679A, Record of Equipment for High-Speed Craft Safety Certificate
- CG–5680, Permit to Operate High-Speed Craft
- CG–6038, Continuous Synopsis Record (CSR) Document Number _____ for the ship with IMO Number: _____
- CG–6038A, Amendments to the Continuous Synopsis Record (CSR) Document Number _____ for the ship with IMO Number: _____
- CG–16170, Polar Ship Certificate
- CG–16170A, Record of Equipment for the Polar Ship Certificate

Respondents: Owners and operators of SOLAS vessels.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has decreased from 90 hours to 69 hours a year due to a decrease in the estimated annual number of responses

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: September 29, 2020.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2020–21866 Filed 10–1–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7024–N–41; OMB Control Number: 2502–0541]

30-Day Notice of Proposed Information Collection: Lender Qualifications for Multifamily Accelerated Processing (MAP) Guide (MAP Guide, 4430.G)

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* November 2, 2020.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/Start* Printed Page 15501PRAMain. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Multifamily Accelerated Processing (MAP) Guide.

OMB Approval Number: 2502–0541.

OMB Expiration Date: December 31, 2020.

Type of Request: Revision.

Form Number: Guidebook 4430.G.

Description of the need for the information and proposed use: Multifamily Accelerated Processing (MAP) is designed to establish uniform national standards for Federal Housing Administration (FHA) approved lenders to prepare, process and submit loan applications for FHA multifamily mortgage insurance. The MAP Guide provides—in one volume with appendices—guidance for HUD staff, lenders, third party consultants, borrowers, and other industry participants. Topics include mortgage insurance program descriptions, borrower and lender eligibility requirements, application requirements, underwriting standards for all technical disciplines and construction loan administration requirements. The MAP Guide applies only to FHA multifamily mortgage insurance programs. Except to the extent lender monitoring or enforcement activities overlap, Section 232 and other programs administered by the Office of Healthcare Programs are not addressed by the MAP Guide.

The Guide has been updated to reflect various organizational, policy and processing changes implemented since the last edition was published in 2016. Examples include electronic submission of data in a standardized format, the consolidation of HUD Field Offices to Regional Centers and Satellite Offices, workload sharing, and a ''risk-based'' underwriting approach. The goal of MAP is to provide a consistent, expedited mortgage insurance application process at each HUD Multifamily Regional Center or Satellite Office. All MAP eligible projects must be submitted using MAP processing unless a waiver is granted to process under Traditional Application Processing (TAP). Such waiver approval authority is retained by HUD Headquarters' Director of Multifamily Production. Additionally, two new chapters were added to this edition of the Guide: The ''*Water and Energy Conservation*'' chapter and the ''*Closing Guide*''.

Respondents (*i.e.* affected public): FHA Approved MAP Lenders environmental services agencies, green building services companies, loan closing attorneys, etc.

Estimated Number of Respondents: 86.

Estimated Number of Responses: 344.

Frequency of Response: 1.

Average Hours per Response: 30 hours [121 hours/4 = 30.25 hours].

Total Estimated Burden: 10,406.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or the forms of information technology, *e.g.,* permitting electronic submission of responses.

(5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Department Reports Management Officer for the Office of the Chief Information Officer, Colette Pollard, having reviewed and approved this document, is delegating the authority to electronically sign this document to submitter, Nacheshia Foxx, who is the **Federal Register** Liaison for HUD, for purposes of publication in the **Federal Register**.

Dated: September 29, 2020.

Nacheshia Foxx,

Federal Liaison for the Department of Housing and Urban Development.

[FR Doc. 2020–21814 Filed 10–1–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R8–ES–2020–0115; FXES11120800000–201–FF08ENVS00]

Draft Environmental Assessment and Proposed Habitat Conservation Plan for the Spring Mountain Raceway Northern Expansion, Pahrump, Nye County, Nevada

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the

availability of a draft environmental assessment (EA) under the National Environmental Policy Act (NEPA). We also announce receipt of an application for an incidental take permit (ITP) under the Endangered Species Act (ESA), and of a draft habitat conservation plan (HCP). Spring Mountain Raceway, LLC has applied for an ITP under the ESA for an expansion project in Pahrump, Nye County, Nevada. The ITP would authorize the take of one species incidental to the project. We invite the public and local, State, Tribal, and Federal agencies to comment on the draft EA, HCP, and permit application. Before issuing the requested ITP, we will take into consideration any information we receive during the public comment period.

DATES: We must receive your written comments on or before November 2, 2020.

ADDRESSES:

Obtaining Documents: You may obtain copies of the draft EA, proposed HCP, and permit application in Docket No. FWS–R8–ES–2020–0115 at *http://www.regulations.gov.*

Submitting Comments: To submit written comments, please use one of the following methods, and note to which document(s) your comments pertain.

- *Internet: http://www.regulations.gov;* search for and submit comments in Docket No. FWS–R8–ES–2020–0115.
- *U.S. Mail:* Public Comments Processing, Attn: Docket No. FWS–R8–ES–2020–0115; U.S. Fish and Wildlife Service Headquarters, MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

For more information, see Public Comments and Public Availability of Comments under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Glen W. Knowles, Field Supervisor, Southern Nevada Fish and Wildlife Office, by phone at 702–515–5244, or via the Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: We, the U.S Fish and Wildlife Service (Service), announce the availability of a draft Environmental assessment (draft EA) prepared pursuant to the National Environmental Policy Act of 1969, as amended (NEPA; 42 U.S.C. 4321 *et seq.*), and its implementing regulations in the Code of Federal Regulations (CFR) at 40 CFR 1506.6. We also announce receipt of an application submitted by Spring Mountain Raceway, LLC of Pahrump, Nevada (applicant), for a 5-year incidental take permit (ITP) under section 10 (a)(1)(B) of the Endangered Species Act, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The application for the permit requires the preparation of a habitat conservation plan (HCP) with measures to avoid, minimize, and mitigate the impacts of incidental take of endangered or threatened species to the maximum extent practicable. The applicant prepared the draft Spring Mountain Raceway Northern Expansion HCP pursuant to section 10(a)(1)(B) of the ESA. The purpose of the draft EA is to assess the effects of issuing the ITP and implementing the draft HCP on the natural and human environment.

We invite the public and local, State, Tribal, and Federal agencies to comment on the draft EA, HCP, and permit application. Before issuing the requested ITP, we will take into consideration any information we receive during the public comment period.

Background

Section 9 of the ESA (16 U.S.C. 1538) prohibits the taking of fish and wildlife species listed as endangered under section 4 of the ESA; by regulation, take of certain species listed as threatened is also prohibited. (16 U.S.C. 1533(d); 50 CFR 17.31). Regulations governing permits for endangered and threatened species are at 50 CFR 17.22 and 17.32. For more about the Federal habitat conservation plan (HCP) program, go to *http://www.fws.gov/endangered/esa-library/pdf/hcp.pdf.*

National Environmental Policy Act Compliance

The proposed permit issuance triggers the need for compliance with the NEPA. The draft EA was prepared to analyze the impacts of issuing an ITP based on the draft HCP and to inform the public of the proposed action, any alternatives, and associated impacts, and to disclose any irreversible commitments of resources.

Proposed Action Alternative

Under the Proposed Action Alternative, the Service would issue an ITP to the applicant for a period of 5 years for certain covered activities (described below) to construct and operate an extension of the existing Spring Mountain Raceway. The extension includes 2.3 miles of additional track, flood management features, classrooms, parking area, and a paved paddock area for preparing cars. The applicant has requested an ITP for one covered species, the Mojave desert tortoise (*Gopherus agassizii*), which is listed under the ESA as threatened (April 2, 1990, 55 FR 12178).

Habitat Conservation Plan Area

The geographic scope of the draft HCP area comprises 227 acres of private land in the town of Pahrump, in Nye County, Nevada, where the development will occur.

Covered Activities

The proposed section 10(a) ITP would allow incidental take of one covered species from covered activities in the proposed HCP area. The applicant is requesting incidental take authorization for covered activities, including construction, operation, and maintenance of the facility within the 227 ac owned by the applicant.

Construction would begin after installation of a desert tortoise exclusion fence and removal of all tortoises. Construction would entail clearing of vegetation; grading and leveling of soil to achieve desired topography for the track, facilities, and flood management features; digging and trenching for utilities; placement of the new track base and surface; construction of the flood management features; construction of the buildings, parking areas, and paddock; and installation of the necessary underground power, phone, sewer, and water pipelines to the buildings. These activities would remove approximately half of the native vegetation in the area based on the preliminary design, but may remove more based on final design and future reconfiguration of the facility. Operation and maintenance of the expansion would entail use of the facility in a manner consistent with the existing interconnected facility, all of which will occur on private property within the desert tortoise exclusion fencing. Covered activities also include construction, operation, and maintenance equipment and other vehicle travel on existing access roads to the facility.

The applicant is proposing to implement best management practices, as well as general and species-specific measures to avoid and minimize the impacts of the take from the covered activities, including worker environmental and desert tortoise awareness training, installation and maintenance of desert tortoise exclusion fencing; tortoise removal, translocation, and monitoring; noxious weed management; dust control; and support of conservation and management measures to offset the loss of occupied habitat.

Covered Species

The applicant has requested an ITP for one federally listed threatened species:

• Mojave desert tortoise (*Gopherus agassizii*).

No Action Alternative

Under the No-Action Alternative, the Service would not issue an ITP to the applicant, and the draft HCP would not be implemented. Under this alternative, the applicant may choose not to construct the facility or would do so in a manner presumed not to result in the take of ESA-listed species.

Public Comments

We request data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party on this notice, the draft EA and the draft HCP. If you wish to comment on the permit application, plan, and associated documents, you may submit comments by any one of the methods in **ADDRESSES**.

Public Availability of Comments

Any comments we receive will become part of the decision record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Next Steps

Issuance of an incidental take permit is a Federal proposed action subject to compliance with NEPA and section 7 of the ESA. We will evaluate the application, associated documents, and any public comments we receive as part of our NEPA compliance process to determine whether the application meets the requirements of section 10(a) of the ESA. If we determine that those requirements are met, we will conduct an intra-Service consultation under section 7 of the ESA for the Federal action for the potential issuance of an ITP. If the intra-Service consultation confirms that issuance of the ITP will not jeopardize the continued existence of any endangered or threatened species, or destroy or adversely modify critical habitat, we will issue a permit to the applicant for the incidental take of the covered species.

Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1539(c)) and its implementing regulations (50 CFR 17.32), and NEPA (42 U.S.C. 4321 *et seq.*) and NEPA implementing regulations (40 CFR 1506.6).

Glen Knowles,

Field Supervisor, Southern Nevada Fish and Wildlife Office.

[FR Doc. 2020–21769 Filed 10–1–20; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0030810; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Department of Anthropology Museum at the University of California, Davis, Davis, CA: Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

SUMMARY: The University of California, Davis (UC Davis) has corrected an inventory of human remains and associated funerary objects published in a Notice of Inventory Completion in the **Federal Register** on July 7, 2009. This notice corrects the minimum number of individuals and the number of associated funerary objects. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to UC Davis. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to UC Davis at the address in this notice by November 2, 2020.

ADDRESSES: Megon Noble, NAGPRA Project Manager, University of California, Davis, 412 Mrak Hall, One Shields Avenue, Davis, CA 95616, telephone (530) 752–8501, email *mnoble@ucdavis.edu.*

FOR FURTHER INFORMATION CONTACT: Megon Noble, NAGPRA Project Manager, University of California, Davis, 412 Mrak Hall, One Shields Avenue, Davis, CA 95616, telephone (530) 752–8501, email *mnoble@ucdavis.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the correction of an inventory of human remains and associated funerary objects under the control of the University of California, Davis, Davis, CA. The human remains and associated funerary objects were removed from Lake County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

This notice corrects the minimum number of individuals and the number of associated funerary objects published in a Notice of Inventory Completion in the **Federal Register** (74 FR 32182–32183, July 7, 2009). Additional human remains were newly identified after review of faunal collections. In addition, human remains from CA–LAK–152 previously identified as culturally unidentifiable were re-evaluated in consultation with Indian Tribes and were determined to be culturally affiliated. Based on both consultation and a review of the original field records, additional associated funerary objects were identified. Transfer of control of the items in this correction notice has not occurred.

Correction

In the **Federal Register** of July 7, 2009, in FR Doc. E9–16017, on page 32182, make the following corrections:

1. On page 32182, in the third column, first paragraph, correct the first sentence to read:

In 1971–1973, human remains representing a minimum of three individuals were removed from CA–LAK–152, Lake County, CA, by the University of California, Davis archeological field school.

2. On page 32182, in the third column, first paragraph, correct the fifth sentence to read:

The 208 associated funerary objects are one obsidian biface, seven lots of non-human faunal bone, four lots of charcoal, 119 clamshell disc beads, two lots of debitage, seven lots of burned pine nut fragments, two firecracked groundstone fragments, 57 *Olivella* shell beads, seven tabular stones, and two lots of obsidian flakes. (104 clamshell disc beads are currently missing from the collection).

3. On page 32182, in the third column, correct the second paragraph to read:

Based on burial context and site characteristics, the human remains described above from Lake County are determined to be Native American. The burials from the site are dated to approximately A.D. 1520–1770 (Phase 2 of the Late Period), based on the antiquity of the associated funerary objects. Historical, archeological, anthropological and linguistic evidence demonstrate a relationship of shared group identity between the human remains and associated funerary objects described here and the Patwin Tribes.

4. On page 32182, in the third column, third paragraph, correct the fifth sentence to read:

The 353 associated funerary objects are 39 clam shell disc beads and bead fragments, 295 historic glass beads and bead fragments, one bone bead fragment, one Gunther barbed point, one historic copper ring, four unmodified pebbles, three shell fragments, three obsidian projectile points, one calcined bone (previously identified as a possible stone bead fragment), and five pieces of incised bird bone that may be from a whistle or ear tube.

In the **Federal Register** of July 7, 2009, in FR Doc. E9–16017, on page 32183, make the following correction:

1. On page 32183, in the first column, second paragraph, correct the first two sentences to read:

Officials of the University of California, Davis have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of four individuals of Native American ancestry. Officials of the University of California, Davis also have determined that, pursuant to 25 U.S.C. 3001 (3) (A), the 561 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Megon Noble, NAGPRA Project Manager, University of California, Davis, 412 Mrak Hall, One Shields Avenue, Davis, CA 95616, telephone (530)752–8501 email *mnoble@ucdavis.edu,* by November 2, 2020. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Cachil DeHe Band of Wintun Indians of the Colusa Indian Community of the Colusa Rancheria, California; Kletsel Dehe Band of Wintun Indians (previously listed as Cortina Indian Rancheria and the Cortina Indian Rancheria of Wintun Indians of California); and the Yocha Dehe Wintun Nation, California (previously listed as Rumsey Indian Rancheria of Wintun Indians of California), hereafter referred to as ''The Tribes,'' may proceed.

The University of California, Davis is responsible for notifying The Tribes that this notice has been published.

Dated: August 24, 2020.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2020–21693 Filed 10–1–20; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0030868; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Control of the U.S. Department of the Interior, Bureau of Land Management, New Mexico State Office, Santa Fe, NM; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

SUMMARY: The U.S. Department of the Interior, Bureau of Land Management, New Mexico State Office has corrected two Notices of Inventory Completion—a notice published in the **Federal Register** on March 20, 2001, and a notice correction published in the **Federal Register** on May 13, 2013. This notice corrects the minimum number of individuals and the number of associated funerary objects. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Bureau of Land Management, New Mexico State Office. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Bureau of Land Management, New Mexico State Office at the address in this notice by November 2, 2020.

ADDRESSES: Cynthia Herhahn, Deputy Preservation Officer and NAGPRA Coordinator, Bureau of Land Management, New Mexico State Office, 301 Dinosaur Trail, Santa Fe, NM 87508.

FOR FURTHER INFORMATION CONTACT: Cynthia Herhahn, Deputy Preservation Officer and NAGPRA Coordinator, telephone (505) 761–8938, email *cherhahn@blm.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the correction of an inventory of human remains and associated funerary objects under the control of the U.S. Department of the Interior, Bureau of Land Management, New Mexico State Office, Santa Fe, NM. The human remains and associated funerary objects were removed from Rio Arriba County, NM.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

This notice corrects the minimum number of individuals and the number of associated funerary objects published in a Notice of Inventory Completion in the **Federal Register** (66 FR 15743–15744, March 20, 2001) and a Notice of

Inventory Completion Correction (78 FR 27993–27994, May 13, 2013). A re-inventory and reassessment of collections resulted in a revision to the minimum number of individuals. The minimum number of individuals increased because two human remains were identified in a faunal collection, and some infant and juvenile human remains were comingled with each other, as well as with adult human remains. The re-inventory also resulted in the discovery of additional associated funerary objects from site LA 297. Transfer of control of the items in this correction notice has not occurred.

Correction

In the **Federal Register** of March 20, 2001, in FR Doc. 01–6840, on page 15743, make the following correction:

1. On page 15743, column 2, fourth full paragraph, sentences 1 and 2 are corrected to read as follows:

In 1978, human remains representing four individuals were recovered from site LA 297 in New Mexico during legally authorized excavations and collections conducted by Mike O'Neill of the Bureau of Land Management. The remains of three individuals are presently curated at the Maxwell Museum of Anthropology, University of New Mexico, and the remains of one individual are presently curated at the Museum of New Mexico, Santa Fe, NM.

In the **Federal Register** of May 13, 2013, in FR Doc. 2013–11229, on page 27993, make the following corrections:

2. On page 27944, column 1, the correction to paragraph 7, sentence 1, is corrected to read as follows:

Between 1979 and 1981, human remains representing 17 individuals were recovered from site LA 297 in New Mexico during legally authorized excavations and collections by Occidental College.

3. On page 27944, column 1, the correction to paragraph 7, sentence 4, is corrected to read as follows:

The 172 associated funerary objects include one whole ceramic vessel; one lot of burial matting; three lots of corn cobs; one turquoise fragment; one lot of chipped stone; 67 pieces of lithic debitage; 88 ceramic sherds; two pebbles; two lithic cores; one soil sample; four faunal remains; and one obsidian drill.

4. On page 27944, column 1, the correction to paragraph 10, sentences 1 and 2, is corrected to read as follows:

Based on the above information, officials of the Bureau of Land Management, New Mexico State Office have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of 22 individuals of Native American ancestry. Officials of the Bureau of Land Management have determined that, pursuant to 43 CFR 10.2 (d)(2), the 172 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Cynthia Herhahn, Deputy Preservation Officer and NAGPRA Coordinator, Bureau of Land Management, New Mexico State Office, 301 Dinosaur Trail, Santa Fe, NM 87508, telephone (505) 761–8938, email *cherhahn@blm.gov,* by November 2, 2020. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Ohkay Owingeh, New Mexico (previously listed as Pueblo of San Juan); Pueblo of Nambe, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Santa Clara, New Mexico; and the Pueblo of Tesuque, New Mexico, may proceed.

The U.S. Department of the Interior, Bureau of Land Management, New Mexico State Office is responsible for notifying the Hopi Tribe of Arizona; Navajo Nation, Arizona, New Mexico & Utah; Ohkay Owingeh, New Mexico (previously listed as Pueblo of San Juan); Pueblo of Acoma, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; and the Zuni Tribe of the Zuni Reservation, New Mexico, that this notice has been published.

Dated: September 9, 2020.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2020–21078 Filed 10–1–20; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

United States Section; Notice of Availability of the Final Environmental Assessment (EA) and Finding of No Significant Impact Arroyo Colorado at Harlingen Flood Flow Improvement Project, Cameron County, Texas

AGENCY: United States Section, International Boundary and Water Commission, United States and Mexico (USIBWC).

ACTION: Notice.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969; the Council on Environmental Quality Final Regulations, and the USIBWC Operational Procedures for Implementing Section 102 of NEPA, published in the **Federal Register** September 2, 1981, the USIBWC hereby gives notice that the *FINAL Environmental Assessment and Finding of No Significant Impact Arroyo Colorado at Harlingen Flood Flow Improvement Project, Cameron County Texas* is available.

FOR FURTHER INFORMATION CONTACT: Kelly Blough, Environmental Protection Specialist, USIBWC, 4191 N Mesa, El Paso, Texas 79902. Telephone: (915) 832–4734, Fax: (915) 493–2428, email: *Kelly.Blough@ibwc.gov.*

SUPPLEMENTARY INFORMATION: The USIBWC prepared the EA to evaluate the environmental effects of several options that would restore the full flood conveyance capabilities to a 6.3-mile reach of Arroyo Colorado between U.S. Highway 77 Business (US 77 Business) and Cemetery Road in Harlingen, Cameron County Texas. The Preferred Alternative would dredge sediment from the channel throughout the reach and expand existing vegetation management operations. Vegetation management currently occurs along a 3.7-mile reach of Arroyo Colorado between US 77 Business and Farm-to-Market Road 509 (FM 509). The Preferred Alternative would expand vegetation management operations to include the 2.6-mile reach from FM 509 to Cemetery Road. These actions are intended to restore Arroyo Colorado's design flood conveyance capacity of 21,000 cubic feet per second.

The final EA evaluates potential environmental impacts of the No Action Alternative and the Preferred Alternative. Two additional alternatives were considered and evaluated but were removed from consideration because they were either not effective or not feasible. Potential impacts on natural, cultural, and other resources were evaluated. A Finding of No Significant Impact has been prepared for the Preferred Alternative based on a review of the facts and analyses contained in the EA.

An open-house public scoping meeting was held for the proposed project on December 12, 2019, at the Harlingen Community Center located at 201 E. Madison Avenue, Harlingen, Texas 78552. Notifications of the

meeting and instructions to access materials and provide comment electronically were sent by mail to approximately 200 recipients. Recipients included adjacent landowners, regional and local representatives of federal and state resource agencies, interested Native American tribes, and local elected officials. Additionally, notifications were posted in newspapers of local circulation and on City of Harlingen and USIBWC media outlets during the first week of December.

Thirty-five attendees signed in and 13 comments were received within the comment period. Approximately seven commenters stated that they were in general support of the Expanded Vegetation & Sediment Removal Alternative (*i.e.,* the Preferred Alternative). One commenter expressed support for a combination of the three actions that would include Off-Channel Storage, Expanded Vegetation Removal, and Expanded Vegetation & Sediment Removal. The remaining five comments proposed additional actions outside of the scope of this project that may be considered in the future. An environmental impact statement will not be prepared unless additional information which may affect this decision is brought to our attention within 30 days from the date of this Notice.

Availability: The electronic version of the Final EA is available on the USIBWC web page: *https://www.ibwc.gov/Files/FinalEA_ArroyoColorado_Harlinen_Signed_082420.pdf.*

Dated: September 16, 2020.

Jennifer Pena,

Chief Legal Counsel, International Boundary and Water Commission, United States and Mexico, United States Section.

[FR Doc. 2020–20909 Filed 10–1–20; 8:45 am]

BILLING CODE 7010–01–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1046 (Third Review)]

Tetrahydrofurfuryl Alcohol From China; Scheduling of an Expedited Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the antidumping duty order on tetrahydrofurfuryl alcohol from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

DATES: June 5, 2020.

FOR FURTHER INFORMATION CONTACT: Jason Duncan (202–205–3432), 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 review may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On June 5, 2020, the Commission determined that the domestic interested party group response to its notice of institution (85 FR 12337, March 2, 2020) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.[1] Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)).

For further information concerning the conduct of this review 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).

Please note the Secretary's Office will accept only electronic filings at 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.

Staff report.—A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on September 25, 2020, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before October 2, 2020 and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by October 2, 2020. However, should the Department of Commerce (''Commerce'') extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must 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.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (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.

Determination.—The Commission has determined this review is extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: This review is 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.

[1] A record of the Commissioners' votes is available from the Office of the Secretary and at the Commission's website.

[2] The Commission has found the response submitted by Penn A Kem LLC to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

By order of the Commission.

Issued: September 29, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–21837 Filed 10–1–20; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–NEW]

Agency Information Collection Activities; Proposed eCollection eComments Requested; New Collection

AGENCY: Office on Violence Against Women, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice, Office on Violence Against Women (OVW) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until December 1, 2020.

FOR FURTHER INFORMATION CONTACT: Written comments and/or suggestion regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Cathy Poston, Office on Violence Against Women, at 202–514–5430 or *Catherine.poston@usdoj.gov.*

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:

(1) 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;

(2) 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;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, 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: New collection

(2) Title of the Form/Collection: OVW Consolidated Progress Report Template

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number: 1122–NEW. U.S. Department of Justice, Office on Violence Against Women (OVW)

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: The affected public includes grantees and subgrantees of formula and discretionary grant programs authorized under the Violence Against Women Act (VAWA) of 1994, and reauthorized and amended by the Violence Against Women Act of 2000, the Violence Against Women Act of 2005, and the Violence Against Women Act of 2013 and administered by OVW. These include states, territories, Tribes or units of local government, institutions of higher education including colleges and universities, tribal organizations, federal, state, tribal, territorial or local courts or court-based programs, state sexual assault coalitions, state domestic violence coalitions; territorial domestic violence or sexual assault coalitions, tribal coalitions, community-based organizations, and non-profit, nongovernmental organizations.

This submission is to seeking to consolidate previously approved collections (OMB Numbers 1122–0003, 1122–0022, 1122–0005, 1122–0006, 1122–0007, 1122–0008, 122–0009, 1122–0010, 1122–0011, 1122–0012, 1122–0013, 1122–0016, 1122–0017, 1122–0018, 1122–0021, 1122–0023, 1122–0024, 1122–0026, 1122–0027, and 1122–0028) under one, new OMB number, so as to align with a new data collection platform that removes OVW's need to have separate and distinct forms for collecting performance data. Per GPRA and subsequent legislation, OMB's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,* and OVW's monitoring policies and procedures, OVW requires semi-annual performance reports from its grantees under discretionary programs and initiatives, as well as annual reports from grantees and subgrantees under two formula grant programs. Performance reports collect Congressionally mandated data as well as numeric and narrative information on the grantee/subgrantee's progress toward project goals. There is a great deal of consistency across the current forms in terms of data collected; however; because until now the technology on which OVW's grants management system operated required each data collection to exist as a distinct form, an OMB number was obtained and routinely updated for each form. That system, Office of Justice Programs' Grants Management System, has been retired and a new grants management system, JustGrants, is being implemented in October 2020. The new system allows OVW to compile a library of performance questions that can be selected and sequenced to match each program's current OMB-approved form. Thus, the requested OMB number is to cover OVW's performance reporting question library, though grantees will only be required to answer a subset of the available questions.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: At any given time, there are approximately 3,000 grantees and approximately 3,000 subgrantees subject to the above-mentioned reporting requirements, and there is some degree of overlap among grantees and subgrantees, meaning some organizations have multiple, active OVW awards on which they are required to report. It is estimated that it will take the approximately 6000 grantees and subgrantees 60 minutes to complete an annual or semiannual progress reporting form.

(6) An estimate of the total public burden (in hours) associated with the collection: The total annual hour burden for OVW grantees and subgrantees to complete the annual or semiannual progress reporting form is 6000.

If additional information is required contact: Melody Braswell, Deputy 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 29, 2020.

Melody Braswell,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2020–21820 Filed 10–1–20; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF LABOR

Notice of Publication of 2020 Update to the Department of Labor's List of Goods Produced by Child Labor or Forced Labor

AGENCY: Bureau of International Labor Affairs, Department of Labor.

ACTION: Announcement of public availability of updated list of goods with child labor or forced labor.

SUMMARY: This notice announces the publication of an updated list of goods—along with countries of origin—that the Bureau of International Labor Affairs (ILAB) has reason to believe are produced by child labor or forced labor in violation of international standards (the List). ILAB is required to develop and make available to the public the List pursuant to the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2005, as amended.

DATES: *Publication on:* September 30, 2020.

FOR FURTHER INFORMATION CONTACT: Director, Office of Child Labor, Forced Labor, and Human Trafficking, Bureau of International Labor Affairs, U.S. Department of Labor, at (202) 693–4843 (this is not a toll free number) or *ILAB-TVPRA@dol.gov.* Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the Federal Information Relay Service at 1–877–889–5627.

SUPPLEMENTARY INFORMATION: The Bureau of International Labor Affairs (ILAB) announces the publication of the ninth edition of the *List of Goods Produced by Child Labor or Forced Labor* (List), pursuant to the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2005, as amended (TVPRA). ILAB published the initial List on September 10, 2009, and has since published eight updated editions. The 2020 edition adds six new goods (gloves, rubber gloves, hair products, pome and stone fruits, sandstone, and tomato products) and two new countries (Venezuela and Zimbabwe) and one new area (Taiwan) to the List. This edition also features the removal of cattle produced with child labor in Namibia from the List.

Section 105(b) of the TVPRA mandates that ILAB develop and publish a list of goods from countries that ILAB ''has reason to believe are produced with child labor or forced labor in violation of international standards'' 22 U.S.C. 7112(b)(2). ILAB's Office of Child Labor, Forced Labor, and Human Trafficking (OCFT) carries out this mandate. The primary purposes of the List are to raise public awareness about the incidence of child labor and forced labor in the production of goods in the countries listed and to promote efforts to eliminate such practices. A full report, including the updated List and a discussion of the List's methodology, as well as Frequently Asked Questions and a bibliography of sources, are available on the Department of Labor website at: *http://www.dol.gov/ilab/reports/child-labor/list-of-goods/.*

Authority: 22 U.S.C. 7112(b)(2)(C).

Signed at Washington, DC, this 28th day of September 2020.

Grant Lebens,

Chief of Staff, Bureau of International Labor Affairs.

[FR Doc. 2020–21759 Filed 10–1–20; 8:45 am]

BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Notice of Initial Determination Revising the List of Products Requiring Federal Contractor Certification as to Forced or Indentured Child Labor

AGENCY: Bureau of International Labor Affairs, United States Department of Labor.

ACTION: Request for comments.

SUMMARY: This initial determination proposes to revise the list (E.O. List) required by the ''Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor'' in accordance with the Department of Labor's ''Procedural Guidelines for the Maintenance of the List of Products Requiring Federal Contractor Certification as to Forced or Indentured Child Labor'' (the Procedural Guidelines). The E.O. List identifies products by their country of origin that the Department of Labor (DOL), in consultation and cooperation with the Departments of State and Homeland Security (the three Departments), has a reasonable basis to believe might have been mined, produced, or manufactured by forced or indentured child labor. This notice proposes to add one new line item (bricks from Cambodia) to the E.O. List. DOL invites public comment on this initial determination. The three Departments will consider all public comments prior to publishing a final determination revising the E.O. List.

DATES: Information should be submitted to the Office of Child Labor, Forced Labor, and Human Trafficking (OCFT) via one of the methods described below by no later than 5 p.m., December 1, 2020.

FOR FURTHER INFORMATION CONTACT: Marcia Eugenio, Director, Office of Child Labor, Forced Labor, and Human Trafficking, Bureau of International Labor Affairs, U.S. Department of Labor, at (202) 693–4843 (this is not a toll free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the Federal Information Relay Service at 1–877–889–5627. Comments, identified as ''Docket No. DOL–2020–0008,'' may be submitted by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* The portal includes instructions for submitting comments. Parties submitting responses electronically are encouraged not to submit paper copies.
- *Email: EO13126@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Information Sought

DOL is requesting public comment on the revisions to the list proposed below, as well as any other issue related to the fair and effective implementation of Executive Order (E.O.) 13126. This notice is a general solicitation of comments from the public. All submitted comments will be made a part of the public record and will be available for inspection on *http://www.regulations.gov.*

In conducting research for this initial determination, DOL considered a wide variety of materials based on its own research and originating from other U.S. Government agencies, foreign governments, international organizations, non-governmental organizations, U.S. Government-funded technical assistance and field research projects, academic and other independent research, media, and other sources. The Department of State and U.S. embassies and consulates abroad also provide important information by gathering data from contacts, conducting site visits, and reviewing local media sources. In developing the proposed revision to the E.O. List, DOL's review focused on information concerning the use of forced or indentured child labor that was available from the above sources.

As outlined in the Procedural Guidelines, several factors were weighed in determining whether or not a product should be placed on the revised E.O. List: The nature of the information describing the use of forced or indentured child labor; the source of the information; the date of the information; the extent of corroboration of the information by other sources; whether the information involved more than an isolated incident; and whether

recent and credible efforts are being made to address forced or indentured child labor in a particular country or industry (66 FR 5351).

This notice constitutes the initial determination to revise the E.O. List issued March 25, 2019.

Based on recent credible and appropriately corroborated information from various sources, DOL preliminarily concludes that there is a reasonable basis to believe that the following product, identified by the country of origin, might have been mined, produced, or manufactured by forced or indentured child labor:

Product	Country
Bricks	Cambodia.

DOL invites public comment on whether these products (and/or other products, regardless of whether they are mentioned in this Notice) should be included in or removed from the revised E.O. List. To the extent possible, comments provided should address the criteria for inclusion of a product on the E.O. List contained in the Procedural Guidelines discussed above.

Following receipt and consideration of comments on the addition to the E.O. List set out above, DOL, in consultation and cooperation with the Departments of State and Homeland Security, will issue a final determination in the **Federal Register**. The three Departments intend to continue to revise the E.O. List periodically to add and/or remove products as warranted by the receipt of new and credible information.

II. Background

On June 12, 1999, President Clinton signed E.O. 13126, which was published in the **Federal Register** on June 16, 1999 (64 FR 32383). E.O. 13126 declared that it was ''the policy of the United States Government . . . that executive agencies shall take appropriate actions to enforce the laws prohibiting the manufacture or importation of goods, wares, articles, and merchandise mined, produced or manufactured wholly or in part by forced or indentured child labor.'' Pursuant to E.O. 13126, and following public notice and comment, DOL published in the January 18, 2001, **Federal Register** the first E.O. List of products, along with their respective countries of origin, that DOL, in consultation and cooperation with the Departments of State and Treasury (whose relevant responsibilities are now within the Department of Homeland Security), had a reasonable basis to believe might have been mined, produced, or manufactured with forced or indentured child labor (66 FR 5353).

The Procedural Guidelines provide that the E.O. List may be revised through consideration of submissions by individuals and on DOL's own initiative. When proposing a revision to the E.O. List, DOL must publish in the **Federal Register** a notice of initial determination, which includes any proposed alteration to the E.O. List. DOL will consider all public comments prior to the publication of a final determination of a revised E.O. List, which is made in consultation and cooperation with the Departments of State and Homeland Security.

On January 18, 2001, pursuant to Section 3 of E.O. 13126, the Federal Acquisition Regulatory Council published a final rule to implement specific provisions of E.O. 13126 that requires, among other things, that federal contractors who supply products that appear on the E.O. List certify to the contracting officer that the contractor, or, in the case of an incorporated contractor, a responsible official of the contractor, has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any product furnished under the contract and that, on the basis of those efforts, the contractor is unaware of any such use of forced or indentured child labor. See 48 CFR Subpart 22.15.

On September 11, 2009, DOL published an initial determination in the **Federal Register** proposing to revise the E.O. List to include 29 products from 21 countries. The Notice requested public comments for a period of 90 days. Public comments were received and reviewed by all relevant agencies and a final determination was issued on July 20, 2010. The most recent E.O. List, finalized on March 25, 2019, includes 34 products from 25 countries.

The current E.O. List and the Procedural Guidelines can be accessed on the internet at *https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-products.*

III. Definitions

Under Section 6(c) of E.O. 13126:

Forced or indentured child labor—*Forced or indentured child labor* means all work or service:

(1) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or

(2) Performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

Authority: Executive Order 13126 of June 12, 1999.

Signed at Washington, DC, this 28th day of September 2020.

Grant Lebens,

Chief of Staff, Bureau of International Labor Affairs.

[FR Doc. 2020–21789 Filed 10–1–20; 8:45 am]

BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2020–0002]

National Advisory Committee on Occupational Safety and Health (NACOSH); Charter Renewal

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Renewal of the NACOSH charter.

SUMMARY: The Secretary of Labor (Secretary) has renewed the charter for NACOSH.

FOR FURTHER INFORMATION CONTACT:

For press inquiries: Mr. Francis Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor; telephone: (202) 693–1999 (TTY (877) 889–5627); email: *meilinger.francis2@dol.gov.*

For general information: Ms. Amy Wangdahl, Director, OSHA Office of Maritime and Agriculture, Directorate of Standards and Guidance; telephone: (202) 693–2066 (TTY (877) 889–5627); email: *wangdahl.amy@dol.gov.*

SUPPLEMENTARY INFORMATION:

The Secretary has renewed the NACOSH charter. The charter will expire two years from its filing date.

Congress established NACOSH in Section 7(a) of the Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651, 656) to advise, consult with, and make recommendations to the Secretary and the Secretary of Health and Human Services on matters relating to the administration of the OSH Act. NACOSH is a non-discretionary advisory committee of indefinite duration.

NACOSH operates in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2), its implementing regulations (41 CFR part 102–3), and OSHA's regulations on NACOSH (29 CFR part 1912a). Pursuant to FACA (5 U.S.C. App. 2, 14(b)(2)), the NACOSH charter must be renewed every two years.

The new NACOSH charter is available to read or download at *http://*

www.regulations.gov (Docket No. OSHA–2020–0002), the federal rulemaking portal. The charter also is available on the NACOSH page on OSHA's web page at *http://www.osha.gov* and at the OSHA Docket Office, N–3653, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210; telephone (202) 693–2350. Please note: While OSHA's Docket Office is continuing to accept and process request, due to the COVID–19 pandemic, the Docket Office is closed to the public. In addition, the charter is available for viewing or download at the Federal Advisory Committee Database at *http://www.facadatabase.gov.*

AUTHORITY AND SIGNATURE: Loren Sweatt, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice under the authority granted by 29 U.S.C. 656; 5 U.S.C. App. 2; 29 CFR part 1912a; 41 CFR part 102–3; and Secretary of Labor's Order No. 8–2020 (85 FR 58393, 9/18/2020).

Signed at Washington, DC, on September 28, 2020.

Loren Sweatt,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2020–21760 Filed 10–1–20; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Workers Compensation Programs Office

Agency Information Collection Activities; Comment Request; Division of Energy Employees Occupational Illness (DEEOIC) Authorization Forms

AGENCY: Office of Workers' Compensation, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, ''DEEOIC Authorization Request Forms''. This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received December 1, 2020.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free by contacting Anjanette Suggs by telephone at 202–354–9660 or by email at *suggs.anjanette@dol.gov.*

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Office of Workers' Compensation Programs, Room S3323, 200 Constitution Avenue NW, Washington, DC 20210; by email: *suggs.anjanette@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Anjanette Suggs by telephone at 202–354–9660 or by email at *suggs.anjanette@dol.gov.*

SUPPLEMENTARY INFORMATION: The DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the OMB for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

Background: The Office of Workers' Compensation Programs (OWCP) is the primary agency responsible for administration of the Energy Employees Occupational Illness Compensation Program Act of 2000, as amended (EEOICPA), 42 U.S.C. 7384 *et seq.* EEOICPA provides for the payment of compensation to covered employees and, where applicable, survivors of deceased employees, who sustained either an ''occupational illness'' or a ''covered illness'' in the performance of duty for the Department of Energy and certain of its contractors and subcontractors. One element of the compensation provided to covered employees is medical benefits for the treatment of their occupational or covered illnesses that are accepted as compensable. OWCP contracts with a private sector bill processing agent that handles many of the tasks associated with paying bills for medical treatment provided to covered employees under EEOICPA. This bill processing agent uses an automated system that matches incoming bills with the authorized medical treatment of covered employees before it issues payments, and a provider of medical treatment, supplies or services to covered employees must provide the bill processing agent with information necessary for creation of an authorization within the agent's automated system before a bill can be paid. The collection of this information is authorized by 20 CFR 30.400(a) and (c), 30.403, 30.404(b) and 30.700. The information collections in this ICR collect demographic, factual and medical information that OWCP and/or its bill processing agent needs to process bills for medical treatment, supplies or services.

DOL authorizes this information collection. This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB under the PRA approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Written comments will receive consideration, and summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB# 1240–0NEW.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. The DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

The DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected; 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.

Agency: DOL-Office of Workers' Compensation Programs

Type of Review: New Collection.

Title of Collection: DEEOIC Authorization Forms

Agency Form Number: EE–22, EE–24, EE–26, EE–28, EE–30, EE–32

OMB Control Number: 1240–0NEW.

Affected Public: Individuals or households; businesses or other for-profit.

Estimated Number of Respondents: 12,890.

Frequency: Varies by form.

Total Estimated Annual Responses: 66,770.

Estimated Average Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 11,129.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Authority: 44 U.S.C. 3506(c)(2)(A).

Anjanette Suggs,

Agency Clearance Officer, Office of Workers' Compensation Programs, U.S. Department of Labor.

[FR Doc. 2020–21790 Filed 10–1–20; 8:45 am]

BILLING CODE 4510–CR–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 20–080]

Name of Information Collection: Term and Condition Notification of Harassment Form

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections.

DATES: Comments are due by 10/31/2020.

ADDRESSES: All comments should be addressed to Roger Kantz, National Aeronautics and Space Administration, 300 E Street SW, Washington, DC 20546–0001 or call 281.792.7885.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Roger Kantz, NASA Clearance Officer, NASA Headquarters, 300 E Street SW, Washington, DC 20546 or email *Travis.Kantz@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract:

This collection of information supports NASA's term and condition regarding sexual harassment, other forms of harassment, and sexual assault. This term and condition requires recipient organizations to report to NASA any findings/determinations of sexual harassment, other forms of harassment, or sexual assault regarding a NASA funded PI or Co-I. The new term and condition will also require the recipient to report to NASA if the PI or Co-I is placed on administrative leave or if the recipient has imposed any administrative action on the PI or Co-I, or any determination or an investigation of an alleged violation of the recipient's policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault.

In reviewing harassment notifications pursuant to the term and condition, it will be necessary for the Agency to have complete information provided in a consistent manner. The information provided will be used by the Agency to assess the matters reported and to consult with the Authorized Organizational Representative (AOR), or designee of the reporting institution. Based on the results of this review and consultation, NASA may, if necessary, assert its programmatic stewardship responsibilities and oversight authority to initiate the substitution or removal of the PI or any co-PI, reduce the award funding amount, or where neither of those previous options is available or adequate, to suspend or terminate the award.

II. Methods of Collection:

Electronic.

III. Data

Title: NASA Term and Condition Notification of Harassment Form.

OMB Number:

Type of review: New.

Affected Public: NASA grant recipient institution reporting officials.

Estimated Annual Number of Activities: 20.

Estimated Number of Respondents per Activity: 1.

Annual Responses: 20.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 20.

Estimated Total Annual Cost: $2,000.

IV. Request for Comments

Comments are invited on: (1) The accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (2) ways to enhance the quality, utility, and clarity of the information to be collected; and (3) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Roger Kantz,

NASA PRA Clearance Officer.

[FR Doc. 2020–21810 Filed 10–1–20; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 20–079]

Notice of Availability of the Record of Decision for NASA's Supplemental Environmental Impact Statement for Soil Cleanup Activities at Santa Susana Field Laboratory, Ventura County, California

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of availability of the Record of Decision (ROD).

SUMMARY: NASA announces its decision concerning agency actions related to soil cleanup activities at the Santa Susana Field Laboratory, Ventura County, California. NASA's decision is supported by the detailed analysis found in the Final Supplemental Environmental Impact Statement for Soil Cleanup Activities (SEIS), as summarized in the agency's Record of Decision (ROD).

ADDRESSES: The Santa Susana Field Laboratory (SSFL) SEIS ROD and related National Environmental Policy Act (NEPA) documents are available at NASA's SSFL project website (*https://www.nasa.gov/feature/environmental-impact-statement-eis-for-demolition-and-environmental-cleanup-activities*).

FOR FURTHER INFORMATION CONTACT: Peter Zorba, SSFL Project Director, email at *msfc-ssfl-information@mail.nasa.gov*, or phone (202) 714–0496. Additional information about NASA's SSFL site, the soil and cleanup activities, and the associated planning process and documentation (as

available) may be found on the internet at *https://www.nasa.gov/feature/environmental-impact-statement-eis-for-demolition-and-environmental-cleanup-activities* or on the California Department of Toxic Substances Control (DTSC) website at *https://www.dtsc.ca.gov/SiteCleanup/Santa_Susana_Field_Lab/.*

SUPPLEMENTARY INFORMATION:

Background

NASA prepared the SSFL SEIS in accordance with NEPA (42 U.S.C. 4321 *et seq.*), CEQ NEPA implementing regulations (40 CFR parts 1500—1508), NASA's NEPA Implementing regulations (14 CFR 1216.3), and NASA NEPA policy (NASA Procedural Requirements 8580.1—Implementing the National Environmental Policy Act and Executive Order 12114). NASA announced its intent to prepare a SEIS on April 5, 2018 (84 FR 13725). The SEIS was limited in scope to the proposed soil cleanup activities at SSFL.[1] Preparation of the SEIS was required because NASA determined that significant new circumstances exist relevant to environmental concerns bearing on the cleanup of the SSFL site and the potential environmental impacts of those activities exist. Specifically, the estimated quantity of soil required to be removed during site cleanup under the California DTSC's proposed framework had increased substantially since the publication of NASA's 2014 Final EIS. This increase had the potential to significantly alter the environmental impacts that were evaluated in the 2014 Final EIS. For this reason, pursuant to NEPA, NASA determined it was required to prepare a supplement to the 2014 Final EIS. On October 25, 2019, NASA published a Notice of Availability (NOA) (84 FR 57490) for the SSFL Draft SEIS, which initiated a 45-day public comment period. On December 9, 2019, NASA published a notice in the FR which advised the public that the comment period would be extended by 30 days to January 8, 2020 (84 FR 67296). During the comment period, NASA received approximately 1,200 comments and hosted two public meetings in Ventura County and Los Angeles County respectively. Oral and written comments were received at each public meeting. After considering the comments received on the Draft SEIS, NASA prepared and published the Final SEIS on July 24, 2020 (85 FR 44930).

SSFL Site Background

SSFL is located on 2,850 acres of open, rocky terrain above California's Simi Valley in southeastern Ventura County, approximately 30 miles northwest of Los Angeles. SSFL is divided into four Administrative Areas (Areas I through IV) and two undeveloped areas. Area II and a small portion of Area I (the Former Liquid Oxygen (LOX) Plant Area) are owned by the U.S. Government and administered by NASA. The remainder of the property is owned by The Boeing Company (Boeing). In Area IV, the U.S. Department of Energy (DOE) has prepared an environmental impact statement for building demolition and the cleanup of soil and groundwater and remediation activities related to its previous activities at SSFL (see *e.g.,* NOA, 83 FR 67282).

Since the mid-1950s, when SSFL was administered by the U.S. Air Force, this site has been used for developing and testing rocket engines. Four test stand complexes were constructed in Area II between 1954 and 1957 named Alfa, Bravo, Coca, and Delta. These test areas along with the LOX Plant portion of Area I were acquired by NASA from the U.S. Air Force in the 1970s. NASA conducted rocket engine testing in support of the nation's space exploration programs (*e.g.,* Apollo program, Space Shuttle program) at SSFL and concluded its activities related to rocket engine and component testing in 2006.

Environmental sampling at SSFL indicates that contaminants are present in soil within the NASA-administered portion of SSFL. In 2018, the California Department of Toxic Substances Control (DTSC) approved NASA's Soil Treatability Study and in 2019 DTSC approved NASA's Soil Data Summary Report. The scientific data from these reports showed the soil quantity that may need to be removed from the SSFL site under DTSC's Look Up Table (LUT) framework (*i.e.,* Alternative A in the Final SEIS) far exceeded the estimate NASA used in its 2014 Final EIS. NASA subsequently determined this constituted significant new information relevant to environmental concerns and bearing on the Proposed Action.

In 2009, NASA completed a review of its property holdings at SSFL and determined SSFL was no longer needed by NASA to meet its then current needs or future mission requirements. On September 14, 2009, NASA requested the General Services Administration (GSA) take action for disposition of its portion of SSFL. On September 17, 2009, the GSA conditionally accepted NASA's request to undertake action to dispose of the property subject to the following conditions: (1) The receipt of NASA's certification that all remedial action necessary to protect human health and the environment with respect to any hazardous substance remaining on the property has been taken, or receipt of EPA's [Environmental Protection Agency's] written concurrence that an approved and installed remedial design is operating properly and successfully, or; (2) the receipt of the Governor's concurrence in the suitability of the property for transfer as provided in CERCLA [Comprehensive Environmental Response, Compensation and Liability Act] Section 120(h)(3)(C).

Purpose and Need for Agency Action

The purpose and need of NASA's proposed action is to use the best available science and technology to achieve a soil cleanup at SSFL in a timely manner that minimizes impacts to the community, and which is fully protective of the public health and welfare. As set forth in the ROD, NASA has decided that, based on its comparison of alternatives in the Final SEIS, selection of Alternative C—Suburban Residential Cleanup (based on the DTSC-approved Standardized Risk Assessment) most fully supports the purpose and need and is NASA's preferred and environmentally preferred alternative for soil cleanup at SSFL. Selection of Alternative C applies an accepted risk methodology to soil cleanup activities which accounts for the reasonably foreseeable future use of the land, the health and safety of surrounding communities, the protection and preservation of significant cultural and natural resources, and the implementability of each alternative.

Alternatives

In the Draft and Final SEIS, NASA evaluated the No Action Alternative and four other action alternatives. In the Final SEIS, the impacts of soil remediation activities at the NASA-administered Area I Former LOX Plant and Area II are comprehensively evaluated. The alternatives considered for cleaning up the soil are as follows:

[1] NASA published a Final Environmental Impact Statement for demolition of site infrastructure, soil cleanup and groundwater remediation within NASA administered ''Area II'' and a portion of ''Area I'' (former LOX Plant) of SSFL on March 14, 2014 (79 FR 14545). NASA subsequently issued a ROD for building demolition on April 23, 2014. At that time, a decision was made to defer issuing RODs for the cleanup of soil and groundwater until further investigations, analysis, and planning could be completed. Upon completion of the SSFL Draft Groundwater Corrective Measure Study, a ROD allowing groundwater cleanup at SSFL was signed on October 4, 2018 and published in the **Federal Register** on October 17, 2018 (83 FR 52570).

Alternative A: Administrative Order on Consent (AOC) Cleanup; Alternative B: Revised LUT Levels Cleanup; Alternative C: Suburban Residential Cleanup; Alternative D: Recreational Cleanup; and the No Action Alternative

These alternatives are described in detail in the *Alternatives Selection* section of the ROD (see section B.4) and Chapters 2 and 3 of the Final SEIS. The following specifics apply to the cleanup alternatives considered in this SEIS:

- All risk-based alternatives are protective of public health and the environment and follow nationwide U.S. Environmental Protection Agency (EPA) guidelines and the DTSC-approved standardized risk-based methodology specific to SSFL.
- The implementation of the ''AOC'' cleanup alternative would have the most significant adverse impacts to the surrounding community and the protected cultural, natural, and biological resources.
- The beneficial impacts for biology, water resources, and health and safety are the same for all the cleanup alternatives.

Comments Received on the Final SEIS

The Notice of Availability for the SSFL Final SEIS published in the **Federal Register** on July 24, 2020 commencing a 30-day pre-decisional waiting period that concluded on August 24, 2020. During this pre-decisional period, NASA received comments from the United States Environmental Protection Agency Region IX, the City of Los Angeles, and a joint letter from the Committee to Bridge the Gap (CBG), Physicians for Social Responsibility—Los Angeles (PSR–LA), and the Natural Resources Defense Council (NRDC). The CBG also submitted supplemental comments in support of the joint comments described above. Prior to making its final decision, NASA considered the matters raised by each commenter, evaluated the analysis, scientific basis, and methodology used to validate the conclusions set forth in the Final SEIS, and determined the received comments do not affect the findings of the Final SEIS. Specific responses to the received comments are found in Section C.2 of the ROD.

Decision

NASA has decided to adopt Alternative C—Suburban Residential Cleanup as its Preferred Alternative for implementation of soil cleanup activities at the NASA administered areas of SSFL. Selection of Alternative C applies an accepted risk assessment methodology to soil cleanup activities which accounts for the reasonably foreseeable future use of the land, is fully protective of the health and safety of surrounding communities, preserves significant existing cultural and natural resources, reduces the time horizon for project completion, reduces the environmental impact of the overall project, provides greater flexibility to the U.S. government in the event the property is transferred at a later date, and considers the long term implementability of each alternative.

The Associate Administrator for Mission Support Directorate signed the Soil Cleanup ROD, which constitutes the final decision by NASA for soil cleanup at SSFL. A copy of this document can be found at *https://www.nasa.gov/feature/environmental-impact-statement-eis-for-demolition-and-environmental-cleanup-activities.*

Cheryl Parker,

Federal Register Liaison Officer.

[FR Doc. 2020–21787 Filed 10–1–20; 8:45 am]

BILLING CODE 7510–13–P

THE NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Notice of Proposed Information Collection Requests: Maker/STEM Education Support for 21st Century Community Learning Centers Program Evaluation

AGENCY: Institute of Museum and Library Services, National Foundation for the Arts and the Humanities.

ACTION: Notice, request for comments, collection of information.

SUMMARY: The Institute of Museum and Library Services (IMLS), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act. This pre-clearance consultation program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The purpose of this notice is to solicit comments concerning a proposed survey and interviews to document the implementation of the Maker/STEM Education Support for 21st Century Community Learning Centers (21st CCLC) program and investigate outcomes for museum staff, 21st CCLC staff, and youth participants. A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before November 30, 2020.

ADDRESSES: Send comments to Connie Bodner, Ph.D., Director of Grants Policy and Management, Office of Grants Policy and Management, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, Suite 4000, Washington, DC 20024–2135. Dr. Bodner can be reached by Telephone: 202–653–4636 or by email at *cbodner@imls.gov,* or by teletype (TTY/TDD) for persons with hearing difficulty at 202–653–4614. Office hours are from 8:30 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Reagan Moore, Senior Program Officer, Office of Museum Services, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, Suite 4000, Washington, DC 20024–2135. Ms. Moore can be reached by Telephone: 202–653–4637, or by email at *rmoore@imls.gov,* or by teletype (TTY/TDD) for persons with hearing difficulty at 202–653–4614.

SUPPLEMENTARY INFORMATION: IMLS is particularly interested in public comment that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques, or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

I. Background

The Institute of Museum and Library Services is the primary source of Federal support for the Nation's libraries and museums. We advance,

support, and empower America's museums, libraries, and related organizations through grant making, research, and policy development. Our vision is a nation where museums and libraries work together to transform the lives of individuals and communities. To learn more, visit *www.imls.gov.*

II. Current Actions

The Maker/STEM Education Support for 21st Century Community Learning Centers program is designed to enhance science, technology, engineering, and math (STEM) education learning in 21st CCLC programs by providing 21st CCLC site staff with maker-related professional development, and a curriculum and activities to implement with youth at approximately forty 21st CCLC sites across seven states. The purpose of this collection is to document the program's implementation across these sites and investigate the associated outcomes for participating youth, 21st CCLC site staff, and museum staff.

The evaluation is intended to provide insight for programmatic improvements and learning for potential future implementations. Methods will include qualitative and quantitative data collection via a mixed methods approach. Data collection activities will include interviews with 21st CCLC youth, staff, and museum staff, and surveys with 21st CCLC staff.

Agency: Institute of Museum and Library Services.

Title: Maker/STEM Education Support for 21st Century Community Learning Centers Program Evaluation.

OMB Control Number: 3137–0108.

Agency Number: 3137.

Respondents/Affected Public: Museum staff, 21st CCLC staff, and 21st CCLC youth participants.

Total Estimated Number of Annual Respondents: 115.

Frequency of Response: One-time collection anticipated.

Average Minutes per Response: Adult surveys: 20 minutes; adult interviews: 45 minutes; youth interviews: 10 minutes.

Total Estimated Number of Annual Burden Hours: 51 hours.

Cost Burden (dollars): To be determined.

Public Comments Invited: Comments submitted in response to this notice will be summarized and/or included in the request for OMB's clearance of this information collection.

Dated: September 29, 2020.

Kim Miller,

Senior Grants Management Specialist, Institute of Museum and Library Services.

[FR Doc. 2020–21857 Filed 10–1–20; 8:45 am]

BILLING CODE 7036–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name and Committee Code: Advisory Committee for Biological Sciences (#1110) (Virtual).

Date and Time: October 29, 2020,10:00 a.m.–4:30 p.m.; October 30, 2020,10:00 a.m.–12:30 p.m.

Place: National Science Foundation, 2415 Eisenhower Avenue, Room E2030, Alexandria, VA 22314 (Virtual).

Due to ongoing social distancing best practices because of COVID–19 the meeting will be held virtually among the Advisory Committee members. Livestreaming will be accessible through this page: *https://nsf.gov/bio/advisory.jsp.*

Type of Meeting: Open.

Contact Person: Karen Cone, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; Telephone: (703) 292–8400.

Purpose of Meeting: The Advisory Committee for the Directorate for Biological Sciences (BIO) provides advice, recommendations, and oversight concerning major program emphases, directions, and goals for the research-related activities of the divisions that make up BIO.

Agenda: Agenda items will include a directorate business update, status update on the research community's adaptations to the COVID–19 pandemic, BIO's recent investments in integration across the biological sciences, a joint session on strategies for broadening participation with the Committee on Equal Opportunities in Science and Engineering, discussion with the NSF Director, and BIO's investments in collections.

Dated: September 29, 2020.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2020–21852 Filed 10–1–20; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent to Renew a Current Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: The National Center for Science and Engineering Statistics (NCSES) within the National Science Foundation (NSF) is announcing plans to request an amendment to the Higher Education Research and Development (HERD) Survey (OMB Number 3145–0100). In accordance with the requirements of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NCSES will prepare the submission requesting that OMB amend the clearance of this collection.

DATES: Written comments on this notice must be received by October 26, 2020 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

FOR ADDITIONAL INFORMATION OR COMMENTS: Contact Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, W18253, Alexandria, Virginia 22314; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device 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 time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Title of Collection: Higher Education Research and Development Survey

OMB Approval Number: 3145–0100.

Expiration Date of Current Approval: August 31, 2022.

Type of Request: Intent to Amend a Current Information Collection.

Abstract: Established within NSF by the America COMPETES Reauthorization Act of 2010 § 505, codified in the NSF Act of 1950, as amended, NCSES—one of 13 principal federal statistical agencies—serves as a central Federal clearinghouse for the collection, interpretation, analysis, and dissemination of objective data on science, engineering, technology, and research and development for use by practitioners, researchers, policymakers, and the public.

The Higher Education Research and Development (R&D) Survey (formerly known as the Survey of R&D Expenditures at Universities and Colleges) originated in fiscal year (FY)

1954 and has been conducted annually since FY 1972. The survey represents one facet of the research and development component of NCSES's statistical program, which includes R&D surveys on the business, federal government, higher education, state government, and nonprofit sectors. NCSES proposes amending the survey to collect new information on R&D personnel. Details are below.

Description of New Information: The Higher Education R&D Survey is one of several surveys at NCSES that collect comparable information on R&D from different sectors of the economy (*e.g.,* businesses, nonprofits, government). However, it does not currently collect as much information about the personnel carrying out R&D activities as some of the other NCSES R&D sector surveys, making it less useful for measurements of the R&D workforce in the United States. NCSES intends to address this shortcoming by collecting data on the number (headcounts) of R&D personnel by function, and the number of full-time equivalents (FTEs) by R&D function. These specific data are not available through other NCSES or federal surveys.

NCSES intends to revise the current question on R&D personnel headcounts and add a question on the number of full-time equivalents for those personnel to the HERD questionnaire. The revised question will collect headcounts on three categories of R&D personnel (researchers, R&D technicians, R&D support staff) by sex and citizenship. Headcounts of researchers will also be collected by highest level of education completed. The previous version of the question collected headcounts for two categories: principal investigators and all other personnel, without demographics. NCSES decided to make the revised personnel headcount question confidential and only publish these data in the aggregate because some institutions expressed reluctance to publish detailed demographics on employees and students. The subsequent new question will collect the full-time equivalents of the R&D personnel accounted for in the revised R&D personnel headcount question.

Use of the New Information: The United States is the only Organisation for Economic Co-operation and Development (OECD) member country that does not report higher education sector FTEs as published in the OECD's Main Science and Technology Indicators report. These new R&D personnel variables will allow NCSES to provide internationally comparable information not available elsewhere to data users interested in science policy, the nature of the science and engineering workforce, and U.S. R&D competitiveness.

Expected respondents: The R&D personnel questions will only appear on the HERD standard form that is administered to approximately 650 institutions reporting at least $1 million in R&D in the previous year. Neither the HERD short form respondents (those reporting at least $150 thousand but less than $1 million), nor the Federally Funded Research and Development Centers (FFRDCs), will receive these questions.

Estimate of burden: Since many institutions will need to create new internal reports to assemble these data and calculate the full-time equivalents, the average burden is estimated to increase by 10 hours (to a total of 64 hours per institution) for the approximately 650 institutions reporting at least $1 million in R&D expenditures. This estimate is based on 32 interviews with 16 respondents conducted over two rounds between April and July 2020.

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

Dated: September 25, 2020.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2020–21808 Filed 10–1–20; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2020–0212]

Performance Review Boards for Senior Executive Service

AGENCY: Nuclear Regulatory Commission.

ACTION: Appointments.

SUMMARY: The Nuclear Regulatory Commission (NRC) has announced appointments to the NRC Performance Review Board (PRB) responsible for making recommendations on performance appraisal ratings and performance awards for NRC Senior Executives and Senior Level System employees and appointments to the NRC PRB Panel responsible for making recommendations to the appointing and awarding authorities for NRC PRB members.

DATES: October 2, 2020.

ADDRESSES: Please refer to Docket ID NRC–2020–0212 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–2020–0212. 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 FURTHER INFORMATION CONTACT: Mary A. Lamary, Secretary, Executive Resources Board, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3300, email: *Mary.Lamary@nrc.gov.*

SUPPLEMENTARY INFORMATION: The following individuals appointed as members of the NRC PRB are responsible for making recommendations to the appointing and awarding authorities on performance appraisal ratings and performance awards for Senior Executives and Senior Level System employees:

Margaret M. Doane, Executive Director for Operations
Marian L. Zobler, General Counsel
Daniel H. Dorman, Deputy Executive Director for Reactor and Preparedness Programs, Office of the Executive Director for Operations
Laura A. Dudes, Regional Administrator, Region-II

Brian E. Holian, Director, Office of Nuclear Security and Incident Response
John W. Lubinski, Director, Office of Nuclear Materials and Safety Safeguards
Nader L. Mamish, Director, Office of International Programs
Jennifer M. Golder, Director, Office of Administration
Ho K. Nieh, Director, Office of Nuclear Reactor Regulation
Darrell J. Roberts, Deputy Executive Director for Materials, Waste, Research, State, Tribal, Compliance, Administration, and Human Capital Programs, Office of the Executive Director for Operations
Cherish K. Johnson, Chief Financial Officer

The following individuals will serve as members of the NRC PRB Panel that was established to review appraisals and make recommendations to the appointing and awarding authorities for NRC PRB members:

Brooke P. Clark, Director, Deputy General Counsel for Hearings and Administration
Raymond V. Furstenau, Director, Office of Nuclear Regulatory Research
David Lew, Regional Administrator, Region-I

All appointments are made pursuant to Section 4314 of Chapter 43 of Title 5 of the United States Code.

Dated: September 29, 2020.
For the Nuclear Regulatory Commission.

Miriam L. Cohen,

Secretary, Executive Resources Board.

[FR Doc. 2020–21795 Filed 10–1–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–247 and 50–286; NRC–2020–0205]

Entergy Nuclear Operations, Inc.; Indian Point Nuclear Generating Unit Nos. 2 and 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued a partial exemption in response to the October 22, 2019, request from Entergy Nuclear Operations, Inc. (Entergy, the licensee). The issuance of the exemption will grant Entergy a partial exemption from regulations that require the retention of records for certain systems, structures, and components associated with Indian Point Nuclear Generating Unit Nos. 2 and 3 (Indian Point 2 and 3) until the termination of the respective Indian Point operating license.

DATES: The exemption was issued on September 28, 2020.

ADDRESSES: Please refer to Docket ID NRC–2020–0205 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–2020–0205. 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 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.* 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.

FOR FURTHER INFORMATION CONTACT: Richard V. Guzman, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1030, email: *Richard.Guzman@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

Dated: September 29, 2020.

For the Nuclear Regulatory Commission.

Richard V. Guzman,

Senior Project Manager, Plant Licensing Branch I, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

Attachment—Exemption

NUCLEAR REGULATORY COMMISSION

Docket Nos. 50–247 and 50–286

Entergy Nuclear Operations, Inc.

Indian Point Nuclear Generating Unit Nos. 2 and 3

Exemption Related to Record Retention Requirements

I. Background

Entergy Nuclear Operations, Inc. (Entergy, the licensee) is the holder of Renewed Facility Operating License Nos. DPR–26 and DPR–64 for Indian Point Nuclear Generating Unit Nos. 2 and 3 (Indian Point 2 and 3, or together, Indian Point). The licenses provide, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect. The Indian Point 2 and 3 facility consists of two pressurized-water reactors located in Buchanan, New York.

By letter dated February 8, 2017 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML17044A004), Entergy submitted a Notification of Permanent Cessation of Power Operations for Indian Point 2 and 3. In the letter, Entergy provided notification to the NRC of its intent to permanently cease power operations at Indian Point 2 no later than April 30, 2020, and at Indian Point 3 no later than April 30, 2021, subject to operating extensions through, but not beyond, 2024 and 2025, respectively.

By letter dated May 12, 2020 (ADAMS Accession No. ML20133J902), Entergy certified that power operations ceased at Indian Point 2 on April 30, 2020, and that the fuel was permanently removed from the Indian Point 2 reactor vessel and placed in the Indian Point 2 spent fuel pool (SFP) on May 12, 2020. Entergy further acknowledged that the Indian Point 2 Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50 license no longer authorizes operation of the reactor or emplacement or retention of fuel into the reactor vessel. However, the licensee is still authorized to possess and store irradiated nuclear fuel for Indian Point. Irradiated fuel is currently being stored onsite in a spent fuel pool (SFP) and in independent spent fuel storage installation (ISFSI) dry casks. The irradiated fuel will be stored in the ISFSI until it is shipped off site. With the reactor emptied of fuel, the reactor, reactor coolant system, and secondary system is no longer in operation and has no function related to the safe storage and management of irradiated fuel. Once Entergy certifies that it has permanently defueled the Indian Point 3 reactor vessel and placed the fuel in the SFP, pursuant to 10 CFR 50.82(a)(2), the Indian Point 3 renewed facility operating license will no longer authorize operation of the reactor or emplacement or retention of fuel in the reactor vessel.

II. Request/Action

By letter dated October 22, 2019 (ADAMS Accession No. ML19295F894), Entergy submitted a partial exemption request for NRC approval from the record retention requirements of (1) 10 CFR part 50, Appendix B, Criterion XVII, ''Quality Assurance Records,'' which requires certain records (*e.g.,*

results of inspections, tests, and materials analyses) be maintained consistent with applicable regulatory requirements; (2) 10 CFR 50.59(d)(3), which requires that records of changes in the facility must be maintained until termination of a license issued pursuant to 10 CFR part 50; and (3) 10 CFR 50.71(c), which requires certain records to be retained for the period specified by the appropriate regulation, license condition, or technical specification, or until termination of the license if not otherwise specified.

The licensee requested the partial exemptions because it wants to eliminate: (1) Records associated with structures, systems, and components (SSCs) and activities that were applicable to the nuclear unit, which are no longer required by the 10 CFR part 50 licensing basis (*i.e.,* removed from the Updated Final Safety Analysis Report (UFSAR) and/or technical specifications by appropriate change mechanisms); and (2) records associated with the storage of spent nuclear fuel in the SFP once all fuel has been removed from the SFP and the Indian Point license no longer allows storage of fuel in the SFP. The licensee cites record retention partial exemptions granted to Millstone Power Station, Unit 1 (ADAMS Accession No. ML070110567); Zion Nuclear Power Station, Units 1 and 2 (ADAMS Accession No. ML111260277); Vermont Yankee Nuclear Power Station (ADAMS Accession No. ML15344A243); San Onofre Nuclear Generating Station, Units 1, 2, and 3 (ADAMS Accession No. ML15355A055); Kewaunee Power Station (ADAMS Accession No. ML17069A394); Oyster Creek Nuclear Generating Station (ADAMS Accession No. ML18122A306); and Pilgrim Nuclear Power Station (ADAMS Accession No. ML19087A152), as examples of the NRC granting similar requests.

Records associated with residual radiological activity and with programmatic controls necessary to support decommissioning, such as security and quality assurance, are not affected by the partial exemption request because they will be retained as decommissioning records, as required by 10 CFR part 50, until the termination of the Indian Point license. In addition, the licensee did not request an exemption associated with any other recordkeeping requirements for the storage of spent fuel at its ISFSI under 10 CFR part 50 or the general license requirements of 10 CFR part 72. No exemption was requested from the decommissioning records retention requirements of 10 CFR 50.75 or any other requirements of 10 CFR part 50 applicable to decommissioning and dismantlement.

III. Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security. However, the Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are described in 10 CFR 50.12(a)(2).

Many of the Indian Point reactor facility SSCs are planned to be abandoned in place pending dismantlement. Abandoned SSCs are no longer operable or maintained. Following permanent removal of fuel from the SFP, those SSCs required to support safe storage of spent fuel in the SFP will also be abandoned. In its October 22, 2019, partial exemption request, the licensee stated that the basis for eliminating records associated with reactor facility SSCs and activities is that these SSCs have been (or will be) removed from service per regulatory change processes, will be dismantled or demolished, and will no longer have any function regulated by the NRC.

The licensee recognizes that some records related to the nuclear unit will continue to be under NRC regulation, primarily due to residual radioactivity. The radiological and other necessary programmatic controls (such as security, quality assurance, etc.) for the facility and the implementation of controls for the defueled condition and the decommissioning activities are and will continue to be appropriately addressed through the license and current plant documents, such as the UFSAR and technical specifications. Except for future changes made through the applicable change process defined in the regulations (*e.g.,* 10 CFR 50.48(f), 10 CFR 50.59, 10 CFR 50.90, 10 CFR 50.54(a), 10 CFR 50.54(p), 10 CFR 50.54(q), etc.), these programmatic elements and their associated records are unaffected by the requested partial exemption.

Records necessary for SFP SSCs and activities will continue to be retained through the period that the SFP is needed for safe storage of irradiated fuel. Analogous to other plant records, once the SFP is permanently emptied of fuel, there will be no need to retain SFP-related records.

Entergy's general justification for eliminating records associated with Indian Point SSCs that have been or will be removed from service under the NRC license, dismantled, or demolished is that these SSCs will not in the future serve any Indian Point functions regulated by the NRC. The decommissioning plans for Indian Point are described in the Post-Shutdown Decommissioning Activities Report dated December 19, 2019 (ADAMS Accession No. ML19354A698) and are contingent on the consummation of the pending license transfer (ADAMS Accession No. ML19326B953). The proposed decommissioning process involves evaluating SSCs with respect to the current facility safety analysis; progressively removing them from the licensing basis where necessary through appropriate change mechanisms (*e.g.,* 10 CFR 50.59 or by NRC-approved technical specification changes, as applicable); revising the defueled safety analysis report and/or UFSAR as necessary; and then proceeding with an orderly dismantlement.

Entergy intends to retain the records required by its license as the facility's decommissioning transitions. However, equipment abandonment will obviate the regulatory and business needs for maintenance of most records. As the SSCs are removed from the licensing basis, Entergy asserts that the need for its records is, on a practical basis, eliminated. Therefore, Entergy is requesting partial exemptions from the associated records retention requirements for SSCs and historical activities that are no longer relevant. Entergy is not requesting exemptions from any recordkeeping requirements for storage of spent fuel at an ISFSI under 10 CFR part 50 or the general license requirements of 10 CFR part 72.

A. Authorized by Law

As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from 10 CFR part 50 requirements if it makes certain findings. As described in this section and in the sections below, the NRC staff has determined that special circumstances exist to grant the partial exemptions. In addition, granting the licensee's proposed partial exemptions will not result in a violation of the Atomic Energy Act of 1954, as amended; other laws, or the Commission's regulations. Therefore, the granting of the partial exemption request from the recordkeeping requirements of 10 CFR 50.71(c); 10 CFR part 50, Appendix B, Criterion XVII; and 10 CFR 50.59(d)(3) is authorized by law.

B. No Undue Risk to Public Health and Safety

As SSCs are prepared for safe storage operation activities and eventual decommissioning and dismantlement, they will be removed from NRC licensing basis documents through appropriate change mechanisms, such as through the 10 CFR 50.59 process or through a license amendment request approved by the NRC. These change processes involve either a determination by the licensee or an approval from the NRC that the affected SSCs no longer serve any safety purpose regulated by the NRC. Therefore, the removal of the SSCs would not present an undue risk to the public health and safety. In turn, elimination of records associated with these removed SSCs would not cause any additional impact to public health and safety.

The granting of the partial exemption request from the recordkeeping requirements of 10 CFR 50.71(c); 10 CFR part 50, Appendix B, Criterion XVII; and 10 CFR 50.59(d)(3) for the records described is administrative in nature and will have no impact on any remaining decommissioning activities or on radiological effluents. The granting of the partial exemption request will only advance the schedule for disposition of the specified records. Because these records contain information about SSCs associated with reactor operation and contain no information needed to maintain the facility in a safe condition when the facility is permanently defueled and the SSCs are dismantled, the elimination of these records on an advanced timetable will have no reasonable possibility of presenting any undue risk to the public health and safety.

C. Consistent With the Common Defense and Security

The elimination of the recordkeeping requirements does not involve information or activities that could potentially impact the common defense and security of the United States. Upon dismantlement of the affected SSCs, the records have no functional purpose relative to maintaining the safe operation of the SSCs, maintaining conditions that would affect the ongoing health and safety of workers or the public, or informing decisions related to nuclear security.

Rather, the partial exemptions requested are administrative in nature and would only advance the current schedule for disposition of the specified records. Therefore, the partial exemption request from the recordkeeping requirements of 10 CFR 50.71(c); 10 CFR part 50, Appendix B, Criterion XVII; and 10 CFR 50.59(d)(3) for the types of records described is consistent with the common defense and security.

D. Special Circumstances

Paragraph 50.12(a)(2) of 10 CFR states, in part:

> The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present whenever— . . . (ii) Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule; or (iii) Compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted. . . .

Criterion XVII of Appendix B to 10 CFR part 50, states, in part: ''Sufficient records shall be maintained to furnish evidence of activities affecting quality.''

Paragraph 50.59(d)(3) of 10 CFR states, in part: ''The records of changes in the facility must be maintained until the termination of an operating license issued under this part. . . .''

Paragraph 50.71(c) of 10 CFR states, in part:

> Records that are required by the regulations in this part or part 52 of this chapter, by license condition, or by technical specifications must be retained for the period specified by the appropriate regulation, license condition, or technical specification. If a retention period is not otherwise specified, these records must be retained until the Commission terminates the facility license. . . .

In the Statement of Considerations for the final rulemaking, ''Retention Periods for Records'' (53 FR 19240; May 27, 1988), in response to public comments received during the rulemaking process, the NRC stated that records must be retained ''for NRC to ensure compliance with the safety and health aspects of the nuclear environment and for the NRC to accomplish its mission to protect the public health and safety.'' In the Statement of Considerations, the Commission also explained that requiring licensees to maintain adequate records assists the NRC ''in judging compliance and noncompliance, to act on possible noncompliance, and to examine facts as necessary following any incident.''

These regulations apply to licensees in decommissioning. During the decommissioning process, safety-related SSCs are retired or disabled and subsequently removed from NRC licensing basis documents by appropriate change mechanisms. Appropriate removal of an SSC from the licensing basis requires either a determination by the licensee or an approval from the NRC that the SSC no longer has the potential to cause an accident, event, or other problem that would adversely impact public health and safety.

The records subject to removal under this partial exemption request are associated with SSCs that had been important to safety during power operation or operation of the SFP, but are no longer capable of causing an event, incident, or condition that would adversely impact public health and safety, as evidenced by their appropriate removal from the licensing basis documents. If the SSCs no longer have the potential to cause these scenarios, then it is reasonable to conclude that the records associated with these SSCs would not reasonably be necessary to assist the NRC in determining compliance and noncompliance, taking action on possible noncompliance, and examining facts following an incident. Therefore, their retention would not serve the underlying purpose of the rule.

In addition, once removed from the licensing basis documents (*e.g.,* UFSARs or technical specifications), SSCs are no longer governed by the NRC's regulations, and therefore, are not subject to compliance with the safety and health aspects of the nuclear environment. As such, retention of records associated with SSCs that are or will no be longer part of the facility serve no safety or regulatory purpose, nor do they serve the underlying purpose of the rule of maintaining compliance with the safety and health aspects of the nuclear environment in order to accomplish the NRC's mission. Accordingly, special circumstances are present which the NRC may consider, pursuant to 10 CFR 50.12(a)(2)(ii), to grant the requested partial exemptions.

Records that continue to serve the underlying purpose of the rule—that is, to maintain compliance and to protect public health and safety in support of the NRC's mission—will continue to be retained pursuant to the regulations in 10 CFR part 50 and 10 CFR part 72. Retained records that are not subject to the proposed partial exemption include those associated with programmatic controls, such as those pertaining to residual radioactivity, security, and quality assurance, as well as records associated with the ISFSI and spent fuel assemblies.

The retention of records required by 10 CFR 50.71(c); 10 CFR part 50, Appendix B, Criterion XVII; and 10 CFR 50.59(d)(3) provides assurance that records associated with SSCs will be

captured, indexed, and stored in an environmentally suitable and retrievable condition. Given the volume of records associated with the SSCs, compliance with the records retention rule results in a considerable cost to the licensee. Retention of the volume of records associated with the SSCs during the operational phase is appropriate to serve the underlying purpose of determining compliance and noncompliance, taking action on possible noncompliance and examining facts following an incident, as discussed.

However, the cost effect of retaining operational phase records beyond the operations phase until the termination of the license was not fully considered or understood when the records retention rule was put in place. For example, existing records storage facilities are eliminated as decommissioning progresses. Retaining records associated with SSCs and activities that no longer serve a safety or regulatory purpose would, therefore, result in an unnecessary financial and administrative burden. As such, compliance with the rule would result in an undue cost in excess of that contemplated when the rule was adopted. Accordingly, special circumstances are present, which the NRC may consider, pursuant to 10 CFR 50.12(a)(2)(iii), to grant the partial exemption request.

E. Environmental Considerations

Pursuant to 10 CFR 51.22(b) and (c)(25), the granting of an exemption from the requirements of any regulation in Chapter I of 10 CFR meets the eligibility criteria for categorical exclusion provided that (1) there is no significant hazards consideration, (2) there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite, (3) there is no significant increase in individual or cumulative public or occupational radiation exposure, (4) there is no significant construction impact, (5) there is no significant increase in the potential for or consequences from radiological accidents, and (6) the requirements from which an exemption is sought are among those identified in 10 CFR 51.22(c)(25)(vi).

The partial exemption request is administrative in nature. The partial exemption request has no effect on SSCs and no effect on the capability of any plant SSC to perform its design function. The partial exemption request would not increase the likelihood of the malfunction of any plant SSC. The probability of occurrence of previously evaluated accidents is not increased, since most previously analyzed accidents will no longer be able to occur, and the probability and consequences of the remaining fuel handling accident are unaffected by the partial exemption request. Therefore, the partial exemption request does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The partial exemption request does not involve a physical alteration of the plant. No new or different type of equipment will be installed, and there are no physical modifications to existing equipment associated with the partial exemption request. Similarly, the partial exemption request will not physically change any SSCs involved in the mitigation of any accidents. Thus, no new initiators or precursors of a new or different kind of accident are created. Furthermore, the partial exemption request does not create the possibility of a new accident as a result of new failure modes associated with any equipment or personnel failures. No changes are being made to parameters within which the plant is normally operated or in the setpoints that initiate protective or mitigative actions, and no new failure modes are being introduced. Therefore, the partial exemption request does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The partial exemption request does not alter the design basis or any safety limits for the plant. The partial exemption request does not impact station operation or any plant SSC that is relied upon for accident mitigation. Therefore, the partial exemption request does not involve a significant reduction in a margin of safety.

For these reasons, the NRC staff has determined that approval of the partial exemption request involves no significant hazards consideration because granting the licensee's partial exemption request from the recordkeeping requirements of 10 CFR 50.71(c); 10 CFR part 50, Appendix B, Criterion XVII; and 10 CFR 50.59(d)(3) at the decommissioning Indian Point does not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (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 (10 CFR 50.92(c)). Likewise, there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite and no significant increase in individual or cumulative public or occupational radiation exposure.

The exempted regulations are not associated with construction, so there is no significant construction impact. The exempted regulations do not concern the source term (*i.e.,* potential amount of radiation involved in an accident) or accident mitigation; therefore, there is no significant increase in the potential for, or consequences from, radiological accidents. Allowing the licensee partial exemption from the record retention requirements for which the exemption is sought involves recordkeeping requirements, as well as reporting requirements of an administrative, managerial, or organizational nature.

Therefore, pursuant to 10 CFR 51.22(b) and 10 CFR 51.22(c)(25)(vi)(A), no environmental impact statement or environmental assessment need be prepared in connection with the approval of this partial exemption request.

IV. Conclusions

The NRC staff has determined that the granting of the partial exemption request from the recordkeeping requirements of 10 CFR 50.71(c); 10 CFR part 50, Appendix B, Criterion XVII; and 10 CFR 50.59(d)(3) will not present an undue risk to the public health and safety. The destruction of the identified records will not impact remaining decommissioning activities; plant operations, configuration, and/or radiological effluents; operational and/or installed SSCs that are quality-related or important to safety; or nuclear security. The NRC staff determined that the destruction of the identified records is administrative in nature and does not involve information or activities that could potentially impact the common defense and security of the United States.

The purpose for the recordkeeping regulations is to assist the NRC in carrying out its mission to protect the public health and safety by ensuring that the licensing and design basis of the facility is understood, documented, preserved, and retrievable in such a way that will aid the NRC in determining compliance and noncompliance, taking action on possible noncompliance, and examining facts following an incident. Since the Indian Point SSCs that were safety-related or important to safety have been or will be removed from the licensing basis and removed from the plant, the NRC staff has determined that the records identified in the partial exemption request will no longer be required to achieve the underlying purpose of the records retention rule.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the partial exemptions are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants Entergy a partial exemption from the recordkeeping requirements of 10 CFR 50.71(c); 10 CFR part 50, Appendix B, Criterion XVII; and 10 CFR 50.59(d)(3) for Indian Point, only to the extent necessary to allow the licensee to advance the schedule to remove records associated with SSCs that have been or will be removed from NRC licensing basis documents by appropriate change mechanisms (*e.g.,* 10 CFR 50.59 or by an NRC-approved license amendment request, as applicable).

This partial exemption is effective for Indian Point 2 as of the date of its issuance; however, the actions permitted by the exemption for Indian Point 3 may not be implemented until the docketing of the licensee's certification of permanent cessation of operations and permanent removal of fuel from the Indian Point 3 reactor vessel pursuant to 10 CFR 50.82(a)(1).

Dated: September 28, 2020.

For the Nuclear Regulatory Commission.

Craig G. Erlanger,

Director, Division of Operating Reactor Licensing.

[FR Doc. 2020–21858 Filed 10–1–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–020; NRC–2020–0182]

Framatome Inc.; Application for Standard Design Certification of the U.S. EPR

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in response to a June 30, 2020, letter from Framatome Inc. (Framatome), which requested an exemption from regulatory requirements regarding the annual reports required by regulations (hereafter ''required report'') for the U.S. EPR standard design certification application for the years 2020–2024. The regulation for which exemption is sought covers emergency core cooling systems (ECCS) for light-water nuclear power reactors. Framatome committed to submit the required report before any request to reactivate the U.S. EPR review. Framatome further committed to providing an update to the required report, or taking other appropriate action, as necessary, no later than December 31, 2024. Staff review of the U.S. EPR standard design certification application was suspended in April 2015 at the request of the applicant. The NRC staff reviewed this request and determined that it is appropriate to grant the exemption in accordance with the regulations as the request does not present an undue risk to public health or safety and is consistent with the common defense and security; furthermore, special circumstances exist.

DATES: The exemption is effective on September 29, 2020.

ADDRESSES: Please refer to Docket ID NRC–2020–0182 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–2020–0182. 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 FURTHER INFORMATION CONTACT: George Wunder, Senior Project Manager, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1494; email: *George.Wunder@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

Dated: September 29, 2020.

For the Nuclear Regulatory Commission.

Anna H. Bradford,

Director, Division of New and Renewed Licenses, Office of Nuclear Reactor Regulation.

Attachment—Exemption.

NUCLEAR REGULATORY COMMISSION

Docket No. 52–020

Framatome Inc.

Application for Standard Design Certification of the U.S. EPR

I. Background

By letter dated December 11, 2007, Areva NP Inc. (Areva) (now Framatome Inc.(Framatome)) submitted to the NRC an application for standard design certification of the U.S. EPR (ADAMS Accession No. ML073520305). Following an acceptance review, the NRC docketed the application (Docket No. 52–020) in a letter dated February 25, 2008 (ADAMS Accession No. ML080380357). By letter dated July 17, 2014 (ADAMS Accession No. ML14209A053), Areva submitted Revision 7 to the standard design certification application. By letter dated February 25, 2015 (ADAMS Accession No. ML15061A130), Areva requested that the NRC suspend review of the U.S. EPR standard design certification application. By letter dated June 30, 2020 (ADAMS Accession No. ML20188A219), Framatome requested an exemption from the annual reporting requirements of 10 CFR 50.46(a)(3)(iii) stating in part that ''. . . given that the NRC's review of the U.S. EPR DCA [design certification application] has been suspended and remains suspended, Framatome requests an exemption from the requirement to submit annual reports required by 10 CFR 50.46(a)(3)(iii) for the next five years (2020–2024).''

II. Request/Action

Section 50.46(a)(1)(i) in part provides requirements for models used in calculations regarding ECCS performance following postulated loss of coolant accidents. Section 50.46(a)(3)(iii) requires that an applicant for a standard design certification report any change or error found in such ECCS performance models, including the nature of the change or error and its estimated effect on the limiting ECCS analysis, at least annually.

In a letter dated June 30, 2020 (ADAMS Accession No. ML20188A219), Framatome requested an exemption from the reporting requirements of 10 CFR 50.46(a)(3)(iii) for the years 2020–2024. Framatome has committed to submit the required report before requesting to reactivate the U.S. EPR review. They have committed to updating the required report, or taking other appropriate action, no later than December 31, 2024.

III. Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50, including 10 CFR 50.46(a)(3)(iii), when: (1) The exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) special circumstances are present. As relevant to the requested exemption, special circumstances exist if (1) application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule (10 CFR 50.12(a)(2)(ii)), or (2) compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated (10 CFR 50.12(a)(2)(iii)).

The purpose of 10 CFR 50.46(a)(3)(iii) is to provide timely reporting to the NRC regarding the nature and estimated effect of any change or error in the limiting ECCS analysis. Because the NRC suspended its review of the U.S. EPR standard design certification application at the applicant's request, any submittal by Framatome under the requirements of 10 CFR 50.46 would not be reviewed by the staff until such time as the design certification review is reactivated. The preparation of a 10 CFR 50.46 report requires expenditure of resources by, and cost to, the applicant. Framatome has committed to providing a 10 CFR 50.46 report before any request to reactivate the review of the design certification application. Framatome is seeking the exemption for the years 2020–2024. Framatome has committed to updating the 10 CFR 50.46 report or taking other appropriate action, as necessary, no later than December 31, 2024.

No Undue Risk to Public Health and Safety

The purpose of 10 CFR 50.46(a)(3)(iii) is to provide for timely notification of the nature and estimated effect of any errors or changes in the limiting ECCS analysis. Because the review of the U.S. EPR standard design certification application has been suspended at the applicant's request, any report submitted under 10 CFR 50.46 would not be reviewed by the staff until such time as the review of the design certification is reactivated. The requested exemption is administrative and deals only with the schedule for reports which would not be reviewed. Because the exemption applies only to an application, not to a licensed entity, this exemption has no safety implications and introduces nothing that could adversely impact public health. Under the proposed exemption, any further review of the U.S. EPR standard design certification application will not resume until Framatome submits the required report. The request for an exemption has no bearing on public health and safety and, therefore, poses no undue risk to public health and safety. Design certification cannot occur until the NRC's review of the application is completed and a final safety evaluation report is issued. Additionally, based on the nature of the requested exemption as described above, no new accident precursors are created by the exemption; therefore, neither the probability nor the consequences of postulated accidents are increased and there is no undue risk to public health and safety.

Consistent With Common Defense and Security

The requested exemption would relieve Framatome of the requirement to submit annual reports required by 10 CFR 50.46(a)(3)(iii) for the years 2020–2024. The applicant has committed to submit a 10 CFR 50.46 report before submitting any request for the NRC to resume reviewing the U.S. EPR design certification application and to update the required report, or take other appropriate action, no later than December 31, 2024. This schedule change has no relation to security issues; therefore, the common defense and security is not impacted.

Special Circumstances

Special circumstances, in accordance with 10 CFR 50.12(a)(2), are present under the circumstances relevant to the requested exemption. Specifically, special circumstances are present if application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule (10 CFR 50.12(a)(2)(ii)) or if compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated (10 CFR 50.12(a)(2(iii)).

The underlying purpose of 10 CFR 50.46(a)(3)(iii) is to ensure that the NRC receives timely notification of the nature and estimated effect of errors or changes in the limiting ECCS analysis. A thorough understanding of ECCS performance is critical to the staff's review; however, since review of the U.S. EPR standard design certification application has been suspended at the applicant's request, any report filed under 10 CFR 50.46 would not be reviewed until such time as the design certification review is reactivated. Framatome has committed to submit the required report before requesting that the NRC reactivate its review of the design certification. Submitting a report under 50.46(a)(3)(iii) before the resumption of any review of the design certification is sufficient to meet the underlying intent of the regulation. Submitting annual reports for the years 2020–2024 while the review is suspended is not necessary to meet the underlying intent of the regulation.

The preparation of reports required by 10 CFR 50.46(a)(3)(iii) is time consuming and requires resources to review and document the condition reports for any change to or error in an acceptable evaluation model or in the application of such a model. It is likely that suspension of a standard design certification review was not anticipated when the requirements for reporting were made. As such, requiring Framatome to submit annual 10 CFR 50.46 reports that would not be reviewed would be to subject them to an undue hardship that is significantly in excess of those contemplated when the regulation was adopted.

For the above stated reasons, special circumstances are present under 10 CFR 50.12(a)(2)(ii) and 10 CFR 50.12(2)(iii).

Eligibility for Categorical Exclusion from Environmental Review

With respect to the exemption's impact on the quality of the human environment, the NRC has determined that this specific exemption request is eligible for categorical exclusion as identified in 10 CFR 51.22(c)(25) provided that:

(i) There is no significant hazards consideration;

The criteria for determining whether there is no significant hazards consideration are found in 10 CFR 50.92. The proposed action involves only a schedule change regarding the submission of a report on errors or changes in the ECCS analysis for a standard design certification application review which is currently suspended. Therefore, there is no significant hazards consideration because granting the proposed exemption 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.

(ii) There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite;

The proposed action involves only a schedule change, which is administrative in nature and does not involve any changes to be made in the types or significant increase in the amounts of effluents that may be released offsite.

(iii) There is no significant increase in individual or cumulative public or occupational radiation exposure;

Since the proposed action involves only a schedule change, which is administrative in nature, it does not contribute to any significant increase in occupational or public radiation exposure.

(iv) There is no significant construction impact;

The proposed action involves only a schedule change which is administrative in nature; the application is for a standard design certification the review of which is suspended until further notice. No application for construction or operation has been filed. Accordingly, the proposed action does not involve any construction impact.

(v) There is no significant increase in the potential for or consequences from radiological accidents;

The proposed action involves only a schedule change which is administrative in nature and does not impact the probability or consequences of accidents.

(vi) The requirements from which an exemption is sought involve:

(1) Reporting requirements;

The exemption request involves submitting a report required by 10 CFR 50.46(a)(3)(iii); and

(2) Scheduling requirements;

The proposed exemption relieves that applicant from submitting the required reports for the years 2020–2024.

IV. Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants Framatome a one-time exemption from the reporting requirements of 10 CFR 50.46(a)(3)(iii) until December 31, 2024. This exemption provides that Framatome shall submit a report under 10 CFR 50.46(a)(3)(iii) before making any request that the NRC resume its review of the U.S. EPR standard design certification application and that Framatome shall update that report or take other appropriate action no later than December 31, 2024.

Pursuant to 10 CFR 51.22, the Commission has determined that the exemption request meets the applicable categorical exclusion criteria set forth in 10 CFR 51.22(c)(25), and the granting of this exemption will not have a significant effect on the quality of the human environment.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 29th day of September 2020.

For The Nuclear Regulatory Commission,

Anna H. Bradford,

Director, Division of New and Renewed Licenses, Office of Nuclear Reactor Regulation.

[FR Doc. 2020–21811 Filed 10–1–20; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2020–257 and CP2020–287; MC2020–258 and CP2020–288]

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:* October 6, 2020.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory 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).:* MC2020–257 and CP2020–287; *Filing Title:* USPS Request to Add Priority Mail Contract 665 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 28, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:*

[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).

Christopher C. Mohr; *Comments Due:* October 6, 2020.

2. *Docket No(s).:* MC2020–258 and CP2020–288; *Filing Title:* USPS Request to Add Priority Mail Express & Priority Mail Contract 119 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 28, 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:* October 6, 2020.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2020–21801 Filed 10–1–20; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90022; File No. SR–MEMX–2020–09]

Self-Regulatory Organizations; MEMX, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Current Pilot Program Related to MEMX Rule 11.15, Clearly Erroneous Executions

September 28, 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 17, 2020, MEMX LLC (''MEMX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The 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 [sic] to extend the current pilot program related to MEMX Rule 11.15, ''Clearly Erroneous Executions,'' to the close of business on April 20, 2021. 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 extend the effectiveness of the Exchange's current rule applicable to Clearly Erroneous Executions to the close of business on April 20, 2021. Portions of Rule 11.15, explained in further detail below, are currently operating as a pilot program which expired on April 20, 2020.[5]

On May 4, 2020, the Commission approved MEMX's Form 1 Application to register as a national securities exchange with rules including, on a pilot basis, MEMX Rule 11.15.[6] Rule 11.15, among other things (i) provides for uniform treatment of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (ii) reduces the ability of the Exchange to deviate from objective standards set forth in the rule. The rule further provides that: (i) A series of transactions in a particular security on one or more trading days may be viewed as one event if all such transactions were effected based on the same fundamentally incorrect or grossly misinterpreted issuance information resulting in a severe valuation error for all such transactions; and (ii) in the event of any disruption or malfunction in the operation of the electronic communications and trading facilities of the Exchange, another SRO, or responsible single plan processor in connection with the transmittal or receipt of a trading halt, an Officer of the Exchange or senior level employee designee, acting on his or her own motion, shall nullify any transaction that occurs after a trading halt has been declared by the primary listing market for a security, and before such a trading halt has officially ended according to the primary listing market.[7]

Previously, the pilot program and the current Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the ''Limit Up-Limit Down Plan'' or the ''LULD Plan'') were a single pilot program. On December 26, 2018, the Commission published the proposed Eighteenth Amendment to the LULD Plan to allow the LULD Plan to operate on a permanent, rather than pilot, basis.[8] On April 17, 2019, the Commission published an approval of the Eighteenth Amendment.[9] Accordingly, national securities exchanges filed with the Commission amendments to exchange rules to untie the pilot program's effectiveness from that of the LULD Plan in order to provide such exchanges additional time to consider further amendments, if any, to the clearly erroneous execution rules in light of the proposed Eighteenth Amendment to the LULD Plan.[10]

On July 6, 2020, MEMX executed and filed with the Commission an amended copy of the LULD Plan.[11] An amended and executed copy of the LULD Plan, with MEMX included as a Party, was provided to each then current Party to the Plan, in accordance with the requirements for the addition of a new member to the LULD Plan. Accordingly, MEMX is now a Participant pursuant to the LULD Plan.[12]

The Exchange now proposes to amend MEMX Rule 11.15 to extend the pilot's effectiveness to the close of business on April 20, 2021. MEMX understands that the other national securities exchanges and the Financial Industry Regulatory Authority (''FINRA'') also intend to file similar proposals to extend their respective clearly erroneous execution pilot programs, the substance of which are identical to MEMX Rule 11.15.

The Exchange does not propose any additional changes to MEMX Rule 11.15. By proposing to extent the pilot, the Exchange will avoid any discrepancy between its clearly erroneous pilot program and the pilot programs of other exchanges and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4.

[5] *See* MEMX Rule 11.15.

[6] *See* Securities Exchange Release No. 88806 (May 4, 2020), 85 FR 27451 (May 8, 2020).

[7] *See* MEMX Rule 11.15.

[8] *See* Securities Exchange Release Act No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (the ''Limit Up-Limit Down Release'').

[9] *See* Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019) (File No. 4–631).

[10] *See, e.g.,* Securities Exchange Act Release No. 85542 (April 8, 2019), 84 FR 15009 (April 12, 2019) (SR–CboeBYX–2019–003).

[11] *See* Securities Exchange Act Release No. 89420 (July 29, 2020), 85 FR 46762 (August 3, 2020).

[12] *See id.*

FINRA, as the language of such rules are identical to MEMX Rule 11.15 and, as noted above, other exchanges and FINRA also intend to file proposals to extend their respective clearly erroneous execution pilot programs. The Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a limited pilot basis. As the LULD Plan was approved by the Commission to operate on a permanent, rather than pilot, basis the Exchange intends to assess whether additional changes should also be made to the operation of the clearly erroneous execution rules. Extending the effectiveness of MEMX Rule 11.15 on a limited basis should provide the Exchange and other national securities exchanges additional time to consider future amendments, if any, to the clearly erroneous execution rules.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[13] in general, and furthers the objectives of Section 6(b)(5) of the Act,[14] 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed extension to the pilot rule addressing clearly erroneous extensions would help assure that the determination of whether a clearly erroneous trade has occurred will be based on clear and objective criteria, and that the resolution of the incident will occur promptly through a transparent process. The proposed extension would also help assure consistent results in handling erroneous trades across the U.S. equities markets, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the clearly erroneous executions rule should continue to be in effect on a pilot basis while the Exchange and the other national securities exchanges consider and develop a permanent proposal for clearly erroneous executions reviews.

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 understands that FINRA and other national securities exchanges will also file similar proposals to extend their respective clearly erroneous execution pilot programs. Thus, the proposed extension will help to ensure consistency across market centers without implicating any competitive issues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (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 [15] and Rule 19b-4(f)(6) thereunder.[16]

A proposed rule change filed under Rule 19b-4(f)(6) [17] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii) [18] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the proposed rule change to become operative prior to the launch of the Exchange's operation as a national securities exchange and permit the current clearly erroneous execution pilot program to continue uninterrupted, without any changes, while the Exchange and the other national securities exchanges consider a permanent proposal for clearly erroneous execution reviews. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[19]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MEMX–2020–09 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–2020–09.* 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/*

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 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.

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 240.19b–4(f)(6)(iii).

[19] 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).

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–2020–09* and should be submitted on or before October 23, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–21768 Filed 10–1–20; 8:45 am]

BILLING CODE 8011–01–P

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90034; File No. SR–NSCC–2020–804]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Amendment No. 2 and Notice of No Objection to Advance Notice, as Modified by Amendment Nos. 1 and 2, To Introduce the Margin Liquidity Adjustment Charge and Include a Bid-Ask Risk Charge in the VaR Charge

September 28, 2020.

On July 30, 2020, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') advance notice SR–NSCC–2020–804 pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled Payment, Clearing and Settlement Supervision Act of 2010 (''Clearing Supervision Act''),[1] and Rule 19b–4(n)(1)(i)[2] under the Securities Exchange Act of 1934 (''Exchange Act'')[3] to add two new charges to NSCC's margin methodology. On August 13, 2020, NSCC filed Amendment No. 1 to the advance notice, to make clarifications and corrections to the advance notice.[4] The advance notice, as modified by Amendment No. 1, was published for public comment in the **Federal Register** on September 4, 2020,[5] and the Commission has received no comments regarding the changes proposed in the advance notice as modified by Amendment No. 1. On September 10, 2020, the Commission received one comment letter on NSCC's related Proposed Rule Change.[6] To the extent that the comment letter on the Proposed Rule Change is relevant to the Advance Notice, it is discussed below.[7] On August 27, 2020, NSCC filed Amendment No. 2 to the advance notice to provide additional data for the Commission to consider in analyzing the advance notice.[8] The advance notice, as modified by Amendment Nos. 1 and 2, is hereinafter referred to as the ''Advance Notice.'' The Commission is publishing this notice to solicit comments on Amendment No. 2 from interested persons and, for the reasons discussed below, is hereby providing notice of no objection to the Advance Notice.

I. The Advance Notice

First, the proposals in the Advance Notice would revise NSCC's Rules and Procedures (''Rules'')[9] to introduce the Margin Liquidity Adjustment Charge (''MLA Charge'') as an additional margin component. Second, the proposals in the Advance Notice would revise the Rules to add a bid-ask spread risk charge (''Bid-Ask Spread Charge'') to NSCC's margin calculations.

A. Background

NSCC provides central counterparty (''CCP'') services, including clearing, settlement, risk management, and a guarantee of completion for virtually all broker-to-broker trades involving equity securities, corporate and municipal debt securities, and certain other securities. In its role as a CCP, a key tool that NSCC uses to manage its credit exposure to its members by determining and collecting an appropriate Required Fund Deposit (*i.e.,* margin) for each member.[10] The aggregate of all members' Required Fund Deposits (together with certain other deposits required under the Rules) constitutes NSCC's Clearing Fund, which NSCC would access should a defaulted member's own Required Fund Deposit be insufficient to satisfy losses to NSCC caused by the liquidation of that member's portfolio.[11]

Each member's Required Fund Deposit consists of a number of applicable components, which are calculated to address specific risks that the member's portfolio presents to NSCC.[12] Generally, the largest component of a member's Required Fund Deposit is the volatility charge, which is intended to capture the risks related to the movement of market prices associated with the securities in a member's portfolio.[13] NSCC's methodology for calculating the

[1] 12 U.S.C. 5465(e)(1).

[2] 17 CFR 240.19b–4(n)(1)(i).

[3] 15 U.S.C. 78a *et seq.*

[4] Amendment No. 1 made clarifications and corrections to the description of the advance notice and Exhibits 3 and 5 of the filing.

[5] Securities Exchange Act Release No. 89719 (September 1, 2020), 85 FR 55332 (September 4, 2020) (File No. SR–NSCC–2020–804) (''Notice of Filing''). On July 30, 2020, NSCC also filed a related proposed rule change (SR–NSCC–2020–016) with the Commission pursuant to Section 19(b)(1) of the Exchange Act and Rule 19b–4 thereunder. On August 13, 2020, NSCC filed Amendment No. 1 to the proposed rule change to make similar clarifications and corrections to the proposed rule change. *See* 15 U.S.C. 78s(b)(1) and 17 CFR 240.19b–4 respectively. The proposed rule change, as amended by Amendment No. 1, was published in the **Federal Register** on August 20, 2020. Securities Exchange Act Release No. 89558 (August 14, 2020), 85 FR 51521 (August 20, 2020). On August 27, 2020, NSCC filed Amendment No. 2 to the proposed rule change to provide similar additional data for the Commission's consideration. The proposed rule change, as amended by Amendment Nos. 1 and 2, is hereinafter referred to as the ''Proposed Rule Change.'' In the Proposed Rule Change, NSCC seeks approval of proposed changes to its rules necessary to implement the Advance Notice. The comment period for the related Proposed Rule Change filing closed on September 10, 2020, and the Commission received no comments.

[6] See letter from Cass Sanford, Associated General Counsel, OTC Markets Group (September 10, 2020) (''OTC Letter''), available at *https://www.sec.gov/comments/sr-nscc-2020-016/srnscc2020016-7757533-223234.pdf.*

[7] As the proposals contained in the Advance Notice were also filed as a proposed rule change, all public comments received on the proposal are considered regardless of whether the comments are submitted on the Proposed Rule Change or the Advance Notice.

[8] In Amendment No. 2, NSCC updated Exhibit 3 to the advance notice to include impact analysis data with respect to the proposals in the advance notice. NSCC filed Exhibit 3 as a confidential exhibit to the advance notice pursuant to 17 CFR 240.24b–2.

[9] Capitalized terms not defined herein are defined in the Rules, *available at http://dtcc.com/~/media/Files/Downloads/legal/rules/nscc_rules.pdf.*

[10] *See* Rule 4 (Clearing Fund) and Procedure XV (Clearing Fund Formula and Other Matters) of the Rules (''Procedure XV''), *supra* note 8.

[11] *See id.*

[12] *See id.*

[13] *See id.*

volatility charge of the Required Fund Deposit depends on the type of security. For most securities, (*e.g.,* equity securities), NSCC calculates the volatility charge as the greater of (1) the larger of two separate calculations that utilize a parametric Value at Risk (''VaR'') model, (2) a gap risk measure calculation based on the largest non-index position in a portfolio that exceeds a concentration threshold, which addresses concentration risk that the largest non-index position can present within a member's portfolio, and (3) a portfolio margin floor calculation based on the market values of the long and short positions in the portfolio, which addresses risks that might not be adequately addressed with the other volatility charge calculations.[14] For certain other securities (*e.g.,* corporate and municipal bonds), NSCC's Rules apply a haircut-based volatility charge that is calculated by multiplying the absolute value of the positions by a percentage.[15] The volatility charge is designed to calculate the potential losses on a portfolio over a three-day period of risk assumed necessary to liquidate the portfolio, within a 99 percent confidence level.[16]

NSCC states that it regularly assesses market and liquidity risks as such risks relate to its margin methodology to evaluate whether margin levels are commensurate with the particular risk attributes of each relevant product, portfolio, and market.[17] NSCC states that the proposed MLA Charge and Bid-Ask Spread Charge are necessary for NSCC to effectively account for risks associated with certain types and attributes of member portfolios.[18]

B. Margin Liquidity Adjustment Charge

NSCC's current margin methodology does not account for the risk of a potential increase in market impact costs that NSCC could incur when liquidating a defaulted member's portfolio that contains a concentration of large positions, as compared to the overall market, in a particular security or group of securities sharing a similar risk profile.[19] In a member default, liquidating such large positions within a potentially compressed timeframe[20] (*i.e.,* in a fire sale) could have an impact on the underlying market, resulting in price moves that increases NSCC's risk of incurring additional liquidation costs. Therefore, NSCC designed the MLA Charge to address this specific risk.[21]

The MLA Charge would be based on comparing the market value of member portfolio positions in specified asset groups[22] to the available trading volume of those asset groups. If the market value of a member's positions in a certain asset group is large in comparison to the available trading volume of that asset group,[23] then it is more likely that NSCC would have to manage reduced marketability and increased liquidation costs for those positions during a member default scenario. Specifically, NSCC's margin methodology assumes for each asset group that a certain share of the market can be liquidated without price impact.[24] Aggregate positions in an asset group which exceed this share are generally considered as large and would therefore incur application of the MLA Charge to anticipate and address those increased costs.

For each position in a market capitalization subgroup of the equities asset group, NSCC would calculate the market impact cost by multiplying four components: (1) An impact cost coefficient that is a multiple of the one-day market volatility of that subgroup and is designed to measure impact costs, (2) the gross market value of the position in that subgroup, (3) the square root of the gross market value of the position in that subgroup in the portfolio divided by an assumed percentage of the average daily trading volume of that subgroup, and (4) a measurement of the relative weight of the position in that subgroup of the portfolio. With respect to the fourth component, NSCC states that this measurement would include aggregating the weight of each CUSIP in that position relative to the weight of that CUSIP in the subgroup, such that a portfolio with fewer positions in a subgroup would have a higher measure of concentration for that subgroup.[25]

For each position in the municipal bond, corporate bond, Illiquid Securities and UIT asset groups, and for positions in the treasury ETP and other ETP subgroups of the equities asset group, NSCC would calculate the market impact cost by multiplying three components: (1) An impact cost coefficient that is a multiple of the one-day market volatility of that asset group or subgroup, (2) the gross market value of the position in that asset group or subgroup, and (3) the square root of the gross market value of the position in that asset group or subgroup in the portfolio divided by an assumed percentage of the average daily trading volume of that subgroup.[26]

For each asset group or subgroup, NSCC would compare the calculated market impact cost to a portion of the volatility charge that is allocated to positions in that asset group or subgroup.[27] If the ratio of the calculated market impact cost to the applicable one-day volatility charge is greater than a threshold, NSCC would apply an MLA Charge to that asset group or subgroup.[28] If the ratio of these two

[14] *See id.; see also* Securities Exchange Act Release No. 82780 (February 26, 2018), 83 FR 9035 (March 2, 2018) (File No. SR–NSCC–2017–808); Securities Exchange Act Release No. 82781 (February 26, 2018), 83 FR 9042 (March 2, 2018) (File No. SR–NSCC–2017–020).

[15] *See id.*

[16] *See* Notice of Filing, *supra* note 5 at 55332, 34.

[17] *See* Notice of Filing, *supra* note 5 at 55333.

[18] *See id.*

[19] *See id.*

[20] NSCC's risk models assume the liquidation occurs over a period of three business days. *See* Notice of Filing, *supra* note 5 at 55333–34.

[21] *See* Notice of Filing, *supra* note 5 at 55333.

[22] The specified asset groups would include (1) equities (excluding equities defined as Illiquid Securities pursuant to the Rules), (2) Illiquid Securities, (3) unit investment trusts, or UITs, (4) municipal bonds (including municipal bond exchange-traded products, or ''ETPs''), and (5) corporate bonds (including corporate bond ETPs). NSCC would then further segment the equities asset group into the following subgroups: (i) Micro-capitalization equities, (ii) small capitalization equities, (iii) medium capitalization equities, (iv) large capitalization equities, (v) treasury ETPs, and (vi) all other ETPs. *See id.*

[23] NSCC states that it would determine average daily trading volume by reviewing data that is made publicly available by the Securities Industry and Financial Markets Association (''SIFMA''), at *https://www.sifma.org/resources/archive/research/statistics. See id.*

[24] NSCC would establish the particular share for each asset group or subgroup based on empirical research which includes the simulation of asset liquidation over different time horizons. *See* Notice of Filing, *supra* note 5 at 55333–34.

[25] NSCC would calculate the relative weight by dividing the absolute market value of a single CUSIP in the member's portfolio by the total absolute market value of that portfolio. *See* Notice of Filing, *supra* note 5 at 55334.

[26] *See supra* note 22.

[27] For purposes of this calculation, NSCC would use a portion of the applicable volatility charge that is based on a one-day assumed period of risk and calculated by applying a simple square-root of time scaling, referred to in this advance notice as ''one-day volatility charge.'' *See* Notice of Filing, *supra* note 5 at 55334. Any changes that NSCC deems appropriate to this assumed period of risk would be subject to NSCC's model risk management governance procedures set forth in the Clearing Agency Model Risk Management Framework (''Model Risk Management Framework''). *See* Securities Exchange Act Release Nos. 81485 (August 25, 2017), 82 FR 41433 (August 31, 2017) (File No. SR–NSCC–2017–008); 84458 (October 19, 2018), 83 FR 53925 (October 25, 2018) (File No. SR–NSCC–2018–009); 88911 (May 20, 2020), 85 FR 31828 (May 27, 2020) (File No. SR–NSCC–2020–008).

[28] NSCC would set the initial threshold at 0.4, because approximately 40 percent of the one-day volatility charge currently addresses market impact costs. NSCC would review this threshold from time to time and any changes that NSCC deems appropriate would be subject to NSCC's model risk management governance procedures set forth in the Model Risk Management Framework. *See id.*

amounts is equal to or less than this threshold, NSCC would not apply an MLA Charge to that asset group or subgroup. The threshold would be based on an estimate of the market impact cost that is incorporated into the calculation of the applicable one-day volatility charge, such that NSCC would only apply an MLA Charge when the calculated market impact cost exceeds this threshold.

When applicable, an MLA Charge for each asset group or subgroup would be calculated as a proportion of the product of (1) the amount by which the ratio of the calculated market impact cost to the applicable one-day volatility charge exceeds the threshold, and (2) the one-day volatility charge allocated to that asset group or subgroup.

For each portfolio, NSCC would total the MLA Charges for positions in each of the subgroups of the equities asset group to determine an MLA Charge for the positions in the equities asset group. NSCC would then total the MLA Charge for positions in the equities asset group together with each of the MLA Charges for positions in the other asset groups to determine a total MLA Charge for a member.

In certain circumstances, NSCC may be able to partially mitigate the risks that the MLA Charge is designed to address by extending the time period for liquidating a defaulted member's portfolio beyond the three day period. Accordingly, the Advance Notice also describes a method that NSCC would use to reduce a member's total MLA Charge when the volatility charge component of the member's margin increases beyond a specified point. Specifically, NSCC would reduce the member's MLA Charge where the market impact cost of a particular portfolio, calculated as part of determining the MLA Charge, would be large relative to the one-day volatility charge for that portfolio (*i.e.,* a portion of the three-day assumed margin period of risk). When the ratio of calculated market impact cost to the one-day volatility charge is lower, NSCC would not adjust the MLA Charge. However, as the ratio gets higher, NSCC would reduce the MLA Charge. NSCC designed this reduction mechanism to avoid assessing unnecessarily large MLA Charges.[29]

On a daily basis, NSCC would calculate the final MLA Charge for each member (if applicable), to be included as a component of each member's Required Fund Deposit.

Finally, NSCC would amend the Rules to add the MLA Charge to the list of Clearing Fund components that are excluded from the calculation of the Excess Capital Premium charge.[30] The Excess Capital Premium is imposed on a member when the member's Required Fund Deposit exceeds its excess net capital. NSCC states that including the MLA Charge in the calculation of the Excess Capital Premium could lead to more frequent and unnecessary Excess Capital Premium charges, which is not the intended purpose of the Excess Capital Premium charge and could place an unnecessary burden on members.[31]

C. Bid-Ask Spread Charge

The bid-ask spread refers to the difference between the observed market price that a buyer is willing to pay for a security and the observed market price at which a seller is willing to sell that security. NSCC faces the risk of potential bid-ask spread transaction costs when liquidating the securities in a defaulted member's portfolio. However, NSCC's current margin methodology does not account for this risk of potential bid-ask spread transaction costs to NSCC in connection with liquidating a defaulted member's portfolio. Therefore, NSCC designed the Bid-Ask Spread Charge to address this deficiency in its current margin methodologies.

The Bid-Ask Spread Charge would be haircut-based and tailored to different groups of assets that share similar bid-ask spread characteristics. NSCC would assign each asset group a specified bid-ask spread haircut rate (measured in basis points (''bps'')) that would be applied to the gross market value of the portfolio's positions in that particular asset group. NSCC would calculate the product of the gross market value of the portfolio's positions in a particular asset group and the applicable basis point charge to obtain the bid-ask spread risk charge for these positions. NSCC would total the applicable bid-ask spread risk charges for each asset class in a member's portfolio to calculate the member's final Bid-Ask Spread Charge.

NSCC determined the proposed initial haircut rates on an analysis of bid-ask spread transaction costs using (1) the results of NSCC's annual member default simulation and (2) market data sourced from a third-party data vendor. NSCC's proposed initial haircut rates are listed in the table below:

Asset group	Haircut (bps)
Large and medium capitalization equities	5.0
Small capitalization equities	12.3
Micro-capitalization equities	23.1
ETPs	1.5

NSCC proposes to review the haircut rates annually.[32] Based on analyses of recent years' simulation exercises, NSCC does not anticipate that these haircut rates would change significantly year over year.[33] NSCC may also adjust the haircut rates following its annual model validation review, to the extent the results of that review indicate the current haircut rates are not adequate to address the risk presented by transaction costs from a bid-ask spread.[34]

II. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the advance notice is consistent with the Clearing Supervision Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NSCC–2020–804 on the subject line.

Paper Comments

Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–NSCC–2020–804. 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 advance notice that are filed with the Commission, and all written communications relating to the advance notice between the Commission and any person, other than

[29] *See* Notice of Filing, *supra* note 5 at 55334.

[30] *See* Section I.(B)(2) of Procedure XV, *supra* note 8.

[31] *See* Notice of Filing, *supra* note 5 at 55335.

[32] *See id.*

[33] *See id.*

[34] All proposed changes to the haircuts would be subject to NSCC's model risk management governance procedures set forth in the Model Risk Management Framework. *See supra* note 26.

those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of NSCC and NSCC's website at *https://www.dtcc.com/legal.*

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NSCC–2020–804 and should be submitted on or before October 19, 2020.

III. Discussion and Commission Findings

Although the Clearing Supervision Act does not specify a standard of review for an advance notice, the stated purpose of the Clearing Supervision Act is instructive: To mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for SIFMUs and strengthening the liquidity of SIFMUs.[35]

Section 805(a)(2) of the Clearing Supervision Act authorizes the Commission to prescribe regulations containing risk management standards for the payment, clearing, and settlement activities of designated clearing entities engaged in designated activities for which the Commission is the supervisory agency.[36] Section 805(b) of the Clearing Supervision Act provides the following objectives and principles for the Commission's risk management standards prescribed under Section 805(a):[37]

- to promote robust risk management;
- to promote safety and soundness;
- to reduce systemic risks; and
- to support the stability of the broader financial system.

Section 805(c) provides, in addition, that the Commission's risk management standards may address such areas as risk management and default policies and procedures, among others areas.[38]

The Commission has adopted risk management standards under Section 805(a)(2) of the Clearing Supervision Act and Section 17A of the Exchange Act (the ''Clearing Agency Rules'').[39] The Clearing Agency Rules require, among other things, each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to meet certain minimum requirements for its operations and risk management practices on an ongoing basis.[40] As such, it is appropriate for the Commission to review advance notices against the Clearing Agency Rules and the objectives and principles of these risk management standards as described in Section 805(b) of the Clearing Supervision Act. As discussed below, the Commission believes the proposal in the Advance Notice is consistent with the objectives and principles described in Section 805(b) of the Clearing Supervision Act,[41] and in the Clearing Agency Rules, in particular Rules 17Ad–22(e)(4) and (e)(6).[42]

A. Consistency With Section 805(b) of the Clearing Supervision Act

The Commission believes that the Advance Notice is consistent with the stated objectives and principles of Section 805(b) of the Clearing Supervision Act. [43]

The Commission believes that adopting NSCC's proposed MLA Charge and Bid-Ask Spread Charge would be consistent with the promotion of robust risk management at NSCC. As described above in Section I.A and B, NSCC's current margin methodology does not account for the potential increase in market impact costs that NSCC could incur when liquidating a defaulted member's portfolio where the portfolio contains a concentration of large positions in a particular security or group of securities sharing a similar risk profile. Additionally, as described above in Section I.C, NSCC's margin methodology does not account for the risk of potential bid-ask spread transaction costs when liquidating the securities in a defaulted member's portfolio. NSCC proposes to address these respective risks by adding the MLA Charge and Bid-Ask Spread Charge to its margin methodology.[44]

Specifically, the MLA Charge should better enable NSCC to manage the risk of incurring costs associated with the decreased marketability of a defaulted member's portfolio where the portfolio contains a large position in securities sharing similar risk profiles, resulting in potentially higher liquidation costs. To avoid excessive MLA Charges, NSCC has identified circumstances that would warrant reducing a member's MLA Charge when NSCC could otherwise partially mitigate the relevant risks by extending the time period for liquidating a defaulted member's portfolio beyond the three day period. The Commission views this targeted reduction in the MLA Charge as a feature of the proposal that demonstrates a robust approach towards managing the relevant risks through appropriate (*i.e.,* not simply ''larger'') margin requirements. Additionally, since NSCC's current margin methodology does not account for bid-ask spread transaction costs when liquidating a defaulted member's portfolio, the Bid-Ask Spread Charge should enable NSCC to manage such risks. Accordingly, the Commission believes that adopting the proposed MLA Charge and Bid-Ask Spread Charge would allow for measurement and targeted mitigation of risks and costs not captured elsewhere in NSCC's current margin methodology, and would therefore provide for more comprehensive management of risks in a member default scenario, consistent with the promotion of robust risk management.

The commenter argues that NSCC's Advance Notice fails to provide sufficient information to evaluate the necessity and impact of the proposal. Specifically, the commenter argues that the proposal provides no explanation as to why the current Clearing Fund

[35] *See* 12 U.S.C. 5461(b).

[36] 12 U.S.C. 5464(a)(2).

[37] 12 U.S.C. 5464(b).

[38] 12 U.S.C. 5464(c).

[39] 17 CFR 240.17Ad–22. *See* Securities Exchange Act Release No. 68080 (October 22, 2012), 77 FR 66220 (November 2, 2012) (S7–08–11). *See also* Securities Exchange Act Release No. 78961 (September 28, 2016), 81 FR 70786 (October 13, 2016) (S7–03–14) (''Covered Clearing Agency Standards''). NSCC is a ''covered clearing agency'' as defined in Rule 17Ad–22(a)(5).

[40] 17 CFR 240.17Ad–22.

[41] 12 U.S.C. 5464(b).

[42] 17 CFR 240.17Ad–22(e)(4) and (e)(6).

[43] One of the issues raised by the OTC Letter is directed at the Proposed Rule Change, will be addressed in that context. Specifically, OTC Markets Group argues that the proposal imposes an undue burden on competition, stating that the proposal would impose additional margin requirements for firms processing transactions in smaller and less liquid securities and disproportionately impact member firms with lower operating margins or higher costs of capital. That issue is relevant to the Commission's evaluation of the related Proposed Rule Change, which is conducted under the Exchange Act, but not to the Commission's evaluation of the Advance Notice, which, as discussed below in Section III.B, is conducted under the Clearing Supervision Act and generally considers whether the proposal will mitigate systemic risk and promote financial stability. Accordingly, concerns regarding burden on competition are not discussed herein but will be addressed in the Commission's review of the related Proposed Rule Change, as applicable, under the Exchange Act.

[44] The Commission notes that the other clearing agencies it regulates have charges to account for these types of risks in their margin methodologies, and that addressing these types of risks has received a great deal of industry focus in recent years.

formula is inadequate or how the proposed methodology would limit NSCC's exposure in the event of a member default. The Commission disagrees. As described in the Notice and noted above, NSCC's current margin methodology does not account for the risk of a potential increase in market impact costs that NSCC could incur when liquidating a defaulted member's portfolio that contains a concentration of large positions, as compared to the overall market and account for this risk of potential bid-ask spread transaction costs in connection with liquidating a defaulted member's portfolio. As a result, NSCC's Advance Notice is designed to address these specific risks, that are currently unaddressed, and thus limit NSCC's exposure.

Furthermore, when considering the issues raised in the Advance Notice, the Commission thoroughly considered (1) NSCC's Advance Notice, including the supporting exhibits that provided, among other things, confidential impact analyses regarding the proposals in NSCC's Advance Notice; [45] (2) the OTC Letter; and (3) the Commission's own understanding of NSCC's margin methodology, with which the Commission has experience from its general supervision of NSCC. Based on its review of these materials, the Commission believes that, as set forth in the Notice of Filing, NSCC has done exactly what the commenter seeks, in that the proposal explains why the current methodology is inadequate (*i.e.,* it does not address these particular risks), and how the proposed methodology would address this issue (*i.e.,* by including add-on charges calibrated to address these particular risks).[46] Thus, notwithstanding the comments raised in the OTC Letter, the Commission believes that adopting the proposed MLA Charge and Bid-Ask Spread Charge would be consistent with the promotion of robust risk management at NSCC.

Further, the Commission believes that adopting NSCC's proposed MLA Charge and Bid-Ask Spread Charge would be consistent with promoting safety and soundness at NSCC. NSCC designed the MLA Charge and Bid-Ask Spread Charge to ensure that NSCC collects margin amounts sufficient to manage NSCC's risk of incurring costs associated with liquidating defaulted member portfolios. The proposed MLA Charge and Bid-Ask Spread Charge would generally provide NSCC with additional resources to manage potential losses arising out of a member default. Such an increase in available financial resources would decrease the likelihood that losses arising out of a member default would exceed NSCC's resources and threaten the safety and soundness of NSCC's ongoing operations. Accordingly, the Commission believes that adding the proposed MLA Charge and Bid-Ask Spread Charge to NSCC's margin methodology would be consistent with promoting safety and soundness at NSCC.

Finally, the Commission believes that adopting NSCC's proposed MLA Charge and Bid-Ask Spread Charge would be consistent with reducing systemic risks and supporting the stability of the broader financial system. As discussed above, in a member default scenario, NSCC would access its Clearing Fund should the defaulted member's own Required Fund Deposit be insufficient to satisfy losses to NSCC caused by the liquidation of that member's portfolio. NSCC proposes to add the MLA Charge and Bid-Ask Spread Charge to its margin methodology to better manage the potential costs of liquidating a defaulted member's portfolio. NSCC proposes to collect additional margin to cover such costs. This, in turn, could reduce the possibility that NSCC would need to mutualize among the non-defaulting members a loss arising out of the close-out process. Reducing the potential for loss mutualization could, in turn, reduce the potential knock-on effects to non-defaulting members, their customers, and the broader market arising out of a member default. Further, the Commission notes that, to the extent that the MLA Charge results in any reduction in members' large positions in securities with similar risk profiles, it could reduce the potential risk of adverse market impacts that can arise from liquidating those large positions. However, the Commission also notes that the proposal to reduce the MLA Charge when NSCC could otherwise partially mitigate the relevant risks would help ensure that NSCC would not impose the MLA Charge without an appropriate risk management basis. Accordingly, the Commission believes that NSCC's adoption of the proposed MLA Charge and Bid-Ask Spread Charge would be consistent with the reduction of systemic risk and supporting the stability of the broader financial system.

For the reasons stated above, the Commission believes the changes proposed in the Advance Notice are consistent with Section 805(b) of the Clearing Supervision Act.[47]

B. Consistency With Rule 17Ad–22(e)(4)(i)

Rule 17Ad–22(e)(4)(i) requires that NSCC establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence.[48]

As described above in Section I.A and B, NSCC's current margin methodology does not account for the risk of a potential increase in market impact costs that NSCC could incur when liquidating a defaulted member's portfolio where the portfolio contains a large position in securities sharing similar risk profiles. Additionally, as described above, NSCC's current margin methodology does not account for the risk of potential bid-ask spread transaction costs when liquidating the securities in a defaulted member's portfolio. NSCC proposes to address such risks by adding the MLA Charge and Bid-Ask Spread Charge to its margin methodology. Adding these margin charges to NSCC's margin methodology should better enable NSCC to collect margin amounts commensurate with the risk attributes of a broader range of its members' portfolios than NSCC's current margin methodology. Specifically, the MLA Charge should better enable NSCC to manage the risk of increased costs to NSCC associated with the decreased marketability of a defaulted member's portfolio where the portfolio contains a large position in securities sharing similar risk profiles. Additionally, since NSCC's current margin methodology does not account for bid-ask spread transaction costs associated with liquidating a defaulted member's portfolio, the Bid-Ask Spread Charge

[45] Specifically, the confidential Exhibit 3 submitted by NSCC includes, among other things, (1) impact studies for various time periods detailing the average and maximum MLA and Bid-Ask Charges for each member, by both percentage and amount, (2) a detailed methodology describing the calculation of the MLA and Bid-Ask Charges, and (3) information regarding how NSCC determined the appropriate methodology.

[46] Moreover, to the extent that the commenter argues that additional detail or information is necessary to enable the public to evaluate the proposal, the Commission disagrees. With respect to the MLA Charge, the Notice of Filing explains that concentrated positions would lead to application of the MLA Charge and provides sufficient information as to the components that would be used to make the determination of concentration to allow a Member to consider whether the MLA Charge would apply. With respect to the Bid-Ask Spread Charge, the Notice of Filing identifies the particular haircuts that would apply to all securities.

[47] 12 U.S.C. 5464(b).

[48] 17 CFR 240.17Ad–22(e)(4)(i).

should enable NSCC to manage such risks and costs.

The commenter suggests that the proposals in NSCC's Advance Notice are duplicative of a separate NSCC proposal regarding Illiquid Securities that is currently pending before the Commission.[49] The commenter argues that since both proposals include provisions that would apply to Illiquid Securities,[50] thereby potentially affecting their margin levels, both proposals appear to address the same concerns. Therefore, the commenter suggests that instead of approving NSCC's Advance Notice, the Commission should consolidate NSCC's Advance Notice together with the Illiquid Securities Proposal and extend the public comment period before the Commission makes a substantive determination.

The Commission disagrees with the comments raised in the OTC Letter. NSCC's Advance Notice and the Illiquid Securities Proposal deal with separate and distinguishable aspects of NSCC's margin methodology, even if there is a group of Illiquid Securities to which both proposals would apply. The Illiquid Securities Proposal is designed to amend the method by which NSCC determines the appropriate volatility component of margin for a particular thinly traded security, *i.e.,* calculate appropriate margin to cover potential losses on a portfolio using historical, mid-point securities prices. The Advance Notice is designed to address two specific risks that are not captured directly by historical mid-point security price movements and that are directed at additional costs that may arise during the liquidation of a Member's portfolio in the event of a default: (1) The potential added costs of liquidating large concentrated positions in a limited period of time and (2) bid-ask spread transactions costs.

Specifically, the Illiquid Securities Proposal seeks to, among other things, more accurately identify securities that exhibit illiquid characteristics for margin purposes and to establish a separate haircut-based method for determining the margin for Illiquid Securities. NSCC's methodology for calculating the volatility component of a member's margin depends on the type of securities in the member's portfolio. Generally, for most securities (*e.g.,* equity securities), NSCC calculates the volatility component using, among other things, a parametric Value at Risk (''VaR'') model, and the volatility component typically constitutes the largest portion of a member's required margin. However, securities with illiquid characteristics generally incur a wider degree of price variability and are less amenable to statistical analysis, and, as such, may merit a more conservative margining approach through a haircut-based method. The proposed haircut-based method is more conservative because it does not allow for inter-asset risk offsetting in the way that the VaR model does.

Accordingly, for certain securities that are less amenable to the statistical analysis provided in the VaR model, including Illiquid Securities, NSCC currently calculates a haircut-based volatility component by multiplying the absolute value of a member's positions in such securities by a certain percentage. NSCC's pending Illiquid Securities Proposal would, among other things, establish a separate haircut-based method for determining the volatility component of the margin for Illiquid Securities. Thus, the Illiquid Securities Proposal would alter the way in which NSCC determines the appropriate margin for Illiquid Securities.

In contrast, NSCC's Advance Notice is not designed to identify which securities exhibit illiquid characteristics, and it would not alter the methodology by which NSCC determines the volatility component of the margin for any particular securities, including Illiquid Securities. Instead, with respect to the MLA Charge, NSCC's Advance Notice relates to a new margin charge add-on that, if triggered, applies to all securities cleared at NSCC (*i.e.,* not solely to Illiquid Securities), and the proposed add-on is distinct from the underlying margin otherwise collected for all securities (including Illiquid Securities). Rather than addressing the volatility component of margin and the potential losses on a portfolio, as does the Illiquid Securities Proposal, the proposal described in the Advance Notice is designed to address the discrete risks of a default liquidation scenario. These discrete risks include those associated with (1) concentrated large positions in any type of security or group of securities sharing a similar risk profile, and (2) bid-ask spread transaction costs that are currently unaccounted for in NSCC's margin methodology. Moreover, the MLA Charge would not automatically be applied based on the security or type of security that is held; instead, it would only apply to concentrated positions that could be difficult to liquidate in a limited time in the event of a default. Because NSCC's Advance Notice and the Illiquid Securities Proposal address wholly separate and distinct aspects of NSCC's margin methodology, the Commission disagrees with the OTC Markets Group that the two proposals should be consolidated or otherwise disposed of together.

The Commission believes that adding the MLA Charge and Bid-Ask Spread Charge to NSCC's margin methodology should enable NSCC to more effectively identify, measure, monitor, and manage its credit exposures in connection with liquidating a defaulted member's portfolio that may give rise to (1) decreased marketability due to large positions of securities sharing similar risk profiles, and (2) bid-ask spread transaction costs. Accordingly, the Commission believes that adding the MLA Charge and Bid-Ask Spread Charge to NSCC's margin methodology would be consistent with Rule 17Ad–22(e)(4)(i) because these new margin charges should better enable NSCC to maintain sufficient financial resources to cover NSCC's credit exposure to its members fully with a high degree of confidence.[51]

C. Consistency With Rules 17Ad–22(e)(6)(i) and (v)

Rule 17Ad–22(e)(6)(i) requires that NSCC establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market.[52] Rule 17Ad–22(e)(6)(v) requires that NSCC establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, uses an appropriate method for measuring credit exposure that accounts for relevant product risk factors and portfolio effects across products.[53]

As described above in Section I.A and B, NSCC's current margin methodology does not account for the potential increase in market impact costs when liquidating a defaulted member's portfolio where the portfolio contains a large position in securities sharing

[49] Securities Exchange Act Release No. 88615 (April 9, 2020), 85 FR 21037 (April 15, 2020) (SR–NSCC–2020–802) (''Illiquid Securities Proposal'').

[50] Under NSCC's Rules, Illiquid Securities may include any security that meets the criteria set forth in the term's definition and would not necessarily be limited to securities with small or micro market capitalizations.

[51] *Id.*

[52] 17 CFR 240.17Ad–22(e)(6)(i).

[53] 17 CFR 240.17Ad–22(e)(6)(v).

similar risk profiles. NSCC proposes to address this risk by adding the MLA Charge to its margin methodologies. To avoid excessive MLA Charges and ensure margin requirements are commensurate with the relevant risks, NSCC also contemplates reducing a member's MLA Charge when NSCC could otherwise partially mitigate the relevant risks by extending the time period for liquidating a defaulted member's portfolio beyond the three day period.

Additionally, as described above in Section I.A and B, NSCC's current margin methodology does not account for the risk of incurring bid-ask spread transaction costs when liquidating the securities in a defaulted member's portfolio. NSCC proposes to address this risk by adding the Bid-Ask Spread Charge to its margin methodology. Adding the MLA Charge and Bid-Ask Spread Charge to NSCC's margin methodology should better enable NSCC to collect margin amounts commensurate with the risk attributes of its members' portfolios than NSCC's current margin methodology. Specifically, the MLA Charge should better enable NSCC to manage the risk of increased costs to NSCC associated with the decreased marketability of a defaulted member's portfolio where the portfolio contains a large position in securities sharing similar risk profiles. Moreover, the proposal to reduce the MLA Charge when NSCC could otherwise partially mitigate the relevant risks demonstrates how the proposal provides an appropriate method for measuring credit exposure, in that it seeks to take into account the particular circumstances related to a particular portfolio when determining the MLA Charge. Additionally, since NSCC's current margin methodology does not account for bid-ask spread transaction costs associated with liquidating a defaulted member's portfolio, the Bid-Ask Spread Charge should enable NSCC to manage such risks.

Accordingly, the Commission believes that adding the MLA Charge and Bid-Ask Spread Charge to NSCC's margin methodology would be consistent with Rules 17Ad–22(e)(6)(i) and (v) because these new margin charges should better enable NSCC to establish a risk-based margin system that (1) considers and produces relevant margin levels commensurate with the risks associated with liquidating member portfolios in a default scenario, including decreased marketability of a portfolio's securities due to large positions in securities sharing similar risk profiles and bid-ask transaction costs, and (2) uses an appropriate method for measuring credit exposure that accounts for such risk factors and portfolio effects.[54]

IV. Conclusion

It is therefore noticed, pursuant to Section 806(e)(1)(I) of the Clearing Supervision Act, that the Commission *does not object* to Advance Notice (SR–NSCC–2020–804) and that NSCC is *authorized* to implement the proposed change as of the date of this notice or the date of an order by the Commission approving Proposed Rule Change SR–NSCC–2020–016, whichever is later.

By the Commission.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–21785 Filed 10–1–20; 8:45 am]

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[54] 17 CFR 240.17Ad–22(e)(6)(i) and (v).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90033; File No. SR–FICC–2020–802]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Amendment No. 2 and Notice of No Objection to Advance Notice, as Modified by Amendment Nos. 1 and 2, to Introduce the Margin Liquidity Adjustment Charge and Include a Bid-Ask Charge in the VaR Charges

September 28, 2020.

On July 30, 2020, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') advance notice SR–FICC–2020–802 pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled Payment, Clearing and Settlement Supervision Act of 2010 (''Clearing Supervision Act''),[1] and Rule 19b–4(n)(1)(i)[2] under the Securities Exchange Act of 1934 (''Exchange Act'')[3] to add two new charges to FICC's margin methodologies. On August 13, 2020, FICC filed Amendment No. 1 to the advance notice, to make clarifications and corrections to the advance notice.[4] The advance notice, as modified by Amendment No. 1, was published for public comment in the **Federal Register** on September 4, 2020,[5] and the Commission has received no comments regarding the changes proposed in the advance notice as modified by Amendment No. 1.[6] On August 27, 2020, FICC filed Amendment No. 2 to the advance notice to provide additional data for the Commission to consider in analyzing the advance notice.[7] The advance notice, as modified by Amendment Nos. 1 and 2, is hereinafter referred to as the ''Advance Notice.'' The Commission is publishing this notice to solicit comments on Amendment No. 2 from interested persons and, for the reasons discussed below, is hereby providing notice of no objection to the Advance Notice.

I. The Advance Notice

First, the proposals in the Advance Notice would revise the FICC Government Securities Division (''GSD'') Rulebook (''GSD Rules'') and FICC Mortgage-Backed Securities Division (''MBSD'') Clearing Rules (''MBSD Rules,'' and together with the GSD Rules, the ''Rules'')[8] to introduce the Margin Liquidity Adjustment Charge (''MLA Charge'') as an additional margin component. Second, the proposals in the Advance Notice would revise the Rules, GSD Methodology Document—GSD Initial Market Risk Margin Model (''GSD QRM Methodology Document''), and MBSD Methodology and Model

[1] 12 U.S.C. 5465(e)(1).

[2] 17 CFR 240.19b–4(n)(1)(i).

[3] 15 U.S.C. 78a *et seq.*

[4] Amendment No. 1 made clarifications and corrections to the description of the advance notice and Exhibits 3 and 5 of the filing.

[5] Securities Exchange Act Release No. 89718 (September 1, 2020), 85 FR 55341 (September 4, 2020) (File No. SR–FICC–2020–802) (''Notice of Filing''). On July 30, 2020, FICC also filed a related proposed rule change (SR–FICC–2020–009) with the Commission pursuant to Section 19(b)(1) of the Exchange Act and Rule 19b–4 thereunder. On August 13, 2020, FICC filed Amendment No. 1 to the proposed rule change to make similar clarifications and corrections to the proposed rule change. *See* 15 U.S.C. 78s(b)(1) and 17 CFR 240.19b–4 respectively. The proposed rule change, as amended by Amendment No. 1, was published in the **Federal Register** on August 20, 2020. Securities Exchange Act Release No. 89560 (August 14, 2020), 85 FR 51503 (August 20, 2020). On August 27, 2020, FICC filed Amendment No. 2 to the proposed rule change to provide similar additional data for the Commission's consideration. The proposed rule change, as amended by Amendment Nos. 1 and 2, is hereinafter referred to as the ''Proposed Rule Change.'' In the Proposed Rule Change, FICC seeks approval of proposed changes to its rules necessary to implement the Advance Notice. The comment period for the related Proposed Rule Change filing closed on September 10, 2020, and the Commission received no comments.

[6] As the proposals contained in the Advance Notice were also filed as a proposed rule change, all public comments received on the proposal are considered regardless of whether the comments are submitted on the Proposed Rule Change or the Advance Notice.

[7] In Amendment No. 2, FICC updated Exhibit 3 to the advance notice to include impact analysis data with respect to the proposals in the advance notice. FICC filed Exhibit 3 as a confidential exhibit to the advance notice pursuant to 17 CFR 240.24b–2.

[8] Capitalized terms not defined herein are defined in the Rules, *available at https://www.dtcc.com/legal/rules-and-procedures.aspx.*

Operations Document—MBSD Quantitative Risk Model (''MBSD QRM Methodology Document,'' and together with the GSD QRM Methodology Document, the ''QRM Methodology Documents'') [9] to add a bid-ask spread risk charge (''Bid-Ask Spread Charge'') to the margin calculations of GSD and MBSD.

A. Background

FICC serves as a central counterparty (''CCP'') and provider of significant clearance and settlement services for cash-settled U.S. Treasury and agency securities and the non-private label mortgage-backed securities markets.[10] FICC is comprised of two divisions, GSD and MBSD. GSD provides real-time trade matching, clearing, risk management, and netting for trades in U.S. government debt issues, including repurchase agreements. MBSD provides real-time automated trade matching, trade confirmation, risk management, netting, and electronic pool notification to the mortgage-backed securities market. GSD and MBSD maintain separate Rulebooks, margin methodologies, and members.

In its role as a CCP, a key tool that FICC uses to manage its credit exposure to its respective GSD and MBSD members is by determining and collecting an appropriate Required Fund Deposit (*i.e.,* margin) for each member.[11] The aggregate of all members' Required Fund Deposits constitutes the respective GSD and MBSD Clearing Funds. FICC would access the GSD or MBSD Clearing Fund should a defaulted member's own Required Fund Deposit be insufficient to satisfy losses to FICC caused by the liquidation of that member's portfolio.[12]

Each member's Required Fund Deposit consists of a number of applicable components, which are calculated to address specific risks that the member's portfolio presents to FICC.[13] Generally, the largest component of a member's Required Fund Deposit is the value-at-risk (''VaR'') Charge, which is calculated using a risk-based margin methodology that is intended to capture the risks related to the movement of market prices associated with the securities in a member's portfolio.[14] The VaR Charge is designed to calculate the potential losses on a portfolio over a three-day period of risk assumed necessary to liquidate the portfolio, within a 99 percent confidence level.[15]

FICC states that it regularly assesses market and liquidity risks as such risks relate to its margin methodologies to evaluate whether margin levels are commensurate with the particular risk attributes of each relevant product, portfolio, and market.[16] FICC states that the proposed MLA Charge and Bid-Ask Spread Charge are necessary for FICC's margin methodologies to effectively account for risks associated with certain types and attributes of member portfolios.[17]

B. Margin Liquidity Adjustment Charge

FICC's current margin methodologies do not account for the risk of a potential increase in market impact costs that FICC could incur when liquidating a defaulted member's portfolio that contains a concentration of large positions, as compared to the overall market, in either (i) a particular security or group of securities sharing a similar risk profile, or (ii) in a particular transaction type (*e.g.,* mortgage pool transactions).[18] In a member default, liquidating such large positions within a potentially compressed timeframe [19] (*i.e.,* in a fire sale) could have an impact on the underlying market, resulting in price moves that increases FICC's risk of incurring additional liquidation costs. Therefore, FICC designed the MLA Charge to address this specific risk.[20]

The MLA Charge would be based on comparing the market value of member portfolio positions in specified asset groups [21] to the available trading volume of those asset groups in the market. If the market value of a member's positions in a certain asset group is large in comparison to the available trading volume of that asset group,[22] then it is more likely that FICC would have to manage reduced marketability and increased liquidation costs for those positions during a member default scenario. Specifically, FICC's margin methodology assumes for each asset group that a certain share of the market can be liquidated without price impact.[23] Aggregate positions in an asset group which exceed this share are generally considered as large and would therefore incur application of the MLA Charge to anticipate and address those increased costs.

To determine the market impact cost for each portfolio position in certain asset groups (*i.e.,* Treasuries maturing in less than one year and TIPS for GSD, and in the mortgage-backed securities asset group for MBSD), FICC would use the directional market impact cost, which is a function of the position's net directional market value.[24] To determine the market impact cost for all other positions in a portfolio, FICC would add together two components: (1) The directional market impact cost, as described above, and (2) the basis cost, which is based on the position's gross market value.[25] FICC states that the calculation of market impact cost for positions in Treasuries maturing in less than one year, TIPS for GSD, and in the mortgage-backed securities asset group for MBSD would not include basis cost

[9] FICC filed the proposed changes to the QRM Methodology Documents as confidential exhibits to the Advance Notice pursuant to 17 CFR 240.24b–2.

[10] *See* Securities Exchange Act Release No. 69838 (June 24, 2013), 78 FR 39027 (June 28, 2013).

[11] *See* GSD Rule 4 (Clearing Fund and Loss Allocation) and MBSD Rule 4 (Clearing Fund and Loss Allocation), *supra* note 8.

[12] *See id.*

[13] *See id.*

[14] *See* GSD Rule 1 (Definitions), MBSD Rule 1 (Definitions), GSD Rule 4 (Clearing Fund and Loss Allocation), and MBSD Rule 4 (Clearing Fund and Loss Allocation), *supra* note 8.

[15] *See* Notice of Filing, *supra* note 5 at 55342. Unregistered Investment Pool Clearing Members are subject to a VaR Charge with a minimum target confidence level assumption of 99.5 percent. *See* MBSD Rule 4, Section 2(c), *supra* note 8.

[16] *See* Notice of Filing, *supra* note 5 at 55342.

[17] *See id.*

[18] *See id.*

[19] FICC's risk models assume the liquidation occurs over a period of three business days. *See* Notice of Filing, *supra* note 5 at 55342–43.

[20] *See id.*

[21] For GSD, the asset groups would include the following, each of which share similar risk profiles: (a) U.S. Treasury securities, which would be further categorized by maturity—those maturing in (i) less than one year, (ii) equal to or more than one year and less than two years, (iii) equal to or more than two years and less than five years, (iv) equal to or more than five years and less than ten years, and (v) equal to or more than ten years; (b) Treasury-Inflation Protected Securities (''TIPS''), which would be further categorized by maturity—those maturing in (i) less than two years, (ii) equal to or more than two years and less than six years, (iii) equal to or more than six years and less than eleven years, and (iv) equal to or more than eleven years; (c) U.S. agency bonds; and (d) mortgage pools transactions.

For MBSD, to-be-announced (''TBA'') transactions, Specified Pool Trades and Stipulated Trades would be included in one mortgage-backed securities asset group. *Notice* of Filing, *supra* note 5 at 55343.

[22] FICC determines average daily trading volume by reviewing publicly available data from the Securities Industry and Financial Markets Association (''SIFMA''), at *https://www.sifma.org/resources/archive/research/statistics.*

[23] FICC would establish the particular share for each asset group or subgroup based on empirical research which includes the simulation of asset liquidation over different time horizons. *See* Notice of Filing, *supra* note 5 at 55343.

[24] The net directional market value of an asset group within a portfolio is calculated as the absolute difference between the market value of the long positions in that asset group, and the market value of the short positions in that asset group. For example, if the market value of the long positions is $100,000, and the market value of the short positions is $150,000, the net directional market value of the asset group is $50,000. *See id.*

[25] To determine the gross market value of the positions in each asset group, FICC would sum the absolute value of each CUSIP in the asset group. *See id.*

because basis risk is negligible for these types of positions.[26] For all asset groups, when determining the market impact costs, the net directional market value and the gross market value of the positions would be divided by the average daily volumes of the securities in each asset group over a lookback period.[27]

FICC would then compare the calculated market impact cost to a portion of the VaR Charge that is allocated to positions in each asset group.[28] If the ratio of the calculated market impact cost to the one-day VaR Charge is greater than a determined threshold, an MLA Charge, as described below, would be applied to that asset group. Correspondingly, if the ratio of these two amounts is equal to or less than this threshold, an MLA Charge would not be applied to that asset group. The threshold would be based on an estimate of the market impact cost that is incorporated into the calculation of the one-day VaR charge.[29]

When applicable, an MLA Charge would be calculated as a proportion of the product of (1) the amount by which the ratio of the calculated market impact cost to a portion of the VaR Charge allocated to that position exceeds the threshold, and (2) a portion of the VaR Charge allocated to that asset group. For each portfolio, FICC would total the MLA Charges for the positions in each asset group to determine a total MLA Charge for the member. On a daily basis, FICC would calculate the final MLA Charge for each member (if applicable), to be included as a component of each member's Required Fund Deposit.

In certain circumstances, FICC may be able to partially mitigate the risks that the MLA Charge is designed to address by extending the time period for liquidating a defaulted member's portfolio beyond the three day period. Accordingly, the Advance Notice also describes a method that FICC would use to reduce a member's total MLA Charge when the volatility charge component of the member's margin increases beyond a specified point. Specifically, FICC would reduce the member's MLA Charge where the market impact cost of a particular portfolio, calculated as part of determining the MLA Charge, would be large relative to the one-day volatility charge for that portfolio (*i.e.,* a portion of the three-day assumed margin period of risk). When the ratio of calculated market impact cost to the one-day volatility charge is lower, FICC would not adjust the MLA Charge. However, as the ratio gets higher, FICC would reduce the MLA Charge. FICC designed this reduction mechanism to avoid assessing unnecessarily large MLA Charges.[30]

MLA Excess Amount for GSD Sponsored Members [31]

For GSD, the calculation of the MLA Charge for a Sponsored Member that clears through a single account sponsored by a Sponsoring Member would be the same as described above. For a GSD Sponsored Member that clears through multiple accounts sponsored by multiple Sponsoring Members, in addition to calculating an MLA Charge for each account (as described above), FICC would also calculate an MLA Charge for the Sponsored Member's consolidated portfolio.

If the MLA Charge of the consolidated portfolio is not higher than the sum of all MLA Charges for each account of the Sponsored Member, then the Sponsored Member would only be charged an MLA Charge for each sponsored account, as applicable. However, if the MLA Charge of the consolidated portfolio is higher than the sum of all MLA Charges for each account of the Sponsored Member, the Sponsored Member would be charged the amount of such difference (referred to as the ''MLA Excess Amount''), in addition to the applicable MLA Charge.

The MLA Excess Amount is designed to capture the additional market impact cost that could be incurred when a Sponsored Member defaults, and each of the Sponsoring Members liquidates positions associated with that defaulted Sponsored Member. If large positions in the same asset group are being liquidated by multiple Sponsoring Members, the market impact cost to liquidate those positions could increase. The MLA Excess Amount would address this additional market impact cost by capturing any difference between the calculations of the MLA Charge for each sponsored account and for the consolidated portfolio.

C. Bid-Ask Spread Charge

The bid-ask spread refers to the difference between the observed market price that a buyer is willing to pay for a security and the observed market price at which a seller is willing to sell that security. FICC faces the risk of potential bid-ask spread transaction costs when liquidating the securities in a defaulted member's portfolio. However, FICC's current margin methodologies do not account for this risk of potential bid-ask spread transaction costs to FICC in connection with liquidating a defaulted member's portfolio. Therefore, FICC designed the Bid-Ask Spread Charge to address this deficiency in its current margin methodologies.

The Bid-Ask Spread Charge would be haircut-based and tailored to different groups of assets that share similar bid-ask spread characteristics.[32] FICC would assign each asset group a specified bid-ask spread haircut rate (measured in basis points (''bps'')) that would be applied to the gross market value of the portfolio's positions in that particular asset group. FICC would calculate the product of the gross market value of the portfolio's positions in a particular asset group and the applicable basis point charge to obtain the bid-ask spread risk charge for these positions. FICC would total the applicable bid-ask spread risk

[26] *See id.*

[27] *Supra* note 22; *see* Notice of Filing, *supra* note 5 at 55343.

[28] As noted earlier, FICC's margin methodology uses a three-day assumed period of risk. For purposes of this calculation, FICC would use a portion of the VaR Charge that is based on a one-day assumed period of risk (the ''one-day VaR Charge''). Any changes to what FICC determines would be the appropriate portion of the VaR Charge would be subject to FICC's model risk management governance procedures set forth in the Clearing Agency Model Risk Management Framework (''Model Risk Management Framework''). *See* Securities Exchange Act Release Nos. 81485 (August 25, 2017), 82 FR 41433 (August 31, 2017) (File No. SR–FICC–2017–014); 84458 (October 19, 2018), 83 FR 53925 (October 25, 2018) (File No. SR–FICC–2018–010); 88911 (May 20, 2020), 85 FR 31828 (May 27, 2020) (File No. SR–FICC–2020–004).

[29] FICC states that it would review the method for calculating the thresholds from time to time, and any changes would be subject to FICC's model risk management governance procedures set forth in the Model Risk Management Framework. *See id.*

[30] *See* Notice of Filing, *supra* note 5 at 55343–44.

[31] *See* GSD Rule 3A, *supra* note 8. Sponsored Membership at GSD is a program that allows well-capitalized members to sponsor their eligible clients into GSD membership. Sponsored membership at GSD offers eligible clients the ability to lend cash or eligible collateral via FICC-cleared delivery-versus-payment sale and repurchase transactions. Sponsoring Members facilitate their clients' GSD trading activity and act as processing agents on their behalf for all operational functions including trade submission and settlement with FICC. A Sponsored Member may be sponsored by one or more Sponsoring Members.

[32] For GSD, the asset groups would include the following, each of which share similar bid-ask spread risk profiles: (a) Mortgage pools (''MBS''); (b) TIPS; (c) U.S. agency bonds; and (d) U.S. Treasury securities, which would be further segmented into separate classes based on maturities as follows: (i) Less than five years, (ii) equal to or more than five years and less than ten years, and (iii) equal to or more than ten years. Only the MBS asset group is applicable to MBSD member portfolios.

FICC would exclude Option Contracts in to-be-announced (''TBA'') transactions from the Bid-Ask Spread Charge because, FICC states that in the event of a member default, FICC would liquidate any Option Contracts in TBAs in a member's portfolio at the intrinsic value of the Option Contract and, therefore, does not face a transaction cost related to the bid-ask spread. *Notice* of Filing, *supra* note 5 at 55344.

charges for each asset class in a member's portfolio to calculate the member's total Bid-Ask Spread Charge.

FICC determined the proposed initial haircut rates on an analysis of bid-ask spread transaction costs using (1) the results of FICC's annual member default simulation and (2) market data sourced from a third-party data vendor. FICC's proposed initial haircut rates are listed in the table below:

Asset group	Haircut (bps)
MBS	0.8
TIPS	2.1
U.S. Agency bonds	3.8
U.S. Treasuries (maturing < 5 years)	0.6
U.S. Treasuries (maturing 5–10 years)	0.7
U.S. Treasuries (maturing 10+ years)	0.7

FICC proposes to review the haircut rates annually. Based on analyses of recent years' simulation exercises, FICC does not anticipate that these haircut rates would change significantly year over year. FICC may also adjust the haircut rates following its annual model validation review, to the extent the results of that review indicate the current haircut rates are not adequate to address the risk presented by transaction costs from a bid-ask spread.[33]

Finally, FICC would make technical changes to the QRM Methodology Documents to re-number the sections and tables, and update certain section titles, as necessary to incorporate the MLA Charge and Bid-Ask Spread Charge into those documents.

II. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the advance notice is consistent with the Clearing Supervision Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FICC–2020–802 on the subject line.

Paper Comments

Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–FICC–2020–802. 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 advance notice that are filed with the Commission, and all written communications relating to the advance notice between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of FICC and FICC's website at *https://www.dtcc.com/legal.*

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FICC–2020–802 and should be submitted on or before October 19, 2020.

III. Discussion and Commission Findings

Although the Clearing Supervision Act does not specify a standard of review for an advance notice, the stated purpose of the Clearing Supervision Act is instructive: to mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for SIFMUs and strengthening the liquidity of SIFMUs.[34]

Section 805(a)(2) of the Clearing Supervision Act authorizes the Commission to prescribe regulations containing risk management standards for the payment, clearing, and settlement activities of designated clearing entities engaged in designated activities for which the Commission is the supervisory agency.[35] Section 805(b) of the Clearing Supervision Act provides the following objectives and principles for the Commission's risk management standards prescribed under Section 805(a):[36]

- to promote robust risk management;
- to promote safety and soundness;
- to reduce systemic risks; and
- to support the stability of the broader financial system.

Section 805(c) provides, in addition, that the Commission's risk management standards may address such areas as risk management and default policies and procedures, among others areas.[37]

The Commission has adopted risk management standards under Section 805(a)(2) of the Clearing Supervision Act and Section 17A of the Exchange Act (the ''Clearing Agency Rules'').[38] The Clearing Agency Rules require, among other things, each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to meet certain minimum requirements for its operations and risk management practices on an ongoing basis.[39] As such, it is appropriate for the Commission to review advance notices against the Clearing Agency Rules and the objectives and principles of these risk management standards as described in Section 805(b) of the Clearing Supervision Act. As discussed below, the Commission believes the proposal in the Advance Notice is consistent with the objectives and principles described in Section 805(b) of the Clearing Supervision Act,[40] and in the Clearing Agency Rules, in particular Rules 17Ad–22(e)(4) and (e)(6).[41]

A. Consistency With Section 805(b) of the Clearing Supervision Act

The Commission believes that the Advance Notice is consistent with the stated objectives and principles of Section 805(b) of the Clearing Supervision Act.

The Commission believes that adopting FICC's proposed MLA Charge and Bid-Ask Spread Charge would be consistent with the promotion of robust

[33] All proposed changes to the haircuts would be subject to FICC's model risk management governance procedures set forth in the Model Risk Management Framework. *See supra* note 28.

[34] *See* 12 U.S.C. 5461(b).

[35] 12 U.S.C. 5464(a)(2).

[36] 12 U.S.C. 5464(b).

[37] 12 U.S.C. 5464(c).

[38] 17 CFR 240.17Ad–22. *See* Securities Exchange Act Release No. 68080 (October 22, 2012), 77 FR 66220 (November 2, 2012) (S7–08–11). *See also* Securities Exchange Act Release No. 78961 (September 28, 2016), 81 FR 70786 (October 13, 2016) (S7–03–14) (''Covered Clearing Agency Standards''). FICC is a ''covered clearing agency'' as defined in Rule 17Ad–22(a)(5).

[39] 17 CFR 240.17Ad–22.

[40] 12 U.S.C. 5464(b).

[41] 17 CFR 240.17Ad–22(e)(4) and (e)(6).

risk management at FICC. As described above in Section I.B., FICC's current margin methodologies do not account for the potential increase in market impact costs that FICC could incur when liquidating a defaulted member's portfolio where the portfolio contains a concentration of large positions in a particular security or group of securities sharing a similar risk profile or in a particular transaction type. Additionally, as described above in Section I.C., FICC's current margin methodologies do not account for the risk of potential bid-ask spread transaction costs when liquidating the securities in a defaulted member's portfolio. FICC proposes to address these respective risks by adding the MLA Charge and Bid-Ask Spread Charge to its margin methodologies.[42]

Specifically, the MLA Charge should better enable FICC to manage the risk of incurring costs associated with the decreased marketability of a defaulted member's portfolio where the portfolio contains a large position in securities sharing similar risk profiles, resulting in potentially higher liquidation costs. To avoid excessive MLA Charges, FICC has identified circumstances that would warrant reducing a member's MLA Charge when FICC could otherwise partially mitigate the relevant risks by extending the time period for liquidating a defaulted member's portfolio beyond the three day period. The Commission views this targeted reduction in the MLA Charge as a feature of the proposal that demonstrates a robust approach towards managing the relevant risks through appropriate (*i.e.,* not simply ''larger'') margin requirements. Additionally, since FICC's current margin methodologies do not account for bid-ask spread transaction costs when liquidating a defaulted member's portfolio, the Bid-Ask Spread Charge should enable FICC to manage such risks. Accordingly, the Commission believes that adopting the proposed MLA Charge and Bid-Ask Spread Charge would allow for measurement and targeted mitigation of risks and costs not captured elsewhere in FICC's current margin methodologies, and would therefore provide for more comprehensive management of risks in a member default scenario, consistent with the promotion of robust risk management.

Further, the Commission believes that adopting FICC's proposed MLA Charge and Bid-Ask Spread Charge would be consistent with promoting safety and soundness at FICC. FICC designed the MLA Charge and Bid-Ask Spread Charge to ensure that FICC collects margin amounts sufficient to manage FICC's risk of incurring costs associated with liquidating defaulted member portfolios. The proposed MLA Charge and Bid-Ask Spread Charge would generally provide FICC with additional resources to manage potential losses arising out of a member default. Such an increase in available financial resources would decrease the likelihood that losses arising out of a member default would exceed FICC's resources and threaten the safety and soundness of FICC's ongoing operations. Accordingly, the Commission believes that adding the proposed MLA Charge and Bid-Ask Spread Charge to FICC's margin methodologies would be consistent with promoting safety and soundness at FICC.

Finally, the Commission believes that adopting FICC's proposed MLA Charge and Bid-Ask Spread Charge would be consistent with reducing systemic risks and supporting the stability of the broader financial system. As discussed above, in a member default scenario, FICC would access the GSD or MBSD Clearing Fund should the defaulted member's own Required Fund Deposit be insufficient to satisfy losses to FICC caused by the liquidation of that member's portfolio. FICC proposes to add the MLA Charge and Bid-Ask Spread Charge to its margin methodologies to better manage the potential costs of liquidating a defaulted member's portfolio. FICC proposes to collect additional margin from members to cover such costs. This, in turn, could reduce the possibility that FICC would need to mutualize among the non-defaulting members a loss arising out of the close-out process. Reducing the potential for loss mutualization could, in turn, reduce the potential knock-on effects to non-defaulting members, their customers, and the broader market arising out of a member default. Further, the Commission notes that, to the extent that the MLA Charge results in any reduction in members' large positions in securities with similar risk profiles, it could reduce the potential risk of adverse market impacts that can arise from liquidating those large positions. However, the Commission also notes that the proposal to reduce the MLA Charge when FICC could otherwise partially mitigate the relevant risks would help ensure that FICC would not impose the MLA Charge without an appropriate risk management basis. Accordingly, the Commission believes that FICC's adoption of the proposed MLA Charge and Bid-Ask Spread Charge would be consistent with the reduction of systemic risk and supporting the stability of the broader financial system.

For the reasons stated above, the Commission believes the changes proposed in the Advance Notice are consistent with Section 805(b) of the Clearing Supervision Act.[43]

B. Consistency With Rule 17Ad–22(e)(4)(i)

Rule 17Ad–22(e)(4)(i) requires that FICC establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence.[44]

As described above in Section I.B., FICC's current margin methodologies do not account for the risk of a potential increase in market impact costs that FICC could incur when liquidating a defaulted member's portfolio where the portfolio contains a large position in securities sharing similar risk profiles. Additionally, as described above, FICC's current margin methodologies do not account for the risk of potential bid-ask spread transaction costs when liquidating the securities in a defaulted member's portfolio. FICC proposes to address such risks by adding the MLA Charge and Bid-Ask Spread Charge to its margin methodologies. Adding these margin charges to FICC's margin methodologies should better enable FICC to collect margin amounts commensurate with the risk attributes of a broader range of its members' portfolios than FICC's current margin methodologies. Specifically, the MLA Charge should better enable FICC to manage the risk of increased costs to FICC associated with the decreased marketability of a defaulted member's portfolio where the portfolio contains a large position in securities sharing similar risk profiles. Additionally, since FICC's current margin methodologies do not account for bid-ask spread transaction costs associated with liquidating a defaulted member's portfolio, the Bid-Ask Spread Charge should enable FICC to manage such risks and costs.

[42] The Commission notes that the other clearing agencies it regulates have charges to account for these types of risks in their margin methodologies, and that addressing these types of risks has received a great deal of industry focus in recent years.

[43] 12 U.S.C. 5464(b).

[44] 17 CFR 240.17Ad–22(e)(4)(i).

The Commission believes that adding the MLA Charge and Bid-Ask Spread Charge to its margin methodologies should enable FICC to more effectively identify, measure, monitor, and manage its credit exposures in connection with liquidating a defaulted member's portfolio that may give rise to (1) decreased marketability due to large positions of securities sharing similar risk profiles, and (2) bid-ask spread transaction costs. Accordingly, the Commission believes that adding the MLA Charge and Bid-Ask Spread Charge to FICC's margin methodologies would be consistent with Rule 17Ad-22(e)(4)(i) because these new margin charges should better enable FICC to maintain sufficient financial resources to cover FICC's credit exposure to its members fully with a high degree of confidence.[45]

C. Consistency With Rules 17Ad–22(e)(6)(i) and (v)

Rule 17Ad–22(e)(6)(i) requires that FICC establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market.[46] Rule 17Ad–22(e)(6)(v) requires that FICC establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, uses an appropriate method for measuring credit exposure that accounts for relevant product risk factors and portfolio effects across products.[47]

As described above in Section I.B, FICC's current margin methodologies do not account for the potential increase in market impact costs when liquidating a defaulted member's portfolio where the portfolio contains a large position in securities sharing similar risk profiles. FICC proposes to address this risk by adding the MLA Charge to its margin methodologies. To avoid excessive MLA Charges and ensure margin requirements are commensurate with the relevant risks, FICC also contemplates reducing a member's MLA Charge when FICC could otherwise partially mitigate the relevant risks by extending the time period for liquidating a defaulted member's portfolio beyond the three day period.

Additionally, as described above in Section I.A and C, FICC's current margin methodologies do not account for the risk of incurring bid-ask spread transaction costs when liquidating the securities in a defaulted member's portfolio. FICC proposes to address this risk by adding the Bid-Ask Spread Charge to its margin methodologies. Adding the MLA Charge and Bid-Ask Spread Charge to FICC's margin methodologies should better enable FICC to collect margin amounts commensurate with the risk attributes of its members' portfolios than FICC's current margin methodologies. Specifically, the MLA Charge should better enable FICC to manage the risk of increased costs to FICC associated with the decreased marketability of a defaulted member's portfolio where the portfolio contains a large position in securities sharing similar risk profiles. Moreover, the proposal to reduce the MLA Charge when FICC could otherwise partially mitigate the relevant risks demonstrates how the proposal provides an appropriate method for measuring credit exposure, in that it seeks to take into account the particular circumstances related to a particular portfolio when determining the MLA Charge. Additionally, since FICC's current margin methodologies do not account for bid-ask spread transaction costs associated with liquidating a defaulted member's portfolio, the Bid-Ask Spread Charge should enable FICC to manage such risks.

Accordingly, the Commission believes that adding the MLA Charge and Bid-Ask Spread Charge to FICC's margin methodologies would be consistent with Rules 17Ad–22(e)(6)(i) and (v) because these new margin charges should better enable FICC to establish a risk-based margin system that (1) considers and produces relevant margin levels commensurate with the risks associated with liquidating member portfolios in a default scenario, including decreased marketability of a portfolio's securities due to large positions in securities sharing similar risk profiles and bid-ask transaction costs, and (2) uses an appropriate method for measuring credit exposure that accounts for such risk factors and portfolio effects.[48]

IV. Conclusion

It is therefore noticed, pursuant to Section 806(e)(1)(I) of the Clearing Supervision Act, that the Commission *does not object* to Advance Notice (SR–FICC–2020–802) and that FICC is *authorized* to implement the proposed change as of the date of this notice or the date of an order by the Commission approving Proposed Rule Change SR–FICC–2020–009, whichever is later.

By the Commission.

J. Matthew DeLesDernier,

Assistant Secretary.

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[45] *Id.*

[46] 17 CFR 240.17Ad–22(e)(6)(i).

[47] 17 CFR 240.17Ad–22(e)(6)(v).

[48] 17 CFR 240.17Ad–22(e)(6)(i) and (v).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90024; File No. SR–NYSE–2020–76]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Harmonize Rules 9261 and 9830 with Recent Changes by the Financial Industry Regulatory Authority, Inc.

September 28, 2020.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on September 15, 2020, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to harmonize Rules 9261 and 9830 with recent changes by the Financial Industry Regulatory Authority, Inc. (''FINRA'') that temporarily grants the Chief or Deputy Chief Hearing Officer the authority to order that hearings be conducted by video conference if warranted by public health risks posed by in-person hearings during the ongoing novel coronavirus (''COVID–19'') pandemic. As proposed, these temporary amendments would be in effect through December 31, 2020. 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.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 harmonize Rules 9261 (Evidence and Procedure in Hearing) and 9830 (Hearing) with recent changes by FINRA to its Rules 9261 and 9830 that temporarily grants to the Chief or Deputy Chief Hearing Officer the authority to order that hearings be conducted by video conference if warranted by public health risks posed by in-person hearings during the ongoing COVID–19 pandemic. As proposed, these temporary amendments would be in effect through December 31, 2020.[4]

Background

In 2013, the NYSE adopted disciplinary rules that are, with certain exceptions, substantially the same as the FINRA Rule 8000 Series and Rule 9000 Series, and which set forth rules for conducting investigations and enforcement actions.[5] The NYSE disciplinary rules were implemented on July 1, 2013.[6]

In adopting disciplinary rules modeled on FINRA's rules, the NYSE adopted the hearing and evidentiary processes set forth in Rule 9261 and in Rule 9830 for hearings in matters involving temporary and permanent cease and desist orders under the Rule 9800 Series. As adopted, the text of Rule 9261 is identical to the counterpart FINRA rule. Rule 9830 is substantially the same as FINRA's rule, except for conforming and technical amendments.[7]

In view of the ongoing spread of COVID–19 and its effect on FINRA's adjudicatory functions nationwide, FINRA recently filed a temporary rule change to grant FINRA's Office of Hearing Officers (''OHO'') and the National Adjudicatory Council (''NAC'') the authority to conduct certain hearings by video conference, if warranted by the current COVID–19-related public health risks posed by in-person hearings. Among the rules FINRA amended were Rules 9261 and 9830.[8]

FINRA represented in its filing that its protocol for conducting hearings by video conference would ensure that such hearings maintain fair process for the parties by, among other things, FINRA's use of a high quality, secure and user-friendly video conferencing service and provide thorough instructions, training and technical support to all hearing participants.[9] According to FINRA, the proposed changes were a reasonable interim solution to allow FINRA's critical adjudicatory processes to continue to function while protecting the health and safety of hearing participants as FINRA works towards resuming in-person hearings in a manner that is compliant with the current guidance of public health authorities.[10]

Pursuant to a regulatory services agreement (''RSA''), FINRA's OHO will administer all aspects of adjudications, including assigning hearing officers to serve as NYSE hearing officers. A hearing officer from OHO will, among other things, preside over the disciplinary hearing, select and chair the hearing panel, and prepare and issue written decisions. The Chief or Deputy Hearing Officer for all Exchange disciplinary hearings are currently drawn from OHO and are all FINRA employees. The Exchange believes that OHO will utilize the same video conference protocol and processes for Exchange matters under the RSA as it proposes for FINRA matters.

Given that FINRA and its OHO administers disciplinary hearings on the Exchange's behalf, and given that the public health concerns addressed by FINRA's amendments apply equally to the Exchange's disciplinary hearings, the Exchange proposes to temporarily amend its disciplinary rules to allow FINRA to conduct virtual hearings on its behalf.

Proposed Rule Change

Rule 9261(b) states that if a disciplinary hearing is held, a party shall be entitled to be heard in-person, by counsel, or by the party's representative. Absent an agreement by all parties to proceed in another manner, Exchange disciplinary hearings are in-person. As noted, the Chief and Deputy Hearing Officers for all Exchange and cross-market matters are supplied by OHO and are FINRA employees. Accordingly, absent an agreement by all parties to proceed in another manner, under Rule 9261(b) the Chief or Deputy Hearing Officer conducts disciplinary hearings in-person.

Similarly, Rule 9830 outlines the requirements for hearings for temporary and permanent cease and desist orders. Rule 9830(a), however, does not specify that a party shall be entitled to be heard in-person, by counsel, or by the party's representative.

Consistent with FINRA's temporary amendment to FINRA Rules 9261 and 9830, the Exchange proposes to temporarily grant the Chief or Deputy Chief Hearing Officer temporary authority to order, upon consideration of the current COVID–19-related public health risks presented by an in-person hearing, that a hearing under those rules be conducted by video conference. The proposed rule change will permit OHO to make an assessment, based on critical COVID–19 data and criteria and the guidance of health and security consultants, whether an in-person hearing would compromise the health and safety of the hearing participants such that the hearing should proceed by video conference. As noted, FINRA has adopted a detailed and thorough

[4] The Exchange may submit a separate rule filing to extend the expiration date of the proposed temporary amendments if the Exchange requires temporary relief from the rule requirements identified in this proposal beyond December 31, 2020. The amended NYSE rules will revert back to their current state at the conclusion of the temporary relief period and any extension thereof.

[5] *See* Securities Exchange Act Release Nos. 68678 (January 16, 2013), 78 FR 5213 (January 24, 2013) (SR–NYSE–2013–02) (''2013 Notice''), 69045 (March 5, 2013), 78 FR 15394 (March 11, 2013) (SR–NYSE–2013–02) (''2013 Approval Order''), and 69963 (July 10, 2013), 78 FR 42573 (July 16, 2013) (SR–NYSE–2013–49).

[6] *See* NYSE Information Memorandum 13–8 (May 24, 2013).

[7] *See* 2013 Approval Order, 78 FR at 15394, n.7 & 15400; 2013 Notice, 78 FR at 5228 & 5234.

[8] *See* Securities Exchange Act Release Nos. 83289 (September 2, 2020), 85 FR 55712 (September 9, 2020) (SR–FINRA–2020–027) (''FINRA Filing''). FINRA also proposed to temporarily amend FINRA Rules 1015 and 9524. FINRA Rule 1015 governs the process by which an applicant for new or continuing membership can appeal a decision rendered by FINRA's Department of Member Supervision under FINRA Rule 1014 or 1017 and request a hearing which would be conducted by a subcommittee of the NAC. *See id.* The Exchange has not adopted FINRA Rule 1015. FINRA Rule 9524 governs the process by which a statutorily disqualified member firm or associated person can appeal the Department's recommendation to deny a firm or sponsoring firm's application to the NAC. *See id.* Under the Exchange's version of Rule 9524, if the Exchange's Chief Regulatory Officer rejects the application, the member organization or applicant may request a review by the Exchange Board of Directors. This differs from FINRA's process, which provides for a hearing before the NAC and further consideration by the FINRA Board of Directors.

[9] *See* FINRA Filing, 85 FR at 55713.

[10] *See id.*

protocol to ensure that hearings conducted by video conference will maintain fair process for the parties.[11] The Exchange believes that this is a reasonable procedure to follow in hearings under Rules 9261 and 9830 chaired by a FINRA employee.[12]

To effectuate these changes, the Exchange proposes to add the following sentence to Rule 9261(b):

> Upon consideration of the current public health risks presented by an in-person hearing, the Chief Hearing Officer or Deputy Chief Hearing Officer may, on a temporary basis, determine that the hearing shall be conducted, in whole or in part, by video conference.

The proposed text is identical to the language adopted by FINRA.[13]

Similarly, the Exchange proposes to add the following text to Rule 9830(a):

> Upon consideration of the current public health risks presented by an in-person hearing, the Chief Hearing Officer or Deputy Chief Hearing Officer may, on a temporary basis, determine that the hearing shall be conducted, in whole or in part, by video conference.

Once again, the proposed language is identical to the language adopted by FINRA.[14]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[15] in general, and furthers the objectives of Section 6(b)(5),[16] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is designed to provide a fair procedure for the disciplining of members and persons associated with members, consistent with Sections 6(b)(7) and 6(d) of the Act.[17]

The Exchange believes that the proposed rule change supports the objectives of the Act by providing greater harmonization between Exchange rules and FINRA rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance. As previously noted, the text of Rule 9261 is identical to the counterpart FINRA rule and Rule 9830 is substantially the same as FINRA's rule, except for conforming and technical amendments. As such, the proposed rule change will foster cooperation and coordination with persons engaged in facilitating transactions in securities and will remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes that the proposed temporary rule change will permit the Exchange to effectively conduct hearings during the COVID–19 pandemic in situations where in-person hearings present likely public health risks. The ability to conduct hearings by video conference will thereby permit the adjudicatory functions of the Exchange's disciplinary rules to continue unabated, thereby avoiding protracted delays. The Exchange believes that this is especially important in matters where temporary and permanent cease and desist orders are sought because the proposed rule change would enable those hearings to proceed without delay, thereby enabling the Exchange to take immediate action to stop significant, ongoing customer harm, to the benefit of the investing public.

Conducting hearings via video conference will give the parties and adjudicators simultaneous visual and oral communication without the risks inherent in physical proximity during a pandemic. Temporarily permitting hearings for disciplinary matters to proceed by video conference maintains fair process by providing respondents a timely opportunity to address and potentially resolve any allegations of misconduct.

As noted, FINRA will use a high quality, secure video conferencing technology with features that will allow the parties to reasonably approximate those tasks that are typically performed at an in-person hearing, such as sharing documents, marking documents, and utilizing breakout rooms. FINRA will also provide training for participants on how to use the video conferencing platform and detailed guidance on the procedures that will govern such hearings. Moreover, the Chief or Deputy Chief Hearing Officer may take into consideration, among other things, a hearing participant's access to connectivity and technology in scheduling a video conference hearing and can also, at their discretion, allow a party or witness to participate by telephone, if necessary, to address such access issues.[18]

For the same reasons, the Exchange believes that the proposed rule change is designed to provide a fair procedure for the disciplining of members and persons associated with members, consistent with Sections 6(b)(7) and 6(d) of the Act.[19] The Exchange believes that the temporary proposed rule change strikes an appropriate balance between providing fair process and enabling the Exchange to fulfill its statutory obligations to protect investors and maintain fair and orderly markets while accounting for the significant health and safety risks of in-person hearings stemming from the outbreak of COVID–19.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address competitive issues but is rather intended solely to provide temporary relief given the impacts of the COVID–19 pandemic. In its filing, FINRA provides an abbreviated economic impact assessment maintaining that the changes are necessary to temporarily rebalance the attendant benefits and costs of the obligations under FINRA Rules 1015, 9261, 9524 and 9830 in response to the impacts of the COVID–19 pandemic that is equally applicable to the changes the Exchange proposes.[20] The Exchange accordingly incorporates FINRA's abbreviated economic impact assessment by reference.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[21] and Rule

[11] *See* FINRA Filing, 85 FR at 55713.

[12] The Exchange notes, as did FINRA, that SEC's Rules of Practice pertaining to temporary cease-and-desist orders provide that parties and witnesses may participate by telephone or, in the Commission's discretion, through the use of alternative technologies that allow remote access, such as a video link. *See* SEC Rule of Practice 511(d)(3); Comment (d); *see* FINRA Filing, 85 FR at 55714, n. 21.

[13] *See* FINRA Filing, 85 FR at 55712.

[14] *Id.*

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] 15 U.S.C. 78f(b)(7) and 78f(d).

[18] *See* text accompanying notes 9–10, *supra.*

[19] 15 U.S.C. 78f(b)(7) and 78f(d).

[20] FINRA Filing, 85 FR at 55716.

[21] 15 U.S.C. 78s(b)(3)(A)(iii).

19b–4(f)(6) thereunder.[22] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[23] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2020–76 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2020–76. 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, on business days between the hours of 10:00 a.m. and 3:00 p.m., located at 100 F Street NE, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2020–76 and should be submitted on or before October 23, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–21765 Filed 10–1–20; 8:45 am]

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[22] 17 CFR 240.19b–4(f)(6).

[23] 15 U.S.C. 78s(b)(2)(B).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34031; File No. 812–15142]

Frost Family of Funds and Frost Investment Advisors, LLC

September 29, 2020.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application for an order pursuant to: (a) Section 6(c) of the Investment Company Act of 1940 (''Act'') granting an exemption from sections 18(f) and 21(b) of the Act; (b) section 12(d)(1)(J) of the Act granting an exemption from section 12(d)(1) of the Act; (c) sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1), 17(a)(2) and 17(a)(3) of the Act; and (d) section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint arrangements and transactions. Applicants request an order that would permit certain registered management investment companies to participate in a joint lending and borrowing facility.

APPLICANTS: Frost Family of Funds (the ''Trust'') a Delaware statutory trust registered under the Act as an open-end management investment company on behalf of all existing series;[1] and Frost Investment Advisors, LLC (''Frost''), a Delaware limited liability company that is registered as an investment adviser under the Investment Advisers Act of 1940.

FILING DATES: The application was filed on July 8, 2020.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by emailing the Commission's Secretary at *Secretarys-Office@sec.gov* and serving applicants with a copy of the request by email. Hearing requests should be received by the Commission by 5:30 p.m. on October 26, 2020, and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090; *Applicants:* Michael Beattie, SEI Investments, One Freedom Valley Drive, Oaks, PA 19456, *MBeattie@seic.com.*

FOR FURTHER INFORMATION CONTACT: Stephan N. Packs, Senior Counsel, at (202) 551–6853, or David J. Marcinkus, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Summary of the Application:

1. Applicants request an order that would permit Applicants to participate

[1] Certain of the Funds (defined below) may be money market funds that comply with Rule 2a–7 under the Act (each a ''Money Market Fund''). None of the existing Funds is a Money Market Fund, but if Money Market Funds rely on this relief in the future, they typically will not participate as borrowers because such Funds rarely need to borrow cash to meet redemptions.

in an interfund lending facility where each Fund could lend money directly to and borrow money directly from other Funds to cover unanticipated cash shortfalls, such as unanticipated redemptions or sales fails.[2] The Funds will not borrow under the facility for leverage purposes and the loans' duration will be no more than 7 days.[3]

2. Applicants anticipate that the proposed facility would provide a borrowing Fund with a source of liquidity at a rate lower than the bank borrowing rate at times when the cash position of the Fund is insufficient to meet temporary cash requirements. In addition, Funds making short-term cash loans directly to other Funds would earn interest at a rate higher than they otherwise could obtain from investing their cash in repurchase agreements or certain other short-term money market instruments. Thus, Applicants assert that the facility would benefit both borrowing and lending Funds.

3. Applicants agree that any order granting the requested relief will be subject to the terms and conditions stated in the application. Among others, the Adviser, through a designated committee, would administer the facility as a disinterested fiduciary as part of its duties under the investment management agreements with each Fund and would receive no additional fee as compensation for its services in connection with the administration of the facility. The facility would be subject to oversight and certain approvals by a Fund's Board, including, among others, approval of the interest rate formula and of the method for allocating loans across Funds, as well as review of the process in place to evaluate the liquidity implications for the Funds. A Fund's aggregate outstanding interfund loans will not exceed 15% of its net assets at the time of the loan, and the Fund's loans to any one Fund will not exceed 5% of the lending Fund's net assets.[4]

4. Applicants assert that the facility does not raise the concerns underlying section 12(d)(1) of the Act given that the Funds are part of the same group of investment companies and there will be no duplicative costs or fees to the Funds.[5] Applicants also assert that the proposed transactions do not raise the concerns underlying sections 17(a)(1), 17(a)(3), 17(d) and 21(b) of the Act as the Funds would not engage in lending transactions that unfairly benefit insiders or are detrimental to the Funds. Applicants state that the facility will offer both reduced borrowing costs and enhanced returns on loaned funds to all participating Funds and each Fund would have an equal opportunity to borrow and lend on equal terms based on an interest rate formula that is objective and verifiable. With respect to the relief from section 17(a)(2) of the Act, Applicants note that any collateral pledged to secure an interfund loan would be subject to the same conditions imposed by any other lender to a Fund that imposes conditions on the quality of or access to collateral for a borrowing (if the lender is another Fund) or the same or better conditions (in any other circumstance).[6]

5. Applicants also believe that the limited relief from section 18(f)(1) of the Act that is necessary to implement the facility (because the lending Funds are not banks) is appropriate in light of the conditions and safeguards described in the application and because the open-end Funds would remain subject to the requirement of section 18(f)(1) that all borrowings of the open-end Fund, including combined interfund loans and bank borrowings, have at least 300% asset coverage.

6. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction, including the compensation to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Rule 17d–1(b) under the Act provides that in passing upon an application filed under the rule, the Commission will consider whether the participation of the registered investment company in a joint enterprise, joint arrangement or profit sharing plan on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of the other participants.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–21838 Filed 10–1–20; 8:45 am]

BILLING CODE 8011–01–P

[2] Applicants request that the order apply to the Applicants and to any existing or future series of the Trust and to any existing or future registered open-end management investment company or existing or future series thereof for which Frost or any successor thereto or an investment adviser controlling, controlled by, or under common control with Frost or any successor thereto serves as investment adviser (each a ''Fund'' and, collectively, the ''Funds'' and each such investment adviser an ''Adviser''). For purposes of the requested order, ''successor'' is limited to any entity that results from a reorganization into another jurisdiction or a change in the type of a business organization.

[3] Any Fund, however, will be able to call a loan on one business day's notice.

[4] Under certain circumstances, a borrowing Fund will be required to pledge collateral to secure the loan.

[5] Applicants state that the obligation to repay an interfund loan could be deemed to constitute a security for the purposes of sections 17(a)(1) and 12(d)(1) of the Act.

[6] Applicants state that any pledge of securities to secure an interfund loan could constitute a purchase of securities for purposes of section 17(a)(2) of the Act.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90020; File No. SR–NYSE–2020–79]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Extend its Waiver of the Application of Certain of the Shareholder Approval Requirements in Section 312.03 of the NYSE Listed Company Manual Through December 31, 2020 Subject to Certain Conditions

September 28, 2020.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 24, 2020, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend through and including December 31, 2020 its waiver, subject to certain conditions, of the application of certain of the shareholder approval requirements set forth in Section 312.03 of the NYSE Listed Company Manual (''Manual''). The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Pursuant to an earlier proposed rule change,[4] the Exchange waived through and including June 30, 2020, subject to certain conditions, certain of the shareholder approval requirements set forth in Section 312.03 of the Manual (the ''Waiver''). Subsequently, the Exchange extended the Waiver for the period through and including September 30, 2020.[5] The Exchange now proposes to extend the Waiver through and including December 31, 2020.

The U.S. and global economies have experienced unprecedented disruption as a result of the ongoing spread of COVID–19, including severe limitations on companies' ability to operate their businesses and periods of volatility in the U.S. and global equity markets. The Exchange implemented the Waiver because it believed that it was likely that many listed companies would have urgent liquidity needs during this crisis period due to lost revenues and maturing debt obligations. In those circumstances, the Exchange believed that listed companies would need to access additional capital that might not be available in the public equity or credit markets.

Since the implementation of the Waiver a number of listed companies have completed capital raising transactions that would not have been possible without the flexibility provided by the Waiver. While equity indices have recovered from the decline initially associated with the COVID–19 crisis, ongoing economic disruption and uncertainty associated with the pandemic have caused many listed companies to continue to face circumstances in which their businesses and revenues are severely curtailed. Such companies continue to experience difficulty in accessing liquidity from the public markets. In addition, there is continued uncertainty as to the course the COVID–19 pandemic may take in the coming months and the possibility of further disruption related to COVID–19 exists. Consequently, the Exchange believes it is appropriate to extend the application of the Waiver for an additional period through and including December 31, 2020, to provide more flexibility to listed companies that need to access capital in the current unusual economic conditions.

Section 312.03 of the Manual, which requires listed companies to acquire shareholder approval prior to certain kinds of equity issuances, imposes significant limitations on the ability of a listed company to engage in the sort of large private placement transaction described above. The most important limitations are as follows:

- *Issuance to a Related Party.*

Subject to an exception for early stage companies set forth therein, Section 312.03(b) of the Manual requires shareholder approval of any issuance to a director, officer or substantial security holder[6] of the company (each a ''Related Party'') or to an affiliate of a Related Party[7] if the number of shares of common stock to be issued, or if the number of shares of common stock into which the securities may be convertible or exercisable, exceeds either 1% of the number of shares of common stock or 1% of the voting power outstanding before the issuance. A limited exception permits cash sales to Related Parties and their affiliates that meet a market price test set forth in the rule (the ''Minimum Price'')[8] and that relate to no more than 5% of the company's outstanding common stock. However, this exception may only be used if the Related Party in question has Related Party status solely because it is a substantial security holder of the company.

- *Transactions of 20% of More.*

Section 312.03(c) of the Manual requires shareholder approval of any transaction relating to 20% or more of the company's outstanding common stock or 20% of the voting power outstanding before such issuance other than a public offering for cash. Section 312.03(c) includes an exception for transactions involving a cash sale of the company's securities that comply with the Minimum Price requirement and also meet the following definition of a ''bona fide private financing,'' as set forth in Section 312.04(g):

''Bona fide private financing'' refers to a sale in which either:

○ a registered broker-dealer purchases the securities from the issuer with a view to the private sale of such securities to one or more purchasers; or

○ the issuer sells the securities to multiple purchasers, and no one such purchaser, or group of related purchasers, acquires, or has the right to acquire upon exercise or conversion of the securities, more than five percent of the shares of the issuer's common stock

[4] *See* Securities Exchange Act Release No. 34–88572 (April 6, 2020); 85 FR 20323 (April 10, 2020) (SR–NYSE–2020–30).

[5] *See* Securities Exchange Act Release No. 89219 (July 2, 2020; 85 FR 41640 (July 10, 2020) (SR–NYSE–2020–58).

[6] For purposes of Section 312.03(b), Section 312.04(e) provides that: ''An interest consisting of less than either five percent of the number of shares of common stock or five percent of the voting power outstanding of a company or entity shall not be considered a substantial interest or cause the holder of such an interest to be regarded as a substantial security holder.''

[7] Under Section 312.03 of the Manual, a ''Related Party'' includes ''(1) a director, officer or substantial security holder of the company (each a ''Related Party''); (2) a subsidiary, affiliate or other closely-related person of a Related Party; or (3) any company or entity in which a Related Party has a substantial direct or indirect interest;''

[8] Section 312.04(i) defines the ''Minimum Price'' as follows: ''Minimum Price'' means a price that is the lower of: (i) The Official Closing Price immediately preceding the signing of the binding agreement; or (ii) the average Official Closing Price for the five trading days immediately preceding the signing of the binding agreement.

Section 312.04(j) defines ''Official Closing Price'' as follows: ''Official Closing Price'' of the issuer's common stock means the official closing price on the Exchange as reported to the Consolidated Tape immediately preceding the signing of a binding agreement to issue the securities. For example, if the transaction is signed after the close of the regular session at 4:00 p.m. Eastern Standard Time on a Tuesday, then Tuesday's official closing price is used. If the transaction is signed at any time between the close of the regular session on Monday and the close if the regular session on Tuesday, then Monday's official closing price is used.

or more than five percent of the issuer's voting power before the sale.''

The Exchange expects that it will continue to be the case that certain companies during the course of the ongoing unusual economic conditions will urgently need to obtain new capital by selling equity securities in private placements.

In many cases, such transactions may involve sales to existing investors in the company or their affiliates that would exceed the applicable 1% and 5% limits of Section 312.03(b). Given the ongoing economic disruption associated with the COVID–19 pandemic, the Exchange proposes to continue its partial waiver of the application of Section 312.03(b) for the period as of the date of this filing through and including December 31, 2020, with the Waiver specifically limited to transactions that involve the sale of the company's securities for cash at a price that meets the Minimum Price requirement as set forth in Section 312.04.[9] In addition, to qualify for the Waiver, a transaction must be reviewed and approved by the company's audit committee or a comparable committee comprised solely of independent directors.

This Waiver will continue to not be applicable to any transaction involving the stock or assets of another company where any director, officer or substantial security holder of the company has a 5% or greater interest (or such persons collectively have a 10% or greater interest), directly or indirectly, in the company or assets to be acquired or in the consideration to be paid in the transaction or series of related transactions and the present or potential issuance of common stock, or securities convertible into or exercisable for common stock, could result in an increase in outstanding common shares or voting power of 5% or more (*i.e.,* a transaction which would require shareholder approval under NASDAQ Marketplace Rule 5635(a)). Specifically, the Waiver will continue to not be applicable to a sale of securities by a listed company to any person subject to the provisions of Section 312.03(b) in a transaction, or series of transactions, whose proceeds will be used to fund an acquisition of stock or assets of another company where such person has a direct or indirect interest in the company or assets to be acquired or in the consideration to be paid for such acquisition.

The effect of the extension of the Waiver would be to allow companies to sell their securities to Related Parties and other persons subject to Section 312.03(b)[10] without complying with the numerical limitations of that rule, as long as the sale is in a cash transaction that meets the Minimum Price requirement and also meets the other requirements noted above. As provided by Section 312.03(a), any transaction benefitting from the proposed waiver will still be subject to shareholder approval if required under any other applicable rule, including the equity compensation requirements of Section 303A.08 and the change of control requirements of Section 312.03(d).

Existing large investors are often the only willing providers of much-needed capital to companies undergoing difficulties and the Exchange believes that it is appropriate to increase companies' flexibility to access this source of capital for an additional limited period. The Exchange notes that, as a result of the extension of the Waiver, the Exchange's application of Section 312.03(b) will be consistent with the application of NASDAQ Marketplace Rule 5635(a)[11] to sales of a listed company's securities to related parties during the Waiver period.

Many private placement transactions under the current market conditions may also exceed the 20% threshold established by Section 312.03(c). Therefore, given the ongoing economic disruption associated with the COIVD–19 pandemic, the Exchange also proposes to continue for the period through and including December 31, 2020, for purposes of the bona fide financing exception to the 20% requirement, its waiver of the 5% limitation for any sale to an individual investor in a bona fide private financing pursuant to Section 312.03(c) and to permit companies to undertake a bona fide private financing during that period in which there is only a single purchaser. As provided by Section 312.03(a), any transaction benefitting from the Waiver will still be subject to shareholder approval if required under any other applicable rule, including the equity compensation requirements of Section 303A.08 and the change of control requirements of Section 312.03(d). Any transaction benefitting from the Waiver must be a sale of the company's securities for cash at a price that meets the Minimum Price requirement.

The effect of the proposed extension of the Waiver would be that a listed company would be exempt from the shareholder approval requirement of Section 312.03(c) in relation to a private placement transaction regardless of its size or the number of participating investors or the amount of securities purchased by any single investor, provided that the transaction is a sale of the company's securities for cash at a price that meets the Minimum Price requirement. If any purchaser in a transaction benefiting from this waiver is a Related Party or other person subject to Section 312.03(b), such transaction must be reviewed and approved by the company's audit committee or a comparable committee comprised solely of independent directors. The Exchange notes that, as a result of the proposed extension of the Waiver, the Exchange's application of Section 312.03(c) will continue to be consistent during the Waiver period with the application of NASDAQ Marketplace Rule 5635(d) with respect to private placements relating to 20% or more of a company's common stock or voting power outstanding before such transaction.[12]

The Exchange notes that these temporary emergency waivers would simply continue to provide NYSE listed companies with the flexibility on a temporary emergency basis to consummate transactions without shareholder approval that would not require shareholder approval under the rules of the NASDAQ Stock Market, as the specific limitations the Exchange is proposing to waive do not exist in the applicable NASDAQ rules.[13]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect the public interest and the interests of investors, and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As a result of the economic disruption related to the ongoing spread of the

[9] *See* supra note 8.

[10] *See* supra note 6.

[11] If a company is raising capital through a transaction, or series of transaction, via the waiver, they cannot use such capital to fund an acquisition.

[12] *See* supra note 11 which also applies to the waivers available under Section 312.03(c).

[13] *See* NASDAQ Marketplace Rule 5635, including specifically subsections (a) and (d) thereof.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

COVID–19 virus, certain listed companies may experience urgent liquidity needs that they are unable to meet by raising funds in the public equity or credit markets. The proposed rule change is designed to provide temporary relief from certain of the NYSE's shareholder approval requirements in relation to stock issuances to provide companies with additional flexibility to raise funds by selling equity in private placement transactions during the current unusual economic conditions provided such transactions meet certain conditions, such as the Minimum Price as defined in Section 312.04(i). The proposed waivers are consistent with the protection of investors because any transaction benefiting from the waivers will not, in the Exchange's view, be dilutive to the company's existing shareholders as it will be subject to a minimum market price requirement and because the audit committee or a comparable committee comprised solely of independent directors will review and approve any transaction benefitting from a waiver that involves a Related Party or affiliates of a Related Party. In addition, as provided by Section 312.03(a), any transaction benefitting from the proposed waiver will still be subject to shareholder approval if required under any other applicable rule, including the equity compensation requirements of Section 303A.08 and the change of control requirements of Section 312.03(d). All companies listed on the Exchange would be eligible to take advantage of the proposed temporary waivers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather is designed to provide temporary relief from certain of the NYSE's shareholder approval requirements in relation to stock issuances to provide companies with additional flexibility to raise funds by selling equity in private placement transactions during the current unusual economic conditions. In addition, the proposed waivers will simply temporarily conform the treatment of transactions benefitting from the waivers to their treatment under the comparable NASDAQ rules.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [16] and Rule 19b–4(f)(6) thereunder.[17] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [18] and Rule 19b–4(f)(6)(iii) thereunder.[19]

A proposed rule change filed under Rule 19b–4(f)(6) [20] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[21] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Exchange believes that the Waiver of the operative delay would be consistent with the protection of investors and the public interest because, in the Exchange's view, the economic disruption caused by the global spread of the COVID–19 virus may give rise to companies experiencing urgent liquidity needs which they may need to meet by undertaking transactions that would benefit from the proposed relief. In support of its request to waive the 30-day operative delay, the Exchange stated, among other things, its belief that the proposed Waiver does not give rise to any novel investor protection concerns, as the proposed rule change conforms the NYSE's shareholder approval requirements temporarily to those of NASDAQ and would not permit any transactions without shareholder approval that are not permitted on another exchange. In addition, the Exchange stated that all transactions utilizing the Waiver would have to satisfy the Minimum Price requirement contained in the rule and be reviewed and approved by the issuer's audit committee or comparable committee of the board comprised entirely of independent directors if any transactions benefitting from the Waiver involve a Related Party or affiliates of a Related Party, as described above.[22] Furthermore, the Exchange has stated that, as provided by Section 312.04(a) of the Manual, any transaction benefitting from the proposed Waiver will still be subject to shareholder approval if required under any other applicable rule, including the equity compensation requirements of Section 303A.08 of the Manual and the change of control requirements of Section 312.03(d) of the Manual. The Exchange also noted that the proposed Waiver is temporary in nature and will only be applied through and including December 31, 2020.

The Commission notes that the proposed rule change would provide a temporary waiver of certain shareholder approval requirements under certain conditions in light of current economic conditions due to COVID–19. As noted by NYSE, the Waiver is consistent with Nasdaq's shareholder approval rules and would not permit any transactions without shareholder approval that is not permitted on another exchange.[23] In addition, all transactions utilizing the Waiver would have to satisfy the Minimum Price requirement which is a market related price, as defined above.[24] Further, all transactions subject to the Waiver that involve Related Parties or affiliates of Related Parties would have to be approved by the listed company's

[16] 15 U.S.C. 78s(b)(3)(A)(iii).

[17] 17 CFR 240.19b–4(f)(6).

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived the five business day notification requirement for this proposed rule change.

[20] 17 CFR 240.19b–4(f)(6).

[21] 17 CFR 240.19b–4(f)(6)(iii).

[22] The Commission notes that, as described in the purpose section above, all transactions utilizing the Waiver for purposes of Section 312.03(b) would be subject to review and approval by an audit committee or comparable body of independent directors. As to transactions utilizing the temporary Waiver under Section 312.03(c) all transactions involving Related Parties or other persons subject to Section 312.03(b), as described above, must be reviewed and approved by the company's audit committee or a comparable committee comprised solely of independent directors.

[23] In addition, as noted above, if a company is raising capital through a transaction, or series of transactions, via the Waiver, they cannot use such capital to fund an acquisition.

[24] *See supra* note 8.

audit committee or comparable committee of the board comprised entirely of independent directors. In addition, the Commission notes that the Waiver of the shareholder approval provisions only applies to the specific provisions in Sections 312.03(b) and (d) of the Manual discussed above and any transaction utilizing the Waiver would still be subject to all other shareholder approval requirements including, for example, the equity compensation requirements of Section 303A.08 and the change of control requirements of Section 312.03(d). The Commission also notes that the proposal is a temporary measure designed to allow companies to raise necessary capital at market related prices without shareholder approval under the limited conditions discussed above in response to current, unusual economic conditions. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protections of investors and the public interest. According, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[25]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[26] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2020–79 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2020–79. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2020–79 and should be submitted on or before October 23, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–21767 Filed 10–1–20; 8:45 am]

BILLING CODE 8011–01–P

[25] For purposed only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[26] 15 U.S.C. 78s(b)(2)(B).

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Wednesday, October 7, 2020.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov*.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topic:

Institution and settlement of injunctive actions

Institution and settlement of administrative proceedings

Resolution of litigation claims and

Other matters relating to enforcement proceedings

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: September 30, 2020.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2020–21956 Filed 9–30–20; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90023; File No. SR–NYSE–2020–67]

Self-Regulatory Organizations; New York Stock Exchange LLC, Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change to Amend Article IV, Section 4.05 of the Thirteenth Amended and Restated Operating Agreement of the Exchange

September 28, 2020.

On August 7, 2020, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend Article IV, Section 4.05 of the Thirteenth Amended and Restated Operating Agreement of the Exchange to allow the use of regulatory fines for charitable donations. The proposed rule change was published for comment in the **Federal Register** on August 25, 2020.[3] The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a propose rule change, or within such longer period up to 90 days as the Commission may designate if it find such longer period to be appropriate and published its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the Notice for the proposed rule change is October 9, 2020. The Commission is extending this 45-day period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, pursuant to Section 19(b)(2) of the Act,[5] the Commission designates November 23, 2020, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed rule change (File No. SR–NYSE–2020–67).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–21764 Filed 10–1–20; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 89615 (August 19, 2020), 85 FR 52392 (August 25, 2020) (SR–NYSE–2020–67).

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

SMALL BUSINESS ADMINISTRATION

Surety Bond Guarantee Program Fees

AGENCY: U.S. Small Business Administration.

ACTION: Notification of Surety Bond Guarantee Program Fees.

SUMMARY: This document announces that the U.S. Small Business Administration (SBA) is adopting the guarantee fees in the amounts that SBA has been charging during the temporary fee reduction initiative that began October 1, 2018 and continues through September 30, 2020. These guarantee fees are charged to all Surety companies and Principals on each guaranteed bond (other than a bid bond) issued in SBA's Surety Bond Guarantee (SBG) Program.

DATES: The fees described in this document will be adopted as of October 1, 2020 and will apply to all SBA surety bond guarantees approved on or after October 1, 2020.

FOR FURTHER INFORMATION CONTACT: Jermaine Perry, Management Analyst, Office of Surety Guarantees; (202) 401–8275 or *jermaine.perry@sba.gov.*

SUPPLEMENTARY INFORMATION: Under its SBG Program, the SBA guarantees a certain percentage of bid, payment, and performance bonds for small and emerging contractors who cannot obtain surety bonds through regular commercial channels. The SBA guarantee incentivizes Sureties to provide bonding for small businesses and thereby assists small businesses in obtaining greater access to contracting opportunities. Pursuant to its statutory authority to ''establish such fee or fees for small business concerns and premium or premiums for sureties as it deems reasonable and necessary,'' and to administer the SBG Program ''on a prudent and economically justifiable basis,'' 15 U.S.C. 694b(h), SBA assesses a guarantee fee against both the small business concern (the Principal) and the Surety and deposits these fees into a revolving fund to cover the program's liabilities and certain program expenses.

SBA's rules provide that the amount of the fees to be paid by the Surety and the Principal will be determined by SBA and published in Notices in the **Federal Register** from time to time. *See* 13 CFR 115.32(b) and (c) and 115.66. On July 30, 2018, SBA published a notification in the **Federal Register** (83 FR 36658) that announced that, for all guaranteed bonds approved during the one year period beginning October 1, 2018 through September 30, 2019, the Surety fee would decrease from 26% of the bond premium to 20% of the bond premium, and the Principal fee would decrease from $7.29 per thousand dollars of the contract amount to $6 per thousand dollars of the contract amount (the decrease in the Surety and Principal fees referred to, collectively, as ''lower fees''). The announcement stated that SBA will evaluate whether the lower fees will result in an increase in the bond activity level of the SBG Program and, if so, whether any such increased level of activity will generate sufficient revenues to offset the reduced fee amounts. SBA invited comments on this temporary initiative and received a total of eleven comments, with nine comments from surety companies and agents and two comments from trade associations, all of which expressed support for the lower fees.

SBA subsequently published a notification in the **Federal Register** (84 FR 40466) extending the lower fees through September 30, 2020 to provide additional time for SBA to evaluate the fee reduction due to the Government lapse of appropriation, which spanned from December 22, 2018 through January 25, 2019. During the extension, SBA continued its evaluation into how lower fees affect the SBG Program, including program utilization by surety companies, surety agents and small businesses; the size and characteristics of the portfolio; and the risk level of the program, including cash flow and defaults. A final report of the evaluation study conducted by SBA (which covered the period between October 1, 2018 and December 31, 2019) will be published on *www.sba.gov/evaluation.*

In addition to the report and the public comments in support of the lower fees, SBA has considered the effect of the lower fees on the annual cashflow (fees collected minus claims paid) and the reserves in the SBG Program's revolving fund. The annual cashflow during the period of the temporary fee reductions, between October 1, 2018 and September 21, 2020, maintained a surplus, resulting in an increase in the reserves in the

revolving fund. SBA has determined that the lower fees are reasonable to maintain sufficient funds in the revolving fund to cover the cost of anticipated losses in the SBG program. Although the report on the evaluation study found that the lower fees did not increase the number or values of bonds during the fee evaluation period, the lower fees charged to the Principal and Surety will reduce the cost of bonding to small businesses, and result in a projected average annual cost savings of $3.5 million for Principals and Sureties. In addition, the evaluation report indicated that ''higher volume surety producers were more likely to respond more positively or optimistically to the potential benefits of continuing or increasing the [fee] reductions.''

In light of the above, SBA has decided to adopt the lower fees of 20% of the bond premium for the Surety fee and $6 per thousand dollars of the contract amount for the Principal fee, and will continue to apply these lower fees to all SBA surety bond guarantees approved on or after October 1, 2020. SBA will actively monitor the performance of the SBG program to ensure that the fees are reasonable and necessary and allow SBA to administer the SBG program on a prudent and economically justifiable basis.

Authority: 15 U.S.C. 694b(h); 13 CFR 115.32(b) and (c) and 115.66.

Dated: September 29, 2020.

William Manger,

Associate Administrator/Chief of Staff, Office of Capital Access.

[FR Doc. 2020–21876 Filed 9–29–20; 4:15 pm]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

Change to SBA Secondary Market Program

AGENCY: Small Business Administration.

ACTION: Notice of change to secondary market program.

SUMMARY: The purpose of this Notice is to inform the public that the Small Business Administration (SBA) is making a change to its Secondary Market Loan Pooling Program. SBA is decreasing the minimum maturity ratio for both SBA Standard Pools and Weighted-Average Coupon (WAC) Pools by 500 basis points, to 89.0%. The change described in this Notice is being made to cover the estimated cost of the timely payment guaranty for newly formed SBA 7(a) loan pools. This change will be incorporated, as needed, into the SBA Secondary Market Program Guide and all other appropriate SBA Secondary Market documents.

DATES: This change will apply to SBA 7(a) loan pools with an issue date on or after October 1, 2020.

ADDRESSES: Address comments concerning this Notice to John M. Wade, Chief Secondary Market Division, U.S. Small Business Administration, 409 3rd Street SW, Washington, DC 20416; or, *john.wade@sba.gov.*

FOR FURTHER INFORMATION CONTACT: John M. Wade, Chief, Secondary Market Division at 202–205–3647 or *john.wade@sba.gov.*

SUPPLEMENTARY INFORMATION: The Secondary Market Improvements Act of 1984, 15 U.S.C. 634(f) through (h), authorized SBA to guarantee the timely payment of principal and interest on Pool Certificates. A Pool Certificate represents a fractional undivided interest in a ''Pool,'' which is an aggregation of SBA guaranteed portions of loans made by SBA Lenders under section 7(a) of the Small Business Act, 15 U.S.C. 636(a). In order to support the timely payment guaranty requirement, SBA established the Master Reserve Fund (MRF), which serves as a mechanism to cover the cost of SBA's timely payment guaranty. Borrower payments on the guaranteed portions of pooled loans, as well as SBA guaranty payments on defaulted pooled loans, are deposited into the MRF. Funds are held in the MRF until distributions are made to investors (Registered Holders) of Pool Certificates. The interest earned on the borrower payments and the SBA guaranty payments deposited into the MRF supports the timely payments made to Registered Holders.

From time to time, SBA provides guidance to SBA Pool Assemblers on the required loan and pool characteristics necessary to form a Pool. These characteristics include, among other things, the minimum number of guaranteed portions of loans required to form a Pool, the allowable difference between the highest and lowest gross and net note rates of the guaranteed portions of loans in a Pool, and the minimum maturity ratio of the guaranteed portions of loans in a Pool. The minimum maturity ratio is equal to the ratio of the shortest and the longest remaining term to maturity of the guaranteed portions of loans in a Pool.

Based on SBA's expectations as to the performance of future Pools, SBA has determined that for pools formed on or after October 1, 2020, SBA Pool Assemblers may increase the difference between the shortest and the longest remaining term of the guaranteed portions of loans in a Pool by 5 percentage points (*i.e.,* decreasing the minimum maturity ratio by 500 basis points). SBA does not expect a 5 percentage point reduction in the minimum maturity ratio to have an adverse impact on either the program or the participants in the program. Therefore, effective October 1, 2020, all guaranteed portions of loans in Standard Pools and WAC Pools presented for settlement with SBA's Fiscal Transfer Agent will be required to have a minimum maturity ratio of at least 89.0%. SBA is making this change pursuant to Section 5(g)(2) of the Small Business Act, 15 U.S.C. 634(g)(2).

SBA will continue to monitor loan and pool characteristics and will provide notification of additional changes as necessary. It is important to note that there is no change to SBA's obligation to honor its guaranty of the amounts owed to Registered Holders of Pool Certificates and that such guaranty continues to be backed by the full faith and credit of the United States.

This program change will be incorporated as necessary into SBA's Secondary Market Guide and all other appropriate SBA Secondary Market documents. As indicated above, this change will be effective for Standard Pools and WAC Pools with an issue date on or after October 1, 2020.

Dated: September 29, 2020.

William M. Manger,

Associate Administrator, Office of Capital Access.

[FR Doc. 2020–21832 Filed 10–1–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land Use Assurance; Nampa Municipal Airport, Nampa, Idaho

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

ACTION: Notice.

SUMMARY: Notice is being given that the FAA is considering a request from the Nampa Municipal Airport, Airport Superintendent to change certain portions of the airport from aeronautical use to non-aeronautical use at the Nampa Municipal Airport, Nampa, ID. The request consists of 6 parcels, or portions thereof that are depicted on the Airport's current Exhibit A—Airport Property Map.

DATES: Comments are due within 30 days of the date of the publication of this notice in the **Federal Register**.

ADDRESSES: Written comments can be provided to Gary M. Gates, Civil Engineer, Helena Airports District Office, 2725 Skyway Drive Suite 2, Helena, MT 59602, (406) 449–5271.

FOR FURTHER INFORMATION CONTACT: Mr. Monte Hasl, Airport Superintendent, Nampa Municipal Airport, 411 3rd Street South, Nampa Idaho 83651 or Gary M. Gates, Civil Engineer, Helena Airports District Office, 2725 Skyway Drive Suite 2, Helena, MT 59602, (406) 449–5271. Documents reflecting this FAA action may be reviewed at the above locations.

SUPPLEMENTARY INFORMATION: Under the provisions of Title 49, U.S.C. 47153(c), and 47107(h)(2), the FAA is considering a proposal from the Airport Superintendent, Nampa Municipal Airport, to change a portion of the Nampa Municipal Airport from aeronautical use to non-aeronautical use in order to relocate a portion of an existing roadway outside of the Runway Protection Zone (RPZ). A total of 6 parcels, consisting of approximately 4.68 acres were included in the request. The FAA has reviewed the request and determined that all of the parcels or portions thereof in the request package can be released from aeronautical use. The land will remain under the City of Nampa ownership and will be leased at fair market value for non-aeronautical revenue generation. The revenue will support the Airports aviation needs, including upcoming airport development projects. The proposed use of this property is considered compatible with other airport operations in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in **Federal Register** on February 16, 1999.

Issued in Helena, Montana on September 28, 2020.

Steven L. Engebrecht,

Acting Manager,Helena Airports District Office.

[FR Doc. 2020–21780 Filed 10–1–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2020–0027–N–25]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, this notice announces that FRA is forwarding the Information Collection Request (ICR) abstracted below to the Office of Management and Budget (OMB) for review and comment. The ICR describes the information collection and its expected burden. On July 16, 2020, FRA published a notice providing a 60-day period for public comment on the ICR.

DATES: Interested persons are invited to submit comments on or before November 2, 2020.

ADDRESSES: Written comments and recommendations for the proposed ICR should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find the particular ICR by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Ms. Hodan Wells, Information Collection Clearance Officer, Office of Railroad Safety, Regulatory Analysis Division, Federal Railroad Administration, telephone (202) 493–0440, email: *Hodan.wells@dot.gov.*

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. On July 16, 2020, FRA published a 60-day notice in the **Federal Register** soliciting comment on the ICR for which it is now seeking OMB approval. *See* 85 FR 43298. FRA received no comments in response to this notice.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect.

Comments are invited on the following ICR regarding: (1) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the information will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology.

The summaries below describe the ICR [1] that FRA will submit for OMB clearance as the PRA requires:

Title: Railroad Safety Appliance Standards.

OMB Control Number: 2130–0594.

Abstract: The information collection associated with 49 CFR part 231 is used by FRA to promote and enhance the safe placement and securement of safety appliances on modern rail equipment by establishing a process for the review and approval of existing industry standards. In 2011, FRA amended the regulations related to safety appliance arrangements by permitting railroad industry representatives to submit requests for the approval of existing industry standards relating to the safety appliance arrangements on newly constructed railroad cars, locomotives, tenders, or other rail vehicles in lieu of the specific provisions contained in part 231.

Type of Request: Extension with change (revised estimates) of a currently approved collection.

Affected Public: Businesses.

Form(s): N/A.

[1] After an internal agency review, FRA adjusts the ICR's total estimated annual responses from 7 responses to 6 responses, consistent with FRA's experience of one response approximately every two months. FRA does not anticipate the filing of any statement of interests under 49 CFR 231.35(b)(2)(iii), thus decreasing the burden hours from 38 hours to 37 hours.

Respondent Universe: Railroads/railroad industry representatives/rail labor unions/general public.

Frequency of Submission: On occasion.

Total Estimated Annual Responses: 6.

Total Estimated Annual Burden: 37 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: $2,849.

Under 44 U.S.C. 3507(a) and 5 CFR 1320.5(b) and 1320.8(b)(3)(vi), FRA informs all interested parties that a respondent is not required to respond to, conduct, or sponsor a collection of information that does not display a currently valid OMB control number.

(Authority: 44 U.S.C. 3501–3520)

Brett A. Jortland,

Deputy Chief Counsel.

[FR Doc. 2020–21836 Filed 10–1–20; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2019–0094; Notice 2]

Porsche Cars North America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition.

SUMMARY: Porsche Cars North America, Inc. has determined that certain model year (MY) 2018 Porsche 911 GT3 motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment.* Porsche filed a noncompliance report dated July 24, 2019. Porsche subsequently petitioned NHTSA on August 20, 2019, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces the grant of Porsche's petition for inconsequential noncompliance.

FOR FURTHER INFORMATION CONTACT: Leroy Angeles, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–5304, facsimile (202) 366–3081.

SUPPLEMENTARY INFORMATION:

I. Overview

Porsche has determined that certain MY 2018 Porsche 911 GT3 motor vehicles do not fully comply with Paragraph S8.1.4 and Table I–a of FMVSS No. 108, *Lamps, Reflective Devices, and Associated Equipment.* (49 CFR 571.108). Porsche filed a noncompliance report dated July 24, 2019, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* Porsche subsequently petitioned NHTSA on August 20, 2019, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

Notice of receipt of Porsche's petition was published with a 30-day public comment period, on January 3, 2020, in the **Federal Register** (85 FR 412). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Then follow the online search instructions to locate docket number ''NHTSA–2019–0094.''

II. Vehicles Involved

Approximately 2,610 MY 2018 Porsche 911 GT3 motor vehicles, manufactured between August 30, 2017, and December 21, 2018, are potentially involved.

III. Noncompliance

Porsche explains that the noncompliance is that the subject vehicles are equipped with rear reflex reflectors that do not meet the height requirements as specified in paragraph S8.1.4 and Table I–a of FMVSS No. 108. Specifically, the rear reflex reflectors are mounted approximately 0.20 inches below the required 15 inches above the road surface. The actual height above the road surface is approximately 14.8 inches.

IV. Rule Requirements

Paragraph S8.1.4 and Table I–a of FMVSS No. 108 includes the requirements relevant to this petition. The reflective devices should not be mounted less than 15 inches and no more than 60 inches in height.

V. Summary of Porsche's Petition

The following views and arguments presented in this section are the views and arguments provided by Porsche. They do not reflect the views of the Agency.

Porsche described the subject noncompliance and stated that the noncompliance is inconsequential as it relates to motor vehicle safety.

Porsche submitted the following views and arguments in support of its petition: [1]

1. The installation height requirements of reflex reflectors as defined by paragraph S8.1.4 of FMVSS No. 108 are intended to assure a sufficient luminous intensity of the reflex reflectors towards the source of illumination. Although the rear reflex reflectors' installation height falls slightly below the specified minimum height by 0.20 inches (5 mm), Porsche has confirmed that the rear reflex reflectors meet or exceed all applicable FMVSS requirements regarding the luminous intensity performance as stated under § 571.108, S14 and all other relevant requirements of FMVSS No. 108 of paragraphs S8.1 and S8.2. Porsche provided a copy of the photometric test results for the rear reflex reflectors, which Porsche believes shows that the installation height does not affect the performance of the luminous intensity of the rear reflex reflectors or the visibility of the subject vehicles.

2. Porsche is unaware of any accidents, injuries, warranty claims or customer complaints related to the slight shortfall of the rear reflex reflectors' installation height. The absence of indicant data supports the conclusion that the minimal deviation in mounting height does not affect the performance of the rear reflectors or the visibility of the subject vehicles.

3. Porsche notes that NHTSA has previously granted a similar petition.[2] In that petition, Harley-Davidson Motor Company, Inc. described the noncompliance with FMVSS No. 108 where the rear reflex reflectors were mounted an average of 0.3 inches to 0.7 inches below the required 15-inch height. NHTSA determined that this noncompliance, where the deviation from the specified height was even greater than in the present case, was inconsequential to motor vehicle safety based primarily on the lack of reduction in conspicuity as compared to compliant vehicles. Porsche suggests that its noncompliant vehicles are also equally conspicuous.

4. The purpose of the FMVSS No. 108 reflex reflector requirement is to prevent crashes by permitting early detection of an unlighted motor vehicle at an intersection or when parked on or by the side of the road, and the height requirement is intended ''to ensure adequate reflex reflector performance

[1] *See* Docket Number ''NHTSA–2019–0094–001''.

[2] *See* 79 FR 69558, November 21, 2014.

relative to headlamps that would illuminate them.'' [3] Porsche stated that the photometry performance of the reflex reflectors in the subject vehicles well exceeds the minimum performance standards outlined in FMVSS No. 108, Table XVI. Based on the photometry performance of the reflectors in the subject vehicles, and the fact that the vehicles meet or exceed the requirements of paragraphs S8.l and S8.2 of FMVSS No. 108, with regard to reflection performance, Porsche believes the vehicles satisfy the safety objectives of the standard.

5. The noncompliance issue has been corrected in production vehicles and all vehicles currently being produced meet applicable mounting height requirements.

6. The mounting height of the reflex reflectors complies with the minimum height requirements of the United Nations ECE regulations. Those regulations specify a minimum mounting height of 250 mm (9.84 inches) for rear retro-reflectors. *See* UN R48, § 6.14.4.2. The reflex reflectors in the subject Porsche vehicles, with a mounting height of 14.8 inches, are well within this requirement.

Porsche concluded that the subject noncompliance is inconsequential as it relates to motor vehicle safety and that its petition, to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

In response to a request from NHTSA for clarification, Porsche specified the dimensions of the noncompliant reflex reflector as being 110.119 mm by 35.375mm (4.34 by 1.39 inches). Porsche also clarified that the 0.2-inch deviation from the minimum required mounting height is relative to the ''center of the item'' (centroid of the functional reflective area). Porsche also provided a PowerPoint presentation that included detailed test data which showed the results of several photometric analyses performed on the subject reflex reflectors which included partially masking the reflex reflector to artificially shift the centroid thereby raising the mounting height.

VI. NHTSA's Analysis

The primary function of a reflex reflector is to reduce crashes by permitting early detection of a motor vehicle that is approaching an intersection or parked by the side of the road. While NHTSA recognizes the importance of this function to safety, each petition is evaluated on its own merits. In some cases, the marginal nature of a noncompliance might be one factor in analyzing if a noncompliance is inconsequential to safety. In this case, Porsche showed the results of several photometric analyses performed on the subject reflex reflectors which included partially masking the reflex reflector to shift its mounting center. The test data showed passing photometric results when the photometric performance of the reflex reflector was measured for all partially masked scenarios which set the center point at or above the minimum required 15 inches. Given the specific circumstances of this case, the Agency finds the petitioner's study helpful in assessing the safety risk of this non-compliance. NHTSA has concluded that the test data provided by Porsche is sufficient to grant this petition. The purpose of the mounting height is to aid in the visibility of the reflex reflector from other road users' line of sight. While the centroid of the reflex reflector is mounted below the minimum height, the size of the subject reflex reflector is large enough to ensure that there is a sufficient surface area of the reflex reflector above the minimum required height to meet the photometry requirements by more than double the minimum requirement. Thus, the size of the reflex reflector compensates for its mounting height and achieves the safety need to aid in visibility.

Porsche additionally cited a prior NHTSA ruling for a similar noncompliance granting inconsequentiality to Harley-Davidson Motor Company, Inc. for a reflex reflector mounted at an average of 0.3″ to 0.7″ below the required 15″ height.[4] *See* 79 FR 69558, November 21, 2014. The aforementioned petition concerned a similar noncompliance for a reflex reflector that was mounted 0.3″ to 0.7″ below the minimum mounting height vs 0.2″. NHTSA believes Porsche has provided compelling information supporting the grant of its petition. Specifically, we found Porsche's analysis by masking a portion of the reflex reflector to demonstrate the performance of the remaining unmasked portion of the reflex reflector that met the mounting height requirement especially compelling.

We note that the noncompliance at issue concerns a failure to meet a performance requirement. The burden of establishing the inconsequentiality of a failure to comply with a *performance requirement* in a standard—as opposed to a *labeling requirement*—is more substantial and difficult to meet. Accordingly, the Agency has not found many such noncompliances inconsequential.[5]

An important issue to consider in determining inconsequentiality based upon NHTSA's prior decisions on noncompliance issues was the safety risk to individuals who experience the type of event against which the recall would otherwise protect.[6] NHTSA also does not consider the absence of complaints or injuries to show that the issue is inconsequential to safety. ''Most importantly, the absence of a complaint does not mean there have not been any safety issues, nor does it mean that there will not be safety issues in the future.'' [7] ''[T]he fact that in past reported cases good luck and swift reaction have prevented many serious injuries does not mean that good luck will continue to work.'' [8]

Arguments that only a small number of vehicles or items of motor vehicle equipment are affected have also not justified granting an inconsequentiality petition.[9] Similarly, NHTSA has rejected petitions based on the assertion that only a small percentage of vehicles or items of equipment are likely to

[3] *See* 82 FR 24204, May 25, 2017.

[4] *See* 79 FR 69558, November 21, 2014.

[5] *Cf. Gen. Motors Corporation; Ruling on Petition for Determination of Inconsequential Noncompliance,* 69 FR 19897, 19899 (Apr. 14, 2004) (citing prior cases where noncompliance was expected to be imperceptible, or nearly so, to vehicle occupants or approaching drivers).

[6] *See Gen. Motors, LLC; Grant of Petition for Decision of Inconsequential Noncompliance,* 78 FR 35355 (June 12, 2013) (finding noncompliance had no effect on occupant safety because it had no effect on the proper operation of the occupant classification system and the correct deployment of an air bag); *Osram Sylvania Prods. Inc.; Grant of Petition for Decision of Inconsequential Noncompliance,* 78 FR 46000 (July 30, 2013) (finding occupant using noncompliant light source would not be exposed to significantly greater risk than occupant using similar compliant light source).

[7] *Morgan 3 Wheeler Limited; Denial of Petition for Decision of Inconsequential Noncompliance,* 81 FR 21663, 21666 (Apr. 12, 2016).

[8] *United States* v. *Gen. Motors Corp.,* 565 F.2d 754, 759 (D.C. Cir. 1977) (finding defect poses an unreasonable risk when it ''results in hazards as potentially dangerous as sudden engine fire, and where there is no dispute that at least some such hazards, in this case fires, can definitely be expected to occur in the future'').

[9] *See Mercedes-Benz, U.S.A., L.L.C.; Denial of Application for Decision of Inconsequential Noncompliance,* 66 FR 38342 (July 23, 2001) (rejecting argument that noncompliance was inconsequential because of the small number of vehicles affected); *Aston Martin Lagonda Ltd.; Denial of Petition for Decision of Inconsequential Noncompliance,* 81 FR 41370 (June 24, 2016) (noting that situations involving individuals trapped in motor vehicles—while infrequent—are consequential to safety); *Morgan 3 Wheeler Ltd.; Denial of Petition for Decision of Inconsequential Noncompliance,* 81 FR 21663, 21664 (Apr. 12, 2016) (rejecting argument that petition should be granted because the vehicle was produced in very low numbers and likely to be operated on a limited basis).

actually exhibit a noncompliance. The percentage of potential occupants that could be adversely affected by a noncompliance does not determine the question of inconsequentiality. Rather, the issue to consider is the consequence to an occupant who is exposed to the consequence of that noncompliance.[10] These considerations are also relevant when considering whether a defect is inconsequential to motor vehicle safety.

VII. NHTSA's Decision

In consideration of the foregoing, NHTSA finds that Porsche has met its burden of persuasion that the FMVSS No. 108 noncompliance is inconsequential as it relates to motor vehicle safety. Accordingly, Porsche's petition is hereby granted and Porsche is exempted from the obligation to provide notification of and remedy for the subject noncompliance in the affected vehicles under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, the granting of this petition only applies to the subject vehicles that Porsche no longer controlled at the time it determined that the noncompliance existed. However, this decision does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Porsche notified them that the subject noncompliance existed.

Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8.

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2020–21835 Filed 10–1–20; 8:45 am]

BILLING CODE 4910–59–P

[10] *See Gen. Motors Corp.; Ruling on Petition for Determination of Inconsequential Noncompliance,* 69 FR 19897, 19900 (Apr. 14, 2004); *Cosco Inc.; Denial of Application for Decision of Inconsequential Noncompliance,* 64 FR 29408, 29409 (June 1, 1999).

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Comment Request; Record and Disclosure Requirements—Consumer Financial Protection Bureau Regulations B, E, M, Z, and DD and Board of Governors of the Federal Reserve System Regulation CC

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the renewal of an information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning the renewal of an information collection titled, ''Record and Disclosure Requirements—Consumer Financial Protection Bureau Regulations B, E, M, Z, and DD and Board of Governors of the Federal Reserve System Regulation CC.''

DATES: Comments must be submitted on or before December 1, 2020.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, Office of the Comptroller of the Currency, Attention: 1557–0176, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''1557–0176'' in your comment. In general, the OCC will publish comments on *www.reginfo.gov* without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection [1] by the following method:

- *Viewing Comments Electronically:* Go to *www.reginfo.gov.* Click on the ''Information Collection Review'' tab. Underneath the ''Currently under Review'' section heading, from the drop-down menu select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching by OMB control number ''1557–0176'' or ''Record and Disclosure Requirements—Consumer Financial Protection Bureau Regulations B, E, M, Z, and DD and Board of Governors of the Federal Reserve System Regulation CC.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.
- For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, OCC Clearance Officer (202) 649–5490, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Title: Record and Disclosure Requirements—Consumer Financial Protection Bureau Regulations B, E, M, Z, and DD and Board of Governors of the Federal Reserve System Regulation CC.

OMB Control No.: 1557–0176.

Type of Review: Regular review.

Description: This information collection covers Consumer Financial Protection Board Regulations B, E, M, Z, and DD and Board of Governors of the Federal Reserve System (FRB) Regulation CC. The CFPB and FRB Regulations include the following provisions:

Regulation B—12 CFR 1002—Equal Credit Opportunity Act

This regulation prohibits lenders from discriminating against credit applicants on certain prohibited bases. The regulation also requires creditors to

[1] Following the close of this notice's 60-day comment period, the OCC will publish a second notice with a 30-day comment period.

notify applicants of action taken on their credit application, to report credit history in the names of both spouses on an account, to retain records of credit applications, to collect information about the applicant's race and other personal characteristics in applications for certain dwelling-related loans, and to provide applicants with copies of appraisal reports used in connection with credit transactions.

Regulation E—12 CFR 1005—Electronic Fund Transfers [2]

This regulation carries out the purposes of the Electronic Fund Transfer Act (15 U.S.C. 1693 *et seq.*), which establishes the basic rights, liabilities, and responsibilities of consumers who use electronic fund transfers and remittance transfer services and the financial institutions or other persons that offer these services.

Regulation M—12 CFR 1013—Consumer Leasing

This regulation implements the consumer leasing provisions of the Truth in Lending Act, including by requiring meaningful disclosure of leasing terms.

Regulation Z—12 CFR 1026—Truth in Lending

This regulation is intended to promote the informed use of consumer credit by requiring disclosures about its terms and cost, to ensure that consumers are provided with greater and more timely information on the nature and costs of the residential real estate settlement process, and to effect certain changes in the settlement process for residential real estate that will result in more effective advance disclosure to home buyers and sellers of settlement costs. The regulation gives consumers the right to cancel certain credit transactions that involve a lien on a consumer's principal dwelling, regulates certain credit card practices, and provides a means for fair and timely resolution of credit billing disputes. Other provisions include rules specific to credit card accounts, certain dwelling-secured transactions, home-equity plans, and private education loans.

Regulation DD—12 CFR 1030—Truth in Savings

This regulation requires depository institutions to provide disclosures to enable consumers to make meaningful comparisons among accounts at depository institutions.

[2] This notice does not apply to the Prepaid Account Provisions of Regulation E, which are approved under OMB Control No. 1557–0346.

Regulation CC—12 CFR 229—Availability of Funds and Collection of Checks

This regulation includes timeframes to govern the availability of funds deposited in checking accounts, rules to govern the collection and return of checks and electronic checks, and general provisions to govern the use of substitute checks.

Affected Public: Businesses or other for-profit.

Burden Estimates:

Estimated Number of Respondents: 1,110.

Estimated Annual Burden: 2,937,280 hours.

Frequency of Response: On occasion.

Comments: Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the information collection burden;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2020–21855 Filed 10–1–20; 8:45 am]

BILLING CODE 4810–33–P

UNIFIED CARRIER REGISTRATION PLAN

Sunshine Act Meeting; Unified Carrier Registration Plan Board of Directors Meeting

TIME AND DATE: October 8, 2020, from Noon to 3:00 p.m., Eastern time.

PLACE: This meeting will be accessible via conference call and screen sharing. Any interested person may call 877–853–5247 (US toll free), 888–788–0099 (US toll free), +1 929–205–6099 (US toll), or +1 669–900–6833 (US toll), Conference ID 994 1238 0722, to participate in the meeting.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Board of Directors (the ''Board'') will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement. The subject matter of the meeting will include:

Agenda

I. Welcome and Call to Order—UCR Board Chair

The UCR Board Chair will welcome attendees, call the meeting to order, call roll for the Board, confirm the presence of a quorum, and facilitate self-introductions.

II. Verification of Meeting Notice—UCR Executive Director

The UCR Executive Director will verify publication of the meeting notice on the UCR website and distribution to the UCR contact list via email followed by subsequent publication of the notice in the **Federal Register**.

III. Review and Approval of Board Agenda—UCR Board Chair

For discussion and possible action

Agenda will be reviewed and the Board will consider adoption.

Ground Rules

- ➢ Board actions taken only in designated areas on agenda

IV. Approval of Minutes of the August 13, 2020 UCR Board Meeting—UCR Board Chair

For discussion and possible action

Minutes of the August 13, 2020 UCR Board meeting will be reviewed. The Board will consider action to approve.

V. States Appearing Before the Board Today Due to Non-Compliance With UCR Audit Requirements for 2019—UCR Executive Director

Certain participating states have been advised of their non-compliance for 2019 with the audit requirements contained in Section 19 of the UCR Agreement. This section sets minimum performance standards for completing Focused Anomaly Reviews (FARs) and conducting audit retreats for UCR Tiers 5 and 6. States not in compliance with these requirements have been requested to appear before the UCR Board of Directors to address the following:

1. The reason(s) for the state's non-compliance for 2019
2. Action(s) the state intends to take to achieve compliance and avoid non-compliance going forward
3. Suggestions regarding how UCR can help states avoid non-compliance in the future

VI. Report of FMCSA—FMCSA Representative

The Federal Motor Carrier Safety Administration (FMCSA) will provide a report on any relevant activity.

VII. Discussion and Possible Approval of 2021 UCR Meetings (Board and Subcommittee)—UCR Executive Director

For discussion and possible action

The UCR Executive Director will discuss a proposed meeting schedule for 2021. The Board may take action to adopt a 2021 meeting schedule for the Board and its Subcommittees.

VIII. Discussion and Possible Approval of an Additional December 2020 Education and Training Subcommittee Meeting—UCR Executive Director

For discussion and possible action

The UCR Executive Director will discuss adding another Education and Training Subcommittee Meeting in December of 2020. The Board may take action to adopt an additional meeting in December 2020 for the Education and Training Subcommittee.

IX. Discussion and Possible Approval of Updates and Clean-up of the UCR Handbook—UCR Executive Director

For discussion and possible action

The UCR Executive Director will discuss various proposed updates and clean-up to the UCR Handbook. The Board may take action to update and clean-up the UCR Handbook.

X. Updates Concerning UCR Legislation—UCR Board Chair

The UCR Board Chair will call for any updates regarding UCR legislation since the last Board meeting.

XI. Chief Legal Officer Report—UCR Chief Legal Officer

The UCR Chief Legal Officer will provide an update on the status of the March 2019 data event, the Twelve Percent Logistics litigation, several cease and desist letters sent to third party permitting agents, and other matters.

XII. Subcommittee Reports

Audit Subcommittee—UCR Audit Subcommittee Chair

A. Requirement to Complete 2019 Audits by December 31, 2020—UCR Audit Subcommittee Chair

The UCR Audit Subcommittee Chair will remind state auditors to monitor FARs and the MCS–150 audit list for recently assigned audits. September 30, 2020 was the last day for new FARs and MCS–150 audits to have been assigned. All assignments must be completed by December 31, 2020.

B. Update on the 2020 New Entrant and Unregistered Motor Carrier Solicitation Campaigns—Seikosoft

Seikosoft will provide an updated report on new entrant motor carrier campaigns managed by the National Registration System (NRS), new entrant motor carrier campaigns managed by the states, unregistered motor carrier campaigns managed by the NRS, and unregistered motor carrier campaigns managed by the states.

C. Update on the Non-Universe Motor Carrier Solicitation Campaigns—Seikosoft

Seikosoft will provide an updated report on the solicitation campaign targeting motor carriers identified through roadside inspections as operating in interstate commerce but identified in MCMIS as either intrastate or inactive.

D. Unregistered Carrier List Potentially Containing Private Passenger and Intrastate Motor Carriers—Seikosoft/UCR Audit Subcommittee Chair

Seikosoft will provide an update on the potential for the Unregistered List to contain private passenger and intrastate motor carriers that changed carrier status to interstate during 2020.

E. Unregistered Brokers—UCR Audit Subcommittee Chair

The UCR Audit Subcommittee Chair will discuss the challenges that unregistered brokers present to UCR enforcement. The discussion will highlight jurisdiction and other challenges, and may also include dialogue regarding successes and ideas for addressing broker registration enforcement.

F. Update on the Audit of the Depository—UCR Depository Manager

The UCR Depository Manager will provide an update on the progress achieved on the 2019 Depository audit and plans for addressing open items through completion.

Finance Subcommittee—UCR Finance Subcommittee Chair

A. Review UCR Bank Balance Summary Report—UCR Finance Subcommittee Chair/UCR Depository Manager

The UCR Finance Subcommittee Chair and the UCR Depository Manager will review the new UCR Bank Balance Summary Report and lead a discussion regarding its purpose and usefulness.

B. Discuss the Proposed Schedule for Distributions from the Depository for the 2021 Registration Year—UCR Depository Manager

The UCR Depository Manager will discuss the proposed schedule for the Depository to make distributions to states that have not yet achieved their revenue entitlements during 2021.

C. Certificates of Deposit—UCR Depository Manager

For discussion and possible action

The UCR Depository Manager will provide a review of the 2019 Savings Account held at the Bank of North Dakota and discuss the benefits of investing those funds in short-term certificates of deposit, not to exceed six months in duration. The Board may take action to adopt the recommended CD investment proposal.

D. Review 2020 Administrative Expenses Through September 30, 2020—UCR Depository Manager

The UCR Depository Manager will present the administrative costs incurred for the period of January 1, 2020 through September 30, 2020, compared to the budget for the same time-period, and discuss all significant variances.

E. Status of 2019 Registration Year Fee Collections and Compliance Percentages—UCR Depository Manager

The UCR Depository Manager will provide a ''pre-final'' review on the results of collections and registration compliance rates for the 2019 registration year.

Education and Training Subcommittee—UCR Education and Training Subcommittee Chair

A. Update on Basic Audit Training Module and Flow Chart/Decision Tree—UCR Education and Training Subcommittee Chair

The UCR Education and Training Subcommittee Chair will provide an update on the development of the Basic Audit training module and Flow Chart/Decision Tree.

B. Discuss the Approval of Funding for the Basic Audit Training Module and Flow Chart/Decision Tree—UCR Education and Training Subcommittee Chair

For discussion and possible action

The UCR Education and Training Subcommittee Chair will provide

information concerning the cost for the Basic Audit training module and Flow Chart/Decision Tree. The Board may take action to approve the cost of the Basic Audit Training Module and Flow Chart/Decision Tree.

XIII. Contractor Reports—UCR Executive Director

• UCR Executive Director

The UCR Executive Director will provide a report covering recent activity for the UCR Plan.

• DSL Transportation Services, Inc.

DSL Transportation Services, Inc. will report on the latest data from the FARs program, discuss motor carrier inspection results, and other matters.

• Seikosoft

Seikosoft will provide an update on recent/new activity related to the NRS.

• UCR Administrator Report (Kellen)—UCR Operations and Depository Managers

The UCR Administrator will provide its management report covering recent activity for the Depository, Operations, and Communications.

XIV. Other Business—UCR Board Chair

The UCR Board Chair will call for any business, old or new, from the floor.

XV. Adjournment—UCR Board Chair

The UCR Board Chair will adjourn the meeting.

This agenda will be available no later than 5:00 p.m. Eastern time, September 30, 2020 at: *https://plan.ucr.gov.*

CONTACT PERSON FOR MORE INFORMATION: Elizabeth Leaman, Chair, Unified Carrier Registration Plan Board of Directors, (617) 305–3783, *eleaman@board.ucr.gov.*

Alex B. Leath,

Chief Legal Officer, Unified Carrier Registration Plan.

[FR Doc. 2020–21984 Filed 9–30–20; 4:15 pm]

BILLING CODE 4910–YL–P

FEDERAL REGISTER

Vol. 85 Friday,

No. 192 October 2, 2020

Part II

Small Business Administration

13 CFR Part 121

Small Business Size Standards: Transportation and Warehousing; Information; Finance and Insurance; Real Estate and Rental and Leasing; Proposed Rule

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN 3245–AG90

Small Business Size Standards: Transportation and Warehousing; Information; Finance and Insurance; Real Estate and Rental and Leasing

AGENCY: U.S. Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The U.S. Small Business Administration (SBA) proposes to increase its receipts-based small business size definitions (commonly referred to as ''size standards'') for North American Industry Classification System (NAICS) sectors related to Transportation and Warehousing, Information, Finance and Insurance, and Real Estate and Rental and Leasing. SBA proposes to increase size standards for 45 industries in those sectors, including eighteen (18) industries in NAICS Sector 48–49 (Transportation and Warehousing), eight (8) industries in NAICS Sector 51 (Information), ten (10) industries in NAICS Sector 52 (Finance and Insurance), and nine (9) industries in NAICS Sector 53 (Real Estate and Rental and Leasing). SBA's proposed revisions relied on its recently revised ''Size Standards Methodology'' (Methodology). SBA seeks comments on its proposed changes to size standards in the above sectors, and the data sources it evaluated to develop the proposed size standards.

DATES: SBA must receive comments to this proposed rule on or before December 1, 2020.

ADDRESSES: Identify your comments by RIN 3245–AG90 and submit them by one of the following methods: (1) Federal eRulemaking Portal: *www.regulations.gov,* following the instructions for submitting comments; or (2) Mail/Hand Delivery/Courier: Khem R. Sharma, Ph.D., Chief, Office of Size Standards, 409 Third Street SW, Mail Code 6530, Washington, DC 20416.

SBA will post all comments to this proposed rule on *www.regulations.gov.* If you wish to submit confidential business information (CBI) as defined in the User Notice at *www.regulations.gov,* you must submit such information to U.S. Small Business Administration, Khem R. Sharma, Ph.D., Chief, Office of Size Standards, 409 Third Street SW, Mail Code 6530, Washington, DC 20416, or send an email to *sizestandards@sba.gov.* Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review your information and determine whether it will make the information public.

FOR FURTHER INFORMATION CONTACT: Jorge Laboy-Bruno, Ph.D., Economist, Office of Size Standards, (202) 205–6618 or *sizestandards@sba.gov.*

SUPPLEMENTARY INFORMATION: To determine eligibility for Federal small business assistance, SBA establishes small business size definitions (usually referred to as ''size standards'') for private sector industries in the United States. SBA uses two primary measures of business size for size standards purposes: Average annual receipts and average number of employees. SBA uses financial assets for certain financial industries in Sector 52 and refining capacity, in addition to employees, for the petroleum refining industry in Sector 31–33 to measure business size. In addition, SBA's Small Business Investment Company (SBIC), Certified Development Company (CDC/504), and 7(a) Loan Programs use either the industry-based size standards or the alternative size standards based on tangible net worth and net income to determine eligibility for those programs.

In September 2010, Congress passed the Jobs Act (Pub. L. 111–240, 124 Stat. 2504, September 27, 2010), (Jobs Act) requiring SBA to review all size standards every five years and make necessary adjustments to reflect current industry and market conditions. In accordance with the Jobs Act, in early 2016 SBA completed the first 5-year review of all size standards—except those for agricultural enterprises for which size standards were previously set by Congress—and made appropriate adjustments to size standards for a number of industries to reflect current industry and Federal market conditions.

During the previous 5-year comprehensive review of size standards under the Jobs Act, SBA reviewed the receipts-based size standards for forty-two (42) industries and one (1) exception within NAICS Sector 48–49, twenty (20) industries within Sector 51, thirty-nine (39) industries in Sector 52, and twenty-four (24) industries and one (1) exception in Sector 53. These reviews of receipts-based size standards occurred during October 2010 to December 2013. SBA's analysis of the then-available relevant industry and Federal contracting data supported lowering size standards for twenty-four (24) industries and one (1) exception in these sectors. However, taking into consideration economic conditions at the time, SBA decided to either retain these size standards at existing levels or bring them up to the relevant common size standard. In the final rules, SBA increased size standards for ninety-three (93) of those industries and one (1) exception, including twenty-two (22) industries in NAICS Sector 48–49 (77 FR 10943, February 24, 2012), fifteen (15) industries in NAICS Sector 51 (77 FR 72702, December 6, 2012), thirty-six (36) industries in NAICS Sector 52 (78 FR 37409, June 20, 2013), and twenty (20) industries and one (1) exception in NAICS Sector 53 (77 FR 58747, September 24, 2012). SBA changed the basis for measuring the size of one industry (NAICS code 522293, International Trade Financing) from assets to annual receipts. SBA retained the size standards for the remaining thirty-two (32) industries in these sectors. Table 1, Size Standards Revisions During the Prior Comprehensive Review, provides a summary of these revisions by NAICS sector.

TABLE 1—SIZE STANDARDS REVISIONS DURING THE PRIOR COMPREHENSIVE REVIEW

NAICS sector	Sector name	Number of size standards reviewed	Number of size standards increased	Number of size standards lowered	Number of size standards maintained	Number of type of size standards changed
48–49	Transportation and Warehousing	43	22	0	21	0
51	Information	20	15	0	5	0
52	Finance and Insurance	39	36	0	2	1
53	Real Estate and Rental and Leasing	25	21	0	4	0
All Sectors		127	94	0	32	1

Currently, there are twenty-seven (27) different size standards levels covering 1,023 NAICS industries and 14 subindustry activities (commonly known as ''exceptions'' in SBA's table of size standards). Sixteen (16) of these size levels are based on average annual receipts, nine (9) are based on average number of employees, and two (2) are based on other measures.

SBA also adjusts its monetary-based size standards for inflation at least once every five years. An interim final rule on SBA's latest inflation adjustment to size standards, effective August 19, 2019, was published in the **Federal Register** on July 18, 2019 (84 FR 34261). SBA also updates its size standards, also every five years, to adopt the Office of Management and Budget's (OMB) quinquennial NAICS revisions to its table of small business size standards. Effective October 1, 2017, SBA adopted OMB's 2017 NAICS revisions for its size standards (82 FR 44886, September 27, 2017).

This proposed rule is one of a series of proposed rules that will review size standards of industries grouped by various NAICS sectors. Rather than review all size standards at one time, SBA is reviewing size standards by generally grouping industries within various NAICS sectors that use the same size measure (*i.e.,* employees or monetary). In the current review, SBA will review size standards in six (6) groups of NAICS sectors. (In the prior review, SBA reviewed size standards mostly on a sector by sector basis.) Once SBA completes its review of size standards for a group of sectors, it issues for public comments a proposed rule to revise size standards for those industries based on the latest available data and other factors deemed relevant by the SBA's Administrator.

Below is a discussion of SBA's revised ''Size Standards Methodology'' (Methodology), available at *www.sba.gov/size,* for establishing, reviewing, or modifying receipts-based size standards that SBA has applied to this proposed rule. SBA examines the structural characteristics of an industry as a basis to assess industry differences and the overall degree of competitiveness of an industry and of firms within the industry. Industry structure is typically examined by analyzing four primary factors—average firm size, degree of competition within an industry, start-up costs and entry barriers, and distribution of firms by size. To assess the ability of small businesses to compete for Federal contracting opportunities under the current size standards, as the fifth primary factor, SBA also examines, for each industry averaging $20 million or more in average annual Federal contract dollars, the small business share in Federal contract dollars relative to the small business share in total industry's receipts. When necessary, SBA also considers other secondary factors as they are relevant to the industries and the interests of small businesses, including impacts of size standards changes on small businesses.

Size Standards Methodology

SBA has recently revised its Methodology for establishing, reviewing, or modifying size standards when necessary. See the notification in the April 11, 2019 issue of the **Federal Register** (84 FR 14587). The revised methodology is available on SBA's size standards web page at *www.sba.gov/size.* Prior to finalizing the revised Methodology, SBA issued a notification in the April 27, 2018 issue of the **Federal Register** (83 FR 18468) to solicit comments from the public and notify stakeholders of the proposed changes to the Methodology. SBA considered all public comments in finalizing the revised Methodology. For a summary of comments and SBA's responses, refer to the SBA's April 11, 2019 **Federal Register** notification.

The revised Methodology represents a major change from the previous methodology, which was issued on October 21, 2009 (74 FR 53940). Specifically, in its revised Methodology SBA is replacing the ''anchor'' approach applied in the previous methodology with a ''percentile'' approach for evaluating differences in characteristics among various industries. Under the ''anchor'' approach, SBA generally evaluated the characteristics of individual industries relative to the average characteristics of industries with the anchor size standard to determine whether they should have a higher or a lower size standard than the anchor. In the ''percentile'' approach, SBA ranks each industry among all industries with the same measure of size standards (such as receipts or employees) in terms of four primary industry factors, discussed in the Industry Analysis subsection below. The ''percentile'' approach is explained more fully elsewhere in this proposed rule. Additionally, as the fifth factor, SBA evaluates the difference between the small business share in Federal contract dollars and the small business share in total industry's receipts to compute the size standard for the Federal contracting factor. The overall size standard for an industry is then obtained by averaging all size standards supported by each primary factor. The evaluation of the Federal contracting factor is explained more fully elsewhere in this proposed rule.

SBA does not apply all aspects of its Methodology to all proposed rules because not all features are relevant for every industry covered by each proposed rule. For example, since all industries covered by this proposed rule have receipts-based size standards, the Methodology described in this proposed rule applies only to establishing, reviewing, or modifying receipts-based size standards. SBA's entire Methodology is available on its website at *www.sba.gov/size.*

This proposed rule includes information regarding the factors SBA evaluated and the criteria it used to propose adjustments to size standards for industries reviewed herein. This proposed rule also affords the public an opportunity to review and to comment on SBA's proposed revisions to size standards for industries covered by the rule.

Industry Analysis

Congress granted SBA's Administrator discretion to establish detailed small business size standards (15 U.S.C. 632(a)(2)). Specifically, Section 3(a)(3) of the Small Business Act (15 U.S.C. 632(a)(3)) requires that ''. . . the [SBA] Administrator shall ensure that the size standard varies from industry to industry to the extent necessary to reflect the differing characteristics of the various industries and consider other factors deemed to be relevant by the Administrator.'' Accordingly, the economic structure of an industry is the underlying basis for establishing, reviewing, or modifying small business size standards. In addition, SBA considers current economic conditions, its mission and program objectives, the Administration's current policies, impacts on small businesses under current and proposed or revised size standards, suggestions from industry groups and Federal agencies, and public comments on the proposed rule. SBA also examines whether a size standard based on industry and other relevant data successfully excludes businesses that are dominant in the industry.

The goal of SBA's size standards review is to determine whether its existing small business size standards reflect the current industry structure and Federal market conditions and revise them, when the latest available data suggest that revisions are warranted. In the past, SBA compared the characteristics of each industry with the average characteristics of a group of industries associated with the ''anchor'' size standard. For example, in the

recently completed first 5-year comprehensive review of size standards under the Jobs Act, $7 million (now $8.0 million due to the inflation adjustment in 2019; see 84 FR 34261 (July 18, 2019)) was considered the ''anchor'' for receipts-based size standards and 500 employees was the ''anchor'' for employee-based size standards. If the characteristics of a specific industry under review were similar to the average characteristics of industries in the anchor group, SBA generally adopted the anchor size standard for that industry. If the specific industry's characteristics were significantly different from those in the anchor group, SBA assigned a size standard that was higher or lower than the anchor. To determine a size standard above or below the anchor size standard, SBA evaluated the characteristics of a second comparison group of industries with higher size standards. For industries with receipts-based standards, the second comparison group consisted of industries with size standards between $23 million and $35.5 million, with the weighted average size standard for the group equaling $29 million. For manufacturing industries and other industries with employee-based size standards (except for Wholesale Trade and Retail Trade), the second comparison group included industries with a size standard of 1,000 employees or 1,500 employees, with the weighted average size standard of 1,323 employees. Using the anchor size standard and average size standard for the second comparison group, SBA computed a size standard for an industry's characteristic (factor) based on the industry's position for that factor relative to the average values of the same factor for industries in the anchor and second comparison groups.

Under the ''percentile'' approach, for each industry factor, an industry is ranked and compared with the 20th percentile and 80th percentile values of that factor among the industries sharing the same measure of size standards (*i.e.,* receipts or employees). Combining that result with the 20th percentile and 80th percentile values of size standards among the industries with the same measure of size standards, SBA computes a size standard supported by each industry factor for each industry. In the previous Methodology, comparison industry groups were predetermined independent of the data, while in the revised Methodology they are established using the actual data. A more detailed description of the percentile method is provided in SBA's Methodology, available at *www.sba.gov/size.*

The primary factors that SBA evaluates to examine industry structure include average firm size, startup costs and entry barriers, industry competition, and distribution of firms by size. SBA also evaluates, as an additional primary factor, small business success in receiving Federal contracting assistance under the current size standards. Specifically, for the Federal contracting factor, SBA examines the small business share of Federal contract dollars relative to small business share of total receipts within an industry. These are, generally, the five most important factors SBA examines when establishing, reviewing, or revising a size standard for an industry. However, SBA will also consider and evaluate other secondary factors that it believes are relevant to a particular industry (such as technological changes, growth trends, SBA financial assistance, other program factors, etc.). SBA also considers possible impacts of size standard revisions on eligibility for Federal small business assistance, current economic conditions, the Administration's policies, and suggestions from industry groups and Federal agencies. Public comments on proposed rules also provide important additional information. SBA thoroughly reviews all public comments before making a final decision on its proposed revisions to size standards. Below are brief descriptions of each of the five primary factors that SBA has evaluated for each industry being reviewed in this proposed rule. A more detailed description of this analysis is provided in the SBA's Methodology, available at *www.sba.gov/size.*

1. *Average firm size.* SBA computes two measures of average firm size: Simple average and weighted average. For industries with receipts-based size standards, the simple average is the total receipts of the industry divided by the total number of firms in the industry. The weighted average firm size is the summation of all the receipts of the firms in an industry multiplied by their share of receipts in the industry. The simple average weighs all firms within an industry equally regardless of their size. The weighted average overcomes that limitation by giving more weight to larger firms. The size standard supported by average firm size is obtained by averaging size standards supported by simple average firm size and weighted average firm size.

If the average firm size of an industry is higher than the average firm size for most other industries, this would generally support a size standard higher than the size standards for other industries. Conversely, if the industry's average firm size is lower than that of most other industries, it would provide a basis to assign a lower size standard as compared to size standards for most other industries.

2. *Startup costs and entry barriers.* Startup costs reflect a firm's initial size in an industry. New entrants to an industry must have sufficient capital and other assets to start and maintain a viable business. If firms entering an industry under review have greater capital requirements than firms do in most other industries, all other factors remaining the same, this would be a basis for a higher size standard. Conversely, if the industry has smaller capital needs compared to most other industries, a lower size standard would be considered appropriate.

Given the lack of actual data on startup costs and entry barriers by industry, SBA uses average assets as a proxy of startup costs and entry barriers. To calculate average assets, SBA begins with the sales to total assets ratio for an industry from the Risk Management Association's Annual Statement Studies, available at *https://rmau.org/.* SBA then applies these ratios to the average receipts of firms in that industry obtained from the Economic Census tabulation. An industry with average assets that are significantly higher than most other industries is likely to have higher startup costs; this in turn will support a higher size standard. Conversely, an industry with average assets that are similar to or lower than most other industries is likely to have lower startup costs; this will support either lowering or maintaining the size standard.

3. *Industry competition.* Industry competition is generally measured by the share of total industry receipts generated by the largest firms in an industry. SBA generally evaluates the share of industry receipts generated by the four largest firms in each industry. This is referred to as the ''4-firm concentration ratio,'' a commonly used economic measure of market competition. Using the 4-firm concentration ratio, SBA compares the degree of concentration within an industry to the degree of concentration of the other industries with the same measure of size standards. If a significantly higher share of economic activity within an industry is concentrated among the four largest firms compared to most other industries, all else being equal, SBA would set a size standard that is relatively higher than for most other

industries. Conversely, if the market share of the four largest firms in an industry is appreciably lower than the similar share for most other industries, the industry will be assigned a size standard that is lower than those for most other industries.

4. *Distribution of firms by size.* SBA examines the shares of industry total receipts accounted for by firms of different receipts and employment sizes in an industry. This is an additional factor SBA considers in assessing competition within an industry besides the 4-firm concentration ratio. If the preponderance of an industry's economic activity is attributable to smaller firms, this generally indicates that small businesses are competitive in that industry and would support adopting a smaller size standard. A higher size standard would be supported for an industry in which the distribution of firms indicates that most of the economic activity is concentrated among the larger firms.

Concentration is a measure of inequality of distribution. To determine the degree of inequality of distribution in an industry, SBA computes the Gini coefficient, using the Lorenz curve. The Lorenz curve presents the cumulative percentages of units (firms) along the horizontal axis and the cumulative percentages of receipts (or other measures of size) along the vertical axis. (For further detail, see SBA's Methodology on its website at *www.sba.gov/size.*) Gini coefficient values vary from zero to one. If receipts are distributed equally among all the firms in an industry, the value of the Gini coefficient will equal zero. If an industry's total receipts are attributed to a single firm, the Gini coefficient will equal one.

SBA compares the degree of inequality of distribution for an industry under review with other industries with the same type of size standards. If an industry shows a higher degree of inequality of distribution (hence a higher Gini coefficient value) compared to most other industries in the group this would, all else being equal, warrant a size standard that is higher than the size standards assigned to most other industries. Conversely, an industry with lower degree of inequality (*i.e.,* a lower Gini coefficient value) than most others will be assigned a lower size standard relative to others.

5. *Federal contracting.* As the fifth factor, SBA examines the success small businesses are having in winning Federal contracts under the current size standard as well as the possible impact a size standard change may have on Federal small business contracting opportunities. The Small Business Act requires the Federal government to ensure that small businesses receive a ''fair share'' of Federal contracts. The legislative history also discusses the importance of size standards in Federal contracting. To incorporate the Federal contracting factor in the size standards analysis, SBA evaluates small business participation in Federal contracting in terms of the share of total Federal contract dollars awarded to small businesses relative to the small business share of industry's total receipts. In general, if the share of Federal contract dollars awarded to small businesses in an industry is significantly smaller than the small business share of total industry's receipts, all else remaining the same, a justification would exist for considering a size standard higher than the current size standard. In cases where small business share of the Federal market is already appreciably high relative to the small business share of the overall market, SBA generally assumes that the existing size standard is adequate with respect to the Federal contracting factor.

The disparity between the small business Federal market share and industry-wide small business share may be due to various factors, such as extensive administrative and compliance requirements associated with Federal contracts, the different skill set required to perform Federal contracts as compared to typical commercial contracting work, and the size of Federal contracts. These, as well as other factors, are likely to influence the type of firms within an industry that compete for Federal contracts. By comparing the small business Federal contracting share with the industry-wide small business share, SBA includes in its size standards analysis the latest Federal market conditions. Besides the impact on Federal contracting, SBA also examines impacts on SBA's loan programs both under the current and revised size standards.

Sources of Industry and Program Data

SBA's primary source of industry data used in this proposed rule is a special tabulation of the Economic Census from the U.S. Census Bureau (*www.census.gov/econ/census*). The tabulation based on the 2012 Economic Census is the latest available, which SBA used for evaluating industry characteristics and developing size standards in this proposed rule. The special tabulation provides industry data on the number of firms, number of establishments, number of employees, annual payroll, and annual receipts of companies by Industry (6-digit level), Industry Group (4-digit level), Subsector (3-digit level), and Sector (2-digit level). These data are arrayed by various classes of firms' size based on the overall number of employees and receipts of the entire enterprise (all establishments and affiliated firms) from all industries. The special tabulation also contains information for different levels of NAICS categories on average and median firm size in terms of both receipts and employment, total receipts generated by the four and eight largest firms, the Herfindahl-Hirschman Index (HHI), the Gini coefficient, and size distributions of firms by various receipts and employment size groupings.

In some cases, where data were not available due to disclosure prohibitions in the Census Bureau's tabulation, SBA either estimated missing values using available relevant data or examined data at a higher level of industry aggregation, such as at the NAICS 2-digit (Sector), 3-digit (Subsector), or 4-digit (Industry Group) level. In some instances, SBA's analysis was based only on those factors for which data were available or estimates of missing values were possible.

To evaluate some industries that are not covered by the Economic Census, SBA used a similar special tabulation of the latest County Business Patterns (CBP) published by the U.S. Census Bureau (*www.census.gov/programs-surveys/cbp.html*). Similarly, to evaluate industries in NAICS Sector 11 that are also not covered by the Economic Census and CBP, SBA evaluated a similar special tabulation based on the 2012 Census of Agriculture (*www.nass.usda.gov*) from the National Agricultural Statistics Service (NASS). Besides the Economic Census, Agricultural Census and CBP tabulations, SBA also evaluates relevant industry data from other sources, when necessary, especially for industries that are not covered by the Economic Census or CBP. These include the Quarterly Census of Employment and Wages (QCEW, also known as ES–202 data) (*www.bls.gov/cew/*) and Business Employment Dynamics (BED) data (*www.bls.gov/bdm/*) from the U.S. Bureau of Labor Statistics. Similarly, to evaluate certain financial industries that have assets-based size standards SBA examines the data from the Statistics on Depository Institutions (SDI) database (*www5.fdic.gov/sdi/main.asp*) of the Federal Deposit Insurance Corporation (FDIC) data. Finally, to evaluate the capacity component of the Petroleum Refiners (NAICS 324110) size standard, SBA evaluates the petroleum production data from the Energy

Information Administration (*www.eia.gov*).

To calculate average assets, SBA used sales to total assets ratios from the Risk Management Association's Annual eStatement Studies, 2016–2018 (*https://rmau.org*). To evaluate Federal contracting trends and evaluate one exception in Sector 48–49 and one exception in Sector 53, SBA examined the data on Federal prime contract awards from the Federal Procurement Data System—Next Generation (FPDS–NG) (*www.fpds.gov*) for fiscal years 2016–2018. To assess the impact on financial assistance to small businesses, SBA examined its internal data on 7(a) and 504 loan programs for fiscal years 2016–2018. For some portion of impact analysis, SBA also evaluated the data from the System of Award Management (*www.sam.gov*).

Data sources and estimation procedures SBA uses in its size standards analysis are documented in detail in SBA's Methodology, which is available at *www.sba.gov/size.*

Dominance in Field of Operation

Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) defines a small business concern as one that is: (1) Independently owned and operated; (2) not dominant in its field of operation; and (3) within a specific small business definition or size standard established by SBA Administrator. SBA considers as part of its evaluation whether a business concern at a proposed size standard would be dominant in its field of operation. For this, SBA generally examines the industry's market share of firms at the proposed or revised size standard as well as the distribution of firms by size. Market share and size distribution may indicate whether a firm can exercise a major controlling influence on a national basis in an industry where a significant number of business concerns are engaged. If a contemplated size standard includes a dominant firm, SBA will consider a lower size standard to exclude the dominant firm from being defined as small.

Selection of Size Standards

In the Methodology SBA applied to the first 5-year comprehensive review of size standards, SBA adopted a fixed number of size standards levels as part of its effort to simplify size standards. In response to public comments to the 2009 Methodology white paper, and the 2013 amendment to the Small Business Act (section 3(a)(8)) under section 1661 for the National Defense Authorization Act of Fiscal Year 2013 (''NDAA 2013'') (Public Law 112–239, January 2, 2013), in the revised Methodology, SBA has relaxed the limitation on the number of small business size standards. Specifically, section 1661 of NDAA 2013 states ''SBA cannot limit the number of size standards, and shall assign the appropriate size standard to each industry identified by NAICS.''

In the revised Methodology, which is used in the ongoing, second 5-year review of size standards, SBA calculates a separate size standard to each NAICS industry. However, to account for errors and limitations associated with various data SBA evaluates in the size standards analysis, SBA will round the calculated size standard value for a receipts-based size standard to the nearest $500,000, except for agricultural industries in Subsectors 111 and 112 for which the calculated size standards will be rounded to the nearest $250,000. This rounding procedure will be applied both in calculating a size standard for each of the five primary factors and in calculating the overall size standard for the industry.

As a policy decision, SBA will continue to maintain the minimum and maximum levels for both receipts-based and employee-based size standards. Accordingly, SBA will not generally propose or adopt a size standard that is either below the minimum level or above the maximum, even though the calculations yield values below the minimum or above the maximum. The minimum size standard reflects the size an established small business should be to have adequate capabilities and resources to be able to compete for and perform Federal contracts (but does not account for small businesses that are newly formed or just starting operations). On the other hand, the maximum size standard represents the level above which businesses, if qualified as small, would outcompete much smaller businesses when accessing Federal assistance.

With respect to receipts-based size standards, SBA has established $6 million and $41.5 million, respectively, as the minimum and maximum size standard levels (except for most agricultural industries in NAICS Subsectors 111 and 112). These levels reflect the current minimum of $6.0 million and the current maximum of $41.5 million. The industry data seems to suggest that $6 million minimum and $41.5 million maximum size standards would be too high for agricultural industries.

Evaluation of Industry Factors

As mentioned earlier, to assess the appropriateness of the current size standards SBA evaluates the structure of each industry in terms of four economic characteristics or factors, namely average firm size, average assets size as a proxy of startup costs and entry barriers, the 4-firm concentration ratio as a measure of industry competition, and size distribution of firms using the Gini coefficient. For each size standard type (*i.e.,* receipts-based or employee-based) SBA ranks industries both in terms of each of the four industry factors and in terms of the existing size standard and computes the 20th percentile and 80th percentile values for both. SBA then evaluates each industry by comparing its value for each industry factor to the 20th percentile and 80th percentile values for the corresponding factor for industries under a particular type of size standard.

If the characteristics of an industry under review within a particular size standard type are similar to the average characteristics of industries within the same size standard type in the 20th percentile, SBA will consider adopting as an appropriate size standard for that industry the 20th percentile value of size standards for those industries. For each size standard type, if the industry's characteristics are similar to the average characteristics of industries in the 80th percentile, SBA will assign a size standard that corresponds to the 80th percentile in the size standard rankings of industries. A separate size standard is established for each factor based on the amount of differences between the factor value for an industry under a particular size standard type and 20th percentile and 80th percentile values for the corresponding factor for all industries in the same type. Specifically, the actual level of the new size standard for each industry factor is derived by a linear interpolation using the 20th percentile and 80th percentile values of that factor and corresponding percentiles of size standards. Each calculated size standard is bounded between the minimum and maximum size standards levels, as discussed before. As noted earlier, the calculated value for a receipts-based size standard for each industry factor is rounded to the nearest $500,000, except for industries in Subsectors 111 and 112 for which a calculated size standard is rounded to the nearest $250,000.

Table 2, 20th and 80th Percentiles of Industry Factors for Receipts-Based Size Standards, shows the 20th percentile and 80th percentile values for average firm size (simple and weighted), average assets size, 4-firm concentration ratio, and Gini coefficient for industries with receipts based size standards.

TABLE 2—20TH AND 80TH PERCENTILES OF INDUSTRY FACTORS FOR RECEIPTS-BASED SIZE STANDARDS

Industries/percentiles	Simple average receipts size ($ million)	Weighted average receipts size ($ million)	Average assets size ($ million)	4-firm concentration ratio (%)	Gini coefficient
Industries, excluding Subsectors 111 and 112					
20th percentile	0.83	19.42	0.34	7.9	0.686
80th percentile	7.52	830.65	5.19	42.4	0.834
Industries in Subsectors 111 and 112					
20th percentile	0.06	1.48	0.07	1.7	0.608
80th percentile	0.83	13.32	0.88	12.3	0.908

Estimation of Size Standards Based on Industry Factors

An estimated size standard supported by each industry factor is derived by comparing its value for a specific industry to the 20th percentile and 80th percentile values for that factor. If an industry's value for a particular factor is near the 20th percentile value in the distribution, the supported size standard will be one that is close to the 20th percentile value of size standards for industries in the size standards group, which is $8.0 million. If a factor for an industry is close to the 80th percentile value of that factor, it would support a size standard that is close to the 80th percentile value in the distribution of size standards, which is $35.0 million. For a factor that is within, above, or below the 20–80th percentile range, the size standard is calculated using linear interpolation based on the 20th percentile and 80th percentile values for that factor and the 20th percentile and 80th percentile values of size standards.

For example, if an industry's simple average receipts are $1.9 million that would support a size standard of $11.5 million. According to Table 2, the 20th percentile and 80th percentile values of average receipts are $0.83 million and $7.52 million, respectively. The $1.9 million is 15.9 percent between the 20th percentile value ($0.83 million) and the 80th percentile value ($7.52 million) of simple average receipts (($1.9 million − $0.83 million) ÷ ($7.52 million − $0.83 million) = 0.159 or 15.9%). Applying this percentage to the difference between the 20th percentile value ($8 million) and 80th percentile ($35.0 million) value of size standards and then adding the result to the 20th percentile size standard value ($8.0 million) yields a calculated size standard value of $12.32 million ([{$35.0 million − $8.0 million} * 0.159] + $8.0 million = $12.32 million). The final step is to round the calculated $12.32 million size standard to the nearest $500,000, which in this example yields $12.5 million. This procedure is applied to calculate size standards supported by other industry factors.

Detailed formulas involved in these calculations are presented in SBA's Methodology, which is available on its website at *www.sba.gov/size.*

Derivation of Size Standards Based on Federal Contracting Factor

Besides industry structure, SBA also evaluates Federal contracting data to assess the success of small businesses in getting Federal contracts under the existing size standards. For each industry with $20 million or more in annual Federal contract dollars, SBA evaluates the small business share of total Federal contract dollars relative to the small business share of total industry receipts. All other factors being equal, if the share of Federal contracting dollars awarded to small businesses in an industry is significantly less than the small business share of that industry's total receipts, a justification would exist for considering a size standard higher than the current size standard. Conversely, if the small business share of Federal contracting activity is near or above the small business share in total industry receipts, this will support the current size standard.

SBA increases the existing size standards by certain percentages when the small business share of total industry receipts exceeds the small business share of total Federal contract dollars by 10 or more percentage points. Proposed percentage increases generally reflect receipts levels needed to bring the small business share of Federal contracts at par with the small business share of industry receipts. These proposed percentage increases for receipts-based size standards are given in Table 3, Proposed Adjustments to Size Standards Based on Federal Contracting Factor.

TABLE 3—PROPOSED ADJUSTMENTS TO SIZE STANDARDS BASED ON FEDERAL CONTRACTING FACTOR

Size standards	Percentage difference between the small business shares of total Federal contract dollars in an industry and of total industry receipts		
	> −10%	−10% to −30%	< −30%
Receipts based standards			
<$15 million	No change	Increase 30%	Increase 60%
$15 million to <$25 million	No change	Increase 20%	Increase 40%
$25 million to <$41.5 million	No change	Increase 15%	Increase 25%

For example, if an industry with the current size standard of $8.0 million had an average of $50 million in Federal contracting dollars, of which 15 percent went to small businesses, and if that small businesses accounted for 40 percent of total receipts of that industry, the small business share of total Federal contract dollars would be 25 percent less than the small business share of total industry receipts (40% − 15%). According to the above rule, the new size standard for the Federal contracting factor for that industry would be set by multiplying the current $8.0 million standard by 1.3 (*i.e.,* 30% increase) and then by rounding the result to the nearest $500,000, yielding a size standard of $10.5 million. SBA evaluated the small business share of total Federal contract dollars for fifty-six

(56) industries (including 23 in Sector 48–49, seven (7) in Sector 51, 12 in Sector 52, and 14 in Sector 53) covered by this proposed rule which had $20 million or more in average annual Federal contract dollars during fiscal years 2016–2018. The Federal contracting factor was significant (*i.e.,* the difference between the small business share of total industry receipts and small business share of Federal contracting dollars was 10 percentage points or more) in eighteen (18) of these industries, prompting an upward adjustment of their existing size standards based on that factor. For the remaining 38 industries that averaged $20 million or more in average annual contract dollars, the Federal contracting factor was not significant, and the existing size standard was applied for that factor.

Derivation of Overall Industry Size Standard

The SBA's Methodology presented above results in five separate size standards based on evaluation of the five primary factors (*i.e.,* four industry factors and one Federal contracting factor). SBA typically derives an industry's overall size standard by assigning equal weights to size standards supported by each of these five factors. However, if necessary, SBA's Methodology would allow assigning different weights to some of these factors in response to its policy decisions and other considerations. For detailed calculations, see SBA's Methodology, available at *www.sba.gov/size.*

Calculated Size Standards Based on Industry and Federal Contracting Factors

Table 4, Size Standards Supported by Each Factor for Each Industry (Receipts), below, shows the results of analyses of industry and Federal contracting factors for each industry and subindustry (exception) covered by this proposed rule. NAICS industries in columns 2, 3, 4, 5, 6, 7, and 8 show two numbers. The upper number is the value for the industry or Federal contracting factor shown on the top of the column and the lower number is the size standard supported by that factor. Column 9 shows a calculated new size standard for each industry. This is the average of the size standards supported by each factor, rounded to the nearest $500,000 for non-agriculture industries and rounded to the nearest $250,000 for agriculture industries. Analytical details involved in the averaging procedure are described in SBA's Methodology, which is available at *www.sba.gov/size.* For comparison with the calculated new size standards, the current size standards are in column 10 of Table 4.

TABLE 4—SIZE STANDARDS SUPPORTED BY EACH FACTOR FOR EACH INDUSTRY (RECEIPTS)

[Upper value = calculated factor, lower value = size standard supported]

NAICS code NAICS industry title (1)	Type (2)	Simple average firm size ($ million) (3)	Weighted average firm size ($ million) (4)	Average assets size ($ million) (5)	Four-firm ratio (%) (6)	Gini coefficient (7)	Federal contract factor (%) (8)	Calculated size standard ($ million) (9)	Current size standard ($ million) (10)
481219 Other Nonscheduled Air Transportation.	Factor	$3.6	$76.4	$2.2	36.8	0.803	−8.2	$22.0	$16.5
	Size Std.	19.0	10.0	18.5	30.5	29.5	16.5		
484110 General Freight Trucking, Local	Factor	0.9	10.7	0.3	1.8	0.717		9.0	30.0
	Size Std.	8.5	7.5	8.0	6.0	14.0			
484121 General Freight Trucking, Long-Distance, Truckload.	Factor	3.5	734.6	1.6	14.5	0.827		22.0	30.0
	Size Std.	19.0	32.0	15.0	13.0	33.5			
484122 General Freight Trucking, Long-Distance, Less Than Truckload.	Factor	10.2	2,209.7	4.9	41.8	0.882		38.0	30.0
	Size Std.	41.5	41.5	33.5	34.5	41.5			
484210 Used Household and Office Goods Moving.	Factor	1.9	309.3	0.7	26.1	0.791	15.0	21.0	30.0
	Size Std.	12.5	17.5	10.0	22.0	27.0	30.0		
484220 Specialized Freight (except Used Goods) Trucking, Local.	Factor	1.2	30.7	0.5	3.9	0.733	−29.2	15.0	30.0
	Size Std.	9.5	8.5	9.0	6.0	16.5	34.5		
484230 Specialized Freight (except Used Goods) Trucking, Long-Distance.	Factor	4.4	201.1	2.3	11.1	0.822	10.6	22.0	30.0
	Size Std.	22.0	14.0	19.0	10.5	32.5	30.0		
485111 Mixed Mode Transit Systems	Factor	6.5		3.6			−23.7	25.5	16.5
	Size Std.	31.0		26.0			20.0		
485112 Commuter Rail Systems	Factor	117.7		65.4				41.5	16.5
	Size Std.	41.5		41.5					
485113 Bus and Other Motor Vehicle Transit Systems.	Factor	5.3	323.4	3.0	56.1	0.858	49.1	28.5	16.5
	Size Std.	26.0	18.0	22.5	41.5	39.0	16.5		
485119 Other Urban Transit Systems	Factor	15.7	157.6	8.7		0.811		33.0	16.5
	Size Std.	41.5	12.5	41.5		30.5			
485210 Interurban and Rural Bus Transportation.	Factor	3.7	120.3	3.1	51.5	0.817		28.0	16.5
	Size Std.	19.5	11.5	23.0	41.5	32.0			
485310 Taxi Service	Factor	0.8	20.6	0.3	11.8	0.781		13.0	16.5
	Size Std.	8.0	8.0	8.0	11.0	25.0			
485320 Limousine Service	Factor	0.9	29.5	0.4	12.1	0.759		12.5	16.5
	Size Std.	8.5	8.5	8.0	11.0	21.5			
485410 School and Employee Bus Transportation.	Factor	3.4	834.1	2.2	41.4	0.823	−14.2	26.5	16.5
	Size Std.	18.0	35.0	18.5	34.5	33.0	20.0		
485510 Charter Bus Industry	Factor	2.4	28.1	1.9	14.3	0.701		13.0	16.5
	Size Std.	14.5	8.5	16.5	13.0	11.0			
485991 Special Needs Transportation	Factor	1.4	42.0	0.5	15.0	0.730	24.2	13.0	16.5
	Size Std.	10.0	9.0	9.0	13.5	16.0	16.5		
485999 All Other Transit and Ground Passenger Transportation.	Factor	1.1	28.8	0.5	22.9	0.787	1.4	16.0	16.5
	Size Std.	9.0	8.5	9.0	20.0	26.5	16.5		
486210 Pipeline Transportation of Natural Gas.	Factor	183.9	1,264.9	73.6	34.5	0.833		36.5	30.0
	Size Std.	41.5	41.5	41.5	29.0	34.5			
486990 All Other Pipeline Transportation	Factor	21.4	80.7	8.6	93.0	0.737		31.5	40.5
	Size Std.	41.5	10.0	41.5	41.5	17.5			
487110 Scenic and Sightseeing Transportation, Land.	Factor	1.8	36.7	1.1	32.1	0.763		18.0	8.0
	Size Std.	12.0	8.5	12.0	27.0	22.0			

TABLE 4—SIZE STANDARDS SUPPORTED BY EACH FACTOR FOR EACH INDUSTRY (RECEIPTS)—Continued

[Upper value = calculated factor, lower value = size standard supported]

NAICS code NAICS industry title	Type	Simple average firm size ($ million)	Weighted average firm size ($ million)	Average assets size ($ million)	Four-firm ratio (%)	Gini coefficient	Federal contract factor (%)	Calculated size standard ($ million)	Current size standard ($ million)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
487210 Scenic and Sightseeing Transportation, Water.	Factor	0.9	18.8	0.7	16.4	0.735	.....	12.5	8.0
	Size Std.	8.5	8.0	10.0	14.5	17.0			
487990 Scenic and Sightseeing Transportation, Other.	Factor	2.5	30.0	1.5	44.1	0.781	.....	22.0	8.0
	Size Std.	15.0	8.5	14.5	36.5	25.5			
488111 Air Traffic Control	Factor	20.5	64.0	12.8	90.7	0.691	0.1	30.5	35.0
	Size Std.	41.5	9.5	41.5	41.5	9.0	35.0		
488119 Other Airport Operations	Factor	5.5	129.3	3.5	22.6	0.798	−1.0	25.5	35.0
	Size Std.	27.0	11.5	25.5	19.5	28.5	35.0		
488190 Other Support Activities for Air Transportation.	Factor	5.3	273.2	2.9	18.7	0.839	−21.3	27.5	35.0
	Size Std.	26.0	16.5	22.5	16.5	36.0	40.5		
488210 Support Activities for Rail Transportation.	Factor	9.7	159.1	5.7	29.8	0.807	.....	30.0	16.5
	Size Std.	41.5	12.5	37.5	25.0	30.0			
488310 Port and Harbor Operations	Factor	8.2	230.4	9.1	56.1	0.850	21.3	38.0	41.5
	Size Std.	37.5	15.0	41.5	41.5	38.0	41.5		
488320 Marine Cargo Handling	Factor	34.2	680.6	34.2	49.1	0.837	−7.4	39.0	41.5
	Size Std.	41.5	30.0	41.5	40.0	35.5	41.5		
488330 Navigational Services to Shipping.	Factor	4.4	68.4	3.6	22.6	0.806	−32.6	26.5	41.5
	Size Std.	22.5	9.5	26.5	19.5	30.0	41.5		
488390 Other Support Activities for Water Transportation.	Factor	2.7	41.4	2.1	23.0	0.791	−19.9	23.5	41.5
	Size Std.	15.5	8.5	17.5	20.0	27.0	41.5		
488410 Motor Vehicle Towing	Factor	0.6	4.7	0.3	4.1	0.620	.....	7.0	8.0
	Size Std.	7.0	7.5	7.5	6.0	6.0			
488490 Other Support Activities for Road Transportation.	Factor	1.8	55.8	0.8	24.9	0.794	−16.3	16.0	8.0
	Size Std.	12.0	9.0	10.5	21.5	27.5	10.5		
488510 Freight Transportation Arrangement.	Factor	3.4	254.1	0.8	11.0	0.787	−39.0	17.5	16.5
	Size Std.	18.0	16.0	10.5	10.5	26.5	23.0		
488510 Exception, Non-Vessel Owning Common Carriers and Household Goods Forwarders.	Factor	NA	NA	NA	NA	NA	.....	30.0	30.0
	Size Std	NA	NA	NA	NA	NA			
488991 Packing and Crating	Factor	1.5	22.5	0.6	15.8	0.752	−22.1	17.5	30.0
	Size Std.	11.0	8.0	9.0	14.0	20.0	34.5		
488999 All Other Support Activities for Transportation.	Factor	13.2	48.2	4.7	.....	.....	0.5	22.0	8.0
	Size Std.	41.5	9.0	32.5			8.0		
491110 Postal Service (Necessary data not available to estimate the the factor and supported size standard).	Factor	NA	NA	NA	NA	NA	.....	8.0	8.0
	Size Std.	NA	NA	NA	NA	NA			
492210 Local Messengers and Local Delivery.	Factor	0.8	22.4	0.2	12.4	0.725	.....	10.5	30.0
	Size Std.	8.0	8.0	7.5	11.5	15.0			
493110 General Warehousing and Storage.	Factor	3.5	444.9	2.1	22.6	0.842	21.3	25.0	30.0
	Size Std.	19.0	22.0	17.5	19.5	36.5	30.0		
493120 Refrigerated Warehousing and Storage.	Factor	6.4	237.4	7.1	38.1	0.798	−17.6	32.0	30.0
	Size Std.	30.5	15.5	41.5	31.5	28.5	34.5		
493130 Farm Product Warehousing and Storage.	Factor	2.1	13.5	1.2	19.1	0.723	.....	13.5	30.0
	Size Std.	13.0	8.0	12.5	16.5	14.5			
493190 Other Warehousing and Storage	Factor	4.9	592.7	2.6	50.7	0.867	14.1	32.0	30.0
	Size Std.	24.5	27.0	20.5	41.5	41.0	30.0		
511210 Software Publishers	Factor	29.1	11,979.9	24.2	41.4	0.871	17.9	40.0	41.5
	Size Std.	41.5	41.5	41.5	34.0	41.5	41.5		
512110 Motion Picture and Video Production.	Factor	4.6	3,814.6	2.2	46.4	0.865	75.4	33.0	35.0
	Size Std.	23.0	41.5	18.0	38.0	40.5	35.0		
512120 Motion Picture and Video Distribution.	Factor	4.5	107.2	3.0	38.3	0.814	.....	26.0	34.5
	Size Std.	22.5	11.0	22.5	32.0	31.5			
512131 Motion Picture Theaters (except Drive-Ins).	Factor	7.0	1,303.2	6.4	55.7	0.848	.....	39.5	41.5
	Size Std.	33.0	41.5	41.5	41.5	37.5			
512132 Drive-In Motion Picture Theaters	Factor	0.5	2.8	0.4	27.3	0.604	.....	11.0	8.0
	Size Std.	6.5	7.5	8.5	23.0	6.0			
512191 Teleproduction and Other Postproduction Services.	Factor	2.2	110.7	1.3	23.8	0.817	.....	19.5	34.5
	Size Std.	13.5	11.0	13.5	20.5	32.0			
512199 Other Motion Picture and Video Industries.	Factor	2.8	86.7	1.4	66.6	0.815	.....	25.0	22.0
	Size Std.	16.0	10.0	14.0	41.5	31.5			
512240 Sound Recording Studios	Factor	0.6	7.9	0.4	13.4	0.696	.....	9.5	8.0
	Size Std.	7.0	7.5	8.0	12.5	10.0			
512290 Other Sound Recording Industries.	Factor	1.3	38.4	0.9	42.0	0.777	.....	20.0	12.0
	Size Std.	10.0	8.5	11.0	34.5	24.5			
515111 Radio Networks	Factor	11.8	2,274.1	16.8	76.5	0.873	.....	41.5	35.0
	Size Std.	41.5	41.5	41.5	41.5	41.5			
515112 Radio Stations	Factor	4.2	1,018.6	5.9	46.2	0.834	.....	36.0	41.5
	Size Std.	21.5	41.5	39.0	38.0	35.0			
515120 Television Broadcasting	Factor	53.4	3,348.2	66.8	52.0	0.879	.....	41.5	41.5
	Size Std.	41.5	41.5	41.5	41.5	41.5			
515210 Cable and Other Subscription Programming.	Factor	154.7	7,147.3	119.0	58.9	0.894	.....	41.5	41.5
	Size Std.	41.5	41.5	41.5	41.5	41.5			
517410 Satellite Telecommunications	Factor	15.8	753.3	6.6	48.1	0.865	1.5	38.5	35.0
	Size Std.	41.5	32.5	41.5	39.5	40.5	35.0		

TABLE 4—SIZE STANDARDS SUPPORTED BY EACH FACTOR FOR EACH INDUSTRY (RECEIPTS)—Continued

[Upper value = calculated factor, lower value = size standard supported]

NAICS code NAICS industry title	Type	Simple average firm size ($ million)	Weighted average firm size ($ million)	Average assets size ($ million)	Four-firm ratio (%)	Gini coefficient	Federal contract factor (%)	Calculated size standard ($ million)	Current size standard ($ million)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
517919 All Other Telecommunications	Factor	6.8	764.1	3.1	39.5	0.869	−3.9	33.0	35.0
	Size Std.	32.0	33.0	23.5	32.5	41.5	35.0		
518210 Data Processing, Hosting, and Related Services.	Factor	10.9	1,122.5	5.5	15.9	0.849	8.2	33.0	35.0
	Size Std.	41.5	41.5	36.5	14.0	37.5	35.0		
519110 News Syndicates	Factor	7.7	263.9	2.6	59.5	0.859		32.0	30.0
	Size Std.	35.5	16.0	21.0	41.5	39.5			
519120 Libraries and Archives	Factor	1.1	88.8	0.4	34.1	0.803	9.3	18.5	16.5
	Size Std.	9.0	10.5	8.0	28.5	29.5	16.5		
519190 All Other Information Services	Factor	2.9	117.8	1.1	43.0	0.846	−25.8	26.5	30.0
	Size Std.	16.5	11.5	12.5	35.5	37.0	34.5		
522220 Sales Financing	Factor	34.7	3,705.1	115.7	33.6	0.885		38.0	41.5
	Size Std.	41.5	41.5	41.5	28.0	41.5			
522291 Consumer Lending	Factor	9.7	2,845.5	32.2	52.3	0.873		41.5	41.5
	Size Std.	41.5	41.5	41.5	41.5	41.5			
522292 Real Estate Credit	Factor	28.9	8,476.2	57.7	43.7	0.869		40.0	41.5
	Size Std.	41.5	41.5	41.5	36.0	41.5			
522293 International Trade Financing	Factor	3.7	44.4	7.3	46.9	0.806		31.0	41.5
	Size Std.	19.5	9.0	41.5	38.5	30.0			
522294 Secondary Market Financing	Factor	2,094.2		4,188.4				41.5	41.5
	Size Std.	41.5		41.5					
522298 All Other Nondepository Credit Intermediation.	Factor	6.0		30.0				35.5	41.5
	Size Std.	29.0		41.5					
522310 Mortgage and Nonmortgage Loan Brokers.	Factor	1.1	44.5	1.9	11.0	0.742	−10.5	13.0	8.0
	Size Std.	9.0	9.0	16.5	10.5	18.0	10.5		
522320 Financial Transactions Processing, Reserve, and Clearinghouse Activities.	Factor	21.3	2,801.2	14.2	37.0	0.886	0.8	39.5	41.5
	Size Std.	41.5	41.5	41.5	31.0	41.5	41.5		
522390 Other Activities Related to Credit Intermediation.	Factor	3.1	239.2	3.8	18.1	0.854	−16.0	25.0	22.0
	Size Std.	17.0	15.5	27.5	16.0	38.5	26.5		
523110 Investment Banking and Securities Dealing.	Factor	41.2	7,592.5	29.4	46.7	0.891	1.1	41.0	41.5
	Size Std.	41.5	41.5	41.5	38.5	41.5	41.5		
523120 Securities Brokerage	Factor	13.3	5,432.2	5.5	33.9	0.886		37.0	41.5
	Size Std.	41.5	41.5	37.0	28.5	41.5			
523130 Commodity Contracts Dealing	Factor	11.5	314.6	4.1	35.9	0.872		32.5	41.5
	Size Std.	41.5	18.0	29.0	30.0	41.5			
523140 Commodity Contracts Brokerage	Factor	4.7	366.7	1.2	40.1	0.851		26.5	41.5
	Size Std.	23.5	19.5	13.0	33.0	38.0			
523210 Securities and Commodity Exchanges.	Factor	692.4	2,097.6	314.7	84.8	0.683		33.0	41.5
	Size Std.	41.5	41.5	41.5	41.5	7.5			
523910 Miscellaneous Intermediation	Factor	2.4	332.7	12.1	19.4	0.827		27.0	41.5
	Size Std.	14.5	18.5	41.5	17.0	33.5			
523920 Portfolio Management	Factor	9.2	1,893.2	7.6	13.0	0.868	12.9	35.5	41.5
	Size Std.	41.5	41.5	41.5	12.0	41.0	41.5		
523930 Investment Advice	Factor	2.3	847.8	0.9	29.2	0.842	−20.8	27.5	41.5
	Size Std.	14.0	35.5	11.0	24.5	36.5	41.5		
523991 Trust, Fiduciary, and Custody Activities.	Factor	8.7	2,183.6	9.6	58.7	0.873	1.4	41.5	41.5
	Size Std.	39.5	41.5	41.5	41.5	41.5	41.5		
523999 Miscellaneous Financial Investment Activities.	Factor	12.1	1,063.7	20.2	63.5	0.884	23.7	41.5	41.5
	Size Std.	41.5	41.5	41.5	41.5	41.5	41.5		
524113 Direct Life Insurance Carriers	Factor	813.7	19,613.2	1,162.4	29.1	0.887		37.5	41.5
	Size Std.	41.5	41.5	41.5	24.5	41.5			
524114 Direct Health and Medical Insurance Carriers.	Factor	866.5	28,836.1	393.9	34.4	0.866	3.1	38.5	41.5
	Size Std.	41.5	41.5	41.5	28.5	40.5	41.5		
524127 Direct Title Insurance Carriers	Factor	16.3	3,552.3	8.6	89.4	0.888		41.5	41.5
	Size Std.	41.5	41.5	41.5	41.5	41.5			
524128 Other Direct Insurance (except Life, Health, and Medical) Carriers.	Factor	26.0	813.3	52.1	43.1	0.877		39.0	41.5
	Size Std.	41.5	34.5	41.5	35.5	41.5			
524130 Reinsurance Carriers	Factor	363.4	3,744.8	403.7	49.4	0.831		39.5	41.5
	Size Std.	41.5	41.5	41.5	40.5	34.5			
524210 Insurance Agencies and Brokerages.	Factor	0.9	488.3	0.5	11.2	0.735	−45.1	13.0	8.0
	Size Std.	8.0	23.5	9.0	10.5	17.0	13.0		
524291 Claims Adjusting	Factor	1.7	119.8	0.6	21.8	0.812		18.0	22.0
	Size Std.	11.5	11.5	9.5	19.0	31.0			
524292 Third Party Administration of Insurance and Pension Funds.	Factor	48.1	34,890.1	28.3	76.3	0.886	58.1	40.0	35.0
	Size Std.	41.5	41.5	41.5	41.5	41.5	35.0		
524298 All Other Insurance Related Activities.	Factor	3.2	411.0	2.1	49.2	0.848	−14.7	27.0	16.5
	Size Std.	17.5	21.0	18.0	40.5	37.5	20.0		
525110, Pension Funds, 525120, Health and Welfare Funds, and 525190, Other Insurance Funds, and 525920, Trusts, Estates, and Agency Accounts.	Factor	2.7	216.2	13.8		0.8612		32.5	35.0
	Size Std.	16.0	14.5	41.5		40.0			
525910 Open-End Investment Funds	Factor	2.6	24.5	13.2	58.2	0.807		31.5	35.0
	Size Std.	15.5	8.0	41.5	41.5	30.0			
525990 Other Financial Vehicles	Factor	2.8	244.0	13.9		0.865		32.5	35.0
	Size Std.	16.0	15.5	41.5		40.5			

TABLE 4—SIZE STANDARDS SUPPORTED BY EACH FACTOR FOR EACH INDUSTRY (RECEIPTS)—Continued

[Upper value = calculated factor, lower value = size standard supported]

NAICS code NAICS industry title	Type	Simple average firm size ($ million)	Weighted average firm size ($ million)	Average assets size ($ million)	Four-firm ratio (%)	Gini coefficient	Federal contract factor (%)	Calculated size standard ($ million)	Current size standard ($ million)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
531110 Lessors of Residential Buildings and Dwellings.	Factor	1.7	333.6	8.5	9.3	0.765	−3.8	23.5	30.0
	Size Std.	11.5	18.5	41.5	9.0	22.5	30.0		
531120 Lessors of Nonresidential Buildings (except Miniwarehouses).	Factor	3.1	691.1	31.1	11.5	0.825	−6.2	28.0	30.0
	Size Std.	17.0	30.5	41.5	11.0	33.5	30.0		
531130 Lessors of Miniwarehouses and Self-Storage Units.	Factor	0.8	413.7	4.2	33.7	0.698	.....	20.5	30.0
	Size Std.	8.0	21.0	29.0	28.0	10.5			
531190 Lessors of Other Real Estate Property.	Factor	0.9	84.1	4.4	18.0	0.689	.....	16.0	30.0
	Size Std.	8.0	10.0	30.5	16.0	8.5			
Exception to 531110,531120,531130, and 531190—*Review footnote #9.*	Factor	45.1	1,172.4	297.9	47.5	0.862	60.3	40.5	41.5
	Size Std.	41.5	41.5	41.5	39.0	40.0	41.5		
531210 Offices of Real Estate Agents and Brokers.	Factor	0.9	398.6	0.4	13.3	0.758	−11.1	13.0	8.0
	Size Std.	8.0	20.5	8.0	12.0	21.0	10.5		
531311 Residential Property Managers	Factor	1.0	44.2	1.1	4.7	0.756	28.3	11.0	8.0
	Size Std.	9.0	9.0	12.5	6.0	20.5	8.0		
531312 Nonresidential Property Managers.	Factor	1.0	28.0	5.2	5.9	0.732	.....	17.0	8.0
	Size Std.	9.0	8.5	35.0	6.5	16.5			
531320 Offices of Real Estate Appraisers	Factor	0.4	33.1	0.1	12.4	0.695	26.4	8.5	8.0
	Size Std.	6.5	8.5	6.5	11.5	9.5	8.0		
531390 Other Activities Related to Real Estate.	Factor	0.8	95.8	4.1	15.6	0.764	−12.5	17.0	8.0
	Size Std.	8.0	10.5	29.0	14.0	22.5	10.5		
532111 Passenger Car Rental	Factor	13.3	7,875.5	19.0	90.1	0.889	−0.9	41.5	41.5
	Size Std.	41.5	41.5	41.5	41.5	41.5	41.5		
532112 Passenger Car Leasing	Factor	16.8	830.6	56.0	62.4	0.873	0.2	41.0	41.5
	Size Std.	41.5	35.0	41.5	41.5	41.5	41.5		
532120 Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing.	Factor	9.2	1,781.6	15.3	62.6	0.869	58.8	41.5	41.5
	Size Std.	41.5	41.5	41.5	41.5	41.0	41.5		
532210 Consumer Electronics and Appliances Rental.	Factor	10.7	2,040.5	5.9	80.1	0.866	.....	40.5	41.5
	Size Std.	41.5	41.5	39.0	41.5	40.5			
532281 Formal Wear and Costume Rental.	Factor	0.6	12.0	0.3	24.9	0.714	.....	12.5	22.0
	Size Std.	7.0	8.0	8.0	21.5	13.0			
532282 Video Tape and Disc Rental	Factor	2.3	1,168.7	1.2	86.1	0.865	.....	31.0	30.0
	Size Std.	14.0	41.5	13.0	41.5	40.5			
532283 Home Health Equipment Rental	Factor	7.6	851.4	4.7	65.5	0.830	15.5	36.0	35.0
	Size Std.	35.0	35.5	32.5	41.5	34.5	35.0		
532284 Recreational Goods Rental	Factor	0.5	4.7	0.2	10.0	0.632	.....	7.5	8.0
	Size Std.	6.5	7.5	7.5	9.5	6.0			
532289 All Other Consumer Goods Rental.	Factor	1.1	34.1	0.6	15.1	0.708	.....	11.0	8.0
	Size Std.	9.0	8.5	9.5	13.5	12.0			
532310 General Rental Centers	Factor	0.9	6.3	0.7	6.9	0.610	.....	7.5	8.0
	Size Std.	8.5	7.5	9.5	7.0	6.0			
532411 Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing.	Factor	18.8	2,011.1	46.9	61.4	0.882	33.4	40.0	35.0
	Size Std.	41.5	41.5	41.5	41.5	41.5	35.0		
532412 Construction, Mining, and Forestry Machinery and Equipment Rental and Leasing.	Factor	7.8	655.5	9.8	32.8	0.824	3.3	34.0	35.0
	Size Std.	36.5	29.0	41.5	27.5	33.0	35.0		
532420 Office Machinery and Equipment Rental and Leasing.	Factor	4.7	109.7	6.7	40.0	0.832	28.6	32.5	35.0
	Size Std.	23.5	11.0	41.5	33.0	34.5	35.0		
532490 Other Commercial and Industrial Machinery and Equipment Rental and Leasing.	Factor	5.3	372.8	6.6	21.0	0.822	18.2	30.0	35.0
	Size Std.	26.0	20.0	41.5	18.0	33.0	35.0		
533110 Lessors of Nonfinancial Intangible Assets (except Copyrighted Works).	Factor	14.0	795.5	28.0	23.0	0.867	.....	35.0	41.5
	Size Std.	41.5	34.0	41.5	20.0	41.0			

Evaluation of Size Standards for Subindustry Categories or ''Exceptions''

In accordance with SBA's approach to evaluating size standards for subindustry categories (or ''exceptions''), SBA has evaluated the two (2) exceptions covered by this rule using the procedures described in the revised SBA's Methodology. The results of that analysis are discussed in the following two subsections.

Non-Vessel Owning Common Carriers and Household Goods Forwarders

Non-Vessel Owning Common Carriers and Household Good Forwarders is an ''exception'' or subindustry under NAICS 488510 (Freight Transportation Arrangement), with the size standard of $30.0 million in average annual receipts. The data that SBA receives from the Census Bureau's tabulation are limited to the 6-digit NAICS industry level and therefore do not provide information on economic characteristics of firms at the sub-industry level. Thus, for reviewing or modifying size standards at the subindustry levels (''exceptions''), SBA normally evaluates data from FPDS–NG and SAM using a two-step procedure.

First, using FPDS–NG, SBA identifies Product Service Codes (PSCs) that correspond to specific exceptions. SBA then identifies firms that have received federal contracts under those PSCs and evaluates their receipts and employee data from SAM and FPDS–NG to derive the values for industry and federal contracting factors.

Contracting activity for NAICS 488510 including the exception is distributed over roughly 70 different PSCs. Using FPDS–NG data for fiscal years 2016–2018, SBA identified 5 primary PSCs that correspond to the overall industry including the exception, that amount to 95.6 percent of total dollars obligated on NAICS 488510. These PSCs are V119 (Transportation/Travel/Relocation-Transportation: Other), W023 (Lease-Rent of Vehicles-Trailers-CYC), M1GZ (Operation of Other Warehouse Buildings), V112 (Transportation/Travel/Relocation-Transportation: Motor Freight) and R706 (Support-Management: Logistics Support). The top PSC alone, V119, accounts for 70 percent of total dollars obligated. Table 5, Primary PSCs of NAICS 488510 and Average Dollars Obligated—Fiscal Years 2016–2018, below identifies these five (5) PSCs and their average total dollars obligated for the fiscal years 2016–2018.

SBA analyzed the contracting activity under these PSCs, but the Agency was unable to reliably differentiate the level of activity corresponding to the exception versus the overall industry, and to identify any PSCs that would correspond uniquely to the exception.

TABLE 5—PRIMARY PSCS OF NAICS 488510 AND AVERAGE TOTAL DOLLARS OBLIGATED FISCAL YEARS 2016–2018

PSC	PSC description	Dollars obligated ($ million)	Percentage of dollars obligated to primary PSCs	Cumulative percentage of total NAICS 488510
V119	Transportation/Travel/Relocation-Transportation: Other	$126.76	70.2	70.2
W023	Lease-Rent of Vehicles Trailers-CYC	32.17	17.8	88.0
M1GZ	Operation of Other Warehouse Buildings	7.96	4.4	92.4
V112	Transportation/Travel/Relocation-Transportation: Motor Freight	3.14	1.7	94.1
R706	Support Management: Logistics Support	2.62	1.5	95.6
Total		180.64	100.0	

Source: FPDS–NG.

SBA also reviewed the distribution of contracts awarded to small and other than small businesses in the overall industry. SBA found that only about $2 million or 1.1% of the $189.9 Million obligated to the overall industry went to small businesses. Thus, while the total contracting dollars obligated to all firms in the industry is significant, the total dollars obligated to small firms is not. Additionally, the top agencies using the NAICS code 488510, USTRANSCOM and Federal Emergency Management Agency, which account for 91.3 percent of total dollars obligated during the period evaluated, have no small business dollars.

In an effort to differentiate the exception from the overall industry and determine its economic characteristics, SBA evaluated 2012 Economic Census sub-industry data found in the US Census American FactFinder. The data divide NAICS 488510 in two components identified with an additional digit. First, the 7-digit level NAICS 4885101 (Freight Forwarders), and second the 7-digit level NAICS 4885102 (Arrangement of transportation of freight and cargo). The NAICS 4885101 includes Non-vessel operating common carrier service as one of the principal activities. SBA understands that NAICS 4885101 corresponds to the activity classified as an exception to the General NAICS 6 digit 488510. The NAICS 4885101 includes multimodal activities supporting transportation, and the firms assume responsibility for delivery of the goods.[1]

SBA evaluated the economic characteristics of NAICS 4885101 to the overall industry and found them to be similar. Table 6, Industry Comparison NAICS 488510 and NAICS 4885101, displays a comparison of several economic factors between NAICS 488510 (overall industry) and NAICS 4885101 (industry exception).

TABLE 6—INDUSTRY COMPARISON NAICS 488510 AND NAICS 4885101

Economic characteristic (factor)	NAICS 488510 (overall industry)	NAICS 4885101 (exception)
Average Firm Size by Total Receipts ($ millions)	$3.4	$4.0
Average Firm Size by Number of Employees	16	17
Weighted Average Firm Size by Total Receipts ($ millions)	$121.9	$100.6
Concentration Ratio of Top 4 Largest Firms by Total Receipts (CR4) %	11.0%	14.5%
Percentage of Small Firms (based on current size standards) (%)	88.1%	85.6%

Source: U.S. Census Bureau, AmericanFactFinder and SBA calculations.

Despite the similarities between the overall industry and the exception, SBA recognizes that there are important distinctions between freight forwarders and NVOCCs. For example, the Federal Maritime Commission defines a freight forwarder as a company that arranges cargo movement to an international destination, dispatches shipments from

[1] The Census definition is: ''This U.S. Census Bureau NAICS-based industry comprises establishments primarily engaged in undertaking the transportation of goods from shippers to receivers for a charge covering the entire transportation, and in turn making use of the services of various freight carriers in affecting delivery, paying transportation charges, and assuming responsibility for delivery of the goods. There is no relationship between shippers and the various freight carriers delivering the goods.''

the United States via common carriers and books or otherwise arranges space for those shipments on behalf of shippers and prepares and processes the documentation and performs related activities pertaining to those shipments.'' [2] Conversely, the Federal Maritime Commission defines an NVOCC as ''a common carrier that holds itself out to the public to provide ocean transportation, issues its own house bill of lading or equivalent document, and does not operate the vessels by which ocean transportation is provided; a shipper in its relationship with the vessel-operating common carrier involved in the movement of cargo.'' Thus, the distinction between freight forwarders and NVOCCs will be not on the activity or service provided, but in the level of responsibility and the type of revenue that counts for the firm. Product Service Codes within NAICS 488510 do not distinguish between agents or NVOCCs, so it is a challenge to choose a PSC code to evaluate the exception.

Prior to 2000, the exception under NAICS 488510 did not exist. SBA did not recognize the differences between freight forwarders acting as agents (or brokers) and freight forwarders that are Non-Vessel Operating Common Carriers (NVOCCs) and Household Goods Forwarders, and applied a similar size to both ($18.5 million).

On August 9, 2000, SBA adopted the differentiation between agents and NVOCCs (65 FR 48601). SBA assigned a smaller size standard of $5 million to the overall industry which included the activity of agents and a higher size standard of $18.5 million to the exception which included the activities of NVOCCs and Household Goods Forwarders. SBA's justification for a lower size for the overall industry was that the revenues of freight forwarders, which typically act as agents or brokers, do not correspond to their intermediation activity whereas the revenues of NVOCCs, which typically act as wholesalers of cargo space, may have substantial expenses not usually incurred by agent or broker firms.

Despite these distinctions, SBA's preliminary analysis of industry structure suggests that firms in the exception and overall industry may be performing similar functions or that there may be significant overlap in the services offered by freight forwarders and NVOCCs. The absence of an easily identifiable PSC that is unique to the business activities of NVOCCs also supports this finding. Moreover, SBA's analysis of contracting data found that contracting officers prefer to use the lower size standard of $16.5 million rather than the higher size standard of $30 million available for the exception. This suggests that agencies are able to obtain the services needed provided by the overall NAICS using the lower size standard applicable to NAICS 488510.

For these reasons, SBA proposes to retain the sub-industry category (''exception'') under NAICS 488510 and its $30.0 Million size standard. SBA invites comments, along with supporting information, on this proposal as well as suggestions on whether the proposed size standard of $17.5 million for the overall industry is more appropriate for this exception. SBA also welcomes comments on the percent of Federal contracting dollars that correspond to NVOCCs versus the overall industry. Finally, SBA requests comments on available data sources that clearly define the economic characteristics of NVOCCs, and Household Goods Forwarders as well.

Exception to NAICS Industry Group 5311: Leasing of Building Space to the Federal Government by Owners

The current size standard for Federal contracts for Leasing of Building Space to Federal Government by Owners (''exception'' to NAICS industry group 5311 (531110, 531120, 531130, and 531190) is $41.5 million. This size standard applies only to certain Federal contracting opportunities that meet specific criteria. Footnote 9 of SBA's table of size standards (13 CFR 121.201) reads: ''For Government procurement, a size standard of $41.5 million in gross receipts applies to the owners of building space leased to the Federal Government. This size standard does not apply to an agent.''

To determine if the current $41.5 million size standard is appropriate, SBA evaluated average firm size, market concentration, and size distribution of firms involved in Leasing of Building Space to Federal Government by Owners. SBA used data from FPDS–NG and SAM.gov and followed the procedure described under the section ''Sources of Industry and Program Data'' (above). Based on the data for fiscal years 2016–2018, Federal contracts awarded to NAICS 6 digit industries 531110, 531120, 531130 and 531190 averaged about $221.0 million annually, with the largest percentage going to NAICS 531120 (75.5 percent). SBA chose to analyze dollars awarded to product service codes (PSC) X111/X1AA (Lease/Rental of Office Building), X1FZ (Lease or rental of other residential buildings), and X179 (Lease or rent of other warehouse buildings) across the four NAICS industries within 5311. Dollars obligated to these three PSCs add to $130.1 million in average in fiscal years 2016–2018, which represents 58.9 percent of total dollars obligated to these NAICS 6-digit industries. The results, as shown in Table 4, support retaining the current size standard of $41.5 million.

Evaluation of the Assets-Based Size Standard

In 1984, SBA published a notice of policy allowing financial services that prime contractors procure from small minority owned and controlled financial institutions to qualify as subcontracts for purposes of meeting subcontracting goals and credits (*see* 49 FR 13091–01 (April 2, 1984)). Concurrently, SBA also published a proposed rule that a financial institution with total assets of not more than $100 million would be considered small (*see* 49 FR 13052–01 (April 2, 1984)). SBA adopted the $100 million in total assets as the size standard for financial institutions (*see* 49 FR 49398–01 (October 16, 1984)). Over time, the definition of small depository institution was extended to all financial institutions within NAICS 5221, Depository Credit Intermediation. Since then, along with other monetary-based size standards, SBA has periodically adjusted the assets-based size standard for inflation, with the latest adjustment increasing it to $600 million (*see* 84 FR 34261 (July 18, 2019)).

Currently, the $600 million assets-based size standard applies to four industries within NAICS Industry Group 5221, and one industry within NAICS Industry Group 5222, Non-depository Credit Intermediation. These include NAICS 522110 (Commercial Banking), NAICS 522120 (Savings Institutions), NAICS 522130 (Credit Unions), NAICS 522190 (Other Depository Credit Intermediation), and NAICS 522210 (Credit Card Issuing).

Because only a small number of industries have assets-based size standards, no comparison groups could be developed to assess differing characteristics of individual industries based on total assets. Thus, most of the SBA's size standards methodology is not applicable to analyzing the assets-based size standards for financial institutions. Consequently, in this proposed rule, SBA has examined the changes since 2011 (the year that the assets-based size standard was last reviewed) in other financial industry factors to assess whether the current $600 million assets-

[2] See Federal Maritime Commission web page for definitions of Freight Forwarder and Non-Vessel Owning Common Carriers at: *https://www.fmc.gov/resources-services/ocean-transportation-intermediaries/*.

based size standard should be modified to reflect today's financial industry structure. Specifically, SBA evaluated changes from 2011 to 2018 (the latest year for which the financial institution data are available) in average firm size, industry concentration, and distribution of firms by size (*i.e.,* Gini coefficient) for financial institutions. As it did in the Sector 52 proposed and final rules (see 77 FR 55737 (September 11, 2012) and 78 FR 37409 (June 20, 2013)) in the prior review, in this proposed rule, SBA both evaluated depository institutions as a whole and the minority owned and controlled depository institutions separately.

SBA evaluated all depository institutions using SDI data. SDI does not provide the NAICS definition for every firm included in the database. However, it has a field called Asset Concentration Hierarchy, which can be used to identify each institution's primary specialization in terms of asset concentration, such as credit card services. Another field, Bank Charter Class, identifies the institutions as banks or thrifts. SDI does not include data on Credit Unions (NAICS 522130). Because the data are not separated by NAICS code, and also the differences among services offered by different financial institutions (such as commercial banks, saving institutions, and credit card issuing companies) have greatly diminished over the recent decades, SBA has analyzed all financial institutions as one industry group.

SBA identified Minority Depository Institutions using the list of minority depository institutions compiled by the Federal Depository Institutions (FDIC) (*https://www.fdic.gov/regulations/resources/minority/mdi.html*). SBA examined their characteristics using the assets data from SDI database too fully capture the changes in industry structure of minority-owned financial institutions since 2011.

The number of all depository institutions, total assets and calculated industry factors for 2011 and 2018 are shown on Table 7, Calculated Industry Factors for All Depository Institutions. All data were collected at the end of the corresponding calendar year. Similar calculations for the minority-owned depository institutions are shown on Table 8, Calculated Industry Factors for Minority Owned Depository Institutions. For comparability, all monetary values are expressed in 2018 dollars, using the Bureau of Economic Analysis (BEA) GDP deflator for 2018 (Source: BEA's Table 1.1.4. Price Indexes for Gross Domestic Product, *https://apps.bea.gov/iTable/iTable.cfm?reqid=19&step=2#reqid=19&step=2&isuri=1&1921=survey*).

TABLE 7—CALCULATED INDUSTRY FACTORS FOR ALL DEPOSITORY INSTITUTIONS

[All monetary values are in millions of 2018 dollars]

Year	Number of institutions	Total assets	Simple average firm size	Weighted average firm size	Four-firm ratio (%)	Gini coefficient
2011	7,366	$15,682,868.5	$2,129.1	$84,083.9	41.0	0.907
2018	5,415	18,034,370.5	3,330.4	91,644.4	39.4	0.911

Source: SDI/FDIC (*https://www7.fdic.gov/sdi/download_large_list_outside.asp*). Data correspond to Fourth quarter of calendar year 2018 and deflated using GDP deflator).

TABLE 8—CALCULATED INDUSTRY FACTORS FOR MINORITY DEPOSITORY INSTITUTIONS

[All monetary values are in millions of 2018 dollars]

Year	Number of institutions	Total assets	Simple average firm size	Weighted average firm size	Four-firm ratio (%)	Gini coefficient
2011	187	$204,192.6	$1,091.9	$9,923.4	40.6	0.782
2018	149	233,929.0	1,570.0	14,024.3	47.5	0.776

Source: FRB and FDIC (table *https://www.fdic.gov/regulations/resources/minority/mdi-history.xlsx*).

During the 2011 to 2018 span, as shown on Table 7, above, the financial industry continued to show a decrease in the total number of depository institutions in 2018 as compared to 2011. The total number of all financial depository institutions decreased by 26.5 percent from 7,366 in 2011 to 5,415 in 2018, while their total assets (measured in 2018 dollars) increased by 15.0 percent during the same period. The average firm size (measured in total assets) also increased from 2011 to 2018, with their simple average firm size increasing by a factor of 1.56 and the weighted average firm size increasing by a factor of 1.09. The four largest institutions' share of total assets (also referred to as four-firm concentration ratio or CR4) slightly decreased (from 41.0% to 39.4%), but the Gini coefficient value slightly increased from 0.907 in 2011 to 0.911 in 2018. Overall, the values of these factors confirm an increase over time in average size of the depository institutions, and an increase in concentration. The average firm size and Gini coefficient value for the minority owned banks on Table 8 also confirmed the continuation of the trend of increased concentration in the financial industry, even more than for the total industry as reflected on Table 7. For example, the four firm concentration ratio for minority depository institutions increased from 40.6 in 2011 to 47.5 in 2018. This is an increase by a factor of 1.17, although the Gini coefficient decreased slightly.

For the five assets-based industries listed above, Federal contracting dollars averaged about $130 million per year during fiscal years 2016–2018. This reflects a large increase in dollars awarded to those industries when compared to fiscal years 2008–2010, when the average total dollars obligated to them was about $22 million. Of those five industries, NAICS 522110, Commercial Banking, accounts for 99.6 percent of the average total dollars obligated. Thus, under SBA's methodology, different than the first comprehensive review, Federal contracting is a significant factor for reviewing the assets-based size standard for the industries.

The current structure of the financial industry relative to that for 2011, as

discussed above, strongly supports increasing the current $600 million assets-based size standard. The changes in industry factors for all financial institutions on Table 7 as well as the results for the minority-owned institutions in Table 8 support a size standard in the range of $700 million to $1 billion in total assets. SBA is proposing $750 million as it would include about 81 percent of the financial institutions and 5.3 percent of total assets of all financial institutions as compared to 77.3 percent of institutions and about 4.6 percent of total assets under the current $600 million. Similarly, it would include about 75.2 percent of institutions and 12.08 percent of the total assets of all minority owned institutions, as compared to 71.4 percent of institutions and 10.4 percent of total assets under the current $600 million.

The proposed $750 million assets-based size standard would apply to the following four industries within NAICS Subsector 522, Credit Intermediation and Related Activities: NAICS 522110 (Commercial Banking), NAICS 522120 (Savings Institutions), NAICS 522190 (Other depository Credit Intermediation), and NAICS 522210 (Credit Card Issuing).

NAICS 522130, Credit Unions

A credit union is a cooperative, not-for-profit financial institution owned and controlled by its members. Credit unions are established and operated for the purpose of promoting thrift and providing credit at competitive rates and other financial services to their membership. Generally, they could be corporate credit unions, Federal, or State credit unions. Because this industry includes only not-for-profit institutions, SBA does not consider them small business concerns for Federal government assistance. The small business regulations state that a business concern eligible for assistance from SBA as a small business is a business entity organized for profit, with a place of business located in the United States (*see* 13 CFR 121.05(a)(1)). However, SBA determines size standard for this industry because it is useful for other purposes, such as rulemaking. Table 9, Calculated Industry Factors for Credit Unions, provides the calculated factors for Credit Unions. Between 2011 and 2018, the total number of concerns diminished by 24 percent, but at the same time the total assets increased by a factor of 1.34. The simple average almost doubled (1.77) between 2011 and 2018 in real terms, and the weighted average grew by a factor of more than 1.5. The four firm concentration ratio increased by a factor of 1.24. Gini coefficient did not change significantly during the period. All these factors support an increase of size standard for Credit Unions and SBA proposes $750 million as well. With this size standard, the percentage of small firms will increase to 92.8 percent compared to 91.2 percent with the current $600 million size standard. Similarly, the share of small business assets will increase to about 30 percent from 25.7 percent.

TABLE 9—CALCULATED INDUSTRY FACTORS FOR CREDIT UNIONS

[All monetary values are in millions of 2018 dollars]

Year	Number of institutions	Total assets	Simple average firm size	Weighted average firm size	Four-firm ratio (%)	Gini coefficient
2011	7,240	$1,096,069.7	$151.4	$3,720.2	9.8	0.828
2018	5,492	1,470,839.4	267.8	5,687.5	12.2	0.833

Source: NCUA, *https://www.ncua.gov/analysis/credit-union-corporate-call-report-data/quarterly-dat.*

Special Considerations

NAICS Subsector 525, Funds, Trusts and Other Financial Vehicles

As noted earlier, the 2012 Economic Census special tabulation includes data only for two NAICS codes within NAICS Subsector 525: NAICS 525910, Open-End Investment Funds, and NAICS 525990, Other Financial Vehicles. Because all industries in that Subsector currently share the same $35.0 million receipts-based size standard, SBA applies the results based on data for NAICS 525910 and 525990, as shown in Table 4 (above), to all remaining industries within this Subsector and initially proposes the same common size standard of $32.5 million in average annual receipts for all six industries in Subsector 525. While that represents a slight decrease from the current $35.0 million level, this would have virtually no impacts on the number of small firms nor on the amount of Federal contract dollars awarded to small firms under the current size standards. However, while lowering size standards would cause no or very little impact on small businesses in those industries, in response to the COVID–19 emergency and its impacts on small businesses and the overall economy, SBA is proposing to maintain the size standards for those industries at their current levels. SBA seeks comments on this proposal as well as suggestion on alternative data sources, if any, to evaluate those industries.

NAICS 524126, Direct Property and Causality Insurance Carriers

The current size standard for NAICS 524126, Direct Property and Causality Insurance, is 1,500 employees, which SBA has not reviewed in this proposed rule. SBA will review this size standard together with other employee-based size standards at a later date. Until then, SBA proposes to retain the current 1,500-employee size standard for NAICS 524126.

Summary of Calculated Size Standards

Of the one hundred-twenty four (124) industries and two (2) subindustries (exceptions) reviewed in this proposed rule, the results from analyses of the latest available data on the five primary factors from Table 4, Size Standards Supported by Each Factor for Each Industry (millions of dollars), above, would support increasing size standards for forty five (45) industries, decreasing size standards for sixty-nine (69) industries, and retaining size standards for 9 industries and 2 subindustries. Additionally, SBA retained the size standard for one industry that the Economic Census does not cover. Table 10, Summary of Calculated Size Standards, summarizes these results by NAICS sector.

TABLE 10—SUMMARY OF CALCULATED SIZE STANDARDS

NAICS sector	Sector name	Number of size standards reviewed	Number of size standards increased	Number of size standards decreased	Number of size standards unchanged
48–49	Transportation and Warehousing	43	18	23	2
51	Information	19	8	9	2
52	Finance and Insurance	39	*10	24	5
53	Real Estate and Rental and Leasing*	25	9	13	3
All Sectors		126	45	69	12

* Includes five assets-based size industries.

Evaluation of SBA Loan Data

Before proposing or deciding on an industry's size standard revision, SBA also considers the impact of size standards revisions on SBA's loan programs. Accordingly, SBA examined its internal 7(a) and 504 loan data for fiscal years 2016–2018 to assess whether the calculated size standards in Table 4 above need further adjustments to ensure credit opportunities for small businesses through those programs. For the industries reviewed in this rule, the data shows that it is mostly businesses much smaller than the current or proposed size standards that receive SBA's 7(a) and 504 loans. For example, for industries covered by this rule, more than 99.0 percent of 7(a) and 504 loans in fiscal years 2016–2018 went to businesses below the current or proposed size standards.

Proposed Changes to Size Standards

Based on the analytical results in Table 4 and considerations of impacts of calculated size standards in terms of access by currently small businesses to SBA's loans, as discussed above, of a total of one hundred twenty six (126) industries or subindustries (exceptions) with monetary-based size standards in Sectors 48–49, 51, 52 and 53 that are covered by this rule, and considering the current emergency situation due to the COVID–19 pandemic and its impacts on small businesses and the overall economy, SBA proposes to increase size standards for 45 industries, and retain the current size standards for the remaining 81 industries.

Special Considerations

On March 13, 2020, the ongoing Coronavirus Disease 2019 (COVID–19) was declared a pandemic of enough severity and magnitude to warrant an emergency declaration for all states, territories, and the District of Columbia. With the COVID–19 emergency, many small businesses nationwide are experiencing economic hardship as a direct result of the Federal, State, and local public health measures that are being taken to minimize the public's exposure to the virus. These measures, some of which are government-mandated, are being implemented nationwide and include the closures of restaurants, bars, and gyms. In addition, based on the advice of public health officials, other measures, such as keeping a safe distance from others or even stay-at-home orders, are being implemented, resulting in a dramatic decrease in economic activity as the public avoids malls, retail stores, and other businesses.

The Coronavirus Aid, Relief, and Economic Security Act (the CARES Act or the Act) (Pub. L. 116–136) was enacted on March 27, 2020, to provide emergency assistance and health care response for individuals, families, and businesses affected by the coronavirus pandemic. Section 1102 of the Act temporarily permits SBA to guarantee 100 percent of 7(a) loans under a new program titled the Paycheck Protection Program (PPP). Section 1106 of the Act provides for forgiveness of up to the full principal amount of qualifying loans guaranteed under the PPP. The PPP and loan forgiveness are intended to provide economic relief to small businesses nationwide adversely impacted under the COVID–19. On April 24, 2020, additional funding for the CARES Act, including for the PPP, was provided.

The Agency is following closely the development of the pandemic and the economic situation and recovery. The consequence of the initial response of the public to the COVID–19 pandemic as well as the different measures taken by the Government to contain it (*e.g.* stay at home orders, social distancing, etc.) have resulted in the present economic decline. A variety of economic indicators such as the Gross Domestic Product (GDP) and the unemployment rate shows that this recession is significantly worse than any other recession since World War II. The GDP decreased nearly 5 percent, and the Personal consumption in goods and services decreased 6.8 percent in the first quarter of 2020; in May 2020, personal income decreased 4.2 percent and the unemployment rate increased from 3.5 percent in February 2020 to 11.1 percent in June 2020, and also for the month of June 2020, Non-farm payroll decreased by 15 million since February 2020. Specifically for the sectors evaluated in this proposed rule, more recent data in June 2020 shows that the unemployment rate for Transportation and Utilities was 12.9 percent, for the sector of Information 12.0 percent and for the Financial Activities, 5.1 percent. In June 2019, the unemployment rates for these sectors were 3.7, 2.7 and 2 percent, respectively. The latest Federal Reserve Board's Monetary Policy Report shows that in general the most impacted firms in these sectors are small businesses.[3].

Accordingly, in view of above impacts on small businesses from the COVID–19 pandemic and Federal government efforts to provide relief to small businesses and support to the overall economy, SBA proposes to increase size standards for 45 industries, and retain the current size standards for 81 industries even though analytical results suggest that 69 of those 81 size standards could be lowered.

The proposed size standards are presented in Table 11, Proposed Size Standards Revisions. Also presented in Table 11 are current and calculated size standards for comparison.

[3] Board of Governors of the Federal Reserve System (June 2020), Monetary Policy Report, p. 24 (see *https://www.federalreserve.gov/monetarypolicy/files/20200612_mprfullreport.pdf*) and U.S. Census Bureau, Small Busines Pulse Survey (*https://portal.census.gov/pulse/data*). The latest is a recent survey created by the Census Bureau to provide high-frequency, detailed information on participation in small business-specific initiatives such as the Paycheck Protection Program.

TABLE 11—PROPOSED SIZE STANDARDS REVISIONS

NAICS codes	NAICS U.S. industry title	Calculated size standard ($ million)	Proposed size standard ($ million)	Current size standard ($ million)
481219	Other Nonscheduled Air Transportation	$22.0	$22.0	$16.5
484110	General Freight Trucking, Local	9.0	30.0	30.0
484121	General Freight Trucking, Long-Distance, Truckload	22.0	30.0	30.0
484122	General Freight Trucking, Long-Distance, Less Than Truckload.	38.0	38.0	30.0
484210	Used Household and Office Goods Moving	21.0	30.0	30.0
484220	Specialized Freight (except Used Goods) Trucking, Local.	15.0	30.0	30.0
484230	Specialized Freight (except Used Goods) Trucking, Long-Distance.	22.0	30.0	30.0
485111	Mixed Mode Transit Systems	25.5	25.5	16.5
485112	Commuter Rail Systems	41.5	41.5	16.5
485113	Bus and Other Motor Vehicle Transit Systems	28.5	28.5	16.5
485119	Other Urban Transit Systems	33.0	33.0	16.5
485210	Interurban and Rural Bus Transportation	28.0	28.0	16.5
485310	Taxi Service	13.0	16.5	16.5
485320	Limousine Service	12.5	16.5	16.5
485410	School and Employee Bus Transportation	26.5	26.5	16.5
485510	Charter Bus Industry	13.0	16.5	16.5
485991	Special Needs Transportation	13.0	16.5	16.5
485999	All Other Transit and Ground Passenger Transportation.	16.0	16.5	16.5
486210	Pipeline Transportation of Natural Gas	36.5	36.5	30.0
486990	All Other Pipeline Transportation	31.5	40.5	40.5
487110	Scenic and Sightseeing Transportation, Land	18.0	18.0	8.0
487210	Scenic and Sightseeing Transportation, Water	12.5	12.5	8.0
487990	Scenic and Sightseeing Transportation, Other	22.0	22.0	8.0
488111	Air Traffic Control	30.5	35.0	35.0
488119	Other Airport Operations	25.5	35.0	35.0
488190	Other Support Activities for Air Transportation	27.5	35.0	35.0
488210	Support Activities for Rail Transportation	30.0	30.0	16.5
488310	Port and Harbor Operations	38.0	41.5	41.5
488320	Marine Cargo Handling	39.0	41.5	41.5
488330	Navigational Services to Shipping	26.5	41.5	41.5
488390	Other Support Activities for Water Transportation	23.5	41.5	41.5
488410	Motor Vehicle Towing	7.0	8.0	8.0
488490	Other Support Activities for Road Transportation	16.0	16.0	8.0
488510	Freight Transportation Arrangement	17.5	17.5	16.5
488991	Packing and Crating	17.5	30.0	30.0
488999	All Other Support Activities for Transportation	22.0	22.0	8.0
491110	Postal Services	8.0	8.0	8.0
492210	Local Messengers and Local Delivery	10.5	30.0	30.0
493110	General Warehousing and Storage	25.0	30.0	30.0
493120	Refrigerated Warehousing and Storage	32.0	32.0	30.0
493130	Farm Product Warehousing and Storage	13.5	30.0	30.0
493190	Other Warehousing and Storage	32.0	32.0	30.0
511210	Software Publishers	40.0	41.5	41.5
512110	Motion Picture and Video Production	33.0	35.0	35.0
512120	Motion Picture and Video Distribution	26.0	34.5	34.5
512131	Motion Picture Theaters (except Drive-Ins)	39.5	41.5	41.5
512132	Drive-In Motion Picture Theaters	11.0	11.0	8.0
512191	Teleproduction and Other Postproduction Services	19.5	34.5	34.5
512199	Other Motion Picture and Video Industries	25.0	25.0	22.0
512240	Sound Recording Studios	9.5	9.5	8.0
512290	Other Sound Recording Industries	20.0	20.0	12.0
515111	Radio Networks	41.5	41.5	35.0
515112	Radio Stations	36.0	41.5	41.5
515120	Television Broadcasting	41.5	41.5	41.5
515210	Cable and Other Subscription Programming	41.5	41.5	41.5
517410	Satellite Telecommunications	38.5	38.5	35.0
517919	All Other Telecommunications	33.0	35.0	35.0
518210	Data Processing, Hosting, and Related Services	33.0	35.0	35.0
519110	News Syndicates	32.0	32.0	30.0
519120	Libraries and Archives	18.5	18.5	16.5
519190	All Other Information Services	26.5	30.0	30.0
522110	Commercial Banking	750 million in assets	750 million in assets	600 million in assets
522120	Savings Institutions	750 million in assets	750 million in assets	600 million in assets
522130	Credit Unions	750 million in assets	750 million in assets	600 million in assets
522190	Other Depository Credit Intermediation	750 million in assets	750 million in assets	600 million in assets
522210	Credit Card Issuing	750 million in assets	750 million in assets	600 million in assets

TABLE 11—PROPOSED SIZE STANDARDS REVISIONS—Continued

NAICS codes	NAICS U.S. industry title	Calculated size standard ($ million)	Proposed size standard ($ million)	Current size standard ($ million)
522220	Sales Financing	38.0	41.5	41.5
522291	Consumer Lending	41.5	41.5	41.5
522292	Real Estate Credit	40.0	41.5	41.5
522293	International Trade Financing	31.0	41.5	41.5
522294	Secondary Market Financing	41.5	41.5	41.5
522298	All Other Nondepository Credit Intermediation	35.5	41.5	41.5
522310	Mortgage and Nonmortgage Loan Brokers	13.0	13.0	8.0
522320	Financial Transactions Processing, Reserve, and Clearinghouse Activities.	39.5	41.5	41.5
522390	Other Activities Related to Credit Intermediation	25.0	25.0	22.0
523110	Investment Banking and Securities Dealing	41.0	41.5	41.5
523120	Securities Brokerage	37.0	41.5	41.5
523130	Commodity Contracts Dealing	32.5	41.5	41.5
523140	Commodity Contracts Brokerage	26.5	41.5	41.5
523210	Securities and Commodity Exchanges	33.0	41.5	41.5
523910	Miscellaneous Intermediation	27.0	41.5	41.5
523920	Portfolio Management	35.5	41.5	41.5
523930	Investment Advice	27.5	41.5	41.5
523991	Trust, Fiduciary, and Custody Activities	41.5	41.5	41.5
523999	Miscellaneous Financial Investment Activities	41.5	41.5	41.5
524113	Direct Life Insurance Carriers	37.5	41.5	41.5
524114	Direct Health and Medical Insurance Carriers	38.5	41.5	41.5
524127	Direct Title Insurance Carriers	41.5	41.5	41.5
524128	Other Direct Insurance (except Life, Health, and Medical) Carriers.	39.0	41.5	41.5
524130	Reinsurance Carriers	39.5	41.5	41.5
524210	Insurance Agencies and Brokerages	13.0	13.0	8.0
524291	Claims Adjusting	18.0	22.0	22.0
524292	Third Party Administration of Insurance and Pension Funds.	40.0	40.0	35.0
524298	All Other Insurance Related Activities	27.0	27.0	16.5
525110	Pension Funds	32.5	35.00	35.0
525120	Health and Welfare Funds	32.5	35.0	35.0
525190	Other Insurance Funds	32.5.0	35.0	35.0
525910	Open-End Investment Funds	31.5	35.0	35.0
525920	Trusts, Estates, and Agency Accounts	32.5.0	35.0	35.0
525990	Other Financial Vehicles	32.5	35.0	35.0
531110	Lessors of Residential Buildings and Dwellings	23.5	30.0	30.0
531120	Lessors of Nonresidential Buildings (except Miniwarehouses).	28.0	30.0	30.0
531130	Lessors of Miniwarehouses and Self-Storage Units	20.5	30.0	30.0
531190	Lessors of Other Real Estate Property	16.0	30.0	30.0
531210	Offices of Real Estate Agents and Brokers	13.0	13.0	8.0
531311	Residential Property Managers	11.0	11.0	8.0
531312	Nonresidential Property Managers	17.0	17.0	8.0
531320	Offices of Real Estate Appraisers	8.5	8.5	8.0
531390	Other Activities Related to Real Estate	17.0	17.0	8.0
532111	Passenger Car Rental	41.5	41.5	41.5
532112	Passenger Car Leasing	41.0	41.5	41.5
532120	Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing.	41.5	41.5	41.5
532210	Consumer Electronics and Appliances Rental	40.5	41.5	41.5
532281	Formal Wear and Costume Rental	12.5	22.0	22.0
532282	Video Tape and Disc Rental	31.0	31.0	30.0
532283	Home Health Equipment Rental	36.0	36.0	35.0
532284	Recreational Goods Rental	7.5	8.0	8.0
532289	All Other Consumer Goods Rental	11.0	11.0	8.0
532310	General Rental Centers	7.5	8.0	8.0
532411	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing.	40.0	40.0	35.0
532412	Construction, Mining, and Forestry Machinery and Equipment Rental and Leasing.	34.0	35.0	35.0
532420	Office Machinery and Equipment Rental and Leasing	32.5	35.0	35.0
532490	Other Commercial and Industrial Machinery and Equipment Rental and Leasing.	30.0	35.0	35.0
533110	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works).	35.0	41.5	41.5

Table 12, Summary of Proposed Size Standards Revisions by Sector, below, summarizes the proposed changes to size standards in Table 11 (above) by NAICS sector.

TABLE 12—SUMMARY OF PROPOSED SIZE STANDARDS REVISIONS BY SECTOR

NAICS Sector	Sector name	Size standards increased	Size standards lowered	Size standards maintained
48–49	Transportation and Warehousing (1)	18	0	25
51	Information	8	0	11
52*	Finance and Insurance (2)	10	0	29
53	Real Estate and Rental and Leasing (3)	9	0	16
All Sectors (3)		45	0	81

Evaluation of Dominance in Field of Operation

SBA has determined that for the industries which it has evaluated in this proposed rule, no individual firm at or below the proposed size standard would be large enough to dominate its field of operation. At the proposed size standards levels, if adopted, the small business share of total industry receipts among those industries was, on average, 1.9 percent, varying from 0.01 percent to 33.3 percent. Also, at the proposed asset-based size standards levels, banks and thrifts have a share of 0.004 percent, with the minority institutions having a share of 0.32 percent. Credit unions have a market share of 0.05 percent. These market shares effectively preclude a firm at or below the proposed size standards from exerting control on any of the industries.

Alternatives Considered

By law, SBA is required to develop numerical size standards for establishing eligibility for Federal small business assistance programs and to review every five years all size standards and make necessary adjustments to reflect the current industry structure and Federal market conditions. Other than varying the levels of size standards by industry and changing the measures of size standards (*e.g.,* using annual receipts vs. the number of employees), no practical alternatives exist to the systems of numerical size standards.

The proposal is to increase size standards where the data suggested increases are warranted, and to retain, in response to the COVID–19 national emergency and resultant economic impacts on small businesses, all current size standards where the data suggested lowering is appropriate.

Nonetheless, SBA also considered two other alternatives. The alternative option one was to propose changes exactly as suggested by the analytical results. The alternative option two was to retain all current size standards.

The first option would cause a substantial number of currently small businesses to lose their small business status and hence to lose their access to Federal small business assistance, especially small business set-aside contracts and SBA's financial assistance in some cases. During the first 5-year review of size standards, some commenters had expressed concerns about the SBA's policy of not lowering size standards based on the analytical results.

As part of the option one, SBA considered but is not proposing to increase 45 size standards as suggested by analytical results and mitigate the impact of the decreases to size standards, by adjusting the calculated sizes considering the impact on small business access to Federal contracting and SBA loans. However, in the present situation with the global COVID–19 pandemic resulting in high levels of risk and dramatic reductions in economic activity of unprecedented nature, SBA presents only the impacts of adopting the analytical results without adjustment in alternative option one. SBA will adopt this approach temporarily and may reevaluate this approach as the economic situation evolves.

Under the second option, given the current COVID–19 pandemic, SBA considered retaining the current level of all size standards even though the current analysis may suggest changing them. SBA considers that the option of retaining all size standards at this moment provides the opportunity to reassess the economic situation once the economic recovery starts. Under this option, as the current situation develops, SBA will be able to assess new data available on economic indicators, federal procurement, and SBA loans as well, before adopting changes to size standards. However, SBA is not adopting option two because the Regulatory Impact Analysis shows that retaining all size standards at their current levels is more onerous for the small businesses than the option of adopting increases of size standards and retaining the rest. SBA may reevaluate this approach as the current economic situation evolves.

Request for Comments

SBA invites public comments on this proposed rule, especially on the following issues:

1. SBA seeks feedback on whether SBA's proposal to increase 45 size standards and retain 81 size standards is appropriate given the results from the latest available industry and Federal contracting data of each industry and subindustry (exception) reviewed in this proposed rule, along with ongoing uncertainty and dramatic contraction in economic activity due to the global COVID–19 pandemic. SBA also seeks suggestions, along with supporting facts and analysis, for alternative standards, if they would be more appropriate than the proposed size standards.

2. SBA also seeks comments on whether SBA should not lower any size standards in view of COVID–19 pandemic and its adverse impacts on small businesses as well as on the overall economic situation when analytical results suggest some size standards could be lowered. SBA believes that lowering size standards under the current economic environment would run counter to what Congress and Federal government are doing to aid and provide relief to the nation's small businesses impacted by the COVID–19 pandemic.

3. Given the uncertainty produced by the global COVID–19 pandemic and the economic consequences, SBA would like to receive comments from the public on the possibility of lowering size standards while mitigating the consequences of the lower standards.

4. Given the lack of industry data at the sub-industry level, SBA has

proposed to leave the size standard for Non-Vessel Owning Common Carriers and Household Good Forwarders (''exception'' under NAICS 488510) at its current level. SBA invites comments, along with supporting information, on this proposal. Alternatively, in view of insignificant Government contracting, SBA also welcomes comments on whether it should continue to have a higher size standard for Non-Vessel Owning Common Carriers and Household Good Forwarders as an ''exception'' under NAICS 488510 or should it apply the same $17.5 million proposed size standard for the overall industry. Finally, given the lack of industry data at the sub-industry level to accurately evaluate the size standard, SBA seeks comments on whether it should eliminate the exception and apply the overall size standard for NAICS 488510.

5. Because of the lack of data to review the industry structure, SBA has proposed to leave the size standard for Postal Service (NAICS 491110) at the current level of $8 million in average annual revenue. SBA invites comments on this proposal as well as suggestions, along with supporting information, if a different size standard is more appropriate.

6. As noted earlier, the 2012 Economic Census special tabulation includes data only for two NAICS codes within NAICS Subsector 525: NAICS 525910, Open-End Investment Funds, and NAICS 525990, Other Financial Vehicles. Because all industries in that Subsector currently share the same $35.0 million receipts based size standard, SBA applies the results based on data for NAICS 525910 and 525990, as shown in Table 4 (above), to all remaining industries within this Subsector, obtaining a common size standard of $32.5 million. While the reduced size standard represents a slight decrease from the current $35.0 million level, SBA decided to retain the current size standards, although this would have virtually no impacts on the number of small firms nor on the amount of Federal contract dollars awarded to small firms under the current size standards. SBA invites comments or suggestions along with supporting information with respect to the following:

a. Whether SBA should adopt common size standards for those industries or establish a separate size standard for each industry, and

b. Whether the reduced common size standards for those industries are at the correct levels or what would be more appropriate if what SBA has proposed are not appropriate.

7. Similarly, SBA proposes a $750 million common assets-based size standard for four industries within NAICS Industry Group 5221, Depository Credit Intermediation (*i.e.,* NAICS 522110, 522120, 522130, and 522190) and on industry in NAICS 5222. Nondepository Credit Intermediation (*i.e.,* NAICS 522210). SBA invites comments or suggestions along with supporting information with respect to whether SBA should adopt common size standards for those industries or establish a separate size standard for each industry.

8. In calculating the overall industry size standard, SBA has assigned equal weight to each of the five primary factors in all industries and subindustries covered by this proposed rule. SBA seeks feedback on whether it should assign equal weight to each factor or on whether it should give more weight to one or more factors for certain industries or subindustries. Recommendations to weigh some factors differently than others should include suggested weights for each factor along with supporting facts and analysis.

9. Finally, SBA seeks comments on data sources it used to examine industry and Federal market conditions, as well as suggestions on relevant alternative data sources that the Agency should evaluate in reviewing or modifying size standards for industries covered by this proposed rule.

Public comments on the above issues are very valuable to SBA for validating its proposed size standards revisions in this proposed rule. Commenters addressing size standards for a specific industry or a group of industries should include relevant data and/or other information supporting their comments. If comments relate to the application of size standards for Federal procurement programs, SBA suggests that commenters provide information on the size of contracts in their industries, the size of businesses that can undertake the contracts, start-up costs, equipment and other asset requirements, the amount of subcontracting, other direct and indirect costs associated with the contracts, the use of mandatory sources of supply for products and services, and the degree to which contractors can mark up those costs.

Compliance With Executive Orders 12866 and 13771, the Regulatory Flexibility Act (5 U.S.C. 601–612), Executive Orders 13563, 12988, and 13132, and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this proposed rule is a significant regulatory action for purposes of Executive Order 12866. Accordingly, in the next section SBA provides a Regulatory Impact Analysis of this proposed rule, including: (1) A statement of the need for the proposed action, (2) an examination of alternative approaches, and (3) an evaluation of the benefits and costs—both quantitative and qualitative—of the proposed action and the alternatives considered. However, this rule is not a ''major rule'' under the Congressional Review Act, 5 U.S.C. 800.

Regulatory Impact Analysis

1. What is a need for this regulatory action?

Under the Small Business Act (Act) (15 U.S.C. 632(a)), SBA's Administrator is responsible for establishing small business size definitions (or ''size standards'') and ensuring that such definitions vary from industry to industry to reflect differences among various industries. The Jobs Act requires SBA to review every five years all size standards and make necessary adjustments to reflect current industry and Federal market conditions. This proposed rule is part of the second 5-year review of size standards in accordance with the Jobs Act. The first 5-year review of size standards was completed in early 2016. Such periodic reviews of size standards provide SBA with an opportunity to incorporate ongoing changes to industry structure and Federal market environment into size standards and to evaluate the impacts of prior revisions to size standards on small businesses. This also provides SBA with an opportunity to seek and incorporate public input to the size standards review and analysis. SBA believes that proposed size standards revisions for industries being reviewed in this rule will make size standards more reflective of the current economic characteristics of businesses in those industries and the latest trends in Federal marketplace.

SBA's mission is to aid and assist small businesses through a variety of financial, procurement, business development and counseling, and disaster assistance programs. To determine the actual intended beneficiaries of these programs, SBA

establishes numerical size standards by industry to identify businesses that are deemed small.

The proposed revisions to the existing size standards for 126 industries in NAICS Sectors 48–49, 51, 52 and 53 are consistent with SBA's statutory mandates to help small businesses grow and create jobs and to review and adjust size standards every five years. This regulatory action promotes the Administration's goals and objectives as well as meets the SBA's statutory responsibility. One of SBA's goals in support of promoting the Administration's objectives is to help small businesses succeed through fair and equitable access to capital and credit, Federal Government contracts and purchases, and management and technical assistance. Reviewing and modifying size standards, when appropriate, ensures that intended beneficiaries are able to access Federal small business programs that are designed to assist them to become competitive and create jobs.

2. What are the potential benefits and costs of this regulatory action?

OMB directs agencies to establish an appropriate baseline to evaluate any benefits, costs, or transfer impacts of regulatory actions and alternative approaches considered. The baseline should represent the agency's best assessment of what the world would look like absent the regulatory action. For a new regulatory action promulgating modifications to an existing regulation (such as modifying the existing size standards), a baseline assuming no change to the regulation (*i.e.,* making no changes to current size standards) generally provides an appropriate benchmark for evaluating benefits, costs, or transfer impacts of proposed regulatory changes and their alternatives.

Proposed Changes to Size Standards

Based on the results from analyses of latest industry and Federal contracting data, as well as consideration of the impact of size standards changes on small businesses and significant adverse impacts of the COVID–19 emergency on small businesses and the overall economic activity, of the total of 126 industries and exceptions in Sectors 48–49, 51, 52 and 53 that have monetary-based size standards, SBA proposes to increase size standards for 45 industries, and maintain current size standards for remaining 79 industries and 2 exceptions.

The Baseline

For purposes of this regulatory action, the baseline represents maintaining the ''status quo,'' *i.e.,* making no changes to the current size standards. Using the number of small businesses and levels of benefits (such as set-aside contracts, SBA's loans, disaster assistance, etc.) they receive under the current size standards as a baseline, one can examine the potential benefits, costs and transfer impacts of proposed changes to size standards on small businesses and on the overall economy.

Based on the 2012 Economic Census (the latest available), of a total of about 700,544 businesses in industries in Sectors 48–49, 51, 52 (excluding assets-based size standards), and 53 for which SBA evaluated their current receipt based size standards, 97.2 percent are considered small under the current size standards. That percentage varies from 95.8 percent in Sector 51 to 97.9 percent in Sector 53. Additionally, based on the data from FDIC and National Credit Union Administration (NCUA), from a total of about 5,415 depository institutions. 77.3 percent corresponds to small depository institutions, and from a total of 5,492 credit unions, 91.2 percent are small under the current assets-based size standards. Based on the data from FPDS–NG for fiscal years 2016–2018, about 13,964 unique firms in those industries with receipts-based size standards received at least one Federal contract during that period, of which 76.8 percent were small under the current size standards. For these sectors, of $19.5 billion in total average annual contract dollars awarded to businesses during that period, 21.2 percent went to small businesses. From the total small business contract dollars awarded during the period considered, 45.5 percent were awarded through various small business set-aside programs and 54.5 percent were awarded through non-set aside contracts. Based on the FDIC and NCUA data respectively, from a total of $18,034.4 billion in assets, 4.6 percent are owned by small depository institutions. With respect to Credit Unions, from a total of $1,470.8 billion in assets, 25.7 percent are owned by small credit unions.

Based on the SBA's internal data on its loan programs for fiscal years 2016–2018, small businesses in those industries received, on an annual basis, a total of nearly 7,232 7(a) and 504 loans in that period, totaling about $2.7 billion, of which 84.6 percent was issued through the 7(a) program and 15.4 percent was issued through the 504/CDC program. During fiscal years 2016–2018, small businesses in those industries also received 2,544 loans through the SBA's Economic Injury Disaster Loan (EIDL) program, totaling about $208.6 million on an annual basis. Table 13, Baseline for All Industries, below, provides these baseline results by sector, for receipts-based size standards industries and assets-based size standards industries.

Increases to Size Standards

As stated above, of 126 monetary based size standards in Sectors 48–49, 51, 52, and 53 that are reviewed in this rule, based on the results from analyses of latest industry and Federal market data as well as impacts of size standards changes on small businesses, in this rule, SBA proposes to increase 45 size standards, of which 40 are receipts-based and five assets-based. Below are descriptions of the benefits, costs, and transfer impacts of these proposed increases to size standards.

TABLE 13—BASELINE FOR ALL INDUSTRIES

	Sector 48–49	Sector 51	Sector 52	Sector 53	Total
Baseline All Industries (current size standards)	43	19	39	25	126
Total firms (Economic Census)	162,147	45,821	220,860	271,716	700,544
Total small firms under current size standards (Economic Census)	156,173	43,915	214,790	265,977	680,855
Small firms as % of total firms	96.3%	95.8%	97.3%	97.9%	97.2%
Total contract dollars ($ million) (FPDS–NG FY2016–2018)	$8,190.0	$7,210.6	$2,997.6	$1,256.8	$22,522.6
Total small business contract dollars under current standards ($ million) (FPDS–NG FY2016–2018)	$1238.0	$1861.9	$382.0	$668.6	$4,530.5
Small business dollars as % of total dollars (FPDS–NG FY2016–2018)	15.1%	25.8%	12.2%	53.2%	20.1%

TABLE 13—BASELINE FOR ALL INDUSTRIES—Continued

	Sector 48–49	Sector 51	Sector 52	Sector 53	Total
Total No. of unique firms getting contracts (FPDS–NG FY2016–2018)	4,017	5,634	572	4,276	14,005
Total No. of unique small firms getting small business contracts (FPDS–NG FY2016–2018)	3,117	4,058	309	3,432	10,691
Small business firms as % of total firms	77.5%	72.0%	54.04%	80.3	76.3%
No. of 7(a) and 504/CDC loans (FY 2016–2018)	3,662	524	1,280	1,766	7,232
Amount of 7(a) and 504 loans ($ million) (FY 2016–2018)	$828.5	$210.5	$519.6	$1,135.6	$2,694.2
No. of EIDL loans (FY 2016–2018)	186	31	71	2,256	2,544
Amount of EIDL loans ($million) (FY 2016–2018)	$12.5	$3.3	$3.6	$189.2	$208.6
Total Number of Depository Institutions (FDIC, SDI) (2018)			5,415		
Number of Small Depository Institutions (FDIC, SDI) (2018)			4,188		
Small firms as % of total Depository Institutions (2018)			77.3%		
Total Assets of Depository Institutions ($ million) (FDIC, SDI) (2018)			$18,034,370.50		
Total Assets of Small Depository Institutions ($ million) (FDIC, SDI) (2018)			$837,835.6		
SB Assets as % of Total Assets			4.6%		
Total Number of Credit Unions (NCUA) (2018)			5,492		
Number of small Credit Unions (NCUA) (2018)			5,010		
Small firms as % of total Depository Institutions			91.2%		
Total Assets of Credit Unions ($ million) (NCUA) (2018)			$1,470,838.7		
Total Assets of Small Credit Unions ($ million) (NCUA) (2018)			$377,619.2		
SB Assets as % of Total Assets of Credit Unions			25.67%		

Benefits of Increases to Size Standards

The most significant benefit to businesses from proposed increases to size standards is gaining eligibility for Federal small business assistance programs or retaining that eligibility for a longer period. These include SBA's business loan programs, EIDL program, and Federal procurement programs intended for small businesses. Federal procurement programs provide targeted, set-aside opportunities for small businesses under the SBA's various business development and contracting programs, such as 8(a)/BD (business development), small disadvantaged businesses (SDB), small businesses located in Historically Underutilized Business Zones (HUBZone), women-owned small businesses (WOSB), economically disadvantaged women-owned small businesses (EDWOSB), and service-disabled veteran-owned small businesses (SDVOSB).

Besides set-aside contracting and financial assistance discussed above, small businesses also benefit through reduced fees, less paperwork, and fewer compliance requirements that are available to small businesses through Federal government. However, SBA has no data to estimate the number of small businesses receiving such benefits.

Based on the 2012 Economic Census (latest available SBA estimates that in 40 industries in NAICS Sectors 48–49, 51, 52, and 53 for which it has proposed to increase receipts-based size standards, more than 1,790 firms (see Table 13 above), not small under the current size standards, will become small under the proposed size standards increases and therefore become eligible for these programs. That represents about 0.5 percent of all firms classified as small under the current size standards in industries for which SBA has proposed increasing size standards. If adopted, proposed size standards would result in an increase to the small business share of total receipts in those industries from 29.9 percent to 32.7 percent.

With more businesses qualifying as small under the proposed increases to size standards, Federal agencies will have a larger pool of small businesses from which to draw for their small business procurement programs. Growing small businesses that are close to exceeding the current size standards will be able to retain their small business status for a longer period under the higher size standards, thereby enabling them to continue to benefit from the small business programs.

Based on the FPDS-NG data for fiscal years 2016–2018, SBA estimates that about 60–65 firms that are active in Federal contracting in those industries would gain small business status under the proposed size standards. Based on the same data, SBA estimates that those newly qualified small businesses under the proposed increases to size standards, if adopted, could receive Federal small business contracts totaling about $30.0 million annually. That represents a 3.4 percent increase to small business dollars from the sector baseline.

Based on the FDIC data for fiscal year 2018, SBA estimates that about 200 depository institutions would gain small institutions status under the proposed increases to size standards with an additional $132.4 billion or 15.8 percent increase in small depository institutions' assets. Also, based on the NCUA data for fiscal year 2018, SBA estimates that about 85 credit unions would gain small business status under the proposed increases to size standards, with an additional $56 billion in assets or 14.9 percent increase for small credit unions.

The added competition from more businesses qualifying as small can result in lower prices to the government for procurements set aside or reserved for small businesses, but SBA cannot quantify this impact. Costs could be higher when full and open contracts are awarded to HUBZone businesses that receive price evaluation preferences. However, with agencies likely setting aside more contracts for small businesses in response to the availability of a larger pool of small businesses under the proposed increases to size standards, HUBZone firms might

actually end up getting more set-aside contracts and fewer full and open contracts, thereby resulting in some cost savings to agencies. While SBA cannot estimate such costs savings as it is impossible to determine the number and value of unrestricted contracts to be otherwise awarded to HUBZone firms will be awarded as set-asides, such cost savings are likely to be relatively small as only a small fraction of full and open contracts are awarded to HUBZone businesses.

Under SBA's 7(a) and 504 loan programs, based on the data for fiscal years 2016–2018, SBA estimates up to about 14 7(a) and 504 loans totaling about $5.7 million could be made to these newly qualified small businesses in those industries under the proposed size standards. That represents a 0.2 percent increase to the loan amount compared to the Group baseline.

Newly qualified small businesses will also benefit from the SBA's EIDL program. Since the benefit provided through this program is contingent on the occurrence and severity of a disaster in the future, SBA cannot make a meaningful estimate of this impact. However, based on the historical trends of the EIDL data, SBA estimates that, on an annual basis, the newly defined small businesses under the proposed increases to size standards, if adopted, could receive 5 EIDL loans, totaling about $0.4 million. Additionally, the newly defined small businesses would also benefit through reduced fees, less paperwork, and fewer compliance requirements that are available to small businesses through the Federal government, but SBA has no data to quantify this impact. Table 14, Impacts of Proposed Increases to Size Standards, provides these results by NAICS sector.

TABLE 14—IMPACTS OF PROPOSED INCREASES TO SIZE STANDARDS

	Sector 48–49	Sector 51	Sector 52	Sector 53	Total
No. of industries with proposed increases to size standards	18	8	10	9	45
Total current small businesses in industries with proposed increases to size standards (Economic Census 2012)	27,255	5,368	135,774	150,404	318,800
Additional firms qualifying as small under proposed standards (2012 Economic Census)	184	13	623	970	1,790
Percentage of additional firms qualifying as small relative to current small businesses in industries with proposed increases to size standards	0.7%	0.2%	0.5%	0.6%	0.6%
No. of current unique small firms getting small business contracts in industries with proposed increases to size standards (FPDS–NG FY2016–2018) [1]	520	334	101	1,605	2,553
Additional small business firms getting small business status (FPDS–NG FY2016–2018)	32	4	7	21	63
% increase to small businesses relative to current unique small firms getting small business contracts in industries with proposed increases to size standards (FPDS–NG FY2016–2018) [1]	6.2%	1.2%	6.9%	1.3%	2.5%
Total small business contract dollars under current standards in industries with proposed increases to size standards ($ million) (FPDS–NG FY2016–2018)	$238.5	$149.6	$160.8	$330.8	$879.7
Estimated additional small business dollars available to newly qualified small firms (Using avg dollars obligated to SBs) ($ million) (FPDS–NG FY 2016–2018) [1]	$7.0	$2.0	$6.1	$15.0	$30.1
% increase to small business dollars relative to total small business contract dollars under current standards in industries with proposed increases to size standards	2.9%	1.3%	3.8%	4.5%	3.4%
Total no. of 7(a) and 504 loans to small business in industries with proposed increases to size standards (FY 2016–2018)	412	58	726	745	1,941
Total amount of 7(a) and 504 loans to small businesses in industries with proposed increases to size standards ($ million) (FY 2016–2018)	$160.6	$22.5	$246.0	$230.8	$659.9
Estimated no. of 7(a) and 504 loans to newly qualified small firms	4	1	4	5	14
Estimated 7(a) and 504 loan amounts to newly qualified small firms ($ million)	$2.4	$0.4	$1.4	$1.5	$5.7
% increase to 7(a) and 504 loan amounts relative to the total amount of 7(a) and 504 loans in industries with proposed increases to size standards	0.3%	0.2%	0.3%	0.1%	0.2%
Total no. of EIDL loans to small businesses in industries with proposed increases to size standards (FY 2016–2018)	57	9	0	127	193
Total amount of EIDL loans to small businesses in industries with proposed increases to size standards ($ million) (FY 2016–2018)	$4.9	$0.4	$2.2	$11.8	$19.3
Estimated no. of EIDL loans to newly qualified small firms	2	1	1	1	5
Estimated EIDL loan amount to newly qualified small firms ($ million)	$0.20	$0.04	$0.05	$0.09	$0.4
% increase to EIDL loan amount relative to the total amount of EIDL loans in industries with proposed increases to size standards	1.6%	1.2%	1.4%	0.0%	0.2%
Total current small businesses in industries with Proposed increases to size standards (FDIC) (2018)			4,188	.....	.....

TABLE 14—IMPACTS OF PROPOSED INCREASES TO SIZE STANDARDS—Continued

	Sector 48–49	Sector 51	Sector 52	Sector 53	Total
Additional firms qualifying as small under proposed standards (FDIC)			198		
% Increase small institutions with proposed increases to size standards			4.7%		
Total Assets of Small Depository Institutions ($ million) (FDIC, SDI) (2018)			$837,835.6		
Estimated increase in total assets of Small Depository Institutions ($ million)			$132,439.9		
% increase in total assets of small depository institutions			15.8%		
Number of small Credit Unions (NCUA) (2018)			5,010		
Additional small Credit Unions (NCUA)			84		
% Increase small institutions with proposed increases to size standards			1.7%		
Total Assets of small Credit Unions ($ million) (NCUA) (2018)			$377,619.2		
Estimated increase in total assets of small Credit Unions ($ million)			$56,326.8		
% increase in total assets of small Credit Unions			14.9%		

[1] Additional dollars are calculated multiplying average small business dollars obligated per DUNS times change in number of firms. Numbers of firms are calculated using the SBA current size standard, not the CO Size Std-These calculations do not include assets-based industries.

[2] Total impact represents total unique number of firms impacted to avoid double counting as some firms are participating in more than one industry. These calculations do not include assets-based industries.

Costs of Increases to Size Standards

Besides having to register in SAM to be able to participate in Federal contracting and update the SAM profile annually, small businesses incur no direct costs to gain or retain their small business status as a result of increases to size standards. All businesses willing to do business with Federal government have to register in SAM and update their SAM profiles annually, regardless of their size status. SBA believes that a vast majority of businesses that are willing to participate in Federal contracting are already registered in SAM and update their SAM profiles annually. More importantly, this proposed rule does not establish the new size standards for the very first time; rather it just intends to modify the existing size standards in accordance with a statutory requirement and the latest data and other relevant factors.

To the extent that the newly qualified small businesses (not depository institutions or credit unions) could become active in Federal procurement, the proposed increases to size standards, if adopted, may entail some additional administrative costs to the government as a result of more businesses qualifying as small for Federal small business programs. For example, there will be more firms seeking SBA loans, more firms eligible for enrollment in the Dynamic Small Business Search (DSBS) database or in *certify.sba.gov,* more firms seeking certification as 8(a)/BD or HUBZone firms or qualifying for small business, SDB, WOSB, EDWOSB, and SDVOSB status, and more firms applying for SBA's 8(a)/BD and all small business mentor-protégé programs. With an expanded pool of small businesses, it is likely that Federal agencies would set aside more contracts for small businesses under the proposed increases to size standards. One may surmise that this might result in a higher number of small business size protests and additional processing costs to agencies. However, the SBA's historical data on size protests shows that the number of size protests decreased following the increases to receipts-based size standards as part of the first 5-year review of size standards. Specifically, on an annual basis, the number of size protests fell from about 600 during fiscal years 2011–2013 (review of most receipts-based size standards was completed by the end of FY 2013), as compared to about 500 during fiscal years 2014–2016 when size standards increases were in effect. That represents a 17 percent decline. Among those newly defined small businesses seeking SBA's loans, there could be some additional costs associated with compliance and verification of their small business status. However, small business lenders have an option of using the tangible net worth and net income based alternative size standard instead of using the industry-based size standards to establish eligibility for SBA's loans. For these reasons, SBA believes that these added administrative costs will be minor because necessary mechanisms are already in place to handle these added requirements.

Additionally, some Federal contracts may possibly have higher costs. With a greater number of businesses defined as small due to the proposed increases to size standards, Federal agencies may choose to set aside more contracts for competition among small businesses only instead of using a full and open competition. The movement of contracts from unrestricted competition to small business set-aside contracts might result in competition among fewer total bidders, although there will be more small businesses eligible to submit offers under the proposed size standards. However, the additional costs associated with fewer bidders are expected to be minor since, by law, procurements may be set aside for small businesses under the 8(a)/BD, SDB, HUBZone, WOSB, EDWOSB, or SDVOSB programs only if awards are expected to be made at fair and reasonable prices.

Costs may also be higher when full and open contracts are awarded to HUBZone businesses that receive price evaluation preferences. However, with agencies likely setting aside more contracts for small businesses in response to the availability of a larger pool of small businesses under the proposed increases to size standards, HUBZone firms might actually end up getting fewer full and open contracts, thereby resulting in some cost savings to agencies. However, such cost savings are likely to be minimal as only a small fraction of unrestricted contracts are awarded to HUBZone businesses.

Transfer Impacts of Increases to Size Standards

The proposed increases to size standards, if adopted, may result in some redistribution of Federal contracts

between the newly qualified small businesses and large businesses and between the newly qualified small businesses and small businesses under the current standards. However, it would have no impact on the overall economic activity since total Federal contract dollars available for businesses to compete for will not change with changes to size standards. While SBA cannot quantify with certainty the actual outcome of the gains and losses from the redistribution contracts among different groups of businesses, it can identify several probable impacts in qualitative terms. With the availability of a larger pool of small businesses under the proposed increases to size standards, some unrestricted Federal contracts which would otherwise be awarded to large businesses may be set aside for small businesses. As a result, large businesses may lose some Federal contracting opportunities. Similarly, some small businesses under the current size standards may obtain fewer set-aside contracts due to the increased competition from more advanced businesses qualifying as small under the proposed increases to size standards. This impact may be offset by a greater number of procurements being set aside for all small businesses. With larger businesses qualifying as small under the higher size standards, smaller small businesses could face some disadvantage in competing for set aside contracts against their larger counterparts. However, SBA cannot quantify these impacts.

3. What alternatives have been considered?

Under OMB Circular A–4, SBA is required to consider regulatory alternatives to the proposed changes in the proposed rule. In this section, SBA describes and analyzes two such alternatives to the proposed rule. Alternative Option One to the proposed rule, a more stringent option to the proposed rule, would propose adopting size standards based solely on the analytical results. In other words, the size standards of 45 industries for which the analytical results suggest raising size standards would be raised, and the size standards of 69 industries for which the analytical results suggest lowering size standards would be lowered. Size standards for the remaining 12 industries would be maintained at their current levels. Alternative Option Two, would propose retaining all size standards for all industries, given the uncertainty generated by the ongoing COVID–19 pandemic. Below, SBA discusses and presents the net impacts of each option.

Alternative Option One: Consider Adopting All Calculated Size Standards

As discussed elsewhere in this proposed rule, Alternative Option One would cause a substantial number of currently small businesses to lose their small business status and hence to lose their access to Federal small business assistance, especially small business set-aside contracts and SBA's financial assistance in some cases. These consequences could be mitigated. For example, in response to the 2008 Financial Crisis and economic conditions that followed, SBA adopted a general policy in the first 5-year comprehensive size standards review to not lower any size standard (except to exclude one or more dominant firms) even when the analytical results suggested the size standard should be lowered. Currently, because of the economic challenges presented by the COVID–19 pandemic and the measures taken to protect public health, SBA has decided to propose the same general policy of not lowering size standards in the second 5-year comprehensive size standards review as well.

The primary benefit of adopting Alternative Option One is that SBA's procurement, management, technical and financial assistance resources would be targeted to the most appropriate beneficiaries of such programs according to the analytical results. Adopting the size standards suggested by the analytical results would also promote consistency with analytical results in SBA's exercise of its authority to determine size standards. SBA seeks public comment on the impact of adopting the size standard as suggested by the analytical results.

As explained in the Size Standards Methodology White Paper, in addition to adopting all results of the primary analysis, SBA evaluates other relevant factors as needed such as the impact of the reductions or increases of size standards on the distribution of contracts awarded to small businesses, and may adopt different results with the intention of mitigating potential negative impacts.

We have discussed already the benefits and costs of increasing 45 size standards. Below we discuss the benefits and costs of decreasing 69 size standards.

Benefits of Decreases to Size Standards

The most significant benefit to businesses from decreases to size standards when the SBA's analysis suggests such decreases is to ensure that size standards are more reflective of latest industry structure and Federal market trends and that Federal small business assistance is more effectively targeted to its intended beneficiaries. These include SBA's loan programs, EIDL program, and Federal procurement programs intended for small businesses. Federal procurement programs provide targeted, set-aside opportunities for small businesses under SBA's business development programs, such as small business, 8(a)/BD, SDB HUBZone, WOSB, EDWOSB, and SDVOSB programs. The adoption of smaller size standards when the results support them diminishes the risk of awarding contracts to firms which are not small anymore.

Decreasing size standards may reduce the administrative costs of the government, because the risk of awarding contracts to other than small businesses may diminish when the size standards reflect better the structure of the market. The risks of providing SBA's loans to firms that are not needing them the most, or allowing firms that are not eligible for small business set-asides or to participate on the SBA procurement programs will provide for a better chance for smaller firms to grow and benefit from the opportunities available on the Federal market, and strengthen the small business industrial base for the Federal Government.

Costs of Decreases to Size Standards

With fewer businesses qualifying as small under the decreases to size standards, Federal agencies will have a smaller pool of small businesses from which to draw for their small business procurement programs. For example, in Option One, during fiscal years 2016–2018, agencies awarded, on an annual basis, about $3,118 million in small business contracts in those 69 industries for which this Option considered decreasing size standards. Table 15, Impacts of Decreases of Size Standards Under Alternative Option One, below shows that lowering 69 size standards would reduce Federal contract dollars awarded to small businesses by $59.0 million or about 1.9 percent relative to the baseline level, of which more than 50 percent are accounted for by the Transportation and Warehousing sector (NAICS 48–49). Because of the importance of this sector for Federal procurement, SBA would adopt mitigating measures to reduce the negative impact under the assumptions of Option One. SBA could adopt one or more of the following three actions: 1. to accept decreases in size standards as suggested by the analytical results, 2. to decrease size standards by a smaller amount than the calculated threshold,

and 3. to retain the size standards at their current levels.

Nevertheless, since Federal agencies are still required to meet the statutory small business contracting goal of 23 percent, actual impacts on the overall set aside activity is likely to be smaller as agencies are likely to award more set aside contracts to small businesses that continue to remain small under the reduced size standards.

With fewer businesses qualifying as small, the decreased competition can also result in higher prices to the Government for procurements set aside or reserved for small businesses, but SBA cannot quantify this impact. Decreases to size standards would have a very minor impact on small businesses applying for SBA's 7(a) and 504 loans because a vast majority of such loans are issued to businesses that are far below the reduced size standards. For example, based on the loan data for fiscal years 2016–2018, Option One estimates that about 36 7(a) and 504 loans with total amounts of $10.7 million could not be available to those small businesses that would lose eligibility under the reduced size standards. That represents about a 0.5 percent decrease of the loan amounts compared to the baseline. Table 15 below shows these results by sector. However, the actual impact could be much less as businesses losing small business eligibility under the decreases to industry-based size standards could still qualify for SBA's loans under the tangible net worth and net income based alternative size standard.

Businesses losing small business status would also be impacted in terms of access to loans through the SBA's EIDL program. However, SBA expects such impact to be minimal as only a small number of businesses in those industries received such loans during fiscal years 2016–2018. Additionally, all those businesses were below the reduced size standards. Since this program is contingent on the occurrence and severity of a disaster in the future, SBA cannot make a meaningful estimate of this impact.

Small businesses becoming other than small if size standards were decreased might lose benefits through reduced fees, less paperwork, and fewer compliance requirements that are available to small businesses through Federal government, but SBA has no data to quantify this impact. However, if agencies determine that SBA's size standards do not adequately serve such purposes, they can establish a different size standard with an approval from SBA if they are required to use SBA's size standards for their programs.

Transfer Impacts of Decreases to Size standards

If the size standards were decreased under Alternative Option One, it may result in a redistribution of Federal contracts between small businesses losing the small business status and large businesses and between small businesses losing the small business status and small businesses remaining small under the reduced size standards. However, as under the proposed increases to size standards, it would have no impact on the overall economic activity since total Federal contract dollars available for businesses to compete for will stay the same. While SBA cannot estimate with certainty the actual outcome of the gains and losses among different groups of businesses from contract redistribution resulting from decreases to size standards, it can identify several probable impacts. With a smaller pool of small businesses under the decreases to size standards, some set-aside Federal contracts to be otherwise awarded to small businesses may be competed in unrestricted basis. As a result, large businesses may have more Federal contracting opportunities. However, because agencies are still required by law to award 23 percent of dollars to small businesses, SBA expects the movement of set-aside contracts to unrestricted competition to be limited. For the same reason, small businesses remaining small under the reduced size standards are likely to obtain more set aside contracts due to the reduced competition from fewer businesses qualifying as small under the decreases to size standards. With some larger small businesses losing small business status under the decreases to size standards, smaller small businesses would likely become more competitive in obtaining set aside contracts. However, SBA cannot quantify these impacts.

Net Impact of Alternative Option One

To estimate the net impacts of Alternative Option One, SBA followed the same methodology used to evaluate the impacts of the proposed size standards (see Table 14 above). However, under Alternative Option One, SBA used the calculated size standards instead of the proposed ones to determine the impacts of changes to current thresholds. The impact of the increases of the calculated size standards were already shown in Table 14 above. Table 15 above and Table 16, Net Impacts of Size Standards Changes under Alternative Option One, below present the impact of the decreases of size standards and the net impact of adopting the calculated results under Alternative Option One, respectively.

Based on the 2012 Economic Census, SBA estimates that in 114 industries in NAICS Sectors 48–49, 51, 52 and 53 for which the analytical results suggested to change size standards, about 52 firms (see Table 16, below), would become small under the Option One. That represents about 0.01 percent of all firms classified as small under the current size standards.

Based on the FPDS–NG data for fiscal years 2016–2018, SBA estimates that about 89 active firms in Federal contracting in those industries would lose small business status under Alternative Option One, most of them from the Transportation and Warehousing Sector (NAICS 48–49). This represents a decrease of about 0.9 percent of the total number of small businesses participating in Federal contracting under the current size standards. Based on the same data, SBA estimates that about $29.2 million of Federal procurement dollars would not be available to firms losing their small status. This represents a decrease of 0.7 percent from the Group's baseline. Again, most of the losses are accounted for by the NAICS 48–49 Sector.

Based on the SBA's loan data for fiscal years 2016–2018, the total number of 7(a) and 504 loans may decrease by about 22 loans, and the loan amounts by about $5.0 million. This represents a 0.4 percent decrease of the loan amounts relative to the Group baseline.

Firms' Participation under the SBA's EIDL program will be affected as well. Since the benefit provided through this program is contingent on the occurrence and severity of a disaster in the future, SBA cannot make a meaningful estimate of this impact. However, based on the historical trends of the EIDL data, SBA estimates that, on an annual basis, the net impact of the Option One on additional firms is a reduction of five (5) loans, and a reduction of loans amounts by $0.45 million for the Group relative to the baseline. Table 16 provides these results by NAICS sector.

TABLE 15—IMPACTS OF DECREASES OF SIZE STANDARDS UNDER ALTERNATIVE OPTION ONE

	Sector 48–49	Sector 51	Sector 52	Sector 53	Total
No. of industries for which SBA considered decreasing size standards (2012 Economic Census)	23	9	24	13	69
Total current small businesses in industries for which SBA considered decreasing size standards (2012 Economic Census)	133,032	39,030	76,036	114,495	510,777
Estimated no. of firms losing small status for which SBA considered decreasing size standards (2012 Economic Census)	1,086	72	246	234	1,738
% of Firms losing small status relative to current small businesses in industries for which SBA considered decreasing size standards	0.50%	0.19%	0.34%	0.21%	0.92%
No. of current unique small firms getting small business contracts in industries for which SBA considered decreasing size standards (FPDS–NG FY2016–2018) [1]	2,668	3,592	155	1,652	7,942
Estimated number of small business firms that would have lost small business status in the decreases that SBA considered	89	19	6	36	143
% decrease to small business firms relative to current unique small firms getting small business contracts in industries for which SBA considered decreasing size standards (FPDS–NG FY2016–2018) [1]	3.3%	0.5%	3.9%	2.2%	1.8%
Total small business contract dollars under current size standards in industries for which SBA considered decreasing size standards ($ million) (FPDS–NG FY2016–2018)	$995	$1,697	$106.0	$320.0	$3,118
Estimated small business dollars not available to firms that would have lost business status (Using avg dollars obligated to SBs) ($ million) [1] (FPDS–NG FY 2016–2018)	$30	$14	$8	$7	$59
% decrease to small business dollars relative to total small business contract dollars under current size standards in industries for which SBA considered decreasing to size standards	3.0%	0.8%	7.8%	2.2%	1.9%
Total no. of 7(a) and 504 loans to small businesses in industries for which SBA considered decreasing size standards (FY 2016–2018)	3,250	457	516	964	5,187
Total amount of 7(a) and 504 loans to small businesses in industries for which SBA considered decreasing size standards ($ million) (FY 2016–2018)	$668.0	$183.0	$262.5	$883.0	$1,996.5
Estimated no. of 7(a) and 504 loans not available to firms that would have lost small business status	30	1	2	3	36
Estimated 7(a) and 504 loan amounts not available to firms that would have small status ($ million)	$6.5	$0.4	$1.0	$2.7	$10.7
% decrease to 7(a) and 504 loan amounts relative to the total amount of 7(a) and 504 loans in industries for which SBA considered decreasing size standards	1.0%	0.2%	0.4%	0.3%	0.5%
Total no. of EIDL loans to small businesses in industries for which SBA considered decreasing size standards (FY 2016–2018)	129	21	21	2,124	2,295
Total amount of EIDL loans to small businesses in industries for which SBA considered decreasing size standards ($ million) (FY 2016–2018)	$7.6	$2.7	$1.3	$176.9	$188.5
Estimated no. of EIDL loans not available to firms that would have lost small business status	3	1	1	5	10
Estimated EIDL loan amount not available to firms that would have lost small business status ($ million)	$0.2	$0.1	$0.1	$0.4	$0.8
% decrease to EIDL loan amount relative to the baseline	3.0%	4.8%	4.8%	0.2%	0.4%

[1] Additional dollars are calculated multiplying average small business dollars obligated per DUNS times change in number of firms.
[2] Total impact represents total unique industries impacted to avoid double counting as some industries have large firms gaining small business status and small firms extending small business status.

TABLE 16—NET IMPACTS OF SIZE STANDARDS CHANGES UNDER ALTERNATIVE OPTION ONE

	Sector 48–49	Sector 51	Sector 52	Sector 53	Total
No. of industries with proposed changes to size standards	41	17	34	22	114
Total no. of small businesses under the current size standards (2012 Economic Census)	156,173	42,803.4	208,456	265,559	669,991
Additional firms qualifying as small under proposed size standards (2012 Economic Census)	−1,002	−60	377	736	52
% of additional firms qualifying as small relative to total current small businesses	−0.64%	−0.14%	0.18%	0.3%	0.01%

TABLE 16—NET IMPACTS OF SIZE STANDARDS CHANGES UNDER ALTERNATIVE OPTION ONE—Continued

	Sector 48–49	Sector 51	Sector 52	Sector 53	Total
No. of current unique small firms getting small business contracts (FPDS–NG FY2016–2018) [1]	3,100	3,872	257	3,215	10,264
Additional small firms getting small business status (FPDS–NG FY2016–2018)	−60	−14	1	−16	−89
% increase to small firms relative to current unique small firms getting small business contracts (FPDS–NG FY2016–2018) [1]	−1.9%	−0.4%	0.4%	−0.5%	−0.9%
Total small business contract dollars under current size standards ($ million) (FPDS–NG FY2016–2018)	$1,234.2	$1,846.0	$267.3	$650.6	$3,999
Estimated small business dollars available to newly qualified small firms ($ million) (FPDS–NG FY 2016–2018) [1]	−$23.5	−$11.5	−$2.02	7.9	−$29.2
% increase to dollars relative to total small business contract dollars under current size standards	1.9%	0.63%	0.75%	1.21%	−0.73%
Total no. of 7(a) and 504 loans to small businesses (FY 2016–2018)	3,662	524	1,280	1,766	7,232
Total amount of 7(a) and 504 loans to small businesses (FY 2016–2018)	$828.5	$210.5	$519.6	$1,135.6	$2,694.2
Estimated no. of additional 7(a) and 504 loans to newly qualified small firms	−26	0	2	2	−22
Estimated additional 7(a) and 504 loan amount to newly qualified small firms ($ million)	−$4.1	$0.0	$0.3	−$1.2	−$5.0
% increase to 7(a) and 504 loan amount relative to the total amount of 7(a) and 504 loans to small businesses	−0.5%	0.0%	0.07%	−0.11%	−0.4%
Total no. of EIDL loans to small businesses (FY 2016–2018)	186	31	71	2,256	2,544
Total amount of EIDL loans to small businesses (FY 2016–2018)	$12.5	$3.3	$3.6	$189.2	$208.6
Estimated no. of additional EIDL loans to newly qualified small firms	−1	0	0	−4	−5
Estimated additional EIDL loan amount to newly qualified small firms ($ million)	−$0.03	−$0.1	$0.0	−$0.3	−$0.45
% increase to EIDL loan amount relative to the total amount of EIDL loans to small businesses	−0.2%	−2.7%	−0.3%	−0.2%	−0.2%
Total current small businesses in industries with Proposed increases to size standards (FDIC) (2018)			4,188		
Additional firms qualifying as small under proposed standards (FDIC)			198		
% Increase small institutions with proposed increases to size standards			4.7%		
Total Assets of Small Depository Institutions (FDIC, SDI) (2018)			$837,835.6		
Estimated increase in total assets of Small Depository Institutions			$132,439.90		
% increase in total assets of Small depository institutions			15.8%		
Number of small Credit Unions (NCUA) (2018)			5,010		
Additional small Credit Unions (NCUA)			84		
% Increase small institutions with proposed increases to size standards			1.7%		
Total Assets of small Credit Unions (NCUA) (2018)			$377,619.2		
Estimated increase in total assets of Small Credit Unions			$56,326.80		
% increase in total assets of small Credit Unions			14.9%		

[1] Additional dollars are calculated multiplying average small business dollars obligated per DUNS times change in number of firms.
[2] Total impact represents total unique industries impacted to avoid double counting as some industries have large firms gaining small business status and small firms extending small business status.

Alternative Option Two: To Retain all Current Size Standards

Under this alternative, given the current COVID–19 pandemic, as discussed elsewhere, SBA considered retaining the current level of all size standards even though the current analysis may suggest changing them. SBA considers that the option of retaining all size standards at this moment provides the opportunity to reassess the economic situation once the economic recovery starts. Under this option, as the current situation develops, SBA will be able to assess new data available on economic indicators, federal procurement, and SBA loans as well. SBA estimates a net impact of zero for this option, when compared to the baseline. However, if we compare the proposal of adopting 45 increases to size standards with this alternative approach, the benefits for small businesses of adopting the former will not be attained.

Executive Order 13771

This proposed rule is not subject to the requirements of E.O. 13771 because SBA has determined that most of the rule's impacts are income transfers between small and other than small businesses. According to the E.O. 13771 guidance in OMB M–17–21, dated April 5, 2017 (''E.O. 13771 Guidance''), ''transfers'' are not covered by E.O. 13771. The E.O. 13771 Guidance also states that ''in some cases, [transfer rules] may impose requirements apart

from transfers, or transfers may distort markets causing inefficiencies. In those cases, the actions would need to be offset to the extent they impose more than de minimis costs.'' SBA estimates that this rulemaking would impose only de minimis costs on small businesses and would result in negligible compliance costs. Thus, SBA has determined that this rulemaking is exempt from the requirements of E.O. 13771. Details on the estimated costs of this proposed rule can be found in the Regulatory Impact Analysis above.

Initial Regulatory Flexibility Analysis

According to the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, when an agency issues a rulemaking, it must prepare a regulatory flexibility analysis to address the impact of the rule on small entities.

This proposed rule, if adopted, may have a significant impact on a substantial number of small businesses in the industries covered by this proposed rule. As described above, this rule may affect small businesses seeking Federal contracts, loans under SBA's 7(a), 504 and EIDL Programs, and assistance under other Federal small business programs.

Immediately below, SBA sets forth an initial regulatory flexibility analysis (IRFA) of this proposed rule addressing the following questions: (1) What are the need for and objective of the rule?; (2) What are SBA's description and estimate of the number of small businesses to which the rule will apply?; (3) What are the projected reporting, record keeping, and other compliance requirements of the rule?; (4) What are the relevant Federal rules that may duplicate, overlap, or conflict with the rule?; and (5) What alternatives will allow the Agency to accomplish its regulatory objectives while minimizing the impact on small businesses?

1. What is the need for and objective of the rule?

Changes in industry structure, technological changes, productivity growth, mergers and acquisitions, and updated industry definitions have changed the structure of many the industries covered by this proposed rule. Such changes can be enough to support revisions to current size standards for some industries. Based on the analysis of the latest data available, SBA believes that the revised standards in this proposed rule more appropriately reflect the size of businesses that need Federal assistance. The 2010 Jobs Act also requires SBA to review all size standards and make necessary adjustments to reflect market conditions.

2. What are SBA's description and estimate of the number of small businesses to which the rule will apply?

Based on data from the 2012 Economic Census, SBA estimates that there are about 319,000 small firms covered by this rulemaking under industries with proposed changes to size standards. If the proposed rule is adopted in its present form, SBA estimates that an additional 1,790 businesses will become small.

3. What are the projected reporting, record keeping and other compliance requirements of the rule?

The proposed size standard changes impose no additional reporting or record keeping requirements on small businesses. However, qualifying for Federal procurement and a number of other programs requires that businesses register in SAM and self-certify that they are small at least once annually. Therefore, businesses opting to participate in those programs must comply with SAM requirements. There are no costs associated with SAM registration or certification. Changing size standards alters the access to SBA's programs that assist small businesses but does not impose a regulatory burden because they neither regulate nor control business behavior.

4. What are the relevant Federal rules, which may duplicate, overlap or conflict with the rule?

Under section 3(a)(2)(C) of the Small Business Act, 15 U.S.C. 632(a)(2)(c), Federal agencies must use SBA's size standards to define a small business, unless specifically authorized by statute to do otherwise. In 1995, SBA published in the **Federal Register** a list of statutory and regulatory size standards that identified the application of SBA's size standards as well as other size standards used by Federal agencies (60 FR 57988 (November 24, 1995)). SBA is not aware of any Federal rule that would duplicate or conflict with establishing size standards.

However, the Small Business Act and SBA's regulations allow Federal agencies to develop different size standards if they believe that SBA's size standards are not appropriate for their programs, with the approval of SBA's Administrator (13 CFR 121.903). The Regulatory Flexibility Act authorizes an Agency to establish an alternative small business definition, after consultation with the Office of Advocacy of the U.S. Small Business Administration (5 U.S.C. 601(3)).

5. What alternatives will allow the Agency to accomplish its regulatory objectives while minimizing the impact on small entities?

By law, SBA is required to develop numerical size standards for establishing eligibility for Federal small business assistance programs. Other than varying size standards by industry and changing the size measures, no practical alternative exists to the systems of numerical size standards.

However, SBA considered two alternatives to its proposal to increase 45 size standards and maintain 81 size standards at their current levels. The first alternative SBA considered was adopting size standards based solely on the analytical results. In other words, the size standards of 45 industries for which the analytical results suggest raising size standards would be raised. However, the size standards of 69 industries for which the analytical results suggest lowering size standards would be lowered. This would cause a significant number of small businesses to lose their small business status. Under the second alternative, in view of the COVID–19 pandemic, SBA considered retaining all size standards at the current levels, even though the analytical results may suggest increasing 45 size standards and decreasing 69. Retaining all size standards at their current levels would be more onerous for the small businesses than the option of adopting 45 increases and retaining the rest of size standards, as proposed.

Executive Order 13563

Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. A description of the need for this regulatory action and benefits and costs associated with this action including possible distributional impacts that relate to Executive Order 13563 is included above in the Regulatory Impact Analysis under Executive Order 12866. Additionally, Executive Order 13563, section 6, calls for retrospective analyses of existing rules.

The review of size standards in the industries covered by this proposed rule is consistent with section 6 of Executive Order 13563 and the 2010 Jobs Act which requires SBA to review all size standards and make necessary adjustments to reflect market conditions. Specifically, the 2010 Jobs Act requires SBA to review at least one-third of all size standards during every 18-month period from the date of its enactment (September 27, 2010) and to review all size standards not less frequently than once every five years, thereafter. SBA had already launched a comprehensive review of size standards in 2007. In accordance with the Jobs

Act, SBA completed the comprehensive review of the small business size standard for each industry, except those for agricultural enterprises previously set by Congress, and made appropriate adjustments to size standards for a number of industries to reflect current Federal and industry market conditions. The first comprehensive review was completed in 2015. Prior to 2007, the last time SBA conducted a comprehensive review of all size standards was during the late 1970s and early 1980s.

SBA issued a White Paper entitled ''Size Standards Methodology'' and published a notice in the April 11, 2019, edition of the **Federal Register** (84 FR 14587) to advise the public that the document is available for public review and comments. The ''Size Standards Methodology'' White Paper explains how SBA establishes, reviews, and modifies its receipts-based and employee-based small business size standards. SBA gave appropriate consideration to all input, suggestions, recommendations, and relevant information obtained from industry groups, individual businesses, and Federal agencies in developing size standards for those industries covered by this proposed rule.

Executive Order 12988

This action meets applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have retroactive or preemptive effect.

Executive Order 13132

For purposes of Executive Order 13132, SBA has determined that this proposed rule will not have substantial, direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, SBA has determined that this proposed rule has no federalism implications warranting preparation of a federalism assessment.

Paperwork Reduction Act

For the purpose of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA has determined that this rule will not impose any new reporting or record keeping requirements.

List of Subjects in 13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Individuals with disabilities, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth in the preamble, SBA proposes to amend 13 CFR part 121 as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

■ 1. The authority citation for part 121 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 636(a)(36), 662, and 694a(9); Pub. L. 116–136, Section 1114.

■ 2. In § 121.201 amend the table ''Small Business Size Standards by NAICS Industry'' as follows:

■ a. Revise entries ''481219'', ''484122'', ''485111'' through ''485113'', ''485119'', ''485210'', ''485410'', ''486210'', Subsector 487, entries ''488210'', ''488490'', ''488510'', ''488510 sub-entry'', ''488999'', ''493120'', ''493190'', ''512132'', ''512199'', ''512240'', ''512290'', ''515111'', ''517410'', ''519110'', ''519120'', ''522110'', ''522120'', ''522130'', ''522190'', ''5222210'', ''522310'', ''522390'', ''524210'', ''524292'', ''524298'', ''531210'', ''531311'', ''531312'', ''531320'', ''531390'', ''532282'', ''532283'', ''532289'', and ''532411'' and

■ b. Revise footnote 10.

The revisions read as follows:

§ 121.201 What size standards has SBA identified by North American Industry Classification System codes?

* * * * *

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
*	* * * * *	*	*
	Sectors 48–49—Transportation and Warehousing Subsector 481—Air Transportation		
*	* * * * *	*	*
481219 ...	Other Nonscheduled Air Transportation	$22.0.	
*	* * * * *	*	*
	Subsector 484—Truck Transportation		
*	* * * * *	*	*
484122 ...	General Freight Trucking, Long-Distance, Less Than Truckload	$38.0.	
*	* * * * *	*	*
	Subsector 485—Transit and Ground Passenger Transportation		
485111 ...	Mixed Mode Transit Systems	$25.5.	
485112 ...	Commuter Rail Systems	$41.5.	
485113 ...	Bus and Other Motor Vehicle Transit Systems	$28.5.	
485119 ...	Other Urban Transit Systems	$33.0.	
485210 ...	Interurban and Rural Bus Transportation	$28.0.	

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
*	* * * * *	*	*
485410 ...	School and Employee Bus Transportation	$26.5.	
*	* * * * *	*	*
	Subsector 486—Pipeline Transportation		
*	* * * * *	*	*
486210 ...	Pipeline Transportation of Natural Gas	$36.5.	
*	* * * * *	*	*
	Subsector 487—Scenic and Sightseeing Transportation		
487110 ...	Scenic and Sightseeing Transportation, Land	$18.0.	
487210 ...	Scenic and Sightseeing Transportation, Water	$12.5.	
487990 ...	Scenic and Sightseeing Transportation, Other	$22.0.	
	Subsector 488—Support Activities for Transportation		
*	* * * * *	*	*
488210 ...	Support Activities for Rail Transportation	$30.0.	
*	* * * * *	*	*
488490 ...	Other Support Activities for Road Transportation	$16.0.	
488510 ...	Freight Transportation Arrangement [10]	$17.5 [10].	
488510 (Exception).	Non-Vessel Owning Common Carriers and Household Goods Forwarders	$30.0.	
*	* * * * *	*	*
488999 ...	All Other Support Activities for Transportation	$22.0.	
*	* * * * *	*	*
	Subsector 493—Warehousing and Storage		
*	* * * * *	*	*
493120 ...	Refrigerated Warehousing and Storage	$32.0.	
*	* * * * *	*	*
493190 ...	Other Warehousing and Storage	$32.0.	
	Sector 51—Information		
*	* * * * *	*	*
	Subsector 512—Motion Picture and Sound Recording Industries		
*	* * * * *	*	*
512132 ...	Drive-In Motion Picture Theaters	$11.0.	
*	* * * * *	*	*
512199 ...	Other Motion Picture and Video Industries	$25.0.	
*	* * * * *	*	*
512240 ...	Sound Recording Studios	$9.5.	
*	* * * * *	*	*
512290 ...	Other Sound Recording Industries	$20.0.	
	Subsector 515—Broadcasting (except Internet)		
515111 ...	Radio Networks	$41.5.	

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
*	*	*	*
	Subsector 517—Telecommunications		
*	*	*	*
517410 ...	Satellite Telecommunications	$38.5.	
*	*	*	*
	Subsector 519—Other Information Services		
519110 ...	News Syndicates	$32.0.	
519120 ...	Libraries and Archives	$18.5.	
*	*	*	*
	Sector 52—Finance and Insurance **Subsector 522—Credit Intermediation and Related Activities**		
522110 ...	Commercial Banking [8]	$750 million in assets [8].	
522120 ...	Savings Institutions [8]	$750 million in assets [8].	
522130 ...	Credit Unions [8]	$750 million in assets [8].	
522190 ...	Other Depository Credit Intermediation [8]	$750 million in assets [8].	
522210 ...	Credit Card Issuing [8]	$750 million in assets [8].	
*	*	*	*
522310 ...	Mortgage and Nonmortgage Loan Brokers	$13.0.	
*	*	*	*
522390 ...	Other Activities Related to Credit Intermediation	$25.0.	
*	*	*	*
	Subsector 524—Insurance Carriers and Related Activities		
*	*	*	*
524210 ...	Insurance Agencies and Brokerages	$13.0.	
*	*	*	*
524292 ...	Third Party Administration of Insurance and Pension Funds	$40.0.	
524298 ...	All Other Insurance Related Activities	$27.0.	
*	*	*	*
	Sector 53—Real Estate and Rental and Leasing **Subsector 531—Real Estate**		
*	*	*	*
531210 ...	Offices of Real Estate Agents and Brokers [10]	$13.0 [10].	
531311 ...	Residential Property Managers	$11.0.	
531312 ...	Nonresidential Property Managers	$17.0.	
531320 ...	Offices of Real Estate Appraisers	$8.5.	
531390 ...	Other Activities Related to Real Estate	$17.0.	
	Subsector 532—Rental and Leasing Services		
*	*	*	*
532282 ...	Video Tape and Disc Rental	$31.0.	
532283 ...	Home Health Equipment Rental	$36.0.	

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
*	* * * *	*	*
532289 ...	All Other Consumer Goods Rental	$11.0.	
*	* * * *	*	*
532411 ...	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing	$40.0.	
*	* * * *	*	*

Footnotes

* * * * *

[8] NAICS Codes 522110, 522120, 522130, 522190, and 522210—A financial institution's assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year. ''Assets'' for the purposes of this size standard means the assets defined according to the Federal Financial Institutions Examination Council 041 call report form for NAICS Codes 522110, 522120, 522190, and 522210 and the National Credit Union Administration 5300 call report form for NAICS code 522130.

* * * * *

[10] NAICS codes 488510 (excluding the exception), 531210, 541810, 561510, 561520 and 561920—As measured by total revenues, but excluding funds received in trust for an unaffiliated third party, such as bookings or sales subject to commissions. The commissions received are included as revenues.

* * * * *

Jovita Carranza,

Administrator.

[FR Doc. 2020–21593 Filed 10–1–20; 8:45 am]

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Part III

Department of Veterans Affairs

Privacy Act of 1974; System of Records; Notice

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of a Modified System of Records.

SUMMARY: As required by the Privacy Act of 1974, notice is hereby given that the Department of Veterans Affairs (VA) is amending the system of records entitled ''Patient Medical Records–VA'' (24VA10P2). VA is amending the system by revising the System Number; System Location; System Manager; Purpose; Categories of Individuals Covered by the System; Categories of Records in the System; Record Source Categories; Routine Uses of Records Maintained in the System; Policies and Practices for Storage of Records; Policies and Practices For Retention and Disposal of Records; Physical, Procedural, and Administrative Safeguards; and Appendix. VA is republishing the system notice in its entirety.

DATES: Comments on this amended system of records must be received no later than November 2, 2020. If no public comment is received during the period allowed for comment or unless otherwise published in the **Federal Register** by VA, the new system will become effective November 2, 2020.

ADDRESSES: Comments may be submitted through *www.Regulations.gov* or mailed to, Director, Information Access and Privacy (10A7B), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420. Comments should indicate that they are submitted in response to ''Patient Medical Records-VA''. Comments received will be available at regulations.gov for public viewing, inspection or copies.

FOR FURTHER INFORMATION CONTACT: Stephania Griffin, Veterans Health Administration (VHA) Privacy Officer, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420; telephone (704) 245–2492 (Note: not a toll-free number).

SUPPLEMENTARY INFORMATION: The System Number is being updated from 24VA10P2 to 24VA10A7 to address organizational changes.

The System Location is being updated to reflect electronic records being located at Federal Records Centers, VA Enterprise Cloud Data Centers/Amazon Web Services, 1915 Terry Avenue, Seattle, WA 98101 and contracted data repository sites, such as the Cerner Technology Centers (CTC): Primary Data Center in Kansas City, MO and Continuity of Operations/Disaster Recovery (COOP/DR) Data Center in Lees Summit, MO.

The System Manager is being updated to reflect organization changes. This section will also replace, ''Health Data Repository: Director, Health Data Systems (19–SL), Department of Veterans Affairs, 295 Chipeta Way, Salt Lake City, UT 84108.'' with ''Clinical Data Repository/Health Data Repository: Director, Clinical Informatics and Data Management Office (10A7A0), 810 Vermont Avenue NW, Washington, DC 20420.''

The Purpose is being amended to remove law enforcement investigations.

The Categories of Individuals Covered by the System, number 7 is being amended to include ''other circumstances including but not limited to''.

The Categories of Records in the System, (iii) is being amended to include medical record number.

Record Source Categories is being amended to include the individual receiving care and VHA national databases.

Routine use seventeen (17) is being amended to remove General Services Administration.

Routine use forty-seven (47) is being amended to include care coordination.

Routine Use sixty-one (61) is being added to state, ''VA may disclose health care information to DoD for the purpose of VHA health care operations as defined in the HIPAA Privacy Rule, 45 CFR parts 160 and 164 and to the Defense Health Agency (DHA), as a health care provider, for the purpose of DHA heath care operations.'' VHA, as a health care provider, must be able to share health care information with other entities and health care providers for VA to perform certain health care operations, such as quality assessment and improvement activities and medical reviews.

Routine use sixty-two (62) is being added to state, ''VA may disclose information from this system of records to another Federal agency or Federal entity, when VA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.''

Routine Use sixty-three (63) is being added to state, ''Disclosure of Veteran identifiers and demographic information (*e.g.,* name, social security number (SSN), address, date of birth) may be made to an organization with whom VA has a documented partnership, arrangement or agreement (*e.g.,* Health Information Exchange (HIE), Health Information Service Provider (HISP) Direct, CommonWell Health Alliance network), for the purpose of identifying and correlating patients.'' VA needs this ability to share demographic information for correlation and identification purposes.

Routine Use sixty-four (64) is being added to state, VA may disclose relevant health care information to the Centers for Disease Control and Prevention (CDC) and/or their designee in response to its request or at the initiation of VA, in connection with disease-tracking, patient outcomes, bio-surveillance, or other health information required for program accountability. VA needs the ability to conduct disease tracking to impact patient outcomes, respond to public health threats, and to contribute significantly to the CDC's ability to conduct and monitor public health surveillance.

Policies and Practices for Storage of Records section is being amended to include Cerner Technology Centers.

Policies and Practices for Retrievability of Records is being amended to include medical record number.

Policies and Practices for Retention and Disposal of Records is being amended to include VHA Records Control Schedule (RCS 10–1) 6000.1d (N1–15–91–6, Item 1d) and 6000.2b (N1–15–02–3, Item 3).

The Physical, Procedural and Administrative Safeguards section is being amended to change the VA Boston Development Center to the Allocation Resource Center. This section will add, ''Access to Cerner Technology Centers is generally restricted to Cerner employees, contractors or associates with a Cerner issued ID badge and other security personnel cleared for access to the data center. Access to computer rooms housing Federal data, hence Federal enclave, is restricted to persons Federally cleared for Federal enclave access through electronic badge entry devices. All other persons, such as custodians, gaining access to Federal enclave are escorted.''

Appendix 1 is being amended update addresses pertaining to VA facilities.

The Report of Intent to Amend a System of Records Notice and an advance copy of the system notice have been sent to the appropriate

Congressional committees and to the Director of the Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (65 FR 77677), December 12, 2000.

Signing Authority

The Senior Agency Official for Privacy, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. James P. Gfrerer, Assistant Secretary of Information and Technology and Chief Information Officer, approved this document on June 16, 2020 for publication.

Dated: September 24, 2020.

Amy L. Rose,

Program Analyst, VA Privacy Service, Office of Information Security, Office of Information and Technology, Department of Veterans Affairs.

SYSTEM NAME AND NUMBER:

Patient Medical Records–VA (24VA10A7)

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are maintained at each VA health care facility (in most cases, backup information is stored at off-site locations), VA Enterprise Cloud Data Centers/Amazon Web Services, 1915 Terry Avenue, Seattle, WA 98101 and contracted data repository sites, such as the Cerner Technology Centers (CTC): Primary Data Center in Kansas City, MO and Continuity of Operations/Disaster Recovery (COOP/DR) Data Center in Lees Summit, MO. Subsidiary record information is maintained at the various respective services within the health care facility (*e.g.,* Pharmacy, Fiscal, Dietetic, Clinical Laboratory, Radiology, Social Work, Psychology) and by individuals, organizations, and/or agencies with which VA has a contract or agreement to perform such services, as VA may deem practicable.

Address locations for VA facilities are listed in Appendix 1 of the biennial publication of the VA Privacy Act Issuances. In addition, information from these records or copies of these records may be maintained at the Department of Veterans Affairs Central Office, 810 Vermont, NW, Washington, DC 20420; VA National Data Centers; Federal Records Center; VA Health Data Repository (HDR), located at the VA National Data Centers; VA Chief Information Office (CIO) Field Offices; Veterans Integrated Service Networks; and Regional and General Counsel Offices.

SYSTEM MANAGER(S):

Patient Medical Records: Director, Health Information Governance (10A7B), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420. Clinical Health Data Repository/Health Data Repository: Director, Clinical Informatics and Data Management Office (10A7A), 810 Vermont Avenue NW, Washington, DC 20420.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code, Sections 501(b) and 304.

PURPOSE(S) OF THE SYSTEM:

The paper and automated records may be used for such purposes as: ongoing treatment of individuals and patients; documentation of treatment provided; payment; health care operations such as producing various management and patient follow-up reports; responding to patient and other inquiries; for epidemiological research and other health care related studies; statistical analysis, resource allocation and planning; providing clinical and administrative support to patient medical care; determining entitlement and eligibility for VA benefits; processing and adjudicating benefit claims by Veterans Benefits Administration Regional Office (VARO) staff; for audits, reviews, and investigations conducted by staff of the health care facility, the networks, VA Central Office, and the VA Office of Inspector General (OIG); sharing of health information between and among Veterans Health Administration (VHA), Department of Defense (DoD), Indian Health Services (IHS), and other government and private industry health care organizations; quality assurance audits, reviews, and investigations; personnel management and evaluation; employee ratings and performance evaluations; and employee disciplinary or other adverse action, including discharge; advising health care professional licensing or monitoring bodies or similar entities of activities of VA and former VA health care personnel; accreditation of a facility by an entity such as the Joint Commission (TJC); and notifying medical schools of medical students' performance and billing.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1. Veterans who have applied for health care services under Chapter 17 of Title 38, United States Code, and members of their immediate families;
2. Spouses, surviving spouses, and children of Veterans who have applied for health care services under Chapter 17 of Title 38, United States Code;
3. Beneficiaries of other Federal agencies;
4. Individuals examined or treated under contract or resource sharing agreements;
5. Individuals examined or treated for research or donor purposes;
6. Individuals who have applied for Title 38 benefits but who do not meet the requirements under Title 38 to receive such benefits;
7. Individuals who were provided medical care under other circumstances, including but not limited to, emergency conditions for humanitarian reasons;
8. Pensioned members of allied forces provided health care services under Chapter I of Title 38, United States Code; and
9. Caregivers.

CATEGORIES OF RECORDS IN THE SYSTEM:

The medical record is a consolidated health record (CHR) which may include:

(i) An administrative (non-clinical information) record (*e.g.,* medical benefit application and eligibility information) including information obtained from Veterans Benefits Administration automated records such as the Veterans and Beneficiaries Identification and Records Locator Subsystem-VA (38VA23) and the Compensation, Pension, Education and Rehabilitation Records-VA (58VA21/22/28), and correspondence about the individual;

(ii) A medical record (a cumulative account of sociological, diagnostic, counseling, rehabilitation, drug and alcohol, dietetic, medical, surgical, dental, psychological, and/or psychiatric information compiled by VA professional staff and non-VA health care providers), and

(iii) Subsidiary record information (*e.g.,* Bed Management Solution (BMS), tumor registry, certain clinically oriented information associated with My Health*e*Vet such as secure messages, minimum data set, dental, pharmacy, nuclear medicine, clinical laboratory, radiology, and patient scheduling information). The CHR may also include identifying information (*e.g.,* name, address, date of birth, VA claim number, social security number); medical record number, military service information (*e.g.,* dates, branch and character of service, service number, medical information); family information (*e.g.,* next of kin and person to notify in an emergency; address information, name,

social security number and date of birth for Veteran's spouse and dependents; family medical history information); employment information (*e.g.,* occupation, employer name and address); financial information (*e.g.,* family income; assets; expenses; debts; amount and source of income for Veteran, spouse, and dependents); third-party health plan contract information (*e.g.,* health insurance carrier name and address, policy number, amounts billed and paid); and information pertaining to the individual's medical, surgical, psychiatric, dental, and/or psychological examination, evaluation, and/or treatment (*e.g.,* information related to the chief complaint and history of present illness; information related to physical, diagnostic, therapeutic special examinations; clinical laboratory, pathology and x-ray findings; operations; medical history; medications prescribed and dispensed; treatment plan and progress; consultations; photographs taken for identification and medical treatment; education and research purposes; facility locations where treatment is provided; observations and clinical impressions of health care providers to include identity of providers and to include, as appropriate, the present state of the patient's health; and an assessment of the patient's emotional, behavioral, and social status, as well as an assessment of the patient's rehabilitation potential and nursing care needs). Abstract information (*e.g.,* environmental, epidemiological and treatment regimen registries) is maintained in auxiliary paper and automated records.

RECORD SOURCE CATEGORIES:

The individual receiving care, patients, family members, friends, or accredited representatives, employers; military service departments; health insurance carriers; private medical facilities and health care professionals; State and local agencies; other Federal agencies; VA Regional Offices; VHA national databases; Veterans Benefits Administration automated record systems (including Veterans and Beneficiaries Identification and Records Location Subsystem-VA (38VA23) and the Compensation, Pension, Education and Rehabilitation Records-VA (58VA21/22/28); and various automated systems providing clinical and managerial support to VA health care facilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the extent that records contained in the system include information protected by 45 CFR parts 160 and 164, *i.e.,* individually identifiable health information, and 38 U.S.C. 7332, *i.e.,* medical treatment information related to drug abuse, alcoholism or alcohol abuse, sickle cell anemia, or infection with the Human Immunodeficiency Virus, that information may not be disclosed under a routine use unless there is also specific statutory authority in 38 U.S.C. 7332 and regulatory authority in 45 CFR parts 160 and 164 permitting disclosure.

1. VA may disclose health care information as deemed necessary and proper to Federal, State, and local government agencies and national health organizations in order to assist in the development of programs that will be beneficial to claimants, protect their rights under law, and assure that they are receiving all benefits to which they are entitled.

2. VA may disclose health care information furnished and the period of care, as deemed necessary and proper to accredited service organization representatives and other approved agents, attorneys, and insurance companies to aid claimants whom they represent in the preparation, presentation, and prosecution of claims under laws administered by VA, or State or local agencies.

3. VA may disclose any information in this system, except the names and home addresses of Veterans and their dependents, which is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, to a Federal, State, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule or order. VA may also disclose the names and addresses of Veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto.

4. VA may disclose information to a Federal agency or the District of Columbia government, in response to its request, in connection with the hiring or retention of an employee and the issuance of a security clearance as required by law, the reporting of an investigation of an employee, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision.

5. Health care information may be disclosed by appropriate VA personnel to the extent necessary and on a need-to-know basis, consistent with good medical-ethical practices, to family members and/or the person(s) with whom the patient has a meaningful relationship. In response to an inquiry from a member of the general public about a named individual, VA may disclose the patient's name, presence (and location when needed for visitation purposes) in a medical facility, and general condition that does not reveal specific medical information (*e.g.,* satisfactory, seriously ill).

6. In the course of presenting evidence to a court, magistrate, or administrative tribunal in matters of guardianship, inquests, and commitments, VA may disclose relevant information to private attorneys representing Veterans rated incompetent in conjunction with issuance of certificates of incompetency and to probation and parole officers in connection with court-required duties. VA may disclose relevant information to a guardian ad litem in relation to his or her representation of a claimant in any legal proceeding.

7. VA may disclose information to a member of Congress or a congressional staff member in response to an inquiry from the congressional office made at the request of that individual.

8. VA may disclose name(s) and address(es) of present or former members of the armed services and/or their dependents under certain circumstances: (a) to any nonprofit organization, if the release is directly connected with the conduct of programs and the utilization of benefits under Title 38, or (b) to any criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of such organization, agency, or instrumentality has made a written request for such name(s) or address(es) for a purpose authorized by law, provided that the records will not be used for any purpose other than that stated in the request and that the organization, agency, or instrumentality is aware of the penalty provision of 38 U.S.C. 5701(f).

9. VA may disclose the nature of the patient's illness, probable prognosis, estimated life expectancy, and need for the presence of the related service

member to the American Red Cross for the purpose of justifying emergency leave.

10. VA may disclose relevant information to attorneys, insurance companies, employers, third parties liable or potentially liable under health plan contracts, and courts, boards, or commissions, to the extent necessary to aid VA in the preparation, presentation, and prosecution of claims authorized under Federal, State, or local laws, and regulations promulgated thereunder.

11. VA may disclose health information for research purposes determined to be necessary and proper to epidemiological and other research entities approved by the Under Secretary for Health or designee, such as the Medical Center Director of the facility where the information is maintained.

12. VA may disclose relevant information to attorneys, insurance companies, employers, third parties liable or potentially liable under health plan contracts, and courts, boards, or commissions, to the extent necessary to aid VA in the preparation, presentation, and prosecution of claims authorized under Federal, State, or local laws, and regulations promulgated thereunder.

13. VA may disclose health information for research purposes determined to be necessary and proper to epidemiological and other research entities approved by the Under Secretary for Health or designee, such as the Medical Center Director of the facility where the information is maintained.

14. VA may disclose health information, including the name(s) and address(es) of present or former personnel of the Armed Services and/or their dependents, (a) to a Federal department or agency or (b) directly to a contractor of a Federal department or agency, at the written request of the head of the agency or the designee of the head of that agency, to conduct Federal research necessary to accomplish a statutory purpose of an agency. When this information is to be disclosed directly to the contractor, VA may impose applicable conditions on the department, agency, and/or contractor to ensure the appropriateness of the disclosure to the contractor.

15. VA may disclose relevant information to the Department of Justice (DoJ) or other Federal agencies in pending or reasonably anticipated litigation or other proceedings before a court, administrative body, or other adjudicative tribunal, when:

a. VA or any subdivision thereof;

b. Any VA employee in his or her official capacity;

c. Any VA employee in his or her individual capacity, where DoJ has agreed to represent the employee; or

d. The United States, where VA determines that the proceedings are likely to affect the operations of VA or any of its components is a party to or has an interest in the proceedings, and VA determines that the records are relevant and necessary to the proceedings.

16. Health care information may be disclosed by the examining VA physician to a non-VA physician when that non-VA physician has referred the individual to VA for medical care.

17. VA may disclose records to the National Archives and Records Administration in records management inspections and other activities conducted under Title 44, Chapter 29, of the U.S.C.

18. VA may disclose health care information concerning a non-judicially declared incompetent patient to a third party upon the written authorization of the patient's next of kin in order for the patient or, consistent with the best interest of the patient, a member of the patient's family, to receive a benefit to which the patient or family member is entitled or to arrange for the patient's discharge from a VA medical facility. Sufficient information to make an informed determination will be made available to such next of kin. If the patient's next of kin is not reasonably accessible, the chief of staff, director, or designee of the custodial VA medical facility may make the disclosure for these purposes.

19. VA may disclose information to a Federal agency, a State or local government licensing board, and/or the Federation of State Medical Boards or a similar non-governmental entity that maintains records concerning individuals' employment histories or concerning the issuance, retention, or revocation of licenses, certifications, or registration necessary to practice an occupation, profession, or specialty, to inform the entity about the health care practices of a terminated, resigned, or retired health care employee whose professional health care activity so significantly failed to conform to generally accepted standards of professional medical practice as to raise reasonable concern for the health and safety of patients in the private sector or from another Federal agency. These records may also be disclosed as part of an ongoing computer matching program to accomplish these purposes.

20. VA may disclose information maintained in connection with the performance of any program or activity relating to infection with the Human Immunodeficiency Virus (HIV) to a Federal, State, or local public health authority that is charged under Federal or State law with the protection of the public health, and to which Federal or State law requires disclosure of such record, if a qualified representative of such authority has made a written request that such record be provided as required pursuant to such law for a purpose authorized by the law. The person to whom information is disclosed, under 38 U.S.C. 7332(b)(2)(C), should be advised that they shall not re-disclose or use such information for a purpose other than that for which the disclosure was made. The disclosure of patient name and address under this routine use must comply with the provisions of 38 U.S.C. 5701(f)(2).

21. Information indicating that a patient or subject is infected with the Human Immunodeficiency Virus (HIV) may be disclosed by a physician or professional counselor to the spouse of the patient or subject, to an individual with whom the patient or subject has a meaningful relationship, or to an individual whom the patient or subject has during the process of professional counseling or of testing to determine whether the patient or subject is infected with the virus, identified as being a sexual partner of the patient or subject. Disclosures may be made only if the physician or counselor, after making reasonable efforts to counsel and encourage the patient or subject to provide the information to the spouse or sexual partner, reasonably believes that the patient or subject will not provide the information to the spouse or sexual partner and that the disclosure is necessary to protect the health of the spouse or sexual partner. Such disclosures should, to the extent feasible, be made by the patient's or subject's treating physician or professional counselor. Before any patient or subject gives consent to being tested for the HIV, as part of pre-testing counseling, the patient or subject must be informed fully about these notification procedures.

22. VA may disclose information, including name, address, social security number, and other information as is reasonably necessary to identify an individual, to the National Practitioner Data Bank at the time of hiring and/or clinical privileging/re-privileging of health care practitioners, and other times as deemed necessary by VA, in order for VA to obtain information relevant to a Department decision concerning the hiring, privileging/re-privileging, retention, or termination of the applicant or employee.

23. VA may disclose relevant information to the National Practitioner Data Bank and/or State Licensing Board in the State(s) in which a practitioner is licensed, the VA facility is located, and/or an act or omission occurred upon which a medical malpractice claim was based, when VA reports information concerning: (a) Any payment for the benefit of a physician, dentist, or other licensed health care practitioner which was made as the result of a settlement or judgment of a claim of medical malpractice, if an appropriate determination is made in accordance with Department policy that payment was related to substandard care, professional incompetence or professional misconduct on the part of the individual; (b) a final decision which relates to possible incompetence or improper professional conduct that adversely affects the clinical privileges of a physician or dentist for a period longer than 30 days; or (c) the surrender of clinical privileges or any restriction of such privileges by a physician or dentist, either while under investigation by the health care entity relating to possible incompetence or improper professional conduct. These records may also be disclosed as part of a computer matching program to accomplish these purposes.

24. VA may disclose relevant health care information to a State Veterans Home for the purpose of medical treatment and/or follow-up at the State home when VA makes payment of a per diem rate to the State home for the patient receiving care at such home, and the patient receives VA medical care.

25. VA may disclose relevant health care information to (a) a Federal agency or non-VA health care provider or institution when VA refers a patient for hospital or nursing home care or medical services, or authorizes a patient to obtain non-VA medical services, and the information is needed by the Federal agency or non-VA institution or provider to perform the services, or (b) a Federal agency or a non-VA hospital (Federal, State and local, public, or private) or other medical institution having hospital facilities, blood banks, or similar institutions, medical schools or clinics, or other groups or individuals that have contracted or agreed to provide medical services or share the use of medical resources under the provisions of 38 U.S.C. 513, 7409, 8111, or 8153, when treatment is rendered by VA under the terms of such contract or agreement, or the issuance of an authorization, and the information is needed for purposes of medical treatment and/or follow-up, determining entitlement to a benefit, or recovery of the costs of the medical care.

26. VA may disclose health care information for program review purposes and the seeking of accreditation and/or certification to survey teams of the Joint Commission, College of American Pathologists, American Association of Blood Banks, and similar national accrediting agencies or boards with which VA has a contract or agreement to conduct such reviews, but only to the extent that the information is necessary and relevant to the review.

27. VA may disclose relevant health care information to a non-VA nursing home facility that is considering the patient for admission, when information concerning the individual's medical care is needed for the purpose of preadmission screening under 42 CFR 483.20(f), to identify patients who are mentally ill or mentally retarded so they can be evaluated for appropriate placement.

28. VA may disclose information which relates to the performance of a health care student or provider to a medical or nursing school or other health care related training institution, or other facility with which VA has an affiliation, sharing agreement, contract, or similar arrangement, when the student or provider is enrolled at or employed by the school, training institution, or other facility, and the information is needed for personnel management, rating, and/or evaluation purposes.

29. VA may disclose relevant health care information to individuals, organizations, and private or public agencies with which VA has a contract or sharing agreement for the provision of health care or administrative services.

30. VA may disclose identifying information, including Social Security number of a Veteran, spouse, and dependent, to other Federal agencies for purposes of conducting computer matches to obtain information to determine, or to verify eligibility of Veterans who are receiving VA medical care under Title 38.

31. VA may disclose the name and Social Security number of a Veteran, spouse, and dependent, and other identifying information as is reasonably necessary, to the Social Security Administration, Department of Health and Human Services (HHS), for the purpose of conducting a computer match to obtain information to validate the Social Security numbers maintained in VA records.

32. VA may disclose the patient's name and relevant health care information concerning an adverse drug reaction to the Food and Drug Administration (FDA), HHS, for purposes of quality of care management, including detection, treatment, monitoring, reporting, analysis, and follow-up actions relating to adverse drug reactions.

33. VA may disclose information to Federal agencies and government-wide third-party insurers responsible for payment of the cost of medical care for the patients, in order for VA to seek recovery of the medical care costs. These records may also be disclosed as part of a computer matching program to accomplish these purposes.

34. VA may disclose information pursuant to 38 U.S.C. 7464, and notwithstanding 38 U.S.C. 5701 and 7332, to a former VA employee, as well as an authorized representative of the employee, whose case is under consideration by the VA Disciplinary Appeals Board, in connection with the considerations of the Board, to the extent the Board considers appropriate for purposes of the proceedings of the Board in that case, when authorized by the chairperson of the Board.

35. Information that a patient is infected with Hepatitis C may be disclosed by a physician or professional counselor to the spouse, the person or subject with whom the patient has a meaningful relationship, or an individual whom the patient or subject has identified as being a sexual partner of the patient or subject.

36. VA may disclose to the Federal Labor Relations Authority, including its General Counsel, information related to the establishment of jurisdiction, investigation, and resolution of allegations of unfair labor practices, or in connection with the resolution of exceptions to arbitration awards when a question of material fact is raised in matters before the Federal Service Impasses Panel.

37. VA may disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

38. VA may disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, such other functions promulgated in 5 U.S.C. 1205 and 1206, or as otherwise authorized by law.

39. VA may disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations of alleged or possible discrimination practices, examinations of Federal affirmative employment programs, compliance with the Uniform Guidelines of Employee Selection Procedures, or other functions of the Commission as authorized by law or regulation.

40. VA may disclose relevant health care information to health and welfare agencies, housing resources, and utility companies, possibly to be combined with disclosures to other agencies, in situations where VA needs to act quickly in order to provide basic and/or emergency needs for the patient and patient's family where the family resides with the patient or serves as a caregiver.

41. VA may disclose health care information to funeral directors or representatives of funeral homes in order for them to make necessary arrangements prior to and in anticipation of a patient's death.

42. VA may disclose health care information to the FDA, or a person subject to the jurisdiction of the FDA, with respect to FDA-regulated products for purposes of reporting adverse events, product defects or problems, or biological product deviations; tracking products; enabling product recalls, repairs, or replacement; and/or conducting post marketing surveillance.

43. VA may disclose health care information to a non-VA health care provider, such as private health care providers or hospitals, DoD, or IHS providers, for the purpose of treating VA patients.

44. VA may disclose information to telephone company operators acting in their capacity to facilitate phone calls for hearing impaired individuals, such as patients, patients' family members, or non-VA providers, using telephone devices for the hearing impaired, including Telecommunications Device for the Deaf (TDD) or Text Telephones (TTY).

45. VA may disclose information to any Federal, State, local, tribal, or foreign law enforcement agency in order to report a known fugitive felon, in compliance with 38 U.S.C. 5313B(d).

46. Relevant health care information may be disclosed by VA employees who are designated requesters (individuals who have completed a course offered or approved by an Organ Procurement Organization), or their designees, for the purpose of determining suitability of a patient's organs or tissues for organ donation to an organ procurement organization, a designated requester who is not a VA employee, or their designees acting on behalf of local organ procurement organizations.

47. VA may disclose relevant heath care information to DoD, or its components, as necessary in addressing the transition, care coordination, health care, benefits, and administrative support needs of or for wounded, ill, and injured active duty service members or reserve components, Veterans, and their beneficiaries.

48. VA may disclose information to other Federal agencies in order to assist those agencies in preventing, detecting, and responding to possible fraud or abuse by individuals in their operations and programs.

49. VA may disclose any information or records to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that there has been a breach of the system of records; (2) VA has determined that as a result of the suspected or confirmed breach there is a risk to individuals, VA (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, or persons is reasonably necessary to assist in connection with VA efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

50. VA may disclose information to any third party or Federal agency, including contractors to those parties, who are responsible for payment of the cost of medical care for the identified patients, in support of VA recovery of medical care costs or for any activities related to payment of medical care costs. These records may also be disclosed as part of a computer matching program to accomplish these purposes.

51. VA may disclose relevant information to health plans, quality review and/or peer review organizations in connection with the audit of claims or other review activities to determine quality of care or compliance with professionally accepted claims processing standards.

52. VA may disclose identifying information, including name, address, and date of birth, as needed to verify the identity of an individual or to facilitate delivery of benefits or services to travel agencies, transportation carriers, or others authorized to act on behalf of VA to provide or arrange travel for examination, treatment, or care, or in connection with vocational rehabilitation or counseling services.

53. VA may disclose information to a former VA employee or contractor, as well as the authorized representative of a current or former employee or contractor of VA, in pending or reasonably anticipated litigation against the individual regarding health care provided during the period of his or her employment or contract with VA.

54. VA may disclose information to a former VA employee or contractor, as well as the authorized representative of a current or former employee or contractor of VA, in defense or reasonable anticipation of a tort claim, litigation, or other administrative or judicial proceeding involving VA when the Department requires information or consultation assistance from the former employee or contractor regarding health care provided during the period of his or her employment or contract with VA.

55. VA may disclose information to a former VA employee or contractor, as well as the authorized representative of a current or former employee or contractor of VA, in connection with or in consideration of the reporting of:

(a) Any payment for the benefit of the former VA employee or contractor that was made as the result of a settlement or judgment of a claim of medical malpractice, if an appropriate determination is made in accordance with Department policy that payment was related to substandard care, professional incompetence, or professional misconduct on the part of the individual;

(b) A final decision which relates to possible incompetence or improper professional conduct that adversely affects the former employee's or contractor's clinical privileges for a period longer than 30 days; or

(c) The former employee's or contractor's surrender of clinical privileges or any restriction of such privileges while under investigation by the health care entity relating to possible incompetence or improper professional conduct to the National Practitioner Data Bank or the State licensing board in any State in which the individual is licensed, the VA facility is located, or an act or omission occurred upon which a medical malpractice claim was based.

56. VA may disclose information to a former VA employee or contractor, as well as the authorized representative of a current or former employee or contractor of VA, in connection with or in consideration of reporting that the individual's professional health care activity so significantly failed to conform to generally accepted standards of professional medical practice as to raise reasonable concern for the health

and safety of patients, to a Federal agency, a State or local government licensing board, or the Federation of State Medical Boards or a similar nongovernmental entity which maintains records concerning individuals' employment histories or concerning the issuance, retention, or revocation of licenses, certifications, or registration necessary to practice an occupation, profession, or specialty.

57. VA may disclose information to a former VA employee or contractor, as well as the authorized representative of a current or former employee or contractor of VA, in connection with investigations by the Equal Employment Opportunity Commission pertaining to alleged or possible discrimination practices, examinations of Federal affirmative employment programs, or other functions of the Commission as authorized by law or regulation.

58. VA may disclose information to a former VA employee or contractor, as well as the authorized representative of a current or former employee or contractor of VA, in proceedings before the Merit Systems Protection Board or the Office of the Special Counsel in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions promulgated in 5 U.S.C. 1205 and 1206, or as otherwise authorized by law.

59. VA may disclose relevant information, including but not limited to, patient name, address, and Social Security number, to a State prescription drug monitoring program (PMDP), or similar program, for the purpose of submitting to or receiving from the program information regarding prescriptions to an individual for controlled substances, as required under the applicable State law.

60. VA may disclose relevant health information to the Centers for Medicare & Medicaid Services (CMS) and/or their designee to evaluate compliance with Medicare or Medicaid health care standards.

61. VA may disclose health care information to DoD for the purpose of VA health care operations as defined in the HIPAA Privacy Rule, 45 CFR parts 160 and 164 and to the Defense Health Agency (DHA), as a health care provider, for the purpose of DHA heath care operations.

62. VA may disclose information from this system to another Federal agency or Federal entity, when VA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

63. Disclosure of Veteran identifiers and demographic information (*e.g.,* name, social security number (SSN), address, date of birth) may be made to an organization with whom VA has a documented partnership, arrangement or agreement (*e.g.,* Health Information Exchange (HIE), Health Information Service Provider (HISP) Direct, CommonWell Health Alliance network), for the purpose of identifying and correlating patients.

64. VA may disclose relevant health care information to the CDC and/or their designee in response to its request or at the initiation of VA, in connection with disease-tracking, patient outcomes, bio-surveillance, or other health information required for program accountability.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained on paper, microfilm, electronic media including images and scanned documents, or laser optical media in the consolidated health record at the health care facility where care was rendered, in the VA Health Data Repository, at Federal Record Centers and Cerner Technology Centers. In most cases, copies of backup computer files are maintained at offsite locations. Subsidiary record information is maintained at the various respective services within the health care facility (*e.g.,* pharmacy, fiscal, dietetic, clinical laboratory, radiology, social work, psychology) and by individuals, organizations, and/or agencies with whom VA has a contract or agreement to perform such services, as the VA may deem practicable.

POLICIES AND PRACTICES FOR RETRIEVABILITY OF RECORDS:

Records are retrieved by name, Social Security number, medical record number or other assigned identifiers of the individuals to whom they pertain.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

In accordance with the records disposition authority approved by the Archivist of the United States, paper records and information stored on electronic storage media are maintained for seventy-five (75) years after the last episode of patient care and then destroyed/or deleted. VHA Records Control Schedule (RCS 10–1), Chapter 6, 6000.1d (N1–15–91–6, Item 1d) and 6000.2b (N1–15–02–3, Item 3).

PHYSICAL, PROCEDURAL, AND ADMINISTRATIVE SAFEGUARDS:

1. Access to working spaces and patient medical record storage areas in VA health care facilities is restricted to authorized VA employees. Generally, file areas are locked after normal duty hours. Health care facilities are protected from outside access by the Federal Protective Service and/or other security personnel. Access to patient medical records is restricted to VA employees who have a need for the information in the performance of their official duties. Sensitive patient medical records, including employee patient medical records, records of public figures, or other sensitive patient medical records are generally stored in separate locked files or a similar electronically controlled access environment. Strict control measures are enforced to ensure that access to and disclosures from these patient medical records are limited.

2. Access to computer rooms within health care facilities is generally limited by appropriate locking devices and restricted to authorized VA employees and vendor personnel. Automated Data Processing (ADP) peripheral devices are generally placed in secure areas (areas that are locked or have limited access) or are otherwise protected. Only authorized VA employees or vendor employees may access information in the system. Access to file information is controlled at two levels: the system recognizes authorized employees by a series of individually unique passwords/codes as a part of each data message, and the employees are limited to only that information in the file that is needed in the performance of their official duties. Information that is downloaded and maintained on personal computers must be afforded similar storage and access protections as the data that is maintained in the original files. Access by remote data users such as Veteran Outreach Centers, Veteran Service Officers with power of attorney to assist with claim processing, VARO staff for benefit determination and processing purposes, OIG staff conducting official audits or investigations and other authorized individuals is controlled in the same manner.

3. Access to the VA National Data Centers is generally restricted to Center employees, custodial personnel, Federal Protective Service, and other security personnel. Access to computer rooms is restricted to authorized operational personnel through electronic locking

devices. All other persons gaining access to computer rooms are escorted. Information stored in the computer may be accessed by authorized VA employees at remote locations including VA health care facilities, VA Central Office, Veterans Integrated Service Networks (VISN), and OIG Central Office and field staff. Access is controlled by individually unique passwords/codes that must be changed periodically by the employee.

4. Access to the VA Health Data Repository, located at the VA National Data Centers, is generally restricted to Center employees, custodial personnel, Federal Protective Service, and other security personnel. Access to computer rooms is restricted to authorized operational personnel through electronic locking devices. All other persons gaining access to computer rooms are escorted. Information stored in the computer may be accessed by authorized VA employees at remote locations including VA health care facilities, VA Central Office, VISNs, and OIG Central Office and field staff. Access is controlled by individually unique passwords/codes that must be changed periodically by the employee.

5. Access to records maintained at VA Central Office, the VA Boston Development Center, Chief Information Office Field Offices, and VISNs is restricted to VA employees who have a need for the information in the performance of their official duties. Access to information stored in electronic format is controlled by individually unique passwords/codes. Records are maintained in manned rooms during working hours. The facilities are protected from outside access during non-working hours by the Federal Protective Service or other security personnel.

6. Computer access authorizations, computer applications available and used, information access attempts, and frequency and time of use are recorded.

7. Access to Cerner Technology Centers is generally restricted to Cerner employees, contractors or associates with a Cerner issued ID badge and other security personnel cleared for access to the data center. Access to computer rooms housing Federal data, hence Federal enclave, is restricted to persons Federally cleared for Federal enclave access through electronic badge entry devices. All other persons, such as custodians, gaining access to Federal enclave are escorted.

RECORD ACCESS PROCEDURE:

Individuals seeking information regarding access to and contesting of VA medical records may write, call, or visit the last VA facility where medical care was provided.

CONTESTING RECORD PROCEDURES:

(See Record Access Procedures above.)

NOTIFICATION PROCEDURE:

An individual who wishes to determine whether a record is being maintained in this system under his or her name or other personal identifier, or wants to review the contents of such record, should submit a written request or apply in person to the last VA health care facility where care was rendered. Addresses of VA health care facilities may be found in VA Appendix 1 of the Biennial Publication of Privacy Act Issuances. All inquiries must reasonably describe the portion of the medical record involved and the place and approximate date that medical care was provided. Inquiries should include the patient's full name, Social Security number, and return address.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

Last full publication provided in 79 FR 47732 dated August 14, 2014.

Appendix 1— VA Facilities

Patients should call the telephone numbers listed to obtain clinic hours of operation and services.

For more information or to search for a facility near you by zip code, visit *https://www.va.gov/find-locations.*

ALABAMA

VA Medical Centers

Birmingham 35233 (700 S. 19th St., 205–933–8101 or 800–872–0328).

Montgomery 36109–3798 (215 Perry Hill Rd., 334–272–4670 or 800–214–8387).

Tuscaloosa 35404 (3701 Loop Rd., East, 205–554–2000 or 888–269–3045).

Tuskegee 36083–5001 (2400 Hospital Rd., 334–727–0550 or 800–214–8387).

Clinics

Childersburg 35044 (151 9th Ave., 256–378–9026).

Columbus 31901 (1310 13th Ave., 706–257–7205).

Bessemer 35022 (975 9th Ave., SW, Suite 400 at UAB West Medical Center West Bessemer, 205–428–3495).

Dothan 36301 (2020 Alexander Dr., 334–673–4166).

Dothan Mental Health Center 36301 (3753 Ross Clark Cir., Ste. 4, 334–678–1933).

Gadsden 35906 (206 Rescia Ave., 256–413–7154).

Guntersville 35976 (100 Judy Smith Dr., 256–582–4033).

Huntsville 35801 (301 Governor's Dr., 256–535–3100).

Jasper 35501 (3400 Highway 78 East, Suite #215, 205–221–7384).

Monroe 36460 (159 Whetstone St., 251–743–5861).

Oxford 36203 (96 Ali Way Creekside South, 256–832–4141).

Selma 36701 (206 Vaughn Memorial Dr., 334–418–4975).

Sheffield 35660 (Florence Shoals Area Clinic, 422 DD Cox Blvd., 256–381–9055).

Wiregrass 36362 (301 Andrews Ave., 334–503–7800).

Regional Office

Montgomery 36109 (345 Perry Hill Rd., statewide 1–800–827–1000).

Vet Centers

Birmingham 35233 (1500 5th Ave. S, 205–731–0550).

Mobile 36606 (2577 Government Blvd., 251–478–5906).

National Cemeteries

Alabama 35115 (731 Middle St., 205–665–9039).

Fort Mitchell 36856 (553 Hwy. 165, Fort Mitchell, 334–855–2184).

Mobile 36604 (1202 Virginia St., 850–453–4846).

ALASKA

VA Medical Center

Anchorage 99504 (1201 N Muldoon Rd., 888–353–7574/907–257–4700).

Clinics

Fort Wainwright 99703 (4076 Neeley Rd., Room 1J–101, 888–353–7574).

Juneau 99801 (709 W 9th St., Suite 150, 888–353–7574).

Kenai 99669 (240 Hospital Place, Central Peninsula Hospital, Suite 105, 888–353–7574).

Mat-Su 99654 (865 N Seward Meridian Parkway, Suite 105, 888–353–7574).

Regional Office

Anchorage 99508–2989 (2925 De Barr Rd., statewide 1–800–827–1000).

Benefits Office

Juneau 99802 (P.O. Box 20069, 907–586–7472).

Vet Centers

Anchorage 99508 (4201 Tudor Centre Dr., Suite 115, 907–563–6966).

Fairbanks 99701 (540 4th Ave., Suite 100, 907–456–4238).

Kenai 99669 (Red Diamond Ctr., Bldg. F, #4, 43335 Kalifornsky Beach Rd., 907–260–7640).

Wasilla 99654 (851 E West Point Dr., Suite 111, 907–376–4318).

National Cemeteries

Fort Richardson 99505–5498 (Building 997, Davis Hwy., 907–384–7075).

Sitka 99835 (803 Sawmill Creek Rd., 907–384–7075).

AMERICAN SAMOA

Clinic

Pago Pago 96799 (Fiatele Teo Army Reserve Bldg., Mailing Address: P.O. Box 1005, Pago Pago, AS 96799, 684–699–3730).

Benefits Office

Pago Pago 96799 (P.O. Box 1005, 684–633–5073).

ARIZONA

VA Medical Centers

Prescott 86313 (500 N Hwy. 89, 928–445–4860 or 800–949–1005).
Tucson 85723 (3601 South 6th Avenue, 520–792–1450 or 800–470–8262).
Phoenix 85012 (650 E Indian School Rd., 602–277–5551 or 800–554–7174).

Clinics

Anthem 85086 (41810 North Venture Dr., Building B, 623–249–2300).
Casa Grande 85122 (1876 East Savin Dr., Suite 15, Bldg. A, 520–836–2536).
Chinle 86503 (Highway 191 and Hospital Dr., 928–674–7675
Cottonwood 86326 (501 South Willard St., 928–649–1532).
Flagstaff 86001 (1300 West University Ave., Suite 200, 928–226–1056).
Gilbert 85297 (3285 South Val Vista Dr., 480–397–2800).
Globe 85501 (5860 S Hospital Dr., Suite 11, 928–425–0027).
Green Valley 85614 (380 W Hermosa Drive, #140, 520–399–2291).
Holbrook 86025 (33 West Vista Dr., 928–524–1050).
Kayenta 86033 (U.S. Hwy. 160, 928–445–4860 ext. 3392).
Kingman 86401 (2668 Hualapai Mtn. Rd., 928–718–7300).
Lake Havasu City 86403 (2035 Mesquite, Suite E, 928–505–7100).
Page 86040 (801 N Navajo Dr., Suite B, 928–645–4966).
Payson 85541 (903 East Highway 260, Suite 2, 928–472–3148).
Phoenix Midtown 85015 (5040 North 15th Ave., 602–234–7080).
Phoenix Southeast 85747 (7395 South Houghton Rd. Suite 129, 520–664–1831).
Phoenix Southwest 85073 (9253 West Thomas Rd., Suite 400, 623–772–4000).
Phoenix Thunderbird 85021 (9424 North 25th Ave., 602–633–6900).
Pinal 85122 (1179 East Cottonwood Lane, 520–629–4801).
Polacca 86042 (Hwy. 264, Mile Post 388, 928–283–4465).
Safford 85546 (355 North 8th Ave., 928–428–8010).
Scottsdale 85259 (11390 East Via Linda Rd., Suite 105, 480–579–2200).
Show Low 85901 (5171 Cub Lake Rd., Suite C380, 928–532–1069).
Sierra Vista 85635 (157 N Coronado Dr., 520–629–4802).
Surprise 85374 (13985 West Grand Ave., Suite 101, 623–251–2884).
Tucson Northwest 85741 (2945 West Ina Rd., 520–219–2418).
Tuba City 85045 (167 N Main St., 928–283–4465).
Yuma 85364 (3111 South 4th Ave., 928–317–9973).

Regional Office

Phoenix 85012 (3333 N. Central Ave., statewide 1–800–827–1000)—Fiduciary Duties for Arizona, California, New Mexico, Nevada (1–888–869–0194).

Vet Centers

Phoenix 85012 (77 E. Weldon Ave., Suite 100, 602–640–2981).
Phoenix-East Valley 85202 (1303 S Longmore, Suite 5, Mesa, 480–610–6727).
Prescott 86303 (161 S Granite St., Suite B, 928–778–3469).
Tucson 85719 (3055 N 1st Ave., 520–882–0333).

National Cemeteries

Nat. Mem. Cem. of AZ 85024 (23029 N Cave Creek Rd., Phoenix, 480–513–3600).
Prescott 86301 (500 Hwy. 89 N, 480–513–3600).

ARKANSAS

VA Medical Centers

Fayetteville 72703 (1100 N College Ave., 479–443–4301 or 800–691–8387).
Little Rock 72205 (4300 West 7th St., 501–257–1000).
North Little Rock 72114–1706 (2200 Fort Roots Dr., 501–257–1000).

Clinics

Conway 72032 (1520 East Dave Ward Dr., 501–548–0500).
El Dorado 71730 (1702 North West Ave., 870–875–5900).
Ft. Smith 72917 (1500 Dodson Ave., 479–441–2600).
Harrison 72601 (814 U.S. Hwy. 62–65, North Suite 8, 870–704–6300).
Hot Springs 71901 (177 Sawtooth Oak St., 501–520–6253).
Mena 71953 (300 Morrow St. South, 501–609–2700).
Mountain Home 72653 (759 Highway 62 E Twin Lakes Plaza, Suite 331, 870–594–8387).
Ozark 72949 (2713 West Commercial St., 877–760–8387).
Pine Bluff 71603 (4747 Dusty Lake Dr., 870–541–9300).
Russellville 72801 (3106 West 2nd Ct., 479–880–5100).
Searcy 72143 (1120 South Main St., 501–207–4700).

Regional Office

North Little Rock 72114 (2200 Fort Roots Dr., Bldg. 65, statewide 1–800–827–1000).

Vet Center

North Little Rock 72114 (201 W Broadway, Suite A, 501–324–6395).

National Cemeteries

Fayetteville 72701 (700 Government Ave., 479–444–5051).
Fort Smith 72901 (522 Garland Ave., 479–783–5345).
Little Rock 72206 (2523 Confederate Blvd., 501–324–6401).

CALIFORNIA

VA Medical Centers

Fresno 93703 (2615 E Clinton Ave., 559–225–6100 or 888–826–2838).
Livermore 94550 (4951 Arroyo Rd., 925–373–4700).
Loma Linda 92357 (11201 Benton St., 909–825–7084 or 800–741–8387).
Long Beach 90822 (5901 E 7th St., 562–826–8000 or 888–769–8387).
Los Angeles 90073 (11301 Wilshire Blvd., 310–478–3711 or 800–952–4852).
Sacramento 95655 (10535 Hospital Way, Mather, 800–382–8387 or 916–843–7000).
Menlo Park 94025 (795 Willow Rd., 650–416–9997).
Palo Alto 94304 (3801 Miranda Avenue, 650–493–5000 or 800–455–0057).
San Diego 92161 (3350 La Jolla Village Drive, 858–552–8585 or 800–331–8387).
San Francisco 94121 (4150 Clement Street, 415–221–4810 or 877–487–2838).

Clinics

Anaheim 92801 (2569 West Woodland Dr., 714–763–5300).
Arcadia 91006 (7 North Foothill Blvd., Suite D, 818–672–2800).
Atwater 95301–5140 (3605 Hospital Road, Suite D, 209–381–0105).
Auburn 95603 (11985 Heritage Oaks Place, Suite 100, 530–889–0872).
Bakersfield 93301 (1801 Westwind Dr., 661–632–1800).
Blythe 92225 (1273 West Hobson Way, 760–921–1224).
Brawley 92227 (Imperial Valley, 528 G St., 760–344–9085).
Capitola 95010–3906 (1350 N 41st St., Suite 102, 831–464–5519).
Chico 95928 (1601 Concord Ave., 530–879–5000).
Chula Vista 91911 (835 3rd Ave., Suite 133 and 112, 619–409–1600).
Clearlake 95422 (15145 Lakeshore Dr., 707–995–7200).
Commerce 90022 (East Los Angeles, 5426 E Olympic Blvd., 323–725–7372).
Corona 92881 (2045 Compton Ave., Bldg. 7, Suite 101, 951–817–8820).
El Centro 92243 (1115 South 4th St., 760–352–1506).
Escondido 92025 (815 E Pennsylvania Ave., 760–466–7020).
Eureka 95503 (930 West Harris St., 707–269–7500).
Fairfield 94535 (103 Bodin Cir., Bldg. 778 Travis Air Force Base, 707–437–1800).
Fremont 94538 (39199 Liberty St., Bldg. B, 510–791–4000).
French Camp 95231 (Stockton Clinic, 7777 South Freedom Dr., 209–946–3400).
Gardena 90247 (1251 Redondo Beach Blvd., 3rd Floor, 310–851–4705).
Laguna Hills 92653 (23719 Moulton Parkway, 949–587–3700).
Lancaster 93535 (Antelope Valley, 340 East Ave. I, Suite 108, 661–729–8655).
Long Beach 90806 (Villages at Cabrillo 2001 River Ave., Bldg. 28, 562–388–8000).
Los Angeles 90012 (351 East Temple St., 213–253–5000).
Los Angeles 90073 (West LA Ambulatory Care, 11301 Wilshire Blvd., 310–268–3526).
Lynwood 90262 (3737 Martin Luther King Blvd., Suite 515, 310–537–6825).
Mare Island 94592 (201 Walnut Ave., Bldg. 201, 707–562–8200).
Martinez 94553 (150 Muir Rd., 925–372–2000).
Marina 93933 (201 9th St., 831–884–1000).
McClellan Park 95652 (5342 Dudley Blvd., Bldg. 88, 916–561–7400).
Merced 95340 (340 East Yosemite Ave., Suite D, 209–381–0105).
Modesto 95355 (1225 Oakdale Rd., 209–557–6200).

Monterey 93955 (3401 Engineer Lane, Seaside, 831–883–3800).
Murietta 92563 (28078 Baxter Rd., Suite 540, 951–290–6500).
North Hills 91343 (Sepulveda Clinic and Nursing Home, 16111 Plummer St., 818–891–7711 or 800–516–4567).
Oakhurst 93644 (40597 Westlake Dr., 559–683–5300).
Oakland 94612 (525 21st St., 510–587–3400).
Oakland 94612 (2221 Martin Luther King Jr. Way, 510–267–7800).
Oceanside 92056 (1300 Rancho del Oro Dr., 760–643–2000).
Oxnard 93030 (1690 Universal Circle Dr., 805–204–9135).
Palm Desert 92211 (41–990 Cook St., Bldg. F, Suite 1004, 760–341–5570).
Rancho Cucamonga 91730 (8599 Have Ave., Suite 102, 909–946–5348).
Redding 96002 (351 Hartnell Ave., 530–226–7555).
Redlands 92373 (26001 Redlands Blvd., 909–825–7084).
Sacramento 95655 (Mental Health Clinic at Mather, 10633 Grissom Rd., 800–382–8387 or 916–366–5420).
Sacramento 95652 (McClellan Dental Clinic, 5401 Arnold Ave., 800–382–8387 or 916–561–7800).
Sacramento 95652 (McClellan Outpatient Clinic, 5342 Dudley Blvd., 800–382–8387 or 916–561–7400).
San Bruno 94066 (1001 Sneath Lane, Suite 300, 650–615–6000).
San Diego 92108 (Mission Valley Clinic, 8810 Rio San Diego Dr., 619–400–5000).
San Diego 92108 (Rio Clinic, 8989 Rio San Diego Dr., Suite 360, 619–228–8000).
San Francisco 94107 (Downtown Clinic, 401 3rd St., 415–551–7300).
San Gabriel 91776 (Pasadera, 420 W. Las Tunas Drive, 626–289–5973).
San Jose 95138 (5855 Silver Creek Valley Place, 408–574–9100).
San Luis Obispo 93401 (Pacific Med. Plaza, 1288 Morro St., Ste. 200, 805–543–1233).
Santa Ana 92705 (1506 Brookhollow Dr., Suite 100, 714–825–3500).
Santa Barbara 93110 (4440 Calle Real, 805–683–1491).
Santa Fe Springs 90670 (10330 Pioneer Blvd., Suite 180, 562–347–2200).
Santa Maria 93454 (1550 East Main St., 805–354–6000).
Santa Rosa 95403 (3841 Brickway Blvd., 707–569–2300).
Sepulveda 91343 (16111 Plummer St., 818–891–7711).
Sonora 95370 (13663 Mono Way, 209–588–2600).
Stockton 95231 (7777 South Freedom Rd., 209–946–3400).
Sun City 92586 (28125 Bradley Road, Suite 130, 951–672–1931).
Tulare 93274 (1050 N Cherry St., 559–684–8703).
Ukiah 95482 (630 Kings Court, 707–468–7700).
Upland 91786 (1238 E Arrow Highway, No. 100, 909–946–5348).
Vallejo 94592 (Mare Island Clinic, 201 Walnut Ave., 800–382–8387 or 707–562–8200).
Victorville 92392 (12138 Industrial Boulevard, Suite 120, 760–951–2599).
Vista 92083 (1840 West Drive, 760–643–2000).
Yreka 96097 (101 East Oberlin Rd., 530–841–8500).
Yuba City 95991 (425 Plumas Blvd., 530–751–4500).

Regional Offices

Los Angeles 90024 (Fed. Bldg., 11000 Wilshire Blvd., serving counties of Inyo, Kern, Los Angeles, San Bernardino, San Luis Obispo, Santa Barbara and Ventura, statewide 1–800–827–1000).
Oakland 94612 (1301 Clay St., Rm. 1300 North, serving all CA counties not served by the Los Angeles, San Diego, or Reno VA Regional Offices, 1–800–827–1000).
San Diego 92108 (8810 Rio San Diego Dr., serving Imperial, Orange, Riverside and San Diego, statewide 1–800–827–1000). The counties of Alpine, Lassen, Modoc, and Mono are served by the Reno, NV, Regional Office.

Benefits Office

Sacramento 95827 (10365 Old Placerville Rd., 916–364–6500).

Vet Centers

Anaheim 92805 (859 S Harbor Blvd., 714–776–0161).
Chico 95926 (280 Cohasset Rd., Suite 100, 530–899–8549).
Concord 94520 (1899 Clayton Rd., Suite 140, 925–680–4526).
Corona 92879 (800 Magnolia Ave., 110, 951–734–0525).
East Los Angeles 90022 (5400 E. Olympic Blvd., 140, 323–728–9966).
Eureka 95501 (2830 G St., Suite A, 707–444–8271).
Fresno 93726 (3636 N 1st St., Suite 112, 559–487–5660).
Gardena 90247 (1045 W Redondo Beach Blvd., 150, Gardena, 310–767–1221).
West Los Angeles 90230 (5730 Uplander Way, Suite 100, Culver City, 310–641–0326).
Modesto 95351 (1219 N Carpenter Rd., #11 & 12, 209–527–1359 or 209–527–5961).
Oakland 94612 (1504 Franklin St., 200, 510–763–3904).
Redwood City 94062 (2946 Broadway St., 650–299–0672).
Rohnert Park 94928 (6225 State Farm Dr., Suite 101, 707–586–3295).
Sacramento 95825 (1111 Howe Ave., Suite 390, 916–566–7430).
San Bernardino 92408 (155 West Hospitality Lane, Suite 140, 909–890–0797).
San Diego 92103 (2900 6th Ave., 619–294–2040).
San Francisco 94102 (505 Polk St., 415–441–5051).
San Jose 95112 (278 N 2nd St., 408–993–0729).
San Marcos 92069 (1 Civic Center Dr., Suite 140, 760–744–6914).
Santa Cruz 95010 (1350 41st Ave., Suite 102, 831–464–4575).
Sepulveda 91343 (9737 Haskell Ave., 818–892–9227).
Ventura 93001 (790 E Santa Clara, Suite 100, 805–585–1860).

National Cemeteries

Bakersfield 93203 (30338 East Bear Mountain Blvd., 661–867–2253 or 866–632–1845).
Fort Rosecrans 92106 (P.O. Box 6237, Point Loma, San Diego, 619–553–2084).
Golden Gate 94066 (1300 Sneath Ln., San Bruno, 650–589–7737).
Los Angeles 90049 (950 South Sepulveda Blvd., 310–268–4675).
Miramar 92122 (5795 Nobel Drive, 858–658–7360).
Riverside 92518 (22495 Van Buren Blvd., 951–653–8417).
Sacramento Valley VA 95620 (5810 Midway Rd., Dixon, 707–693–2460).
San Francisco 94129 (1 Lincoln Blvd., Presidio of San Francisco, 650–589–7737).
San Joaquin Valley 95322 (32053 West McCabe Rd., Santa Nella, 209–854–1040).

COLORADO

Medical Centers

Aurora 80045–7211 (1700 North Wheeling Street, 303–399–8020).
Grand Junction 81501–6428 (2121 North Avenue, 970–242–0731).

Domiciliaries

Denver 80220 (1055 Clermont Street, 303–399–8020).

VHA Office of Community Care/Health Administration Center

Denver 80209 (3773 Cherry Creek North Dr., 303–331–7500 or 800–733–8387).

Clinics

Alamosa 81101–8548 (622 Del Sol Drive, 719–587–6800 or 1–866–659–0930).
Aurora 80012–3697 (13701 E Mississippi Ave., Suite 200, 303–398–6340).
Aurora 80012–5689 (14400 E Jewell Ave., 303–283–5400).
Burlington 80807–1756 (1177 Rose Avenue, 719–346–5239).
Colorado Springs 80907–4094 (3141 Centennial Blvd., 719–327–5660).
Craig 81625–2945 (1111 West Victory Way, Centennial Mall, Suite 116, 970–824–6712).
Denver 80220–3901 (4545 East 9th Ave., Physician Office Bldg. 1, Suite 010, 303–327–7000).
Denver 80205–3540 (3836 York St., Community Resource & Referral Center, 720–501–3367).
Durango 81301–5025 (1970 East Third Ave., Suite 102, 970–247–2214).
Fort Collins 80526–8108 (2539 Research Blvd., 970–224–1550).
Glenwood Springs 81601–4181 (2425 South Grand Ave., Suite 101, 970–945–1007).
Golden 80401–6002 (1020 Johnson Rd., 303–914–2680).
La Junta 81050–2772 (1100 Carson Ave., Suite 204, 719–383–5195).
Lakewood 80227–5006 (7350 West Eastman Place, 720–376–6100).
Lamar 81052–9525 (1401 South Main St., Suite B, 719–336–0315).
Loveland 80538–8852 (5200 Hahns Peak Dr., 970–962–4900).
Montrose 81401–3651 (154 Colorado Ave., Suite A, 970–249–7791).
Pueblo 81008–1667 (4776 Eagleridge Circle, 719–553–1000).

Salida 81201–9669 (920 Rush Dr., 719–539–8666).

Sterling 80751–2345 (Northeastern Junior College, 100 College Dr., 307–778–755, x3816).

Regional Office

Denver 80225 (Mailing Address P.O. Box 25126. Physical Address 155 Van Gordon St., Lakewood, 80228, statewide 1–800–827–1000)—Fiduciary Duties for Alaska, Colorado, Idaho, Montana, Oregon, Utah, Washington, Wyoming (1–888–349–7541).

Vet Centers

Boulder 80302 (2336 Canyon Blvd., Suite 103, 303–440–7306).

Colorado Springs 80903 (416 E. Colorado Ave., 719–471–9992).

Denver 80230 (7465 E First Ave., Ste. B, 303–326–0645).

Grand Junction 81505 (2472 F. Rd., Unit 16, 970–245–4156).

National Cemeteries

Fort Logan 80236 (4400 W Kenyon Ave., Denver, 303–761–0117).

Fort Lyon 81504 (15700 County Road HH, Las Animas, 303–761–0117).

Pikes Peak 80925 (10545 Drennan Road, 719–216–1025).

CONNECTICUT

VA Medical Centers

Newington 06111–2631 (555 Willard Ave., 860–666–6951).

West Haven 06516–2770 (950 Campbell Avenue, 203–932–5711).

Clinics

Danbury 06810–5000 (7 Germantown Rd., Suite 2B, 203–798–8422).

New London 06320–4956 (4 Shaw's Cove, 1st Floor, Suite 101, 860–437–3611).

Stamford 06905–5315 (1275 Summer St., Suite 102, 203–325–0649).

Waterbury 06706–1113 (95 Scovill St., 203–465–5292).

West Haven 06516–2043 (114 Orange Ave., 203–479–8000).

Willimantic 06226–1940 (1320 Main St., 860–450–7583).

Winsted 06908–1140 (115 Spencer St., 860–738–6985).

Regional Office

Hartford (Bldg. 2E Rm., 5137, 555 Willard Ave., Newington, 06111–2693, statewide 1–800–827–1000).

Vet Centers

Wethersfield 06109 (30 Jordan Lane, 860–563–2320).

Norwich 06360 (2 Cliff St., 860–887–1755).

West Haven 06516 (141 Captain Thomas Blvd., 203–932–9899).

DELAWARE

VA Medical Center

Wilmington 19805–4917 (1601 Kirkwood Highway, 302–994–2511 or 800–461–8262).

Clinics

Dover 19904–6930 (1198 South Governors Ave., Suite 201, 800–461–8262, x2400).

Georgetown 19947–2300 (21748 Roth Ave., 800–461–8262, x2300).

Regional Office

Wilmington 19805 (1601 Kirkwood Hwy., local 302–994–2511).

Vet Center

Wilmington 19805 (1601 Kirkwood Hwy., Bldg. 3, 302–994–1660).

DISTRICT OF COLUMBIA

VA Medical Center

Washington 20422–0001 (50 Irving Street NW, 202–745–8000 or 888–553–0242).

Clinic

Washington 20032–3428 (820 Chesapeake Street SE, 202–745–8685).

Washington 20018–2000 (1500 Franklin Street NE, Community Resource & Referral Center, 202–636–7660).

Regional Office

Washington, DC 20421 (1722 I St. NW, local, 1–800–827–1000).

Vet Center

Washington, DC 20011 (1253 Taylor St., NW, 202–726–5212).

FLORIDA

VA Medical Centers

Bay Pines 33744–8200 (10000 Bay Pines Blvd., 727–398–6661 or 888–820–0230).

Gainesville 32608–1135 (1601 SW Archer Rd., 352–376–1611 or 800–324–8387).

Lake City 32025–5808 (619 S. Marion Avenue, 386–755–3016 or 800–308–8387).

Miami 33125–1624 (1201 NW 16th St., 305–575–7000 or 888–276–1785).

Orlando 32827–5812 (13800 Veterans Way, 407–631–1000).

Tampa 33612–4745 (13000 Bruce B. Downs Blvd., 813–972–2000 or 888–716–7787).

West Palm Beach 33410–6400 (7305 N. Military Trail, 561–422–8262 or 800–972–8262).

Clinics

Boca Raton 33433–2300 (901 Meadows Rd., 561–416–8995).

Bradenton 34208–5526 (5520 State Route 64, Suite 101, 941–721–0649.

Brooksville 34613–6001 (14540 Cortez Blvd., Suite 108, 352–597–8287).

Clermont 34711–1968 (805 Oakley Seaver Drive, (352–536–8200 or 800–645–6895).

Cape Coral 33909–5422 (2489 Diplomat Parkway East, 239–652–1800).

Daytona Beach 32114–1495 (551 National Health Care Dr., 386–323–7500).

Daytona Beach 32114–1230 (1821 Business Park Blvd., 386–366–6700).

Deerfield Beach 33442–7690 (2100 SW 10th St., 954–570–5572).

Delray Beach 33445–6597 (4800 Linton Blvd., Building E, Suite E 300, 561–495–1973).

Deltona 32725–6386 (1200 Deltona Boulevard, Suite 41–47, 386–575–5000).

Elgin AFB 32542–1038 (100 Veterans Way, 850–609–2600).

Fort Pierce 34947–4711 (1901 South 25th St., Suite 103, 772–595–5150).

Gainesville 32608–9608 (5571 Southwest 64th St., 352–337–4900).

Gainesville 32608–9608 (5533 Southwest 64th St., 352–274–5967).

Gainesville 32608–9605 (5415 Southwest 64th St., 352–338–4900, x161200).

Gainesville 32601–4034 (620 Northwest 16th St., Suite I and II, 352–548–6000).

Gainesville 32609–3568 (825 Northwest 23rd Ave., 352–548–6000 x215263).

Gainesville 32606–5010 (3401 Northwest 98th St., 352–376–1611, x137090).

Hollywood 33021–1811 (3702 Washington St., Suite 201, 954–986–1811).

Hollywood 33024–2776 (7369 Sheridan St., Suite 102, 954–894–1668).

Homestead 33030–4443 (950 Krome Avenue, Suite 401, 305–248–0874).

Jacksonville 32209–6525 (1536 North Jefferson St., 877–870–5048 or 904–475–5800).

Jacksonville 32216–4312 (3901 University Boulevard South, 904–475–5800).

Jacksonville 32216–6185 (6900 Southpoint Dr. North, 904–470–6900).

Key Largo 33037–3010 (105662 Overseas Highway, 305–451–0164).

Key West 33040–4536 (1300 Douglas Circle, Building L–15, 305–293–4863).

Kissimmee 34741–2342 (2285 North Central Ave., 407–518–5004).

Lake City 32025–1588 (484 South West Commerce Dr., Westfield 2 Plaza, Suite 140, 386–754–3000).

Lakeland 33811–1442 (4237 South Pipkin Rd., 863–701–2470).

Lecanto 34461 (2804 West Marc Knighton Court, Suite A, 352–746–8000).

Marianna 32446–6802 (4970 Highway 90, 850–718–5620 or 866–512–8387).

Miami 33135–2209 (1492 West Flagler St., Suite 102, 305–541–5864).

Naples 34102–5402 (800 Goodlette Road North, Suite 120, 239–659–9188).

New Port Richey 34654–3419 (9912 Little Road, 727–869–4100).

New Port Richey 34654–5403 (7701 Little Road, 727–869–4100).

New Port Richey 34668–2213 (110210 U.S. Highway 19 North, Suite 102, 727–863–1035).

New Port Richey 34653–7027 (5138 Deer Park Blvd., Suite 101 and 102, 727–372–1481).

Ocala 34470–6856 (1515 East Silver Springs Blvd., Suite 226, 352–369–3320).

Ocala 34474–7843 (3307 Southwest 26th Ave., 352–861–3940).

Okeechobee 34972–1936 (1201 North Parrot Avenue, 863–824–3232).

Orlando 32803–8208 (5201 Raymond Street, 407–646–5500).

Palatka 32177–2449 (400 North State Road 19, Suite 48, 386–329–8800).

Palm Harbor 34684–1908 (35209 U.S. Highway 19 North, 727–734–5276).

Panama City Beach 32408–7186 (2600 Veterans Way, 850–636–7000 or 888–231–5047, x7331).

Panama City Beach 32407–2512 (140 Richard Jackson Blvd., 850–636–7000).

Pensacola 32537–1000 (790 Veterans Way, 850–912–2000).

Perry 32347–2117 (1224 North Peacock Ave., 850–223–8387).

Port Charlotte 33952–9254 (4161 Tamiami Trail, Suite 401, 941–235–2710).

Port Orange 32129–2319 (3731 South Clyde Morris Blvd., 386–763–8300).

Port Saint Lucie 34986–3496 (128 Southwest Chamber Court, 772–878–7876).

Riverview 33579–7210 (12920 Summerfield Crossing Blvd., 813–998–8600).
Sarasota 34233–1540 (5682 Bee Ridge Rd., Suite 100, 941–371–3349).
Sebring 33870–2117 (5901 U.S. Highway 27 South, 863–471–6227).
St. Augustine 32086–5134 (195 Southpark Blvd., 904–829–0814 or 866–401–8387).
St. Petersburg 33705–1214 (840 Dr. MLK Jr. Street North, 727–502–1700).
Stuart 34997–5059 (3501 Southeast Willoughby Boulevard, 772–288–0304).
Sunrise 33351–4325 (9800 West Commercial Blvd., 954–475–5500).
Tallahassee 32311–6144 (2181 East Orange Avenue, 850–878–0191 or 800–541–8387).
Tampa 33637–1003 (13515 Lake Terrace Lane, 813–998–8000).
Tampa 33612–9998 (14014 North 46th Street, 813–972–2000, x6291).
Tampa 33617–3442 (10770 North 46th St., Suite 200, 813–972–7551).
Tampa 33613–2755 (14517 Bruce B. Downs Blvd., 813–228–2761, x7122).
Tampa 33612–9211 (12210 Bruce B. Downs Blvd., 813–972–2000, x5801.
Tavares 32778–4305 (1390 East Burleigh Blvd., 352–253–2900).
The Villages 32162–5884 (8900 Southeast 165th Mulberry Ln., 877–649–0024 or 352–674–5000).
Vero Beach 32960–5690 (372 17th Street, 772–299–4623).
Viera 32940–8007 (2900 Veterans Way, 321–637–3788).
Winter Park 32792–5313 (925 South Semoran Blvd., Suite 112, 114 and 120, 407–621–2600).
Zephyrhills 33542–6648 (6937 Medical View Ln., 813–780–2550)

Regional Office

St. Petersburg 33708 (mailing address: P.O. Box 1437, 33731; physical address: 9500 Bay Pines Blvd., statewide 1–800–827–1000)—Fiduciary Duties for Alabama, Florida, Mississippi, Puerto Rico, U.S. Virgin Islands (1–888–611–8916).

Benefits Offices

Fort Lauderdale 33301 (VR&E, 299 East Broward Blvd., Room 324, 1–800–827–1000).
Jacksonville 32256 (VR&E, 7825 Baymeadows Way, Suite 120–B, 1–800–827–1000).
Orlando 32801 (1000 Legion Pl., VRE-Suite 1500, C&P-Suite 1550, 1–800–827–1000).
Pensacola 32533–7492 (C&P, 312 Kenmore Rd., Rm. 1G253, 1–800–827–1000).
West Palm Beach 33410 (C&P, 7305 North Military Tr., Suite 1A–167, 1–800–827–1000).

Vet Centers

Ft. Lauderdale 33304 (713 NE 3rd Ave., 954–356–7926).
Gainesville 32607 (105 NW 75th St., Suite 2, 352–331–1408).
Jacksonville 32202 (300 East State St., 904–232–3621).
Melbourne 32935 (2098 Sarno Rd., 321–254–3410).
Miami 33122 (8280 NW 27th St., Suite 511, 305–859–8387).
Orlando 32822 (5575 S. Semoran Blvd., Suite 36, 407–857–2800).
Palm Beach 33461 (2311 10th Ave., North 13, 561–585–0441).
Pensacola 32531 (4501 Twin Oaks Dr., 850–456–5886).
Sarasota 34231 (4801 Swift Rd., 941–927–8285).
St. Petersburg 33713 (2880 1st Ave., N, 727–893–3791).
Tallahassee 32303 (548 Bradford Rd., 850–942–8810).
Tampa 33604 (8900 N Armenia Ave., Ste. 312, 813–228–2621).

National Cemeteries

Barrancas 32538–1054 (80 Hovey Rd., Naval Air Station, Pensacola, 850–453–4846).
Bay Pines 33504–0477 (10000 Bay Pines Blvd., North Bay Pines, 727–398–9426).
Cape Canaveral 32754 (5525 U.S. Highway 1, 321–383–2638).
Florida 33513 (6502 SW 102nd Ave., Bushnell, 352–793–7740).
Jacksonville 32202 (300 N Hogan St.).
St. Augustine 32084 (104 Marine St., 352–793–7740).
Sarasota 34241 (9810 State Road 72, 877–861–9840).
South Florida 33467 (6501 South State Road 7, Lake Worth, 561–649–6489).
Tallahassee 32311 (5015 Apalachee Parkway, 850–402–8941).

GEORGIA

Medical Centers

Augusta 30904–6258 (One Freedom Way, 706–733–0188 or 800–836–5561).
Augusta 30904–2608 (950 15th St., 706–733–0188).
Decatur 30033–4004 (1670 Clairmont Road, 404–321–6111).
Dublin 31021–3620 (1826 Veterans Blvd., 478–272–1210 or 800–595–5229).

Clinics

Albany 31704–1130 (814 Radford Blvd., c/o Naval Branch Health Clinic, Building 700, 229–446–9000).
Athens 30601–6352 (9249 Highway 29 South, 706–733–0188, x5511).
Atlanta 30310–5110 (1701 Hardee Ave., Southwest, Community Resource & Referral, 404–321–6111, x 2222).
Atlanta 30345–2914 (2309 Parklake Dr., Northeast, 404–321–6111).
Atlanta 30345–2739 (2296 Henderson Mill Road, Suite 402, 404–321–6111).
Austell 30106–6828 (2041 Mesa Valley Way, Suite 185, 404–329–2222).
Blairsville 30512–8599 (1294 Highway 515, East, Suite 100, 404–321–6111).
Brookhaven 30329–1044 (3101 Clairmont Road Northeast, 404–321–3111).
Brunswick 31525–7932 (1111 Glynco Parkway, Bldg. 2, Suite 200, 912–261–2355 or 800–595–5229).
Carrollton 30117–2425 (180 Martin Dr., 678–423–4970).
College Park 30349–6055 (1800 Phoenix Blvd., Suite 100, 404–321–6111).
Columbus 31901–2335 (1310 13th Ave., 706–257–7205).
Covington 30014–3805 (10155 Eagle Drive, 404–321–6111).
Decatur 30030–2115 (253 North Arcadia Ave., 404–321–6111).
East Point 30344–6948 (1513 Cleveland Ave., Buggy Works Office Park, Building 300, 404–329–2222).
East Point 30344–6948 (2675 North Martin St., South Central Station, Building 700, 404–321–6111, x5685).
Flowery Branch 30542–2816 (4175 Tanners Creek Drive, 404–728–8210).
Fort Benning 31905–5602 (6635 Bass Road, Bldg. 9214, 706–257–7200).
Hinesville 31313–2804 (500 East Oglethorpe Highway, 912–408–2900).
Jasper 30143–1926 (934 East Church St., 404–321–6111.
Kathleen 31047–5400 (2370 South Houston Lake Road, 478–224–1309).
Lawrenceville 30043–5937 (1970 Riverside Pkwy, 404–321–6111).
Lawrenceville 30046–8766 (455 Philip Blvd., Suite 200, 404–329–2222).
Macon 31220–8118 (5566 Thomaston Road, 478–476–8868).
Marietta 30062–2957 (2217 Roswell Road, Suite 114, 404–321–6111).
Milledgeville 31061–4807 (2249 Vinson Highway Southeast, 478–414–4540).
Newnan 30265–2392 (39–A Oak Hill Ct., 404–329–2222).
Rome 30161–7201 (30 Chateau Drive Southeast, 404–329–2222).
Savannah 31419–1618 (1170 Shawnee Street, (912–920–0214).
St. Marys 31558–3843 (2603 Osbourne Road, Kings Bay Village, Ste E, 912–510–3420).
Smyrna 30080–8581 (2400 Herodian Way Southeast, 404–321–6111).
Statesboro 30458–4828 (658 Northside Drive East, Suite B, 912–871–8719).
Stockbridge 30281–5038 (175 Medical Blvd., 404–329–2222).
Tifton 31794–3441 (1824 Ridge Avenue North, 229–391–6080).
Valdosta 31602–1890 (2841 North Patterson Street, 229–293–0132).
Waycross 31501–8016 (515B City Boulevard, City Square Plaza, 877–843–6570, x724400).

Regional Office

Decatur 30033 (1700 Clairmont Rd., statewide 1–800–827–1000)—Fiduciary Duties for Georgia, North Carolina, South Carolina, Tennessee (1–888–768–2132).

Vet Centers

Atlanta 30324 (1440 Dutch Valley Place, Suite G, 404–347–7264).
Macon 31201 (750 Riverside Dr., 478–272–1210 ext. 3883/4).
Savannah 31406 (8110A White Bluff Rd., 912–652–4097).

National Cemeteries

Georgia 30114 (2025 Mt. Carmel Church Lane, Canton, 866–236–8159).
Marietta 30060 (500 Washington Ave., 866–236–8159).

GUAM

Clinic

Agana Heights 96910–6427 (498 Chalan Palasyo, 671–475–5760).

Benefits Office/Vet Center

Hagatna 96910 (Reflection Center, #201, 222 Chalan Santo Papa St., 671–472–7161).

HAWAII

Medical Center

Honolulu 96819–1522 (459 Patterson Road, E Wing, 808–433–0600 or 800–214–1306).

Clinics

Ewa Beach 96706 (91–2135 Fort Weaver Road, Suite 501, 808–214–1306).
Hilo 96720 (1285 Waianuenue Avenue, Suite 211, 808–935–3781).
Honolulu PTSD 96819 (3375 Koapaka Street, Suite I–560, 808–566–1546).
Kahului 96732 (203 Hoʻohana Street, Suite 303, 808–871–2454).
Kailua-Kona 96740 (35–377 Hualalai Road, 808–329–0774).
Kaunakakai 96748 (280 Home Olu Place, 808–553–3191).
Lanai City 96783 (628–B Seventh Street, 808–565–6423).
Lihue 96766 (4485 Paheʻe Street, Suite 150, 808–246–0497).

Regional Office

Honolulu 96819–1522 (459 Patterson Rd., E Wing. Mailing address: P.O. Box 29020, Honolulu, HI 96820) (toll-free from Hawaii, Guam, Saipan, Rota and Tinian, 1–800–827–1000; toll-free from American Samoa, 1–877–899–4400)—Fiduciary Duties for Hawaii, Guam, American Samoa, Commonwealth of the Northern Marianas (1–808–433–0481).

VR&E Benefits Offices

Hilo 96720 (1285 Waianuenue, 2nd Floor, 808–935–6691).
Kahului 96732 (203 Hoʻohana St., 808–873–9426).

Vet Centers

Hilo 96720 (120 Puʻuhonu St., Suite 2, 808–969–3833).
Honolulu 96814 (1680 Kapiolani Blvd., Suite F.3, 808–973–8387).
Kailua-Kona 96740 (Hale Kui Plaza, Suite 207, 73–4976 Kamanu St., 808–329–0574).
Lihue 96766 (3–3367 Kuhio Hwy., Suite 101, 808–246–1163).
Wailuku 96793 (35 Lunalilo, Suite 101, 808–242–8557).

National Cemetery

Nat. Cem. of the Pacific 96813–1729 (2177 Puowaina Dr., Honolulu, 808–532–3720).

IDAHO

Medical Center

Boise 83702 (500 West Fort Street, 208–422–1000).

Clinics

Caldwell 83605 (4521 Thomas Jefferson Drive, 208–454–4820).
Coeur d'Alene 83814 (915 West Emma Avenue, 208–665–1700).
Grangeville 83850 (711 West North Street, 208–983–4671).
Idaho Falls 83401 (640 South Woodruff, 208–522–2922).
Lewiston 83501 (1630 23rd Avenue, Bldg. 2, 208–746–7784).
Mountain Home 83647 (815 North 6th East, 208–580–2001).
Pocatello 83201 (500 South 11th Avenue, 208–232–6214).
Salmon 83467 (705 Lena Street, 208–756–8515).
Sandpoint 83864 (420 North 2nd Avenue, Suite 200, 208–263–0450).
Twin Falls 83301 (260 2nd Avenue East, 208–732–0959).

Regional Office

Boise 83702 (805 W Franklin St., statewide, 1–800–827–1000).

Vet Centers

Boise 83705 (5440 Franklin Rd., Suite 100, 208–342–3612).
Pocatello 83201 (1800 Garrett Way, 208–232–0316).

National Cemetery

Snake River Canyon 83316 (1585 East Elm Street (E 4150 N), 208–732–7499).

ILLINOIS

VA Medical Centers

Chicago 60612 (820 South Damen Avenue, 312–569–8387 or 888–569–5282).
Danville 61832–5198 (1900 East Main Street, 217–554–3000).
Hines 60141 (5000 South 5th Avenue, 708–202–8387).
Marion 62959 (2401 West Main Street, 618–997–5311).
North Chicago 60064 (3001 Green Bay Road, 847–688–1900).

Clinics

Bourbonnais 60914 (581 William Latham Drive, Suite 301, 815–932–3823).
Carbondale 62901 (1130 East Walnut Street, 618–351–1031).
Chicago 60620 (7731 South Halsted Street, 773–962–3700).
Chicago 60611 (211 East Ontario Street, 12th Floor, 312–469–4850).
Chicago Heights 60411 (30 E. 15th Street, Suite 314, 708–754–8880).
Decatur 62522 (792 North Sunnyside Road, 217–362–5442).
Effingham 62401 (1011 Ford Avenue, 217–347–7600).
Evanston 60202 (1942 Dempster Street, 847–869–6315).
Freeport 61032 (750 Kiwanis Drive, Suite 253, 815–235–4881).
Galesburg 61401 (310 Home Blvd., 309–343–0311).
Great Lakes 60088 (3350 Illinois Street, 847–688–5568).
Great Lakes 60088 (3420 Illinois Street, 847–688–6755).
Great Lakes 60088 (3440 Ohio Street, 847–688–2100).
Great Lakes 60088 (2410 Sampson Street, 847–688–6712).
Great Lakes 60088 (2470 Sampson Street, 847–688–2469).
Harrisburg 62946 (608 Rollie Moore Drive, 618–252–6150).
Hoffman Estates 60192 (4885 Hoffman Blvd., 847–645–1443).
Joliet 60432 (1201 Eagle Street, 815–740–8100).
Marion 62959 (1301 Enterprise Way, Suite 68, 618–993–1008).
Marion 62959 (3404 Heartland Street).
Mattoon 61938 (501 Lakeland Blvd., 217–258–3370).
McHenry 60050 (3715 Municipal Drive, 815–759–2306).
Mt. Vernon 62864 (4105 North Water Tower Place, 618–246–2910).
North Aurora 60542 (161 South Lincolnway, 630–859–2534).
Oak Lawn 60453 (10201 South Cicero, 708–499–3675).
Peoria 61615 (7717 North Orange Prairie Road, 309–589–6800).
Peru 61354 (4461 North Progress Blvd., 815–223–9678).
Quincy 62301 (6020 Broadway, 217–224–3366).
Rockford 61107 (816 Featherstone Road, 815–227–0081).
Shiloh 62269 (1190 Fortune Blvd., 314–286–6988).
Springfield 62703 (5850 South 6th Street, Suite A, 217–529–5046).
Sterling 61081 (406 Avenue C, 815–632–6200).

Regional Office

Chicago 60612 (2122 W Taylor St., statewide 1–800–827–1000).

Vet Centers

Chicago 60620 (7731 S Halsted St., Suite 200, 773–962–3740).
Chicago Heights 60411 (1600 S Halsted St., 708–754–0340).
East St. Louis 62203 (1265 N 89th St., Suite 5, 618–397–6602).
Evanston 60202 (565 Howard St., 847–332–1019).
Moline 61265 (1529 46th Ave., 6, 309–762–6954).
Oak Park 60302 (155 S Oak Park Blvd., 708–383–3225).
Peoria 61603 (3310 N Prospect Rd., 309–671–7300).
Springfield 62702 (624 S 4th St., 217–492–4955).

National Cemeteries

Abraham Lincoln 60421 (27034 South Diagonal Rd., Elwood, 815–423–9958).
Alton 62003 (600 Pearl St., 314–260–8720).
Camp Butler 62707 (5063 Camp Butler Rd., Springfield, 217–492–4070).
Danville 61832 (1900 East Main St., 217–554–4550).
Fort Sheridan 60037 (Vatner Road, 224–610–7296).
Mound City 62963 (Junction Highways 37 & 51, 314–260–8720).
Quincy 62301 (36th and Maine St., 309–782–2094).
Rock Island 61299–7090 (Rock Island Arsenal, Bldg. 118, 309–782–2094).

INDIANA

VA Medical Centers

Fort Wayne 46805 (2121 Lake Avenue, 260–426–5431 or 800–360–8387).
Indianapolis 46202 (1481 West 10th Street, 317–554–0000).
Marion 46953–4589 (1700 East 38th Street, 765–674–3321 or 800–360–8387).

Clinics

Bloomington 47403 (1332 West Arch Haven Avenue, 812–349–4406).
Bloomington 47403 (2100 South Liberty Drive, Suite B, 812–336–5723).

Crown Point 46307 (9301 Madison Street, 219–662–5000).
Edinburgh 46124 (3791 10th Street, Bldg. 1010, 812–348–0300).
Evansville 47715 (6211 East Waterford Blvd., 812–465–6202).
Goshen 46526 (2606 Peddlers Village Road, Suite 210, 574–534–6108 or 877–292–0968).
Greendale 47025 (1600 Flossie Drive, 812–539–2313).
Indianapolis 46222 (2669 Cold Spring Road, 317–988–1866).
Indianapolis 46254 (3850 Shore Drive, Suite 203, 317–988–1772).
Lafayette 47906 (3851 North River Road, 317–988–1772).
Martinsville 46151 (2200 John R. Wooden Drive, 317–988–0120).
Mishawaka 46545 (1540 Trinity Place, 574–272–9000).
Muncie 47303 (2600 West White River Blvd., 765–254–5602).
New Albany 47150 (4347 Security Parkway, 502–287–4100).
Peru 46970 (750 North Broadway, 765–472–8907).
Richmond 47374 (1010 North J Street, 765–973–6915).
Scottsburg 47170 (1467 Scott Valley Drive, 877–690–1938).
Shelbyville 46716 (30 West Rampart Street, 317–398–2812).
Terre Haute 47802 (110 West Honey Creek Pkwy., 812–232–8325).
Terre Haute 57802 (380 Honey Creek Drive, 812–478–1825).
Vincennes 47591 (1813 Willow Street, Suite 6A, 812–882–0894).

Regional Office

Indianapolis 46204 (575 N Pennsylvania St., statewide 1–800–827–1000).
Vet Centers
Evansville 47711 (311 N Weinbach Ave., 812–473–5993 or 473–6084).
Fort Wayne 46802 (528 West Berry St., 260–460–1456).
Merrillville 46410 (6505 Broadway Ave., 219–736–5633).
Indianapolis 46208 (3833 N Meridian St., Suite 120, 317–927–6440).

National Cemeteries

Crown Hill 46208 (700 W 38th St., Indianapolis, 765–674–0284).
Marion 46952 (1700 E 38th St., 765–674–0284).
New Albany 47150 (1943 Ekin Ave., 502–893–3852).

IOWA

VA Medical Centers

Des Moines 50310–5774 (3600 30th Street, 515–699–5999).
Iowa City 52246–2208 (601 Highway 6 West, 319–338–0581).

Clinics

Carroll 51401 (311 South Clark Street, Suite 275, 712–794–6780).
Cedar Rapids 52404 (2230 Wiley Blvd. SW, 319–369–4340).
Coralville 52441 (520 10th Avenue, Suite 100, 319–358–2406).
Davenport 52804 (2826 West Locust Street, Suite A, 563–332–8528).
Decorah 52101 (915 Short Street, 563–387–5840).
Dubuque 52001 (2600 Dodge Street, Suite A1, 563–588–5520).
Fort Dodge 50501 (2419 2nd Avenue N, 515–576–2235).
Knoxville 50138 (1607 North Lincoln Street, 641–828–5019 or 800–816–8878).
Marshalltown 50158 (101 Iowa Avenue W, 641–754–6700 or 877–424–4404).
Mason City 50401 (520 South Pierce, Suite 150, 641–494–5000).
Ottumwa 52531 (1009 East Pennsylvania Avenue, 641–683–4300).
Shenandoah 51601 (512 South Fremont, 712–246–0092).
Spirit Lake 51360 (1850 Royal Avenue, 712–336–6400).
Waterloo 50701 (945 Tower Park Drive, 319–235–1230).

Regional Office

Des Moines 50309 (210 Walnut St., Rm. 1063, statewide 1–800–827–1000).

Vet Centers

Cedar Rapids 52402 (1642 42nd St. NE, 319–378–0016).
Des Moines 50310 (2600 Martin Luther King Jr. Pkwy., 515–284–4929).
Sioux City 51104 (1551 Indian Hills Dr., Suite 214, 712–255–3808).

National Cemetery

Keokuk 52632 (1701 J St., 309–782–2094).

KANSAS

VA Medical Centers

Leavenworth 66048–5055 (4101 South 4th Street, 913–682–2000).
Topeka 66622 (2200 SW Gage Boulevard, 785–350–3111).
Wichita 67218 (5500 East Kellogg, 316–685–2221).

Clinics

Chanute 66720 (629 South Plummer, Suite D, 620–431–4000).
Dodge City 67843 (2201 Summerlon Circle, 888–878–6881).
Ft. Scott 66701 (902 Horton Street, 620–223–8655).
Garnett 66032 (421 South Maple, 800–574–8387).
Hays 67601 (207–B East Seventh, 888–878–6881).
Hutchinson 67502 (1625 East 30th Avenue, 888–878–6811).
Junction City 66441 (1169 Southwind Dr., 800–574–8387).
Kansas City 66102 (21 North 12th Street, Bethany Medical Bldg., Suite 110, 800–952–8387).
Lawrence 66049 (2200 Harvard Road, 800–574–8387)
Liberal 67901 (2 Rock Island Road, Suite 200, 620–626–5574).
Overland Park 66212 (10500 Mastin Street, 816–922–2750).
Paola 66071 (510 South Hospital Drive, 816–922–2160).
Parsons 67357 (1907 Harding Drive, 888–878–6881).
Salina 67401 (1410 East Iron, Suite 1, 888–878–6881).
Shawnee 66226 (6830 Anderson Drive, 816–922–2750).

Regional Office

Wichita 67218 (Robert J. Dole Regional Office, 5500 E Kellogg Ave., 1–800–827–1000).

Vet Center

Wichita 67211 (413 S Pattie, 316–265–3260).

National Cemeteries

Fort Leavenworth 66027 (395 Biddle Blvd., 913–758–4105).
Fort Scott 66701 (900 East National Ave., 620–223–2840).
Leavenworth 66048 (4101 South 4th St., Traffic Way, 913–758–4105).

KENTUCKY

VA Medical Centers

Ft. Thomas 41075 (1000 South Fort Thomas Avenue, 859–572–6202).
Lexington-Cooper Div. 40502 (1101 Veterans Drive, 859–281–4900 or 859–233–4511).
Lexington-Leestown Div. 40511 (2253 Leestown Road, 859–233–4511 or 859–281–4900).
Louisville 40206 (800 Zorn Avenue, 502–287–4000).

Clinics

Bellevue 41073 (103 Landmark Drive, Suite 300, 859–392–3840).
Berea 40403 (209 Pauline Drive, 859–986–1259).
Bowling Green 42101 (600 U.S. 31 West Bypass, Suite 12, 270–782–0120).
Carrollton 41008 (1911 U.S. Highway 227, 502–287–6060).
Clarkson 42726 (619 West Main Street, 866–653–8232).
Florence 41042 (7310 Turfway Road, Suite 510, 859–282–4480).
Ft. Knox 40121 (851 Ireland Loop, 502–624–9396).
Hanson 42413 (926 Veterans Drive, 270–322–3583).
Hazard 41701 (210 Black Gold Blvd., 606–436–2350).
Hopkinsville 42240 (1002 South Virginia Street, 270–885–2106).
Louisville-Newburg 40218 (3430 Newburg Road, 502–287–6223).
Louisville-Shively 40216 (3934 North Dixie Highway, Suite 210, 502–287–6000).
Louisville-Stonybrook 40299 (9208 Taylorsville Road, 502–287–6986).
Mayfield 42066 (1253 Paris Road, Suite A, 270–247–2455).
Morehead 40351 (333 Beacon Hill Road, 606–784–3004).
Owensboro 42303 (3400 New Hartford Road, 270–684–5034).
Paducah 42001 (2620 Perkins Creek Drive, 270–444–8465).
Prestonsburg 41653 (5230 KY Rt. 321, 606–886–1970).
Somerset 42533 (300 Medpark Drive, 606–676–0786).

Regional Office

Louisville 40202 (321 W Main St., Ste. 390, statewide 1–800–827–1000).

Vet Centers

Lexington 40507 (301 E Vine St., Suite C, 859–253–0717).

Louisville 40208 (1347 S 3rd St., 502–634–1916).

National Cemeteries

Camp Nelson 40356 (6980 Danville Rd., Nicholasville, 859–885–5727).
Cave Hill 40204 (701 Baxter Ave., Louisville, 502–893–3852).
Danville 40442 (277 N First St., 859–885–5727).
Lebanon 40033 (20 Highway 208, 502–893–3852).
Lexington 40508 (833 W Main St., 859–885–5727).
Mill Springs 42544 (9044 West Highway 80, Nancy, 859–885–5727).
Zachary Taylor 40207 (4701 Brownsboro Rd., Louisville, 502–893–3852).

LOUISIANA

VA Medical Centers

Alexandria (2495 Shreveport Hwy. 71 N, Pineville, LA 71360, 318–473–0010).
New Orleans (2400 Canal Street, New Orleans, LA 70119, 504–507–2000 or 800–935–8387).
Shreveport, LA (510 E Stoner Ave., Shreveport, LA 71101, 318–221–8411).

Clinics

Baton Rouge (North) (7968 Essen Park Ave., Baton Rouge, LA 70809, 225–761–3507 or 800–935–8387).
Baton Rouge (South) (7850 Anselmo Lane, Baton Rouge, LA 70810, 225–761–3507 or 800–935–8387).
Bogalusa (521 Ontario Avenue Bogalusa, LA 70427, 985–735–9029)
Fort Polk (3353 University Parkway Leesville, LA 71446, 337–392–3800)
Franklin (603 Haifleigh Street Franklin, LA 70538, 337–828–9092)
Hammond (1131 South Morrison Boulevard., Hammond, LA 70403, 985–902–5100).
Houma (6433 West Park Avenue, Houma, LA 70364, 985–851–0188 or 800–935–8387).
Jennings (1907 Johnson St., Jennings, LA 70546, 337–824–1000).
Knight Street (3000 Knight Street, Building 5, Shreveport, LA 71105, 318–221–8411).
Lafayette (Campus A) (3149 Ambassador Caffery Parkway, Lafayette, LA 70501, 337–706–3415).
Lafayette (Campus B) (309 St. Julien Avenue, Lafayette, LA 70506, 337–706–3415).
Lake Charles, 3601 Gerstner Memorial Drive, Hwy. 14, Lake Charles, LA 70607, 337–475–9500).
Monroe (1691 Bienville Dr., Monroe, LA 71203, 318–343–6100 or 800–832–3525).
Natchitoches (740 Keyser Avenue, Natchitoches, LA 71457, 318–357–3300).
Slidell (60491 Doss Dr., Ste. B, Slidell, LA 70460, 985–690–2626).
St. John (4004 West Airline Hwy., Reserve, LA 70084, 504–565–4705).

Regional Office

Gretna 70056 (671A Whitney Ave., statewide 1–800–827–1000).

Vet Centers

Baton Rouge 70809 (5207 Essen Lane, Suite 2, 225–757–0045).
Kenner 70062 (2200 Veterans Blvd., Suite 114, 504–464–4743).
Shreveport 71104 (2800 Youree Dr., Bldg. 1, Suite 1, 318–861–1776).
National Cemeteries
Alexandria 71360 (209 E Shamrock St., Pineville, 601–445–4981).
Baton Rouge 70806 (220 N 19th St., 225–654–3767).
Louisiana 70791 (303 W Mount Pleasant Road, 225–654–1988).
Port Hudson 70791 (20978 Port Hickey Rd., Zachary, 225–654–3767).

MAINE

VA Medical Center

Togus (1 VA Center, Augusta, ME 04330, 207–623–8411).

Clinics

Bangor (35 State Hospital Dr., Bangor, ME 04401, 207–561–3600).
Calais (50 Union St., Calais, ME 04619, 207–904–3700).
Caribou (163 Van Buren Drive, Suite 6, Caribou, ME 04736, 207–493–3800).
Lewiston/Auburn (15 Challenger Dr., Lewiston, ME 04240, 207–330–2700 or 877–421–8263)
Lincoln (99 River Road, Lincoln, ME 04457, 207–623–8411 or 877–421–8263).
Portland (144 Fore St., Portland, ME 04101, 207–623–8411 or 877–421–8263)
Rumford (431 Franklin St., Rumford, ME 04726, 207–369–3200).
Saco (655 Main St., Saco, ME 04072, 207–623–8411 or 877–421–8263).

Vet Centers

Bangor 04401 (368 Harlow St., 207–947–3391).
Caribou 04619 (456 York St., York Street Complex, 207–496–3900).
Lewiston 04240 (Pkwy. Complex, 29 Westminster St., 207–783–0068).
Portland 04103 (475 Stevens Ave., 207–780–3584).
Springvale 04083 (628 Main St., 207–490–1513).

National Cemetery

Togus 04330 (1 VA Center, 508–563–7113).

MARYLAND

VA Medical Centers

Baltimore (10 North Greene St., Baltimore, MD 21201, 410–605–7000).
Loch Raven (3900 Loch Raven Boulevard, Baltimore, MD 21218, 410–605–7000).
Perry Point (59 Avenue D, Building 59, Perry Point, MD 21902, 410–642–2411 or 800 949–1003).

Clinics

Baltimore (Annex) (209 West Fayette Street, Baltimore, MD 21201, 410–605–7000).
Cambridge (830 Chesapeake Dr., Cambridge, MD 21613, 410–228–6243 or 877–864–9611).
Cumberland (200 Glenn St., Cumberland, MD 21502, 304–263–0811 or 800–817–3807).
East Baltimore (5235 King Avenue, Suite 200, Rosedale, MD 21237, 443–730–2020).
Fort Detrick (1433 Porter St., Frederick, MD 21702, 304–263–0811 or 800–817–3807).
Fort Meade (2479 5th St., Fort Meade, MD 20755, 410–305–5300).
Glen Burnie 21061 (808 Landmark Dr., Suite 128, Glen Burnie, MD 21061, 410–590–4140).
Hagerstown (Hub Plaza Bldg., 1101 Opal Ct., Hagerstown, MD 21742, 301–665–1462).
Loch Raven (3901 The Alameda, Baltimore, MD 21218, 410–605–7651).
Montgomery County (15810 Gaither Dr., Gaithersburg, MD 21218, 410–605–7650).
Pocomoke (1701 Market St., Unit 211, Pocomoke, MD 21851, 410–957–6718 or 866–441–0287).
Southern Maryland (29431 Charlotte Hall Rd., Charlotte Hall, MD 20622, 301–884–7102).
Southern PG County (5801 Allentown Rd., Camp Springs, MD 20746, 301–423–3700).

Regional Office

Baltimore 21201 (31 Hopkins Plaza Federal Bldg., 1–800–827–1000).

Vet Centers

Baltimore 21207 (6666 Security Blvd., Suite 2, 410–277–3600).
Cambridge 21613 (5510 West Shore Dr., 410–228–6305 ext. 4123).
Elkton 21921 (103 Chesapeake Blvd., Suite A, 410–392–4485).
Silver Spring 20910 (1015 Spring St., Suite 101, 301–589–1073).

National Cemeteries

Annapolis 21401 (800 West St., 410–644–9696).
Baltimore 21228 (5501 Frederick Ave., 410–644–9696).
Loudon Park 21228 (3445 Frederick Ave., Baltimore, 410–644–9696).

MASSACHUSETTS

VA Medical Centers

Bedford (200 Springs Rd., Bedford, MA 01730, 781–687–2000).
Brockton (940 Belmont St., Brockton, MA 02301, 508–583–4500).
Jamaica Plain (150 South Huntington Ave., Jamaica Plain, MA 02130, 617–232–9500).
Leeds (421 N Main St., Leeds, MA, 413–584–4040).
West Roxbury (1400 VFW Parkway, West Roxbury, MA 02132, 617–323–7700).

Clinics

Causeway (251 Causeway St., Boston, MA 02114, 800–865–3384)
Fitchburg (881 Main Street, Fitchburg, MA 01420, 800–893–1522).
Framingham (61 Lincoln St., Suite 112, Framingham, MA 01702, 508–628–0205).
Gloucester (199 Main Street, Gloucester, MA 01930, 800–838–6331).
Greenfield (143 Munson St., Greenville, MA 01301, 413–773–8428).
Haverhill (108 Merrimack St., Haverhill, MA 01830, 978–372–5207).
Hyannis (233 Stevens St., Hyannis, MA 02531, 508–771–3190).
Lowell (130 Marshall Rd., Lowell, MA 01852, 800–865–3384).
Lynn (225 Boston Rd., Suite 107, Lynn, MA 01904, 800–838–6331).
New Bedford (175 Elm St., New Bedford, MA 02740, 508–994–0217).

Pittsfield (73 Eagle St., Pittsfield, MA 01201, 413–499–2672).
Quincy (110 West Squantum Street, Quincy, MA 02169, 800–865–3384).
Springfield (25 Bond St., Springfield, MA 01104, 413–731–6000).
Worcester (605 Lincoln St., Worcester, MA 01605, 508–856–0104).

Regional Office

Boston 02203–0393 (JFK Federal Building, Room 1265, Government Center, statewide 1–800–827–1000) (Towns of Fall River & New Bedford, counties of Barnstable, Dukes, Nantucket, Bristol, part of Plymouth served by Providence, R.I., VA Regional Office).

Vet Centers

Boston 02215 (665 Beacon St., 617–424–0665).
Brockton 02401 (1041–L Pearl St., 508–580–2730).
Hyannis 02601 (474 West Main St., (508–778–0124).
Lowell 01852 (73 East Merrimack St., 978–453–1151).
New Bedford 02740 (468 North St., 508–999–6920).
Springfield 01103 (1985 Main St., Northgate Plaza, 413–737–5167).
Worcester 01605 (691 Grafton St., 508–753–7902).

National Cemetery

Massachusetts 02532 (Connery Ave., Bourne, 508–563–7113).

MICHIGAN

VA Medical Centers

Ann Arbor 48105 (2215 Fuller Rd., 734–769–7100 or 800–361–8387).
Battle Creek 49015 (5500 Armstrong Rd., 269–966–5600 or 888–214–1247).
Detroit (4646 John R. St., Detroit, MI 48201, 313–576–1000 or 800–511–8056).
Iron Mountain 49801 (325 East H St., Iron Mountain, MI 49801, 906–774–3300).
Saginaw (1500 Weiss St., Saginaw, MI 48602, 989–497–2530 or 800–406–5143).

Clinics

Bad Axe (1142 S Van Dyke Rd., Suite 100, Bad Axe, MI 48413)
Benton Harbor (115 Main St., Benton Harbor, MI 49022, 269–934–9123).
Cadillac (1909 North Mitchell St., Cadillac, MI 49601, 231–775–4401).
Cheboygan County (14540 Mackinaw Hwy., Mackinaw City, MI 49701, 231–436–5176).
Clare (11775 N Isabella Rd., Clare, MI 48617, 989–386–8113).
Clement C. Van Wagoner (180 North State Avenue, Alpena, MI 49707, 989–356–8720).
Flint (2360 South Linden Road, Flint, MI 48532, 810–720–2913).
Gaylord (806 S Otsego, Gaylord, MI 49735, 989–732–7525).
Grayling (1680 Hartwick Pines Road, Grayling, MI 49738, 989–344–2002).
Green Road (2530 Green Road, Ann Arbor, MI 48105, 734–769–7100).
Hancock (787 Market St., Hancock, MI 49930, 906–482–7762).
Ironwood (629 W Cloverland Dr., Suite 1, Ironwood, MI 49338, 906–932–0032).
Jackson (4328 Page Avenue, Michigan Center, MI 49254, 517–764–3609).
Lansing (2025 S Washington Ave., Lansing, MI 48910, 517–267–3925).
Manistique (813 East Lakeshore Drive, Manistique, MI 49854, 906–341–3420).
Marquette (1414 W Fair Ave., Suite 285, Marquette, MI 49855, 906–226–4618).
Menominee (1101 10th Ave., Suite 101, Menominee, MI 49858, 906–863–1286).
Muskegon (5000 Hakes Dr., Muskegon, MI 49441, 231–798–4445).
Oscoda (5671 Skeel Ave., Suite 4, Oscoda, MI 48750, 989–747–0026).
Packard Road (3800 Packard Road, Ann Arbor, MI 48108, 734–222–7600 or 734–845–3414).
Pontiac (44200 Woodward Avenue, Suite 108, Pontiac, MI 48340, 248–409–0585).
Saginaw (Annex) (4241 Barnard Road, Saginaw, MI 48603, 800–406–5143).
Sault Ste. Marie (509 Osborn Blvd., Suite 306, Sault Ste. Marie, MI 49783, 906–253–9383).
Traverse City (701 U.S 31 South, Traverse City, MI 49685, 231–932–9720 or 800–406–5143).
Wyoming (5838 Metro Way, Wyoming, MI 49519, 616–249–5300).
Yale (7470 Brockway Road, Yale, MI 48097, 810–387–3211).

Regional Office

Detroit 48226 (Patrick V. McNamara Federal Bldg., 477 Michigan Ave., Rm. 1400, 1–800–827–1000).

Vet Centers

Dearborn 48124–3438 (2881 Monroe St., Suite 100, 313–277–1428).
Detroit 48201 (4161 Cass Ave., 313–831–6509).
Escanaba 49829 (Willow Creek Professional Bldg., 3500 Ludington St.).
Grand Rapids 49507 (1940 Eastern SE, 616–243–0385).
Saginaw 48603 (4048 Bay Rd., 989–321–4650).

National Cemeteries

Fort Custer 49012 (15501 Dickman Rd., Augusta, 269–731–4164).
Great Lakes 48442 (4200 Belford Rd., Holly, 866–348–8603).

MINNESOTA

VA Medical Centers

Minneapolis (One Veterans Dr., Minneapolis, MN 55417, 612–725–2000 or 866–414–5058).
St. Cloud (4801 Veterans Dr., St. Cloud, MN 56303, 320–252–1670 or 800–247–1739).
Clinics
Albert Lea (1665 West Main St., Albert Lea, MN 56007, 507–377–6051).
Alexandria (515 22nd Avenue East, Alexandria, MN 56308, 320–759–2640).
Bemidji (705 5th St., Bermidji, MN 56601, 218–755–6360).
Brainerd (722 NW 7th Street, Brainerd, MN 56401, 218–855–1115).
Ely (720 Miners Drive East, Ely, MN 55731, 218–365–0001)
Fergus Falls (1839 N Park St., Fergus Falls, MN 56537, 218–739–1400).
Hibbing (990 West 41st Street, Suite 5, Hibbing, MN 55746, 218–263–1400).
Lyle C. Pearson (1961 Premier Dr., Suite 330, Mankato, MN 56001, 507–387–2939).
Maplewood (1725 Legacy Parkway, Suite 100, Maplewood, MN 55109, 651–225–5420).
Montevideo (1025 North 13th St., Montevideo, MN 56265, 320–269–2222).
Northwest Metro (7545 Veterans Drive, Ramsey, MN 55303, 612–467–1100).
Rochester (3551 Commercial Drive South West, Suite 400, Rochester, MN 55902, 507–252–0885).
Shakopee (1111 Shakopee Town Square, Shakopee, MN 55379, 952–445–4070).
South Central (1212 Heckman Court, St. James, MN 56081, 507–375–9670).

Regional Office

St. Paul 55111 (Bishop Henry Whipple Federal Bldg., 1 Federal Dr., 1–800–827–1000) (Counties of Becker, Beltrami, Clay, Clearwater, Kittson, Lake of the Woods, Mahnomen, Marshall, Norman, Otter Tail, Pennington, Polk, Red Lake, Roseau, Wilkin served by Fargo, N.D., VA Regional Office)—Fiduciary Duties for Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Wisconsin (1–800–827–0611).

Vet Centers

Duluth 55802 (405 E Superior St., 218–722–8654)
St. Paul 55114 (2480 University Ave., 651–644–4022).

National Cemetery

Fort Snelling 55450–1199 (7601 34th Ave. So., Minneapolis, 612–726–1127).

MISSISSIPPI

Medical Centers

Biloxi (400 Veterans Ave., Biloxi, MS 39531, 228–523–5000).
Jackson (1500 E Woodrow Wilson Dr., Jackson, MS 39216, 601–362–4471).

Clinics

Columbus (824 Alabama St., Columbus, MS 39702, 662–244–0391).
Greenville (1502 S Colorado St., Greenville, MS 38703, 662–332–9872).
Hattiesburg (5003 Hardy Street, Tower B, Suite 402, Hattiesburg, MS 39401, 601–296–3530).
Holly Springs (1700 Crescent Meadow Dr., Holly Springs, MS 38635, 662–252–2552).
Kosciusko (405 West Adams, Kosciusko, MS 39090, 662–289–2880).
McComb (1308 Harrison Ave., McComb, MS 39648, 601–253–0965).
Meridian (2103 13th St., Meridian, MS 39301, 601–482–7154).
Natchez (105 Northgate Drive, Suite 2, Natchez, MS 39120, 601–442–7141).
Tupelo (1114 Commonwealth Blvd., Tupelo, MS 38804. 662–840–6366).

Regional Office

Jackson 39216 (1600 E Woodrow Wilson Ave., statewide 1–800–827–1000).

Vet Centers

Biloxi 39531 (288 Veterans Ave., 228–388–9938).
Jackson 39216 (1755 Lelia Dr., Suite 104, 601–965–5727).

National Cemeteries

Biloxi 39535–4968 (P.O. Box 4968, 400 Veterans Ave., 228–388–6668).
Corinth 38834 (1551 Horton St., 901–386–8311).
Natchez 39120 (41 Cemetery Rd., 601–445–4981).

MISSOURI

VA Medical Centers

Columbia 65201–5297 (800 Hospital Dr., 573–814–6000 or 800–349–8262).
Kansas City 64128 (4801 Linwood Blvd., 816–861–4700 or 800–525–1483).
Poplar Bluff 63901 (1500 N Westwood Blvd., 573–686–4151).
Saint Louis-Jefferson Barracks 63125–4101 (1 Jefferson Barracks Dr., 314–652–4100 or 800–228–5459).
Saint Louis-John Cochran Div. 63106 (915 N Grand Blvd., 314–652–4100 or 800–228–5459).

Outpatient Clinic

Platte City 64079 (2303 Higgins Suite F, 913–758–6980)

Clinics

Belton 64012 (209 Cunningham Industrial Parkway, 816–922–2161).
Branson VA Clinic 65616 (5571 North Gretna Road, Phone: 417–243–2300)
Camdenton 65065 (Lake of the Ozarks Clinic, 940 Executive Drive, 573–302–7890).
Cameron 64429 (1111 Euclid Dr., 816–922–2530, ext. 54251).
Cape Girardeau 63703 (3051 William St., 573–339–0909).
Farmington 63640 (1580 W Columbia St., 573–760–1365).
Ft. Leonard Wood 65583 (700 GW Lane St., 573–774–2285).
Gene Taylor Veterans' Outpatient Clinic 65807 (1850 West Republic Road, Phone: 844–501–8387 ext. 64500).
Honor Annex 64133 (4251 Northern Avenue, 816–861–4700).
Hope Recovery Center VA St. Louis Health Care System 63103 (515 North Jefferson Avenue, 314–652–4100, X55500 or 800–228–5459, X 55500).
Joplin VA Clinic 64804 (3015 South Connecticut Avenue Phone: 800–691–8387).
Kirksville 63501 (506 Rosewood Dr., 660–627–8387).
Marshfield VA Clinic 65706 (1240 Banning Street, 417–468–1963).
Mexico 65265 (3460 South Clark St., 573–581–9630).
Mobile Medical Unit 64128 (4801 Linwood Blvd., 816–861–4700, X52977 or 800–525–1483, X52977).
Nevada 64772 (322 South Prewitt, 816–861–4700, X54235).
Salem 65560 (Hwy. 72 North, 573–778–9750 or 1–888–557–8262).
Sedalia VA Clinic 65301 (3320 West 10th Street, 660–826–3800).
Sikeston CBOC 63801 (903 South Kings Highway, 573–472–2139).
St. Charles 63368 (844 Waterbury Falls Dr., 314–286–6988).
St. James 65559–1999 (Missouri Veterans Home, 207 Matlock Dr., 573 265–0448).
St. Joseph 64503 (3302 S Belt Highway, Suite P, 1–800–952–8387, ext 56925).
St. Louis 63033 (6854 Parker Road, 314–286–6988).
Warrensburg 64093 (702 E Young Ave., 816 922–2530 ext. 54281).
West Plains 65775 (1801 E State Route K, 417–257–2454).

Regional Office

St. Louis 63103 (400 South 18th St., statewide 1–800–827–1000).

Benefits Office

Kansas City 64128 (4801 Linwood Blvd., 816–922–2660 or 1–800–525–1483, x 52660).

Vet Centers

Kansas City 64111 (301 E Armour Rd., 816–753–1866).
St. Louis 63103 (2345 Pine St., 314–231–1260).

National Cemeteries

Jefferson Barracks 63125 (2900 Sheridan Rd., St. Louis, 314–260–8720).
Jefferson City 65101 (1024 E McCarty St., 314–260–8720).
Springfield 65804 (1702 E Seminole St., 417–881–9499).

MONTANA

VA Medical Centers

Fort Harrison 59636–1500 (3687 Veterans Drive, P.O. Box 1500, 406–442–6410).

Clinics

Anaconda 59711 (118 East 7th St., 406–496–3000).
Billings 59102 (1766 Majestic Lane, 406–373–3500).
Cut Bank 59427 (8 Second Avenue, 406–873–9047).
Bozeman 59715 (300 N. Wilson, Suite 703G, 406–582–5300).
Glasgow 59230 (630 2nd Ave., 406–228–4101).
Glendive 59330 (2000 Montana Ave., 406–377–4755).
Great Falls 59405 (1417 9th St. South, Suite 200, 406–791–3200 877–468–8387, opt 3).
Hamilton VA Clinic 59840 (299 Fairgrounds, Suite A, 406–363–3352).
Kalispell 59901(31 Three Mile Dr., Ste. 102, 406–758–2700).
Lewistown VA Clinic 59457 (629 NE Main St., Suite, 406–535–4790).
Merril Lundman VA Clinic (Havre, MT 59501) (130 13th Street, Suite 1, 406–265–4304).
Miles City 59301 (Clinic/Nursing Home, 210 S Winchester, 406–874–5600).
Missoula 59808 (2687 Palmer St., Suite C, 406–493–3700).
Plentywood VA Clinic 59254 (440 West Laurel Ave., 406–765–3719)

Regional Office

Fort Harrison 59636 (3633 Veterans Dr., P.O. Box 1500, 1–800–827–1000).

Vet Centers

Billings 59102 (1234 Ave., C, 406–657–6071).
Missoula 59802 (500 N Higgins Ave., 406–721–4918).

National Cemetery

Yellowstone 59044 (55 Buffalo Trail Road, 406–647–2746).

NEBRASKA

VA Medical Centers

Grand Island 68803–2196 (2201 No. Broadwell Ave., 308–382–3660/866–580–1810).
Lincoln 68510 (600 South 70th St., 402–489–3802/866–851–6052).
Omaha 68105 (4101 Woolworth Ave., 402–346–8800/800–451–5796).

Clinics

Bellevue VA Clinic 68005 (2206 Longo Drive, Suite 102, 402–591–4500).
Holdrege VA Clinic 68949 (1118 Burlington St., 308–995–3760).
Norfolk 68701 (710 S 13th, Suite 1200, 402–370–4570).
North Platte 69101 (600 East Francis, Suite 3, 308–532–6906).
Rushville/Gordon 69343 (300 E 8th St., 308–282–1442).
Scottsbluff 69361 (601 S 5th Ave., 308–225–5330).
Sidney 69162 (1116 10th Ave., 308–254–5575).

Regional Office

Lincoln 68516 (5631 S 48th St., statewide 1–800–827–1000).

Vet Centers

Lincoln 68508 (920 L St., 402–476–9736).
Omaha 68131 (2428 Cuming St., 402–346–6735).

National Cemetery

Fort McPherson 69151–1031 (12004 S Spur 56A, Maxwell, 888–737–2800).
Omaha 68138 (14253 Schram Road, 402–253–3949).

NEVADA

VA Medical Centers

Las Vegas 89086 (6900 North Pecos Road N, 702–791–9024).
Reno 89502 (1000 Locust Street, 775–786–7200 or 888–838–6256).

Clinics

Elko VA Clinic 89801 (2719 Argent Ave., 775–738–0188).
Northwest Primary Care Clinic 89103 (3968 N Rancho Dr., 702–791–9020).
Southeast Primary Care Clinic 89015 (1020 S Boulder, 702–791–9030).
Southwest Primary Care Clinic 89113 (7235 South Buffalo Drive, 702–791–9040).

Community Based Outpatient Clinic

Lahontan Valley VA Clinic 89406 (1020 New River Parkway, Suite 304, 775–428–6161).
Pahrump Community Based Outpatient Clinic 89048 (220 South Lola Lane, 775–727–7535).
VA Carson Valley Outpatient Clinic 89410 (1330 Waterloo Lane, Suite 101, 775–782–5265).

NEW HAMPSHIRE

VA Medical Center

Manchester 03104 (718 Smyth Road, 603–624–4366 or 800–892–8384).
Conway 03818 (71 Hobs St. Third Floor, 800–892–8384, ext. 3199).
Keene Outpatient Clinic 03431 (640 Marlboro Street, Route 101, 603–358–4900).
Littleton 03561 (Littleton Regional Hospital, 264 Cottage St., 603–575–6700).
Portsmouth 03803 (Pease Intl., Tradeport 302 Newmarket St., 603–624–4366, x3199).
Somersworth 03878 (200 Route 108, 603–624–4366, Ext. 3199).
Tilton 03276 (630 West Main St. Suite 400., 603–624–4366, x3199).

Regional Office

Manchester 03101 (Norris Cotton Federal Bldg., 275 Chestnut St., 1–800–827–1000).

Vet Center

Manchester 03104 (103 Liberty St., 603–668–7060/61).

NEW JERSEY

VA Medical Centers

East Orange 07018 (385 Tremont Avenue, 973–676–1000).
Lyons 07939 (151 Knollcroft Road, 908–647–0180).

Clinics

Brick 08724 (970 Rt. 70, 732–206–8900).
Elizabeth 07206 (654 East Jersey Street, Suite 2A, 908–994–0120).
Hackensack 07601 (385 Prospect Avenue, 201–342–4536).
Jersey City 07302 (115 Christopher Columbus Dr., 201–435–3055/3305).
Morristown 07960 (540 West Hanover Ave., 973–539–9791/9794).
Paterson 07503 (11 Getty Ave., St. Joseph's Hospital & Med. Center, 973–247–1666).
Piscataway CBOC 08854 (14 Wills Way, Building 5, 732–981–8193).
Sussex Outpatient Clinic 07860 (222 High Street, 973–756–1504).
Tinton Falls Community Based Outpatient Clinic 07701 (55 Gilbert St., 732–842–4751).

Regional Office

Newark 07102 (20 Washington Pl., statewide 1–800–827–1000) (Philadelphia, PA Regional Office serves counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Salem).

Vet Centers

Bloomfield 07003 (2 Broad St., Suite 703, 973–748–0980).
Jersey City 07302 (115 Christopher Columbus Dr., Suite 200, 201–748–4467).
Ewing 08618 (934 Parkway Ave., 2nd Fl., 609–882–5744).
Ventnor 08406 (6601 Ventnor Ave., Suite 105, 609–487–8387).

National Cemeteries

Beverly 08010 (916 Bridgeboro Rd., 609–880–0827).
Finn's Point 08079 (Box 542, R.F.D. 3, Fort Mott Rd., Salem, 609–880–0827).

NEW MEXICO

VA Medical Center

Albuquerque 87108–5153 (1501 San Pedro Dr. SE, 505–265–1711 or 800–465–8262).

Clinics

Alamogordo 88310 (3199 North White Sands Blvd., Suite 10, 574–437–9195).
Artesia 88210–3716 (2410 West Main St., 505–746–3531).
Clovis 88101 (921 East Llano Estacado, 505–763–4335).
Espanola 87532 (105 South Coronado Ave., 505–367–4213).
Farmington 87402–8303 (3605 English Rd., 505–326–4383).
Gallup 87301 (2075 South NM Hwy. 602, 505–722–7234).
Hobbs 88340 (1601 N Turner (4th Floor), 505–391–0354).
Las Cruces 88012 (3401 Del Rey Blvd., 575–522–1241).
Las Vegas 87701 (624 University Ave., 505–425–1910).
Northwest Metro 87124 (1760 Grande Blvd. SE, 505–896–7200).
Raton 87440–2234 (1493 Whittier St., 575–445–2391).
Santa Fe 87507 (5152 Beckner Rd., 505–986–8645).
Silver City 88601 (2950 Leslie Rd., 505–538–2921).
Taos CCBOC 57571 (1353 Paseo Del Pueblo Sur, 575–751–0328).
Truth or Consequences 87901 (1960 North Date St., 575–894–7662).

Regional Office

Albuquerque 87102 (Dennis Chavez Federal Bldg., 500 Gold Ave. SW, statewide 1–800–827–1000).

Vet Centers

Albuquerque 87104 (1600 Mountain Rd. NW, 505–346–6562).
Farmington 87402 (4251 E Main, Suite C, 505–327–9684).
Las Cruces 88001 (230 S Water St., 575–523–9826).
Santa Fe 87505 (2209 Brothers Rd., Suite 110, 505–988–6562).

National Cemeteries

Fort Bayard 88036 (P.O. Box 189, 915–564–0201).
Santa Fe 87501 (501 N Guadalupe St., 505–988–6400 or toll-free 877–353–6295).

NEW YORK

VA Medical Centers

Albany 12208 (113 Holland Ave., 518–626–5000).
Batavia 14020 (222 Richmond Ave., 585–297–1000).
Bath 14810 (76 Veterans Ave., 607–664–4000).
Bronx 10468 (130 West Kingsbridge Rd., 718–584–9000).
Brooklyn 11209 (800 Poly Place, 718–836–6600).
Buffalo 14215 (3495 Bailey Ave., 716–834–9200 or 800–532–8387).
Canandaigua 14424 (400 Fort Hill Ave., 585–394–2000).
Wappinger Falls 12590 (41 Castle Point Road 845–831–2000).
Montrose 10548 (2094 Albany Post Rd., 914–737–4400).
New York 10010 (423 East 23rd Street, 212–686–7500).
Northport 11768 (79 Middleville Road, 631–261–4400).
Syracuse 13210 (800 Irving Ave., 315–425–4400).

Domiciliaries

Jamaica 11425 (St. Albans, 179–00 Linden Blvd. & 179 St., 718–526–1000).

Clinics

Auburn 13021 (47 E Genesee Street, 315–294–7300).
Bainbridge 13733 (109 North Main St., 607–967–8590).
Bay Shore 11706 (132 East Main Street, 631–754–7978).
Binghamton 13901 (203 Court Street, 607–772–9100).
Carmel 10512 (1875 Route 6, Sterling Bank, (2nd floor) 845–228–5291).
Catskill 12414 (Columbia Greene Medical Arts Building, Suite D305, 159, Jefferson Hgts., 518–626–5240).
Clifton Park 12065 (963 Route 146, 518–383–8506).
Dunkirk 14048 (1170 Central Avenue, 716–363–1235).
East Meadow 11554 (2201 Hempstead Turnpike Building Q, 631–754–7978).
Elmira 14901 (1316 College Avenue, 877–845–3247).
Fonda 12068 (2623 State Highway, 30A, 518–853–1247).
Freeville 13068 (1451 Dryden Road, 607–347–4101).
Glens Falls 12801 (101 Ridge Street., 518–798–6066).
Goshen 10924 (30 Hatfield Lane, Suite 204, 845–294–6927).
Jamestown 14701 (608 West 3rd Street 716–338–1521).
Kingston 12401 (324 Plaza Road., 845–331–8322).
Lackawanna 14218 (1234 Abbott Road., 716–821–7815).
Lockport 14094 (5725 S Transit Rd., 716–438–3890),
Massena 13662 (6100 St. Lawrence Centre, 315–705–6666).
Monticello 12701 (55 Sturgis Road, 845–791–4936).
New City 10956 (345 North Main Street, Upper Level, 845–634–8942).
New York 10027 (55 West 125th St., 646–273–8125).
Niagara Falls 14301–2300 (2201 Pine Avenue, 716–284–1702).
Olean 14760–2658 (465 North Union St., 716–373–7709).
Oswego 13126 (437 State Route 104E 315–207–0209).
Patchogue 11772 (4 Phyllis Drive, 631–754–7978).
Pine Plains 12567 (2881 Church St., Rt. 199, 518–398–9240).
Plattsburgh 12901 (80 Sharron Ave., 518–561–6247).
Port Jervis 12771 (150 Pike St., 845–856–5396).
Poughkeepsie 12603 (Freedom Executive Park, Rt. 55, 488 Freedom Plains Rd., Suite 120, 845–452–5151).

Riverhead 11901 (300 Center Drive 631–754–7978).
Rochester 14623 (Monroe County VA Clinic, 260 Calkins Road, 585–463–2600).
Rochester 14620 (465 Westfall Road, 585–463–2600).
Rome 13441 (125 Brookley Road, Building 510, 315–334–7100).
Saranac Lake 12983 (33 Depot Street, 518–626–5237).
Schenectady 12308 (1346 Gerling Street, Sheridan Plaza, 518–346–3334).
Springville 14141 (15 Commerce Drive, 716–592–2409).
Staten Island 10314 (1150 South Ave., 3rd Floor, Suite 301, 718–836–6600).
Sunnyside 11104 (47–01 Queens Blvd., 3rd Floor, Suite 301, 718–741–4800).
Troy 12180 (295 River St., 518–274–7707).
ValleyStream 11580 (99 South Central Avenue, 631–754–7978).
Watertown 13601 (19472 U.S. Route 11, 315–782–0067).
Watertown 13601 (144 Eastern Blvd., 315–221–7026).
Wellsville 14895 (3458 Riverside Dr., Route 19, 607–664–4660).
Westport 12993 (7426 NYS Route 9N, 518–626–5236).
White Plains 10601 (23 South Broadway, 914–421–1951).
Yonkers 10701 (124 New Main St., 914–375–8055).

Regional Offices

Buffalo 14202 (Niagara Center, 130 S Elmwood Ave., 1–800–827–1000. Serves counties not served by New York City VA Regional Office.).
New York City 10014 (245 W Houston St., statewide 1–800–827–1000. Serves counties of Albany, Bronx, Clinton, Columbia, Delaware, Dutchess, Essex, Franklin, Fulton, Greene, Hamilton, Kings, Montgomery, Nassau, New York, Orange, Otsego, Putnam, Queens, Rensselaer, Richmond, Rockland, Saratoga, Schenectady, Schoharie, Suffolk, Sullivan, Ulster, Warren, Washington, Westchester.).

Benefits Offices

Albany 12208 (113 Holland Ave., 1–800–827–1000).
Rochester 14620 (465 Westfall Rd., 1–800–827–1000).
Syracuse 13202 (344 W Genesee St., 1–800–827–1000).

Vet Centers

Albany 12205 (17 Computer Drive West, 518–626–5130).
Babylon 11702 (116 West Main St., 631–661–3930).
Bronx 10458 (130 West Kingsbridge Rd., Rm. 7A–13, 718–367–3500).
Brooklyn 11201 (25 Chapel St., Suite 604, 718–624–2765).
Buffalo 14202 (564 Franklin St., 716–882–0505).
New York 10004 (32 Broadway, Suite 200, 212–742–9591).
New York 10027 (55 West 125th St., 11th Fl., 212–426–2200).
Rochester 14620 (1867 Mt. Hope Ave., 585–232–5040).
Staten Island 10301 (150 Richmond Terrace, 718–816–4499).
Syracuse 13210 (716 E Washington St., 315–478–7127).
White Plains 10601 (300 Hamilton Ave., 1st Fl., 914–682–6253).
Watertown 02601 (210 Court St., 315–782–0217).
Woodhaven 11421 (75–10B 91st Ave., 718–296–2871).

National Cemeteries

Bath 14810 (76 Veterans Ave., San Juan Ave., 607–664–4853).
Calverton 11933–1031 (210 Princeton Blvd., 631–727–5410/5770).
Cypress Hills 11208 (625 Jamaica Ave., Brooklyn, 631–454–4949).
Long Island 11735–1211 (2040 Wellwood Ave., Farmingdale, 631–454–4949).
Saratoga 12871–1721 (200 Duell Rd., Schuylerville, 518–581–9128).
Woodlawn 14901 (1825 Davis St., Elmira, 607–732–5411).

NORTH CAROLINA

VA Medical Centers

Asheville 28805 (1100 Tunnel Road, 828–298–7911).
Durham 27705 (508 Fulton St., 919–286–0411).
Fayetteville 28301 (2300 Ramsey St., 910–488–2120 or 800–771–6106).
Salisbury 28144 (1601 Brenner Avenue, 704–638–9000 or 800–469–8262).

Clinics

Charlotte 28213 (8601 University East Drive, 704–597–3500).
Charlotte 28208 (3506 West Tyvola Road, 704–329–1300).
Clayton 27520 (11618 U.S. 70 Business Highway West Suites 100 and 200)
Durham 27705 (1824 Hillandale Road, 919–383–6107).
Elizabeth City 27909 (1845 W City Drive).
Fayetteville 28304 (7300 South Raeford Road, 910–488–2120).
Fayetteville 28304 (4101 Raeford Road, Suite 100–B, 910–488–2120).
Fayetteville 28305 (2301 Robeson Street, 910–483–9727).
Franklin 28734 (647 Wayah Street, 828–369–1781).
Goldsboro 27534 (2610 Hospital Road, 919–731–4809).
Greenville 27834 (401 Moye Blvd., 252–830–2149).
Hamlet 28345 (100 Jefferson Street, 910–582–3536).
Hickory 28602 (2440 Century Place SE, 828–431–5600).
Hillandale 27705 (1824 Hillandale Road, 919–383–6107).
Jacksonville 28546 (4006 Henderson Drive, 910–353–6406).
Kernersville 27284 (1695 Kernersville Medical Parkway, 336–515–5000).
Morehead City 28557 (5420 Highway 70, 252–240–2349).
Pembroke 28372 (139 Three Hunts Drive, 910–272–3220).
Raleigh 27610 (3305 Sungate Blvd., 919–212–0129).
Raleigh II 27603 (3040 Hammond Business Place Suite 105, 919–899–6259).
Raleigh 27603 (Wake County VA Clinic, 3040 Hammond Business Place, Suite 105, 919–899–6259).
Raleigh III 27604 (2600 Atlantic Avenue, Suite 200, 919–286–0411).
Rutherford 28139 (374 Charlotte Road, 828–288–2780).
Sanford 27330 (3112 Tramway Road, 910–488–2120).
Supply 28462 (18 Doctors Circle, Suite 2, 910–754–6141).
Wilmington 28405 (1705 Gardner Road, 910–343–5300).

Regional Office

Winston-Salem 27155 (Federal Bldg., 251 N Main St., statewide 1–800–827–1000, nationwide Loan Guaranty Certificate of Eligibility Center 1–888–244–6711).

Vet Centers

Charlotte 28202 (223 S Brevard St., Suite 103, 704–333–6107).
Fayetteville 28311 (4140 Ramsey St., Suite 110, 910–488–6252).
Greensboro 27406 (2009 S Elm-Eugene St., 336–333–5366).
Greenville 27858 (150 Arlington Blvd., Suite B, 252–355–7920).
Raleigh 27604 (1649 Old Louisburg Rd., 919–856–4616).

National Cemeteries

New Bern 28560 (1711 National Ave., 252–637–2912).
Raleigh 27610–3335 (501 Rock Quarry Rd., 252–637–2912).
Salisbury 28144 (202 Government Rd., 704–636–2661/4621).
Wilmington 28403 (2011 Market St., 252–637–2912).

NORTH DAKOTA

VA Medical Center

Fargo 58102 (2101 Elm Street N, 701–239–3700 or 800–410–9723).

Clinics

Bismarck 58503 (2700 State Street, 701–221–9152).
Devils Lake 58301 (1031 7th Street Northeast, 701–662–5801).
Dickinson 58601 (766 Elks Drive, Suite 6H, 701–483–1850).
Grafton 58237 (1319 West 11th Street, 701–352–4059).
Grand Forks 58201 (3221 32nd Avenue South Suite 700, 701–335–4380).
Jamestown 58401 (2430 20th Street Southwest, Suite 8, 701–952–4787).
Minot 58705 (3400 South Broadway Street, 701–418–2600).
Williston 58801 (1542 16th Street West, Suite 300, 701–572–2470).

Regional Office

Fargo 58102 (2101 Elm St., statewide 1–800–827–1000).

Vet Centers

Bismarck 58501 (1684 Capital Way, 701–224–9751).
Fargo 58103 (3310 Fiechtner Dr., Suite 100, 701–237–0942).
Minot 58701 (2041 3rd St. NW, 701–852–0177).

National Cemetery

Fargo 58042 (8709 40th Ave. N, County Road 20, 701–451–4650).

OHIO

VA Medical Centers

Chillicothe 45601 (17273 State Route 104, 740–773–1141 or 800–358–8262).
Cincinnati 45220 (3200 Vine Street, 513–861–3100).
Cleveland 44106 (10701 East Blvd., 216–791–3800).
Columbus 43203 (420 N James Road, 614–257–5200 or 888–615–9448).
Dayton 45428 (4100 W 3rd Street, 937–268–6511 or 800–368–8262).

Clinics

Akron 44319 (55 W Waterloo 330–724–7715).
Ashtabula 44004 (2044 Lambros Lane, 440–964–6454).
Athens 45780 (88 North Plains Road 740–592–7720).
Bellevue, KY 4073–1399 (103 Landmark Drive, Suite 300, 859–392–3840).
Belmont 43950 (67800 Mall Ring Road 740–695–9321).
Calcutta 43920–9672 (15655 State Route 170, Suite A, 330–386–4303).
Cambridge 437275 (2146 Southgate Pkwy., 740–432–1963).
Canton 44702 (733 Market Avenue South, 330–489–4600).
Cincinnati 45244 (4600 Beechwood Road, 513–943–3680).
Cleveland 44113 (4242 Lorain Ave., 216–939–0699).
Columbus 43219 (420 N James Road, 614–257–5200).
Florence KY 41042–1385 (7310 Turfway Road, Suite 510, 859–282–4480).
Gallipolis 45631 (323A Upper River Road, 740–446–3934).
Georgetown 45121 (474 Home Street, 937–378–3413).
Greendale, IN (Dearborn VA Clinic, 1600 Flossie Drive, 812–539–2313).
Grove City 43123 (5775 North Meadows Drive, Suite A, 614–257–5800).
Hamilton 45011 (1750 South Erie Highway, 513–870–9444).
Lancaster 43130 (1703 North Memorial Drive, 740–653–6145).
Lima 45804 (1303 Bellefontaine Ave., 419–222–5788).
Mansfield 44906 (1025 South Trimble Rd., 419–529–4602).
Marietta 45750 (27843 State Route 7, 740–568–0412).
Marion 43302 (1203 Delaware Avenue, Suite 2, Corporate Center #2, 740–223–8089).
Middletown 45042 (4337 North Union Road, 513–423–8387).
New Philadelphia 44663 (1260 Monroe Ave., Suite 1A, 330–602–5339).
Newark 43055 (1855 West Main Street, 740–788–8329).
Norwood 45212–2784 (4600 Smith Road, Central Station, SuiteA6).
Parma 44129 (8787 Brookpark Road, 216–739–7000).
Portsmouth 45622 (840 Gallia Street, 740–353–3236).
Ravenna 44266 (6751 N Chestnut St., 330–296–3641).
Sandusky 44870 (1912 Hayes Avenue, 419–609–1460).
Sheffield Village 44035 (5255 North Abbe Road, 440–934–9158).
Springfield 45505 (1620 N Limestone St., 937–268–6511).
St. Clairsville 43950 (107 Plaza Dr., 740–695–9321).
Toledo 43614 (1200 S Detroit Avenue, 419–259–2000).
Warren 44485 (1460 Tod Ave. NW, 330–392–0311).
Willoughby 44094 (3500 Kaiser Court, 440–269–4600).
Wilmington 45177 (448 West Main Street, 937–382–3949).
Youngstown 44505 (2031 Belmont Avenue, 330–740–9200).
Zanesville 43701 (2800 Maple Ave., 740–453–7725).

Regional Office

Cleveland 44199 (Anthony J. Celebrezze Fed. Bldg., 1240 E 9th St., 1–800–827–1000)—Fiduciary Duties for Connecticut, Delaware, Indiana, Maine, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont (1–800–729–5772).

Benefits Offices

Cincinnati 45202 (36 E Seventh St., Suite 210, 1–800–827–1000).
Columbus 43215 (Federal Bldg., Rm. 309, 200 N High St., 1–800–827–1000).

Vet Centers

Cincinnati 45203 (801–B W 8th St., 513–763–3500).
Cleveland Heights 44118 (2022 Lee Rd., 216–932–8471).
Columbus 43215 (30 Spruce St., 614–257–5550).
Dayton 45402 (111 W 1st St., Suite 101, 937–461–9150).
Parma 44129 (5700 Pearl Rd., Suite 102, 440–845–5023).

National Cemeteries

Dayton 45428–1088 (4100 W Third St., 937–262–2115).
Ohio Western Reserve 44270 (10175 Rawiga Rd., Rittman, 330–335–3069).

OKLAHOMA

VA Medical Centers

Muskogee 74401 (1011 Honor Heights Drive, 918–577–3000).
Oklahoma City 73104 (921 NE 13th Street, 405–456–1000).

Clinics

Ada 74820 (717 Better Now Plaza, 580–436–2262).
Altus 73521(1604 N Main Highway 283, 580–482–0721).
Ardmore: 73401(2002 12th Avenue NW, Suite E, 580–222–0400).
Blackwell 74631 (1009 W Ferguson Ave., 580–363–0052).
Enid 73701 (915 E Owen K. Garriott, Suite G, 580–977–1855).
Fort Sill 73503 (4303 Pittman and Thomas Bldg. 4303, 580–585–5600).
Idabel 74745 (903 SE Washington St., 580–920–7200).
Jay 74346 (1569 North Main Street, 888–424–8387).
McAlester 74501 (2 E Clark Bass Blvd., 888–397–8387).
Muskogee 74403 (2414 E. Shawnee Bypass, 918–577–3699).
Oklahoma City 73120 (2915 Pine Ridge Road, 405–752–6500).
Stillwater 74074 (320 N Perkins Ave, 405–70–8100).
Tulsa 74135 (5110 South Yale, Suite 200, 918–628–2574).
Vinta 74301 (269 S 7th St 918–713–5400).

Regional Office

Muskogee 74401 (Federal Bldg., 125 S Main St., Compensation & Pension: 1–800–827–1000, Education National Call Center: 1–888–442–4551, National Direct Deposit: 1–877–838–2778).

Benefits Office

Oklahoma City 73102 (Federal Campus, 301 NW 6th St., Suite 113, 1–800–827–1000).

Vet Centers

Oklahoma City 73118 (1024 NW 47th, 405–270–5184).
Tulsa 74112 (1408 S Harvard, 918–748–5105).

National Cemeteries

Fort Gibson 74434 (1423 Cemetery Rd., 918–478–2334).
Fort Sill 73538 (2648 NE Jake Dunn Rd., 580–492–3200).

OREGON

VA Medical Centers

Portland 97239 (3710 SW U.S. Veterans Hospital Rd., 503–220–8262 or outside Portland area 800–949–1004).
Roseburg 97471 (913 NW Garden Valley Blvd., 541–440–1000 or 800–549–8387).

Domiciliaries

White City 97503 (8495 Crater Lake Hwy., 541–826–2111).

Clinics

Boardman 97818 (2 Marine Drive, Suit 103, 541–481–2255).
Bend 97701 (2650 NE Courtney Drive, 541–647–5200 or 855–213–8002).
Brookings 97415 (840 Railroad St., 541–412–1152).
Burns 97720 (271 N Egan Ave., 541–573–3339).
Dalles 97058 (704 Veterans Drive, 541–296–3937).
Enterprise 97828 (401 NE 1st Street, 541–426–0219).
Eugene 97401 (211 E. 7th Ave., Suite 118, 541–440–1000).
Eugene 97408 (3355 Chad Dr., 541–607–0897).
Fairview 97024 (1800 NE Market Drive, 503–660–0600).
Grants Pass 97527 (1877 Williams Hwy., 541–955–5551).
Hillsboro 97006 (1925 NE Stucki Ave., Suite #300, 503–906–5000).
Klamath Falls 97601 (2225 North El Dorado Blvd., 541–273–6206).
La Grande 97850 (202 12th Street, 541–963–0627).
Lincoln City 97367 (4422 NE Devils Lake Road, 541–265–0547).
Newport 97365 (1010 SW Coast Highway, 541–265–4182).

North Bend 97459 (2191 Marion Street North, 541–756–8002).
Portland 97704 (308 SW 1st Ave., 503–508–1256 or 800–949–1004).
Salem 97302 (1750 McGilchrist St. SE, Suite 130, 971–304–2200).
Warrenton 97146 (91400 N Neacoxie St., Building 7315, 503–220–8262).
West Linn 97068 (1750 SW Blankenship, 503–210–4900).

Regional Office

Portland 97204 (Edith Green/Wendell Wyatt Federal Building, 1220 SW Third Ave., 1–800–827–1000).

Vet Centers

Eugene 97403 (1255 Pearl St., 541–465–6918).
Grants Pass 97526 (211 SE 10th St., 541–479–6912).
Portland 97220 (8383 NE Sandy Blvd., Suite 110, 503–273–5370).
Salem 97301 (617 Chemeketa St., NE, 503–362–9911).

National Cemeteries

Eagle Point 97524 (2763 Riley Rd., 541–826–2511).
Roseburg 97470 (1770 Harvard Blvd., 541–826–2511).
Willamette 97266–6937 (11800 SE Mt. Scott Blvd., Portland, 503–273–5253).

PENNSYLVANIA

VA Medical Centers

Aatona 16602 (2907 Pleasant Valley Boulevard, 814–943–8164).
Butler 16001 (353 North Duffy Road, 724–287–4781 or 800–362–8262).
Coatesville 19320 (1400 Black Horse Hill Road, 610–384–7711).
Erie 16504 (135 East 38 Street, 814–868–8661 or 800–274–8387).
Lebanon 17042 (1700 South Lincoln Avenue, 717–272–6621 or 800–409–8771).
Philadelphia 19104 (3900 Woodland Aves., 800–949–1001 or 215–823–5800).
Pittsburgh 15260 (Delafield Road, 866–482–7488 or 412–688–6000).
Pittsburgh 15206 (Highland Drive Division, 7180 Highland Drive, 412–365–4900 or 1–866–4VAPITT).
Pittsburgh 15240 (University Drive Division, University Drive, 1–42–822–2222).
Wilkes-Barre 18711 (1111 East End Blvd., 570–824–3521 or 877–928–2621).

Clinics

Allentown 18103 (3110 Hamilton Boulevard, 610–776–4304).
Bangor 18013 (701 Slate Belt Boulevard, 610–599–0127).
Berwick 18603 (301 W Third Street, 570–759–0351).
Bradford 16701 (23 Kennedy Street, 814–368–3019).
Camp Hill 17011 (25 N 32nd Street, 717–730–9782).
Coudersport 16915 (24 Maple Vie Lane, Suite 2, 607–664–4670).
Cranberry Township 16066 (900 Commonwealth Drive, 724–742–3500 or 724–741–3131).
DuBois 15801 (5690 Shaffer Road, 877–626–2530).
Ellwood City 16117 (Ellwood City Hospital, Medical Arts Building, #201, 304 Evans Drive, 724–285–2203).
Foxburg 16036 (ACV Medical Center, 855 Route 58, Suite 1, 724–659–5601).
Frackville 17931 (10 East Spruce St., 570–621–4904).
Greensburg 15601 (Hempfield Plaza, Route 30, 724–837–5200).
Franklin 16323 (464 Allegheny Blvd., 866–962–3260)
Greensburg 15601 (5274 Rt. 30 East, Suite 10, 724–216–0317).
Hermitage 16148 (295 N Kerrwood Dr., Suite 110, 724–346–1569).
Honesdale 18431 (600 Maple Ave., Suite 2, 570–251–6543).
Horsham 19044 (433 Caredean Dr., 215–823–6050).
Indiana 15701 (1570 Oakland Avenue, 724–349–8900).
Johnstown 15904 (598 Galleria Drive).
Kittanning 16201 (11 Hilltop Plaza, 724–545–8420).
Lancaster 17605 (1861 Charter Lane, Green Field Corp. Center, #118, 717–290–6900).
Mapleton Depot 17052 (13903 William Penn Highway, 814–542–2800).
Meadville 16335 (Conneaut Lake Road, 866–962–3210).
Mechanicsburg 17055 (5070 Ritter Road, 800–409–8771).
Monaca 15061 (90 Wagner Rd., 724–216–0326).
Monroe Township 16214 (56 Clarion Plaza, Suite 115, 814–226–3900).
New Castle 16101 (Ridgewood Professional Centre, 1750 New Butler Road, 724–598–6080).
Newtown Square 19073 (4883 West Chester Pike, 610–383–0239).
Oil City 16301 (174 Bissell Avenue, 814–678–2631).
Oil City 16301 (Venango County Clinic, UPMC Northwest, 174 E Bissell Ave., 814–677–7591 or 800–274–8387).
Philadelphia 19106 (213–217 North 4th Street, 215–923–1163).
Pottsville 17901 (1410 Laurel Blvd. Suite 2, 800–409–8771).
Reading 19601 (St. Joseph's Community Center, 145 N 6th St., 610–208–4717).
Rochester 15074 (300 Brighton Ave., Suite 110, 724–709–6005).
Sayre 18840 (1537 Elmira St., 570–888–6803).
Schuylkill 17972 (6 South Greenview Rd., 570–621–4115).
Smethport 16749 (406 Franklin Street, 814–887–5655).
Spring City 19475 (11 Independence Drive, 610–948–0981).
Springfield 19064 (Crozer Keystone Healthplex, 194 W Sproul, Rd., #105, 610–543–3246).
State College 16801 (2581 Clyde Ave., 877–626–2530).
Tobyhanna 18466 (Tobyhanna Army Depot Building 220, 570–615–8341).
Uniontown 15401 (627 Pittsburgh Road, Suite 2, 724–439–4990).
Warren 16365 (3 Farm Colony Dr., 866–682–3253).
Washington 15301 (95 West Beau St., Suite 200, 724–253–7790).
Wellsboro 16901 (1835 Shumway Hill Road, 607–664–4680 or 877–845–3247).
Wilkes-Barre 18711 (1111 East End Boulevard, 570–924–3521).
Willow Street 17584 (212 Willow Valley Lakes Drive, Suite 208, 800–409–8771).
Williamsport 17701 (1705 Warren Ave., Werner Blg., 3rd Fl., #304, 570–322–4791).
Wyomissing 19610 (2762 Century Blvd., 800–409–8771).
York 17402 (2251 Eastern Blvd., 800–409–8771, 717–840–2730).

Regional Offices

Philadelphia 19101 (Regional Office and Insurance Center, P.O. Box 8079, 5000 Wissahickon Ave., 1–800–827–1000; Serves counties of Adams, Berks, Bradford, Bucks, Cameron, Carbon, Centre, Chester, Clinton, Columbia, Dauphin, Delaware, Franklin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Mifflin, Monroe, Montgomery, Montour, Northampton, Northumberland, Perry, Philadelphia, Pike, Potter, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming, York.).
Pittsburgh 15222 (1000 Liberty Ave., statewide 1–800–827–1000. Serves remaining counties of Pennsylvania.).

Benefits Office

Wilkes-Barre 18702 (1123 East End Blvd., Bldg. 35, Suite 11, 1–800–827–1000).

Vet Centers

Erie 16501 (1000 State St., Suite 1&2, 814–453–7955).
Harrisburg 17102 (1500 N 2nd St., Suite 2, 717–782–3954).
McKeesport 15131 (2001 Lincoln Way, 412–678–7704).
Philadelphia 19107 (801 Arch St., Suite 102, 215–627–0238).
Philadelphia 19120 (101 E Olney Ave., 215–924–4670).
Pittsburgh 15205 (2530 Baldwick Rd., Suite 15, 412–920–1765).
Scranton 18505 (1002 Pittston Ave., 570–344–2676).
Williamsport 17701 (805 Penn St., 570–327–5281).

National Cemeteries

Indiantown Gap 17003–9618 (RR 2, P.O. Box 484, Indiantown Gap Rd., Annville, 717–865–5254).
National Cemetery of the Alleghenies 15017 (1158 Morgan Rd., Bridgeville, 724–746–4363).
Philadelphia 19138 (Haines St. and Limekiln Pike, 215–504–5610).
Washington Crossing 18940 (830 Highland Road, 215–504–5610).

PHILIPPINES

Clinic

Pasay City 1302 (1501 Roxas Blvd., 011–632–8550–3888).

Regional Office

Manila 0930 (1131 Roxas Blvd., 011–632–528–6300, International Mailing Address PSC 501, FPO AP 96515–1100).

PUERTO RICO

VA Medical Center

San Juan 00921–3201 (10 Casia Street, 787–641–7582).

Clinics

Arecibo 00612 (Galeria Pacifico Road, PR–10, 787–641–7582 or 800–449–8729).
Comerio 00782 (15 De Diego Street, 787–522–2660).
Guayama 00784 (FISA Bldg., 1st Floor, Paseo Del Pueblo, km 0.3, lote no 6, 787–866–8886).
Mayagüez 00682 (175 Algarrobo Avenue, 787–641–7582).
Ponce 00716–2001 (Paseo Del Veterano #1010, 787–641–7582).
Pueblo Ward 00735 (PR–3, km 54.9, Lot #3, 787–641–7582 or 800–449–8729).
Utuado 00641 (Isaac Gonzalez Street, Equina Ledesma, 787–522–2650).
Vieques 00765 (Co Destino Carretera #997, 787–641–7582).

Regional Office

San Juan 00918–1703 (150 Carlos Chardon Ave., Suite 300. Send mail to Suite 232. Serving all Puerto Rico and the Virgin Islands, 1–800–827–1000).

Benefits Offices

Mayaguez 00680 (Ave. Hostos 345, Carretera 2, Frente al Centro Medico, 1–800–827–1000).
Ponce 00731 (10 Paseo del Veterano, 1–800–827–1000).
Arecibo 00612 (Gonzalo Marin 50, 1–800–827–1000).

Vet Centers

Arecibo 00612–4702 (52 Gonzalo Marin St., 787–879–4510/4581).
Ponce 00731 (35 Mayo St., 787–841–3260).
San Juan 00921 (Condominio Med. Ctr. Plaza, Suite LC8A11, La Riviera, 787–749–4409).

National Cemetery

Puerto Rico 00961 (Ave. Cementerio Nacional 50, Barrio Hato Tejas, Bayamon, 787–798–8400).

RHODE ISLAND

VA Medical Center

Providence 02908 (830 Chalkstone Avenue, 401–273–7100).

Clinic

Middletown 02842 (One Corporate Place, 401–847–6239).

Regional Office

Providence 02903 (380 Westminster St. statewide 1–800–827–1000).

Vet Center

Warwick 02889 (2038 Warwick Ave., 401–739–0167).

SOUTH CAROLINA

VA Medical Centers

Charleston 29401 (109 Bee Street, 843–577–5011).
Columbia 29209 (6439 Garners Ferry Road, 803–776–4000).

Clinics

Aiken 29803 (951 Millbrook Avenue, 803–643–9016).
Anderson 29621 (3030 North Highway 81, 864–224–5450).
Beaufort 29902 (1 Pinckney Blvd., 843–770–0444).
Florence 2950 (1822 Sally Hill Farms Road, 843–292–8383).
Goose Creek 29445 (2418 NNPTC Circle, 843–577–5011).
Greenville 29605 (41 Park Creek Drive, 864–299–1600).
Myrtle Beach 29577 (3381 Phillis Blvd., 843–477–0177).
Myrtle Beach-Market Common 29577 (1101 Johnson Avenue, 843–477–0177).
North Charleston 29406 (9237 University Blvd., 843–789–6400).
North Charleston 29406 (9229 University Blvd., Bldg. F, Suite 2A, 843–789–6400).
Orangeburg 29118 (1767 Villagepark Drive, 803–533–1335).
Rock Hill 29732 (2670 Mills Park Drive, 803–366–4848).
Spartanburg 29303 (279 North Grove Medical Park Drive, 864–582–7025).
Sumter 29150 (407 North Salem Avenue, 803–938–9901).

Regional Office

Columbia 29201 (1801 Assembly St., statewide 1–800–827–1000).

Vet Centers

Columbia 29201 (1513 Pickens St., 803–765–9944).
Greenville 29601 (14 Lavinia Ave., 864–271–2711).
North Charleston 29406 (5603–A Rivers Ave., 843–747–8387).

National Cemeteries

Beaufort 29902–3947 (1601 Boundary St., 843–524–3925).
Florence 29501 (803 E National Cemetery Rd., 843–669–8783).

SOUTH DAKOTA

VA Medical Centers

Fort Meade 57741 (113 Comanche Road, 605–347–2511).
Hot Springs 57747 (500 North 5th Street, 605–745–2000).
Sioux Falls 57105 (2531 West 22nd Street, 605–336–3230).

Clinics

Aberdeen 57401 (2301 8th Avenue NE, Suite 225, 605–229–3500).
Dakota Dunes 57049 (380 West Anchor Drive, 605–232–2800).
Eagle Butte 57625 (24348 Fox Ridge Road, 605–823–4574).
Mission 57555 (153 Main Street, 605–856–2295).
Pierre 57501 (1601 North Harrison, Suite 6, 605–945–1710).
Pine Ridge 57770 (Hospital Road, Pine Ridge Indian Reservation, 605–867–2393).
Rapid City 57701 (3625 5th Street, 605–718–1095).
Watertown 57201 (4 19th Street NE, 605–884–2420).
Winner 57580 (660 West 2nd Street, 605–842–2443).

Regional Office

Sioux Falls 57117 (P.O. Box 5046, 2531 W 22nd St., statewide 1–800–827–1000).

Vet Centers

Martin 57551 (East Hwy. 18, 605–685–1300).
Rapid City 57701 (621 6th St., Suite 101, Kansas City St., 605–348–0077).
Sioux Falls 57104 (601 S. Cliff Ave., Suite C, 605–330–4552).

National Cemeteries

Black Hills 57785 (20901 Pleasant Valley Dr., Sturgis, 605–347–3830).
Fort Meade 57785 (P.O. Box 640, Old Stone Rd., Sturgis, 605–347–3830).
Hot Springs 57747 (500 N 5th St., 605–347–3830).

TENNESSEE

VA Medical Centers

Memphis 38104 (1030 Jefferson Avenue, 901–523–8990).
Mountain Home 37684 (Corner of Lamont Street and Veterans Way, 423–926–1171).
Murfreesboro 37129 (3400 Lebanon Pike, 615–867–6000).
Nashville 37212 (1310 24th Avenue South, 615–327–4751).

Clinics

Arnold Air Force Base 37389 (225 Von Karman Road, 931–454–6134).
Athens 37303 (1320 Decatur Pike, 423–746–1410).
Chattanooga 37411 (6098 Debra Road, Suite 5200, Bldg. 6200, 423–893–6500).
Chattanooga 37421 (1208 Pointe Center Drive, 423–893–6500).
Clarksville 37043 (782 Weatherly Drive, 931–645–3552).
Clarksville Dental 37043 (2291 Dalton Drive, Suite F).
Cookeville 38501 (851 South Willow Avenue, Suite 108, 931–284–4060).
Columbia 38401 (833 Nashville Highway, 931–981–6930).
Dover 37058 (1406 Donelson Parkway, 931–232–5138).
Dyersburg 38024 (1067 Vendall Road, 731–287–7289).
Gallatin 37066 (419 Steam Plant Road).
Harriman 37748 (2305 North Gateway Avenue, Suite 2, 865–882–2010).
Jackson 38305 (180 Old Hickory Blvd., 731–661–2750).
Knoxville 37919 (1521 Downtown West Blvd., 865–545–4592).
Knoxville 37919 (8033 Ray Mears Blvd., 865–545–4592).
Knoxville 37919 (1557 Downtown West Blvd., 865–545–4592).
LaFollette 37766 (130 Independence Lane, 3rd Floor, 423–563–7666).
McMinnville 37110 (1014 South Chancery Street, 931–474–7700).
Memphis 38127 (3461 Austin Peay Highway, 901–261–4500).
Memphis 38132 (1689 Nonconnah Blvd., 901–271–4900).
Morristown 37813 (925 East Morris Blvd., 423–586–9100).
Nashville 37208 (1810 Albion Street, 615–873–6700).

Nashville 37217 (2 International Plaza, 615–367–5928).
North Savannah 38372 (70 Harbert Drive, 731–727–8390).
Rogersville 37857 (401 Scenic Drive, 423–235–1471).
Sevierville 37862 (1124 Blanton Drive, 865–286–6950).

Regional Office

Nashville 37203 (110 9th Ave. South, statewide 1–800–827–1000).

Vet Centers

Chattanooga 37411 (951 Eastgate Loop Rd., Bldg. 5700, Suite 300, 423–855–6570).
Johnson City 37604 (1615A W Market St., 423–928–8387).
Knoxville 37914 (2817 E Magnolia Ave., 865–545–4680).
Memphis 38104 (1835 Union, Suite 100, 901–544–0173).
Nashville 37217 (Airpark Bus. Cen. 1, Suite A–5, 1420 Donelson Pike, 615–366–1220).

National Cemeteries

Chattanooga 37404 (1200 Bailey Ave., 423–855–6590).
Knoxville 37917 (939 Tyson St. NW, 423–855–6590).
Memphis 38122 (3568 Townes Ave., 901–386–8311).
Mountain Home 37684 (P.O. Box 8, VAMC, Bldg. 117, 423–979–3535).
Nashville 37115–4619 (1420 Gallatin Rd. S, Madison, 615–860–0086).

TEXAS

VA Medical Centers

Amarillo 79106 (6010 Amarillo Boulevard West, 806–355–9703).
Big Spring 79720 (300 Veterans Blvd., 432–263–7361).
Bonham 75418 (1201 East 9th Street, 903–583–2111 or 800–924–8387).
Dallas 75216 (4500 South Lancaster Road, 214–742–8387 or 800–849–3597).
El Paso 79930 (5001 North Piedras Street, 915–564–6100).
Harlingen 78550 (2601 Veterans Drive, 956–291–9000 or 855–864–0516).
Houston 77030 (2002 Holcombe Blvd., 713–791–1414).
Kerrville 78028 (3600 Memorial Blvd., 866–487–1653).
San Antonio 78229 (7400 Merton Minter Blvd., 210–617–5300).
Temple 76504 (1901 Veterans Memorial Drive, 254–778–4811 or 800–423–2111).
Waco 76711 (4800 Memorial Drive, 254–752–6581 or 800–423–2111).

Clinics

Abilene 79606 (3850 Ridgemont, 325–695–3252).
Austin 78744 (7901 Metropolis Drive, 800–423–2111).
Beaumont 77707 (3420 Veterans Circle, 409–981–8550 or 800–833–7734).
Beeville 78102 (302 South Hillside Drive, 361–358–9912).
Brownwood 76801 (2600 Memorial Park Drive, 325–641–0568).
Cedar Park 78613 (1401 Medical Parkway, Bldg. C, Suite 400, 800–423–2111).
Childress 79201 (1001 Highway 83 North, 940–937–8528).
College Station 77845 (1651 Rock Prairie Road, Suite 100, 979–680–0361).
Conroe 77304 (690 South Loop 336 West, Suite 300, 936–522–4000 or 800–553–2278).
Corpus Christi 78405 (5283 Old Brownsville Road, 361–806–5600).
Corpus Christi 78405 (205 South Enterprize Parkway, 361–939–6510).
Corpus Christi 78405 (5227 Old Brownsville Road, Suite 11, 361–806–5600).
Dalhart 79022 (325 Denver Avenue, 806–249–0673).
Dallas 75224 (4243 South Polk Street, 214–372–8100).
Decatur 76234 (1713 South FM 51, 940–627–7001).
Denton 76205 (2223 Colorado Blvd., 940–891–6350).
El Paso 79936 (2400 Trawood Drive, Suite 200, 915–217–2428).
Fort Worth 76119 (2201 SE Loop 820, 817–730–0000 or 800–443–9672).
Fort Stockton 79735 (2071 North Main, 432–685–2110).
Galveston 77550 (3828 Avenue N, 409–741–3200 or 800–553–2278).
Granbury 76048 (1210 Paluxy Medical Circle, 817–326–3902).
Grand Prairie 75051 (2737 Sherman Street, 214–857–3450).
Greenville 75401 (4006 Wellington Road, Suite 100A, 903–450–1143).
Katy 77450 (750 Westgreen Blvd., 281–578–4600 or 800–553–2278).
La Grange 78945 (2 St. Marks Place, 800–423–2111).
Lake Jackson 77566 (208 Oak Drive South, 979–230–4852 or 800–553–2278).
Laredo 78041 (4602 North Bartlett, 956–523–7850).
Longview 75601 (1005 North Eastman Road, 903–247–8262 or 800–957–8262).
Lubbock 79412 (6104 Avenue Q South Drive, 806–472–3400).
Lufkin 75904 (2206 North John Redditt Drive, 836–671–4300 or 800–209–3120).
McAllen 78503 (901 East Hackberry Avenue, 956–618–7100).
New Braunfels 78130 (705 Landa Street, Suite C, 830–643–0717).
Odessa 79762 (8050 East Highway 191, 432–685–2110).
Palestine 75801 (2000 So. Loop 256, Suite 124, 903–723–9006).
Plano 75075 (3804 West 15th Street, 972–801–4200).
Richmond 77469 (22001 Southwest Freeway, Suite 200, 832–595–7700 or 800–553–2278).
San Angelo 76904 (4240 Southwest Blvd., 325–658–6138).
San Antonio 78201 (4522 Fredericksburg Road, Suites A10 and A88, 210–732–1802).
San Antonio 78217 (2391 NE Loop 410, Suite 101, 210–590–0247).
San Antonio 78221 (1714 SW Military Drive, Suite 101, 210–923–0777).
San Antonio 78222 (4243 East Southcross Blvd., Suite 204, 210–337–4316).
San Antonio 78222 (4610 East Southcross Blvd., Suite 100, 210–648–1491).
San Antonio 78228 (4318 Woodcock, Suite 120, 210–736–4051).
San Antonio Dental Clinic 78229 (8410 Data Point, 210–949–8900).
San Antonio 78232 (17440 Henderson Pass, 210–483–2900).
San Antonio 78240 (5788 Eckhert Road, 210–699–2100).
San Antonio 78249 (4350 Lockhill-Selma Road, Suite 200, 210–949–3773).
Seguin 78155 (526 East Court Street, 830–372–1697).
Sheppard AFB, 76311 (149 Hart Street, Bldg. 1200, 2nd Floor, 940–257–0001).
Sherman 75090 (3811 US 75 N, 903–487–0477).
Stamford 79553 (1601 North Columbia, 325–695–3252).
Temple 76502 (4501 South General Bruce Drive, Suite 75, 254–778–4811 or 800–423–2111).
Texas City 77591 (9300 Emmett F. Lowry Expressway, Suite 206, 409–986–2900 or 800–553–2278).
Tomball 77375 (1200 West Main Street, 281–516–1505 or 800–553–2278).
Tyler 75703 (7916 South Broadway Avenue, 903–266–5900 or 855–375–6930).
Victoria 77901 (1908 North Laurent Street, Suite 150, 361–582–7700).

Regional Offices

Houston 77030 (6900 Almeda Rd., statewide, 1–800–827–1000. Serves counties of Angelina, Aransas, Atacosa, Austin, Bandera, Bee, Bexar, Blanco, Brazoria, Brewster, Brooks, Caldwell, Calhoun, Cameron, Chambers, Colorado, Comal, Crockett, DeWitt, Dimitt, Duval, Edwards, Fort Bend, Frio, Galveston, Gillespie, Goliad, Gonzales, Grimes, Guadeloupe, Hardin, Harris, Hays, Hidalgo, Houston, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Karnes, Kendall, Kennedy, Kerr, Kimble, Kinney, Kleberg, LaSalle, Lavaca, Liberty, Live Oak, McCulloch, McMullen, Mason, Matagorda, Maverlck, Medina, Menard, Montgomery, Nacogdoches, Newton, Nueces, Orange, Pecos, Polk, Real, Refugio, Sabine, San Augustine, San Jacinto, San Patricio, Schleicher, Shelby, Starr, Sutton, Terrell, Trinity, Tyler, Uvalde, Val Verde, Victoria, Walker, Waller, Washington, Webb, Wharton, Willacy, Wilson, Zapata, Zavala)—Fiduciary Duties for Arkansas, Louisiana, Oklahoma, Texas (1–888–232–2571 Ext. 1855)

Waco 76799 (One Veterans Plaza, 701 Clay; statewide, 1–800–827–1000; serves the rest of the state. In Bowie County, the City of Texarkana is served by Little Rock, AR, VA Regional Office, 1–800–827–1000.).

Benefits Offices

Abilene 79602 (Taylor County Plaza Bldg., Suite 103, 400 Oak St., 1–800–827–1000).
Amarillo 79106 (6010 Amarillo Blvd. W., 1–800–827–1000).
Austin 78741 (2901 Montopolis Dr., Room 108, 1–800–827–1000).
Corpus Christi 78405 (4646 Corona Dr., Suite 150, 1–800–827–1000).
Dallas 75216 (4500 S. Lancaster Rd., 1–800–827–1000).
El Paso 79930 (5001 Piedras Dr., 1–800–827–1000).
Ft. Worth 76104–4856 (300 W. Rosedale St., 1–800–827–1000).
Lubbock 79410 (6104 Ave. Q S Drive, Rm. 132, 1–800–827–1000).
McAllen 78503 (109 Toronto Ave., 1–800–827–1000).
San Antonio 78240 (5788 Eckert Rd., 1–800–827–1000).
Temple 76504 (1901 Veterans Memorial Dr., Room 5G38 [BRB], 1–800–827–1000).

Tyler 75701 (1700 SSE Loop 323, Suite 310, 1–800–827–1000).

Vet Centers

Amarillo 79109 (3414 Olsen Blvd., Suite E, 806–354–9779).
Austin 78745 (1110 W Will Cannon Dr., Suite 301, 512–416–1314).
Corpus Christi 78411 (4646 Corona, Suite 253, 361–854–9961).
Dallas 75231 (10501 N Central Expressway, Suite 213, 214–361–5896).
El Paso 79925 (1155 Westmoreland, Suite 121, 915–772–0013).
Fort Worth 76104 (1305 W Magnolia, Suite B, 817–921–9095).
Harker Heights 76548 (302 Millers Crossing, Suite #4, 254–953–7100).
Houston 77006 (2990 Richmond Ave., Suite 325, 713–523–0884).
Houston 77024 (701 N Post Oak Rd., Suite 102, 713–682–2288).
Laredo 78041 (6020 McPherson Rd., 1A, 956–723–4680).
Lubbock 79410 (3208 34th St., 806–792–9782).
McAllen 78504 (801 Nolana, Suite 140, 956–631–2147).
Midland 79703 (3404 W Illinois, Suite 1, 432–697–8222).
San Antonio 78212 (231 W Cypress St., Suite 100, 210–472–4025).

National Cemeteries

Dallas-Fort Worth 75211 (2000 Mountain Creek Parkway, 214–467–3374).
Fort Bliss 79906 (Box 6342, 5200 Fred Wilson Rd., 915–564–0201).
Fort Sam Houston 78209 (1520 Harry Wurzbach Rd., San Antonio, 210–820–3891/3894).
Houston 77038 (10410 Veterans Memorial Dr., 281–447–8686).
Kerrville 78028 (VAMC, 3600 Memorial Blvd., 210–820–3891/3894).
San Antonio 78202 (517 Paso Hondo St., 210–820–3891/3894).

UTAH

VA Medical Center

Salt Lake City 84148 (500 Foothill Drive, 801–582–1565).

Clinics

Moab 84403 (702 South Main Street, 435–719–4144).
Ogden 84403 (982 Chambers Street, 801–479–4105).
Orem 84057 (1443 West 800 North, Suite 302, 801–235–0953).
Price 84501 (189 South 600 West, Suite B, 435–613–0342).
Roosevelt 84066 (245 West 200 North, 435–725–1050).
St. George 84790 (230 North 1680 East, Building N, 435–634–7608).
South Ogden 84403 (5957 Fashion Pointe Dr., Suite 103, 801–479–4105).
West Valley City 84120 (2750 South 5600 West, Suite B, 801–417–5734).

Regional Office

Salt Lake City 84158 (P.O. Box 581900, 550 Foothill Dr., statewide 1–800–827–1000).

Vets Centers

Provo 84604 (1807 No. 1120 West, 801–377–1117).
Salt Lake City 84106 (1354 East 3300 South, 801–584–1294).

VERMONT

VA Medical Center

White River Junction 05009 (215 North Main Street, 802–295–9363).

Clinics

Bennington 05201 (186 North Street, 802–440–3300).
Brattleboro 05301 (71 GSP Drive, 802–251–2200).
Burlington 05401 (128 Lakeside Ave., Suite 260, 802–657–7000).
Newport 05855 (1734 Crawford Farm Rd., 802–624–2400).
Rutland 05701 (232 West Street, 802–772–2300).

Regional Office

White River Junction 05001 (215 N Main St., 802–296–5177 or 1–800–827–1000 from within Vermont).

Vets Centers

South Burlington 05403 (359 Dorset St., 802–862–1806).
White River Junction 05001 (222 Holiday Inn Dr., #2 Gilman Office Complex, 802–295–2908 or 1–800–649–6603).

VIRGINIA

VA Medical Centers

Hampton 23667 (100 Emancipation Drive, 757–722–9961).
Richmond 23249 (1201 Broad Rock Boulevard, 804–675–5000).
Salem 24153 (1970 Roanoke Boulevard, 540–982–2463).

Clinics

Bristol 24202 (2426 Lee Highway, 276–645–4520).
Charlottesville 22911 (590 Peter Jefferson Pkwy., 2nd Floor, Suite 253, 434–293–3890).
Chesapeake 23320 (1987 S Military Hwy., 757–722–9961).
Danville 24540 (705 Piney Forest Rd., 434–710–4210).
Fort Belvoir 22060 (9300 DeWitt Loop Sunrise Pavilion, 571–231–2408).
Fredericksburg 22401 (130 Executive Center Parkway, 540–370–4468).
Fredericksburg at Southpoint 22408 (10401 Spotsylvania Ave., Suite 300, 540–693–3140).
Harrisonburg 22801 (1755 S High Street, 304–263–0811 or 800–817–3807).
Jonesville 24263 (32613 Wilderness Rd., Suite 101, 276–346–2595).
Lynchburg 24501 (1600 Lakeside Dr., 434–316–5000).
Marion 24354 (4451 Lee Highway, 276–783–2126).
Norton 24656 (654 Highway 58 East, 276–597–2305).
Staunton 24401 (102 Lacy B. King Way, 540–886–5777).
Stephens City 22602 (170 Prosperity Drive, 800–817–3807).
Tazewell 24651 (388 Ben Bolt Ave., 276–988–8860).
Vansant 24656 (1941 Lover's Gap Rd., Suite A, 276–597–2305).
Virginia Beach 23462 (244 Clearfield Ave., 757–722–9961).
Wytheville 24382 (165 Peppers Ferry Rd., 276–223–5400).

Regional Office

Roanoke 24011 (210 Franklin Rd. SW, statewide 1–800–827–1000)—Fiduciary Duties for District of Columbia, Kentucky, Maryland, Virginia, West Virginia (1–800–933–5499),

Vets Centers

Alexandria 22309 (8796 Sacramento Dr., Suite D&E, 703–360–8633).
Norfolk 23517 (2200 Colonial Ave., Suite 3, 757–623–7584).
Richmond 23230 (4902 Fitzhugh Ave., 804–353–8958).
Roanoke 24016 (350 Albemarle Ave. SW, 540–342–9726).

National Cemeteries

Alexandria 22314 (1450 Wilkes St., 703–221–2183/2184).
Balls Bluff 22075 (Rte. 7, Leesburg, 540–825–0027).
City Point 23860 (10th Ave. & Davis St., Hopewell, 804–795–2031).
Cold Harbor 23111 (6038 Cold Harbor Rd., Mechanicsville, 804–795–2031).
Culpeper 22701 (305 U.S. Ave., 540–825–0027).
Danville 24541 (721 Lee St., 704–636–2661).
Fort Harrison 23231 (8620 Varina Rd., Richmond, 804–795–2031).
Glendale 23231 (8301 Willis Church Rd., Richmond, 804–795–2031).
Hampton 23667 (Cemetery Rd. at Marshall Ave., 757–723–7104).
Hampton 23667 (VAMC, Emancipation Dr., 757–723–7104).
Quantico 22172 (P.O. Box 10, 18424 Joplin Rd. (Rte. 619), 703–221–2183/2184).
Richmond 23231 (1701 Williamsburg Rd., 804–795–2031).
Seven Pines 23150 (400 E Williamsburg Rd., Sandston, 804–795–2031).
Staunton 24401 (901 Richmond Ave., 540–825–0027).
Winchester 22601 (401 National Ave., 540–825–0027).

VIRGIN ISLANDS

Clinics

St. Croix 00850–4701 (105553 Kingshill, The Village Mall, Suite 113, RR 2 Box 12, 340–778–5553).
St. Thomas 00802 (50 Estates Thomas, Suite 101, 340–774–6674).

Benefits

Served by San Juan, Puerto Rico, VA Regional Office, 1–800–827–1000.

Vets Centers

St. Croix 00850 (Box 12, RR 02, Village Mall, 113, RR 2 Box 10556, Kingshill, 340–778–5553).
St. Thomas 00802 (9800 Buchaneer Mall, Suite 8, 340–774–6674).

WASHINGTON

VA Medical Centers

Seattle 98108 (1660 S Columbian Way, 206–762–1010 or 800–329–8387).
Spokane 99205 (4815 N Assembly Street, 509–434–7000).
Tacoma 98493 (9600 Veterans Dr., 253–582–8440 or 800–329–8387).
Vancouver 98661 (1601 E 4th Plain Blvd., 360–696–4061).
Walla Walla 99362 (77 Wainwright Drive, 509–525–5200 or 888–687–8863).

Clinics

Bellevue 98005 (13033 Bel-Red Road, Suite 210, 844–296–6566).
Bremerton 98312 (925 Adele Avenue, 360–473–0340).
Chehalis 98532 (151 NE Hampe Way, Suite B2–6, 360–748–3049).
Federal Way 98003 (34617 11th Place South, Suite 301, 253–336–4142).
Mount Vernon 98274 (307 S 13th Street, Suite 200, 360–848–8500).
North Seattle 98125 (12360 Lake City Way NE, Suite 200, 206–384–4382).
Port Angeles 98362 (1114 Georgiana Street, 360–565–7420).
Richland 99352 (825 Jadwin Ave., Suite 250, 509–946–1020).
Wenatchee 98801 (2530 Chester-Kimm Road, 509–663–7615).
Yakima 98902 (717 Fruitvale Blvd., 509–966–0199).

Regional Office

Seattle 98174 (Fed. Bldg., 915 2nd Ave., statewide 1–800–827–1000).

Benefits Offices

Fort Lewis 98433 (Waller Hall Rm. 700, P.O. Box 331153, 253–967–7106).
Bremerton 98337 (W Sound Pre-Separation Center, 262 Burwell St., 360–782–9900).

Vets Centers

Bellingham 98226 (3800 Byron Ave., Suite 124, 360–733–9226).
Seattle 98121 (2030 9th Ave., Suite 210, 206–553–2706).
Spokane 99206 (100 N Mullan Rd., Suite 102, 509–444–8387).
Tacoma 98409 (4916 Center St., Suite E, 253–565–7038).
Yakima 98901 (1111 N First St., 509–457–2736).

National Cemetery

Tahoma 98042–4868 (18600 SE 240th St., Kent, 425–413–9614).
Vancouver Barracks 98663 (1455 E 4th Plain Blvd., 503–273–5253).

WEST VIRGINIA

VA Medical Centers

Beckley 25801 (200 Veterans Avenue, 304–255–2121).
Clarksburg 26301 (One Medical Center Drive, 304–623–3461 or 800–733–0512).
Huntington 25704 (1540 Spring Valley Drive, 304–429–6741).
Martinsburg 25405 (510 Butler Avenue, 304–263–0811 or 800–817–3807).

Clinics

Charleston 25304 (700 Technology Dr., 304–746–5300).
Franklin 26807 (91 Pine Street, 304–263–0811 or 800–817–3807).
Gassaway 26624 (40 Reston Place, 304–364–4501).
Greenbrier County 24970 (228 Shamrock Lane, 304–497–3900).
Lenore 25676 (2867 Route 65, 304–475–3000).
Parkersburg 260101 (2311 Ohio Avenue, Suite D, 304–485–1599).
Parsons 26287 (206 Spruce Street, 304–478–2219).
Petersburg 26847 (15 Grant Street, 304–263–0811 or 800–817–3807).
Princeton 24740 (150 Court House Rd., Suite 201, 304–323–4020).
Westover 26501 (40 Commerce Dr., Suite 101, 304–292–7535).

Regional Office

Huntington 25701 (640 Fourth Ave., statewide 1–800–827–1000; counties of Brooke, Hancock, Marshall, Ohio, served by Pittsburgh, Pa., VA Regional Office).

Vets Centers

Beckley 25801 (101 Ellison Ave., 304–252–8220).
Charleston 25302 (521 Central Ave., 304–343–3825).
Huntington 25701 (3135 16th St. Rd., Suite 11, 304–523–8387).
Martinsburg 25401 (900 Winchester Ave., 304–263–6776).
Morgantown 26508 (1083 Greenbag Rd., 304–291–4303).
Princeton 24740 (905 Mercer St., 304–425–5653).
Wheeling 26003 (1206 Chapline St., 304–232–0587).

National Cemeteries

Grafton 26354 (431 Walnut St., 304–265–2044).
West Virginia 26354 (Rt. 2, Box 127, Grafton, 304–265–2044).

WISCONSIN

VA Medical Centers

Madison 53705 (2530 Overlook Terrace, 608–256–1901 or 888–478–8321).
Milwaukee 53295 (5000 West National Avenue, 414–384–2000).
Tomah 54660 (500 E Veterans Street, 608–372–3971).

Clinics

Appleton 54914 (10 Tri-Park Way, 920–831–0070).
Baraboo 53913 (1670 South Blvd., 608–356–9318).
Beaver Dam 53916 (215 Corporate Drive, Suite D, 920–356–9415).
Chippewa Falls 54729 (475 Chippewa Mall Dr., Suite 418, 715–720–3780).
Clark County 54460 (8 Johnson Street, 715–229–4701).
Cleveland 53015 (1205 North Avenue, 920–693–5600).
Green Bay 54311 (2851 University Ave., 920–431–2530 or 877–204–7970).
Hayward 54843 (10369 State Highway 27, 715–934–5454).
Janesville 53545 (2419 Morse Street, 608–758–9300).
Kenosha 53140 (8207 22, 262–653–9286).
La Crosse 54601 (2600 State Road, Phone: 608–784–3886).
Madison West 53711 (1 Science Court, 608–280–7059).
Rhinelander 54501 (639 West Kemp Street, 715–362–4080).
Rice Lake 54843 (2700A College Drive, 715–236–3355).
Twin Ports 54880 (3520 Tower Ave., 715–398–2400).
Union Grove 53182 (21425 Spring Street, 262–878–7001).
Wausau 54401 (515 South 32nd Avenue, 715–842–2834).
Wisconsin Rapids 54495 (555 West Grand Ave., P.O. Box 26, 715–424–4682).

Regional Office

Milwaukee 53214 (5400 W National Ave., statewide 1–800–827–1000).

Vets Centers

Madison 53703 (706 Williamson St., 608–264–5342).
Milwaukee 53218 (5401 N 76th St., 414–536–1301).

National Cemetery

Wood 53295–4000 (5000 W National Ave., Bldg. 1301, Milwaukee, 414–382–5300).

WYOMING

VA Medical Centers

Cheyenne 82001 (2360 E Pershing Blvd., 307–778–7550).
Sheridan (1898 Fort Road, 307–672–3473 or 866–822–6714).

Clinics

Afton 83110 (125 South Washington Street, 877–309–8931).
Casper 82601 (4140 S Poplar St., 1–866–338–5168).
Cody 82414 (1432 Rumsey Ave., 307–587–4015).
Evanston 82920 (1565 South Highway 150, Suite E, 877–733–6128).
Gillette 82718 (604 Express Dr., 866–621–1887).
Newcastle 57555 (1124 Washington Blvd., 307–746–4491).
Rawlins 82301 (1809 East Daley Street, 307–324–5578).
Riverton 82531 (2300 Rose Lane, 1–866–338–2609).
Rock Springs 82901 (1401 Gateway Blvd., Suite 1 866–381–2830).
Worland 82401 (510 South 15th Street, Suite D, 877–483–0370).

Benefits Office

Cheyenne 82001 (2360 E. Pershing Blvd., statewide 1–800–827–1000).

Vets Centers

Casper 82601 (1030 North Poplar, Suite B, 307–261–5355).
Cheyenne 82001 (3219 East Pershing Blvd., 307–778–7370).

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Part IV

Department of Homeland Security

8 CFR Part 213a

Affidavit of Support on Behalf of Immigrants; Proposed Rule

DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 213a

[CIS No. 2655–20; DHS Docket No. USCIS–2019–0023]

RIN 1615–AC39

Affidavit of Support on Behalf of Immigrants

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security (DHS).

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Department of Homeland Security (DHS) proposes to amend its regulations governing the affidavit of support requirements under section 213A of the Immigration and Nationality Act (INA or the Act). Certain immigrants are required to submit an Affidavit of Support Under Section 213A of the INA (Affidavit) executed by a sponsor who agrees to provide financial support to the sponsored immigrant and accepts liability for reimbursing the costs of any means-tested public benefits a sponsored immigrant receives while the Affidavit is in effect pursuant to section 213A(a)(2) of the INA. DHS proposes to clarify how a sponsor demonstrates the means to maintain income as required under section 213A(f)(6) of the Act such as revising the documentation that sponsors and household members must submit to meet the requirements under section 213A(f) of the Act. DHS proposes to modify when an applicant is required to submit an Affidavit from a joint sponsor, who may be a household member for purposes of executing a Contract Between Sponsor and Household Member (Contract), and who is considered as part of a sponsor's household size. DHS also proposes to update reporting and information sharing requirements between authorized parties and USCIS.

DATES: Written comments must be submitted on this proposed rulemaking on or before November 2, 2020. Comments on the collection of information (see Paperwork Reduction Act section) must be received on or before December 1, 2020. Comments on both the proposed rulemaking and the collection of information received on or before November 2, 2020 will be considered by DHS and USCIS. Only comments on the collection of information received between November 2, 2020 and December 1, 2020 will be considered by DHS and USCIS. *Note:* Comments received after November 2, 2020 on the proposed rulemaking rather than those specific to the collection of information will not be considered by DHS and USCIS.

ADDRESSES: You may submit comments on the entirety of this proposed rule package, identified by DHS Docket No. USCIS–2019–0023, through the *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the website instructions for submitting comments.

Comments submitted in a manner other than the one listed above, including emails or letters sent to DHS or USCIS officials, will not be considered comments on the proposed rule and may not receive a response from DHS. Please note that DHS and USCIS cannot accept any comments that are hand delivered or couriered. In addition, USCIS cannot accept comments contained on any form of digital media storage devices, such as CDs/DVDs and USB drives. Due to COVID–19, USCIS is also not accepting mailed comments at this time. If you cannot submit your comment by using *http://www.regulations.gov,* please contact Samantha Deshommes, Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, by telephone at 202–272–8377 for alternate instructions.

FOR FURTHER INFORMATION CONTACT: Mark Phillips, Residence and Naturalization Chief, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, DHS, 20 Massachusetts NW, Washington, DC 20529–2140; telephone 202–272–8377.

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Table of Abbreviations

DHS—Department of Homeland Security
DOJ—Department of Justice
DOS—Department of State
EOIR—Executive Office for Immigration Review
FCRA—Fair Credit Reporting Act
HHS—Department of Health and Human Services
INA—Immigration and Nationality Act
INS—Immigration and Naturalization Service
USCIS—U.S. Citizenship and Immigration Services

I. Public Participation

DHS invites all interested parties to participate in this rulemaking process by submitting written data, views, comments, and arguments on all aspects of this proposed rule. DHS also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposed rule. Comments must be submitted in English, or an English translation must be provided. Comments that will provide the most assistance to USCIS in implementing these changes will reference a specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

Instructions: If you submit a comment, you must include the agency name (U.S. Citizenship and Immigration Services) and the DHS Docket No. USCIS–2019–0023 for this rulemaking. Regardless of the method used for submitting comments or materials, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it

public. You may wish to consider limiting the amount of personal information that you provide in any voluntary public comment submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy and Security Notice available at *http://www.regulations.gov.*

Docket: For access to the docket and to read background documents or comments received, go to *http://www.regulations.gov,* referencing DHS Docket No. USCIS–2019–0023. You may also sign up for email alerts on the online docket to be notified when comments are posted or a final rule is published.

II. Executive Summary

A. Purpose and Summary of the Regulatory Action

DHS is proposing to amend its regulations related to the Affidavit of Support Under Section 213A of the INA (Affidavit). The proposed rule changes certain requirements for the Affidavit and is intended to better ensure that all sponsors, as well as household members who execute a Contract Between Sponsor and Household Member (Contract), have the means to maintain income at the applicable income threshold and are capable of meeting their support obligations under section 213A of the INA, 8 U.S.C. 1183a, during the period in which the Affidavit or the Contract is enforceable. This proposed rule is also aimed at strengthening the enforcement mechanism for the Affidavit so that sponsors and household members who agree to use their income and assets to support the sponsored immigrant are held accountable if the sponsored immigrant ultimately receives means-tested public benefits during the period in which the Affidavit or the Contract is enforceable.

First, this proposed rule would update the evidentiary requirements for sponsors submitting an Affidavit, which will better enable immigration officers and immigration judges to determine whether the sponsor has the means to maintain an annual income at or above the applicable threshold, and whether the sponsor can, in fact, provide such support to the intending immigrant and meet all support obligations during the period the Affidavit is in effect. Specifically, this proposed rule would require sponsors and household members who execute an Affidavit or Contract to provide Federal income tax returns for 3 years, credit reports, credit scores, and bank account information.

Second, this proposed rule would also amend the regulations to specify that a sponsor's prior receipt of any means-tested public benefits and a sponsor's failure to meet support obligations on another executed Affidavit, or household member obligations on a previously executed Contract, will impact the determination as to whether the sponsor has the means to maintain the required income threshold to support the immigrant. Receipt of means-tested public benefits by a sponsor may indicate that the sponsor does not have the financial means to maintain an annual income equal to at least 125 percent of the Federal poverty line,[1] or 100 percent of the Federal poverty line for an individual who is on active duty (other than active duty for training) in the Armed Forces of the United States and who is petitioning for his or her spouse or child,[2] and is relevant to determining whether the sponsor can, in fact, provide such support to the intending immigrant during the period of enforceability. Similarly, whether a sponsor has previously failed to fulfill his or her support obligations is relevant to determining whether the sponsor will meet future support obligations. Specifically, this proposed rule would require an applicant submitting an application for an immigrant visa or adjustment of status on or after the effective date of this rule to submit a Form I–864 executed by a joint sponsor if a petitioning sponsor or substitute sponsor received any means-tested public benefits on or after the effective date of this rule and within the 36-month period prior to executing the Affidavit, or if the petitioning sponsor or substitute sponsor had a judgment entered against him or her at any time for failing to meet any prior sponsorship or household member obligation. Furthermore, this proposed rule would only allow an individual to be a joint sponsor if he or she has neither received means-tested public benefits on or after the effective date of this rule and within the 36 month period prior to executing the Affidavit, nor had a judgment entered against him or her at any time for failing to meet a prior sponsorship or household member obligation.

Third, this proposed rule would revise the current regulatory requirements concerning who can qualify as a household member for purposes of submitting and executing a Form I–864A. Currently, there is no limitation on the number of household members who may execute a Form I–864A. DHS intends to permit only a sponsor's spouse or an intending immigrant with the same principal residence (same principal residence upon immigrating, in the case of an intending immigrant consular processing) as the sponsor to execute Form I–864A, which will better ensure that the income a household member promises to make available to support the intending immigrant is actually available.

Fourth, this proposed rule would update and improve how means-tested public benefit-granting agencies obtain information from USCIS and how they can provide information to USCIS. The current regulations require a duly issued subpoena before USCIS can provide a certified copy of the Form I–864 or Form I–864EZ for use in any action to enforce the support obligation.[3] The proposed rule would eliminate the requirement of a duly issued subpoena before USCIS will provide a certified copy of Form I–864 or Form I–864EZ to a requesting party and instead allow requesting parties to submit a formal request for an Affidavit or a Contract to USCIS. A requestor will submit a formal request using a new form created by DHS, G–1563, Request for Certified Copy of Affidavit of Support Under Section 213A of the INA or Contract Between Sponsor and Household Member. DHS also proposes to revise the process for informing USCIS about judgments obtained against sponsors and indigency determinations to give USCIS flexibility to determine a more efficient mechanism for information reporting. The current regulations require that copies of judgments and indigency determinations must be mailed to a specific USCIS office in Washington, DC[4] The proposed rule would remove the address specified in the regulation[5] and permit USCIS to provide a different mechanism for submitting copies of judgments and indigency determinations.

Fifth, DHS proposes to update the regulation to clarify which categories of aliens are exempt from the Affidavit requirement, and to add and revise definitions to provide greater clarity and to conform to statutory changes made since the current regulation was adopted in 2006.

Sixth, DHS proposes to update the regulation by clarifying that the notification of change of address

[1] *See* INA section 213A(f)(1)(E), 8 U.S.C. 1183a(f)(1)(E).

[2] *See* INA section 213A(f)(3), 8 U.S.C. 1183a(f)(3).

[3] *See* 8 CFR 213a.4(a)(3).

[4] *See* 8 CFR 213a.4(c).

[5] *See* 8 CFR 213a.4(c)(3).

requirement under section 213A(d) of the Act, 8 U.S.C. 1183a(d) also applies to household members who execute a Contract in addition to sponsors. This change allows DHS to provide current household member information to means-tested benefit granting agencies and appropriate entities in accordance with section 213A of the Act, 8 U.S.C. 1183a(a), and creates parity between the requirements of sponsors and household members.

Last, DHS proposes other minor revisions to the regulations to update definitions, eliminate form numbers, and revise outdated terminology. DHS proposes to replace the term ''affidavit of support attachment'' with ''Contract Between Sponsor and Household Member'', which is the name of the relevant form (Form I–864A), throughout the regulation. DHS also proposes to clarify that, for purposes of an Affidavit and a Contract, assets used to meet the required threshold must be those that can be readily converted to cash.

DHS is also proposing corresponding changes to the Form I–864, Affidavit of Support Under Section 213A of the Act, Form I–864 EZ, Affidavit of Support Under Section 213A of the Act, and Form I–864A, Contract Between Sponsor and Household Member. Simultaneously, DHS is proposing to eliminate the use and consideration of the Request for Exemption for Intending Immigrant's Affidavit of Support, Form I–864W, currently applicable to certain classes of aliens.

B. Summary of Legal Authority

The Secretary of Homeland Security's authority for the proposed regulatory amendments is found in section 213A of the Act, 8 U.S.C. 1183a, which governs Affidavits, and section 212(a)(4) of the Act, 8 U.S.C. 1182(a)(4), which governs public charge inadmissibility, including which aliens are required to execute an Affidavit. In addition, section 103(a)(3) of the Act, 8 U.S.C. 1103(a)(3), authorizes the Secretary to establish such regulations as he deems necessary for carrying out his authority under the INA.

C. Costs and Benefits

The proposed rule would impose new net costs on the population of sponsors executing an Affidavit using Form I–864 or Form I–864EZ, as well as on the population of household members who execute a Contract using Form I–864A so that a sponsor can use the household member's income and/or assets to demonstrate means to maintain income. Additionally, the proposed rule would impose new net costs on the population executing Form I–864A as a household member who would now be required to submit Form I–865 to provide notice of a change of address after moving. Moreover, the proposed rule would produce some cost savings for immigrants applying for adjustment of status who would have needed to request an exemption from filing an Affidavit as DHS is proposing to eliminate Form I–864W for use when filing Form I–485. Instead, individuals would be required to provide the information previously requested on Form I–864W when filing Form I–485. DHS has determined that the information an applicant provides on Form I–485 would be sufficient for an adjudications officer to be able to verify whether an immigrant is statutorily required to file an Affidavit.

This proposed rule also would impose new costs on those from a party or entity authorized to bring an action to enforce an Affidavit or Contract making a formal request using the proposed new Form G–1563, Request for Certified Copy of Affidavit of Support Under Section 213A of the INA or Contract Between Sponsor and Household Member, so that USCIS may provide a certified copy of the requested Affidavit or Contract that has been executed on behalf of a sponsored immigrant for use as evidence in any action of enforcement. DHS estimates the total cost for filing the proposed new Form G–1563 would be approximately $779 annually.[6]

DHS estimates the total new quantified net costs imposed by the proposed rule would be $240,314,623 annually for sponsors filing an Affidavit for an intending immigrant using Form I–864 and Form I–864EZ, for those executing a Contract using Form I–864A, and for those submitting a notice of a change of address after moving using Form I–865, for those filing Form G–1563 to make a formal request for a certified copy of and Affidavit or Contract, as well as accounting for the estimated cost savings for immigrants applying for adjustment of status who would have needed to request an exemption from filing an Affidavit as DHS is proposing to eliminate Form I–864W for use when filing Form I–485. The estimated new quantified net costs of the proposed rule would be based on an increased opportunity costs of time for completing Form I–864, Form I–864A, and Form I–864EZ,[7] as well as new requirements for completing these forms, including:

- Obtaining credit reports and credit scores,
- obtaining Internal Revenue Service (IRS)-issued certified copies or transcripts of Federal income tax returns for the 3 most recent taxable years, and
- opportunity cost of time to file IRS Form 4506, Request for Copy of Tax Return, to obtain IRS-issued certified Federal income tax returns for completing Form I–864 and Form I–864EZ.

The estimated new quantified costs of the proposed rule also would be based on the proposed requirement that those who file Form I–864A use Form I–865 to provide notice of a change of address after moving.

Over the first 10 years of implementation, DHS estimates the total quantified new net costs of the proposed rule would be $2,403,146,230 (undiscounted). DHS estimates that the 10-year discounted total net costs of this proposed rule would be about $2,049,932,479 at a 3 percent discount rate and about $1,687,869,350 at a 7 percent discount rate.

The primary benefit of the proposed rule would be to better ensure that the sponsored immigrant is financially supported as is required by law and that means-tested public benefit agencies can more efficiently seek reimbursement from sponsors and household members when a sponsored immigrant receives any means-tested public benefit.

DHS also anticipates the proposed rule to produce benefits by strengthening the enforcement mechanism for Affidavits and Contracts through elimination of the subpoena requirement in 8 CFR 213a.4 to make it easier for means-tested public benefits granting agencies to recover payment for any means-tested public benefits that an intending immigrant receives during the period in which an Affidavit or a Contract is enforceable. The proposed rule would update the evidentiary requirements for sponsors submitting an Affidavit and household members submitting Contracts, which would provide immigration officers and immigration judges more effective ways to determine whether individuals have the means to maintain an annual income at or above the outlined income threshold and provide financial support to the intending immigrant and meet all support obligations during the period an

[6] Calculation: $31.17 (cost per filer to file Form G–1563) * 25 (estimated annual population who would make a formal request using Form G–1563) = $779.25 = $779 (rounded) annual total cost to file Form G–1563.

[7] The quantified cost of the new requirement to provide bank account information for those individuals filing Forms I–864, I–864A and I–864EZ are accounted for in the increased time burden estimate for completing these forms.

Affidavit is in effect. Additionally, the proposed rule would update and improve how means-tested public benefit-granting agencies obtain immigration status information from USCIS about individuals who are seeking means-tested public benefits and how means-tested public benefit-granting agencies provide information to USCIS.

Table 1 provides a more detailed summary of the proposed provisions and their impacts.

TABLE 1—SUMMARY OF MAJOR PROVISIONS AND ECONOMIC IMPACTS OF THE PROPOSED RULE

Provisions	Proposed provision	Estimated impact of proposed provision
Amending 8 CFR 213a.1. Definitions.	To add new and update existing definitions.	Quantitative: *Costs:*
Revising 8 CFR 213a.2. Use of Affidavit of Support.	Outlines circumstances, requirements, and exemptions for executing an Affidavit of Support Under Section 213A of the INA.	• Total annual net costs of the proposed rule would be about $240.3 million, including: • $226.6 million to applicants who must file Form I–864; • $10.63 million to those who must complete Form I–864A; • $6.75 million to applicants who must file Form I–864EZ; • $3.68 million cost savings to applicants from eliminating Form I–864W;
Adding 8 CFR 213a.3 Change of Address.	Requires sponsors and household members to notify USCIS of any change of address within 30 days while the sponsor's and/or household member's support obligation is in effect..	• $2,751 to those who must file Form I–865; and • $779 to those who file the proposed new Form G–1563. • Total net costs over a 10-year period would range from: • $2.40 billion for undiscounted net costs; • $2.05 billion at a 3 percent discount rate; and • $1.69 billion at a 7 percent discount rate.
Amending 8 CFR 213a.4. Actions for reimbursement, public notice, and congressional reports.	Outlines process by which USCIS provides a certified copy of Affidavit of Support Under Section 213A of the INA or Contract Between Sponsor and Household Member that has been executed to a party or authorized entity.	Qualitative: *Costs* • The proposed rule may impose some costs if a joint sponsor must execute an Affidavit in cases where a sponsor has received any means-tested public benefits within 36 months of filing the Affidavit and/or has failed to meet the support or reimbursement obligations under an existing Affidavit or Contract. There could be a reduction in the number of immigrants granted an immigration benefit in cases where the intending immigrant is unable to obtain a sponsor who can meet the new requirements under this proposed rule. • The proposed rule could result in some sponsors and joint sponsors who may intend to sponsor a family member in the future to forego enrollment or disenroll from a means-tested public benefits program to avoid triggering the proposed additional requirements. • The proposed rule may result in an increased number of individuals with support obligations who are held accountable for the reimbursement of the cost of means-tested public benefits. Further, sponsors or household members would incur the cost of reimbursing the means-tested public benefits-granting agency and would likely incur the costs of legal representation if means-tested public benefits granting agencies choose to pursue legal action to recover the means-tested public benefits a sponsored individual received. Qualitative: *Benefits* • Update evidentiary requirements to provide USCIS with more effective ways to determine whether the sponsor has the means to maintain an annual income at or above the outlined income threshold. These updated requirements would better enable USCIS to determine whether the sponsor is able to provide financial support to the intending immigrant and meet all support obligations during the period the Affidavit is in effect; • Update and improve how means-tested public benefit-granting agencies obtain immigration status information from USCIS about individuals who are seeking means-tested public benefits and how means-tested public benefit-granting agencies provide information to USCIS. This proposed provision would eliminate the requirement of obtaining a duly issued subpoena before USCIS is authorized to provide a certified copy of Form I–864 or Form I–864EZ to a requesting party for use in any action to enforce the support obligation and instead allow a requesting party to submit a formal request for an Affidavit or a Contract directly to USCIS. This will strengthen the enforcement mechanism for Affidavits and Contracts, which would allow means-tested public benefits-granting agencies to recover payment for any means-tested public benefits that a sponsored alien receives during the period in which an Affidavit or Contract is enforceable; and • Revise the process for informing USCIS about judgments obtained against sponsors (for failing to meet prior support obligations as a sponsor or household member) and indigency determinations to give USCIS flexibility to determine a more efficient mechanism for information reporting, whereby USCIS would be permitted to provide a different mechanism for submitting copies of judgments and indigency determinations to ensure accuracy and efficiency.

Source: USCIS analysis.

DHS does not have sufficient data to quantify the expected benefits of the proposed rule. However, the Administration has identified enforcement of sponsorship obligations as a priority and DHS has made a policy determination that the proposed changes in this rule will assist with better ensuring sponsors and household members who execute a Contract are capable of meeting their support obligations under section 213A of the INA, 8 U.S.C. 1183a, and strengthening the enforcement mechanism for the Affidavit and Contract so that sponsors and household members are held accountable for those support obligations.

III. Background & Purpose

A. Statutory Authority

In 1996, Congress enacted the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA).[8] Section 531(a) of IIRIRA amended section 212(a)(4) of the INA, 8 U.S.C. 1182(a)(4), to require an executed Affidavit for certain aliens to avoid a finding of inadmissibility under this section; this includes most aliens seeking an immigrant visa, admission as an

[8] *See* Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Public Law 104–208, 110 Stat. 3009 (1996).

immigrant, or adjustment of status as: (a) An immediate relative, (b) a family-based preference immigrant, or (c) an employment-based preference immigrant, if a relative of the alien is the petitioning employer or has a significant ownership interest in the entity that is the petitioning employer.[9] This formalized Affidavit requirement that had been in common use at overseas consular offices since President Herbert Hoover directed widespread adoption in 1929.[10] Section 551 of IIRIRA added section 213A to the INA, 8 U.S.C. 1183a, and specified the requirements for a sponsor's Affidavit.[11] The new section 213A of the INA, 8 U.S.C. 1183a, also specified who is eligible to be a sponsor, which aliens require an Affidavit, the scope of a sponsor's obligations, and how an Affidavit may be enforced.[12] These provisions were intended to ''encourage immigrants to be self-reliant in accordance with national immigration policy.'' [13]

Protecting American taxpayers by requiring sponsors to be responsible for repayment of means-tested public benefits received by sponsored immigrants was another purpose of the support obligation. For example, while considering enacting an Affidavit requirement and imposing obligations on a sponsor, the Senate Committee on the Judiciary stated ''[i]t should be made clear to immigrants that the taxpayers of this country expect them to be able to make it in this country on their own and with the help of their sponsors.'' [14] The same Senate Committee on the Judiciary further stated that ''[i]t was only on the basis of the assurance of the immigrant and the sponsor that the immigrant would not *at any time* become a public charge that the immigrant was allowed in this country'' (emphasis in original).[15]

Congress also enacted the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), which generally imposed new restrictions on an alien's eligibility for many Federal, state, and local benefits.[16] The law prohibits recent immigrants, with some exceptions, from receiving Federal means-tested public benefits such as Temporary Assistance for Needy Families (TANF), the Supplemental Nutrition Assistance Program (SNAP) (formerly known as Food Stamps), and the Children's Health Insurance Program (CHIP).[17] For purposes of determining eligibility for Federal means-tested public benefits programs, PRWORA also specified that the income and resources of an immigrant would generally be deemed to include the income and resources of any person who executed an Affidavit (and that person's spouse, if any).[18] The deeming requirements reflect Congress' determination that aliens ''not depend on public resources to meet their needs, but rather rely on their own capabilities and the resources of their families, their sponsors, and private organizations''.[19]

B. Prior Rulemaking

In 1997, the former Immigration and Naturalization Service (INS or the Service) [20] published an interim rule implementing the affidavit of support requirement created by IIRIRA and PRWORA.[21] The interim rule promulgated 8 CFR part 213a, defining the procedures for submitting Affidavits, defining a sponsor's ongoing obligations and specifying the procedures Federal, State, or local agencies, or private entities, must follow to seek reimbursement from the sponsor for provision of means-tested public benefits. In conjunction with the interim rule, the Service also created three new public use forms: Form I–864; Form I–864A; and Form I–865. The interim rule went into effect on December 19, 1997. The interim rule included Department of State consular officers within the meaning of ''immigration officer'' only for the purpose of 8 CFR part 213a. See 62 FR 54346, 54352 (Oct. 20, 1997).

In a joint rulemaking with the Department of Justice (DOJ) in 2006, DHS adopted the 1997 interim rule as a final rule clarifying who needed an Affidavit, how sponsors qualify, what information and documentation sponsors must present, and when the income of other people could be used to support an intending immigrant. The final rule also made changes that led to the development of Form I–864EZ, for use by a sponsor who relies only on his or her own employment to meet the income requirements under section 213A of the Act, 8 U.S.C. 1183a.[22]

On May 23, 2019, President Trump issued the Memorandum on Enforcing the Legal Responsibilities of Sponsors of Aliens (Presidential Memo).[23] The Presidential Memo states that a ''key priority of [the] Administration is restoring the rule of law by ensuring that existing immigration laws are enforced.'' [24] The Presidential Memo also emphasized that sponsors who pledge to financially support sponsored aliens will be expected to fulfill their commitment under the law.[25] The Presidential Memo directed Federal agencies to undertake more effective oversight to ensure full compliance with Federal laws on income deeming and reimbursement.[26] Agencies have issued revised guidance on income deeming and reimbursement for Medicaid, CHIP, TANF, and SNAP subsequent to the Presidential Memo.[27]

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[9] *See* INA section 212(a)(4)(C)–(D), 8 U.S.C. 1182(a)(4)(C)–(D). *See* INA section 213A, 8 U.S.C. 1183a.

[10] *See* INA section 213A, 8 U.S.C. 1183a. *See* Section 551 of IIRIRA, Public Law 104–208, 110 Stat. 3009 (1996). The Department of State had required low-income applicants to submit affidavits since the 1930s (a process that was formalized with Immigration and Naturalization Service (INS) Form I–134), but the courts had determined that the affidavits were legally unenforceable as an obligation to reimburse the government for public aid rendered. *See San Diego County* v. *Viloria* (276 Cal. App. 2d 350, 80 Cal. Rptr. 869 (Cal. App. 1969)). The IIRIRA addressed this issue by requiring that an affidavit of support be legally enforceable. *See* Section 551 of IIRIRA, Pub. L. 104–208, 110 Stat. 3009 (1996). *See* Roger Daniels, Guarding the Golden Door: American Immigration Policy and Immigrants since 1882, at p. 61 (New York: Hill and Wang, 2004).

[11] *See* INA section 213A, 8 U.S.C. 1183a. *See* Section 551 of IIRIRA, Public Law 104–208, 110 Stat. 3009 (1996).

[12] *See* INA section 213A, 8 U.S.C. 1183a. *See* Section 551 of the IIRIRA, Public Law 104–208, 110 Stat. 3009 (1996).

[13] *See* H.R. Rep. 104–828, at 241 (Sept. 24, 1996) (Conf. Rep.). Section 551(d) of IIRIRA mentions the promulgation by the Attorney General [now Secretary of Homeland Security], in consulation with the heads of other appropriate agencies, of a standard form for an affidavit of support consistent with INA 213A. *See* 8 U.S.C. 1183a Note. Section 531(b) of IIRIRA also mentions the ''standard form'' for an Affidavit promulgated by the Attorney General [now Secretary of Homeland Security]. *See* 8 U.S.C. 1182 Note.

[14] *See* S. Report 104–249, at 7 (Apr. 10, 1996).

[15] *See* S. Report 104–249, at 6 (Apr. 10, 1996).

[16] *See* the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104–193, 110 Stat. 2105 (1996).

[17] *See* 8 U.S.C. 1611 and 1613. *See* Sections 401 and 403 of PRWORA, Public Law 104–193, 110 Stat. 2105 (1996).

[18] *See* 8 U.S.C. 1631. *See* Section 421 of PRWORA, Public Law 104–193, 110 Stat. 2105 (1996).

[19] *See* 8 U.S.C. 1601(2)(A).

[20] On March 1, 2003, the Service ceased to exist, and its functions were transferred from the Department of Justice to the Department of Homeland Security. *See* Homeland Security Act of 2002, Public Law 107–296 (Nov. 25, 2002). DHS is the issuing authority for this proposed rule since the Homeland Security Act transferred immigration services functions to U.S. Citizenship and Immigration Services.

[21] *See Affidavits of Support on Behalf of Immigrants,* 62 FR 54346 (Oct. 20, 1997).

[22] *See Affidavits of Support on Behalf of Immigrants,* 71 FR 35731 (June 21, 2006).

[23] *See https://www.whitehouse.gov/presidential-actions/memorandum-enforcing-legal-responsibilities-sponsors-aliens/* (last visited May 24, 2019).

[24] *See* Section 1 of the Presidential Memo.

[25] *See* Section 1 of the Presidential Memo.

[26] *See* Sections 1 and 2 of the Presidential Memo.

[27] *See* Sponsoring Deeming and Repayment for Certain Immigrants, available at *https://www.medicaid.gov/federal-policy-guidance/downloads/sho19004.pdf* (last visited June 2, 2020). *See* Reimbursement obligations of sponsors of noncitizens and procedures for recovering TANF funds, available at *https://www.acf.hhs.gov/ofa/*

On August 14, 2019, DHS published a final rule, Inadmissibility on Public Charge Grounds.[28] The final rule explains how DHS will consider Affidavits in the totality of the circumstances when making public charge inadmissibility determinations.[29]

C. Current Processing of an Affidavit of Support Under Section 213A of the INA

An Affidavit is required for most family-sponsored immigrants and some employment-based immigrants.[30] A petitioning sponsor must execute Form I–864 or Form I–864EZ at one of the following points in the immigration process depending on the type of immigration benefit the applicant is seeking: As part of the immigrant visa application with DOS; when the principal immigrant submits an application for adjustment of status to permanent resident status with USCIS; or when directed by an immigration judge in the United States.[31] As described further below, in certain circumstances, a joint sponsor or a substitute sponsor is permitted.[32]

By executing an Affidavit, a sponsor is creating a contract between the sponsor and the U.S. Government. The intending immigrant becoming a lawful permanent resident is the consideration for the contract.[33] Under the contract, the sponsor agrees that he or she will provide support to the sponsored immigrant at an annual income not less than 125 percent of the Federal poverty line[34] during the period the obligation is in effect, to be jointly and severally liable for any reimbursement obligation incurred as a result of the sponsored immigrant receiving means-tested public benefits during the period of enforcement,[35] and to submit to the jurisdiction of any Federal or State court for the purpose of enforcing the support obligation. The sponsor also agrees that the U.S. Government can consider the sponsor's income and assets as available for the support of the sponsored immigrant when the immigrant applies for means-tested public benefits.[36]

a. Submitting an Affidavit

Sponsors submit either a Form I–864 or the shorter Form I–864EZ. Sponsors may use the Form I–864EZ if: The sponsor is the petitioner who filed the petition (Form I–130, Petition for an Alien Relative, Form I–129F, Petition for Alien Fiancé(e), or Form I–600, Petition to Classify Orphan as an Immediate Relative) for the relative being sponsored; the relative being sponsored is the only person, other than the petitioner, listed on the petition; and the income the sponsor is using to qualify for the Affidavit is based entirely on the sponsor's salary or pension as shown on one or more Internal Revenue Service Form W–2. Applicants seeking adjustment of status before USCIS file Form I–864 or Form I–864EZ with Form I–485, Application to Register Permanent Residence or Adjust Status. USCIS does not currently charge a separate fee to file Form I–864 or Form I–864EZ. For most immigrant visa applications, Affidavits and Contracts are submitted to the Department of State National Visa Center (NVC). The Department charges a fee to ensure that the Affidavit is properly completed before it is forwarded to a consular post for adjudication of an immigrant visa.[37] An applicant is charged only one fee in certain circumstances. For example, Affidavits from an individual concurrently sponsoring an immediate relative spouse and child would be the same in substance, and essentially duplicative and therefore only one fee is charged. When the Affidavit is submitted directly to a consular post overseas, no fee is charged.

The Form I–864 and Form I–864EZ are designed to determine whether the individual executing Form I–864 or Form I–864EZ meets the eligibility criteria for sponsorship.[38] In general, a sponsor is defined as an individual who executes a Form I–864 or Form I–864EZ with respect to a sponsored alien and who: Is a citizen or national of the United States or a lawful permanent resident; is at least 18 years of age; is domiciled in any of the several States of the United States, the District of Columbia, or any territory or possession of the United States; is petitioning for the admission of the alien under section 204 of the INA, 8 U.S.C. 1154; and demonstrates the means to maintain an annual income equal to at least 125 percent of the Federal poverty line.[39]

A petitioner who meets all the requirements of section 213A(f)(1) of the INA, 8 U.S.C. 1183a(f)(1), except for the requirement to demonstrate the means to maintain an annual income equal to at least 125 percent of the Federal poverty line sponsor may still be a sponsor.[40] The term sponsor also includes an individual who is on active duty (other than active duty for training) in the Armed Forces of the United States, is petitioning for his or her spouse or child, and demonstrates (as provided in section 213A(f)(6) of the Act, 8 U.S.C. 1183a(f)(6)) the means to maintain an annual income equal to at least 100 percent of the Federal poverty line.[41]

resource/tanf-acf-pi-2019-01 (last visited June 2, 2020). *See* State Enforcement of Legal Responsibilities of Sponsors of Non-Citizens, available at *https://www.fns.usda.gov/snap/resource/state-enforcement-legal-responsibilities-sponsors-non-citizens* (last visited June 2, 2020).

[28] *See Inadmissibility on Public Charge Grounds,* 84 FR 41292 (Aug. 14, 2019). Due to delays resulting from ongoing litigation in the U.S. District Courts for the Southern District of New York, Northern District of California, Eastern District of Washington, Northern District of Illinois, and District of Maryland, DHS implemented the final rule nationwide on February 24, 2020. On July 29, 2020, the U.S. District Court for the Southern District of New York enjoined DHS nationwide from enforcing, applying, implementing, or treating as effective the final rule for any period during which there is a declared national health emergency in response to the COVID–19 outbreak. *New York v .DHS.* No. 19–777 (S.D.N.Y. July 29, 2020). On August 12, 2020, the U.S. Court of Appeals for the Second Circuit issued a partial administrative stay of the nationwide injunction limiting its scope to the Second Circuit, *i.e.,* New York, Connecticut, and Vermont. *New York* v. *DHS,* No. 20–2537 (2d Cir. Ayg. 12, 2020).

[29] Under the final rule, ''DHS will consider the likelihood that the sponsor would actually provide the statutorily-required amount of financial support to the alien, and any other related considerations.'' *See* 8 CFR 212.22(b)(7).

[30] *See* INA section 212(a)(4)(C) and (D), 8 U.S.C. 1182(a)(4)(C) and (D).

[31] Three different agencies review an Affidavit for sufficiency, each in a different context. USCIS reviews an Affidavit and Contract while adjudicating certain applications for adjustment of status. DOS consular officers also review Affidavits and Contracts as part of the immigrant visa application process, and when an Affidavit is required, to assess potential ineligibility on public charge grounds. *See* 22 CFR 40.41. Immigration Courts, which are part of the U.S. Department of Justice (DOJ), Executive Office for Immigration Review (EOIR), may review Affidavits and Contracts in the context of an alien in removal proceedings who is seeking adjustment of status as a form of relief from removal.

[32] *See* INA section 213A(f)(5), 8 U.S.C. 1183a(f)(5).

[33] *See* 8 CFR 213a.2(e)(1).

[34] A sponsor who is on active duty (other than active duty for training) in the Armed Forces of the United States, and is petitioning for the admission of the alien under INA section 204, 8 U.S.C. 1154, as the spouse or child of the sponsor only needs to demonstrate the means to maintain an annual income equal to at least 100 percent of the Federal poverty line. *See* INA section 213A(f)(3), 8 U.S.C. 1183a(f)(3).

[35] *See* 8 CFR 213a.2(c)(2)(i)(C)(*2*).

[36] *See* Sections 421–422 of PRWORA, Public Law 104–193, 110 Stat. 2105 (1996). *See* 8 U.S.C. 1631.

[37] The fee authority is contained in 8 U.S.C. 1183a Note, added by Public Law 106–113, Div. B, 1000(a)(7) [Div. A, Title II, sec. 232], Nov. 29, 1999, 113 Stat. 1536, 1501A–425, as amended Public Law 107–228, Div. A, Title II, sec. 211(b), Sept. 30, 2002, 116 Stat. 1365.

[38] *See* INA section 213A(f)(3), 8 U.S.C. 1183a(f)(3).

[39] *See* INA section 213A(f)(1), 8 U.S.C. 1183a(f)(1).

[40] *See* INA section 213A(f)(2) and (3), 8 U.S.C. 1183a(f)(2) and (3).

[41] *See* INA section 213A(f)(3), 8 U.S.C. 1183a(f)(3). *See also* 8 CFR 213a.2(c)(2)(iii)(C) and (D).

Certain relatives [42] of employment-based immigrants can also be a sponsor if the relative filed a petition for the sponsored alien as an employment-based immigrant under section 203(b) of the Act, 8 U.S.C. 1153(b), or if the relative has a significant ownership interest in the entity that filed such a petition.[43] The term sponsor includes this relative, if the relative also meets the requirements of section INA 213A(f)(1)(A), (B), (C), 8 U.S.C. 1183a(f)(1)(A), (B), and (C), as described above, and demonstrates (as provided in INA section 213A(f)(6), 8 U.S.C. 1183a(f)(6)) the means to maintain an annual income equal to at least 125 percent of the Federal poverty line.[44]

A petitioner who meets all the requirements of section 213A(f)(1) of the Act, 8 U.S.C. 1183a(f)(1), except for the requirement to demonstrate the means to maintain an annual income equal to at least 125 percent of the Federal poverty line, but accepts joint and several liability with a joint sponsor (as defined under section 213A(f)(5)(A) of the INA, 8 U.S.C. 1183a(f)(5)(A)), is also a sponsor.[45] Similarly, a relative of an employment-based immigrant that meets the requirements of section 213A(f)(1)(A), (B), (C), and (f)(4)(A), yet does not meet the requirement to demonstrate the means to maintain an annual income equal to at least 125 percent of the Federal poverty line, but accepts joint and several liability with a joint sponsor (as defined under section 213A(f)(5)(A) of the INA, 8 U.S.C. 1183a(f)(5)(A)), is also a sponsor.[46] Joint sponsors are discussed in greater detail in subsection 1 below.

b. Demonstration of Means To Maintain Income

Sponsors may demonstrate that they have the means to maintain an annual income equal to at least 125 percent of the Federal poverty line, or 100 percent as applicable,[47] through a combination of income and/or significant assets.[48] All sponsors must submit a copy of their Federal income tax return, including supporting documents like schedules, for the most recent tax year, or provide evidence demonstrating why they were not required to file a Federal tax return for that year.[49] Sponsors may also submit additional evidence demonstrating their income, including letters evidencing their employment and income, paycheck stubs, and financial statements.[50]

Currently, the sponsor's household income for the year in which the intending immigrant filed the application for adjustment of status is given the most evidentiary weight.[51] If the sponsor's projected household income for the year in which the intending immigrant filed the application for adjustment of status meets the applicable income threshold, the immigration officer or immigration judge may determine the Affidavit is insufficient on the basis of household income only if, based on specific facts, it is reasonable to infer that the sponsor will not be able to maintain the household income at a level sufficient to meet the support obligations.[52] When reviewing an Affidavit for sufficiency, the immigration officer or immigration judge may consider facts such as a material change in a sponsor's employment or income history, the number of aliens included in other pending Affidavits executed by the sponsor, and other relevant facts.[53]

Sponsors may also demonstrate the means to maintain the applicable annual income through their significant assets or the significant assets of the intending immigrant.[54] Significant assets may include savings accounts, stocks, bonds, certificates of deposit, and real estate.[55] In order to qualify as significant assets, the total value of all the assets must equal at least five times the difference between sponsor's total household income and the current Federal poverty line for sponsor's household size (including all immigrants sponsored on any Affidavit in force or pending).[56] However, if the sponsor is a U.S. citizen and he or she is sponsoring a spouse or child (age 18 years of age or older), the total value of the assets must only be equal to at least three times the difference.[57] If the intending immigrant is an orphan or Hague Convention adoptee who is considered to be coming to the United States for adoption, the total value of the assets only needs to equal the difference between the sponsor's household income and the current Federal poverty line for sponsor's household size (including all immigrants sponsored on any Affidavit in force or pending).[58] Sponsors relying on significant assets need to provide evidence establishing location, ownership, and value of each listed asset.[59]

An immigration officer or immigration judge may pursue verification of any information provided for the Affidavit if the sponsor and/or household member provides authorization. If the sponsor and/or household member fails to provide verification authorization, the Affidavit will be considered withdrawn.[60]

A sponsor may withdraw an Affidavit at any time until a decision is issued on the applicant's application for an immigrant visa or adjustment of status.[61] The withdrawal must be in writing, must include the sponsor's signature, and must be received before the final decision is issued. A withdrawal may not be retracted.

An Affidavit is considered sufficient if the immigration officer or immigration judge determines a sponsor has demonstrated he or she meets all the eligibility requirements in section 213A(f)(1) or (5) of the Act.[62] The support obligations agreed to when Form I–864, Form I–864EZ, and Form I–864A are executed generally commence when the intending immigrant is granted lawful permanent resident status.[63] The support obligations terminate by operation of law when: The sponsored immigrant becomes a U.S. citizen; [64] the sponsored immigrant has worked or can be credited with 40 qualifying quarters of work in the United States under title II of the Social Security Act [65] (provided that the sponsored immigrant is not credited

[42] *See* 8 CFR 213a.1 (''Relative means a husband, wife, father, mother, child, adult son, adult daughter, brother, or sister.'').

[43] *See* INA section 213A(f)(4)(A), 8 U.S.C 1183a(f)(4)(A). This relative would not meet (nor does he or she have to meet) the requirements of INA section 213A(f)(1)(D), 8 U.S.C. 1183a(f)(1)(D).

[44] *See* INA section 213A(f)(4)(A) and (B)(i), 8 U.S.C. 1183a(f)(4)(A) and (B)(i).

[45] *See* INA section 213A(f)(2), 8 U.S.C. 1183a(f)(2). *See* INA section 213A(f)(5)(A), 8 U.S.C. 1183a(f)(5)(A).

[46] *See* INA section 213A(f)(4)(A) and (B)(ii), 8 U.S.C. 1183a(f)(4)(A) and (B)(ii).

[47] *See* INA section 213A(f)(3), 8 U.S.C. 1183a(f)(3).

[48] *See* INA section 213A(f)(6)(A)(i)–(ii), 8 U.S.C. 1183a(f)(6)(A)(i)–(ii).

[49] *See* 8 CFR 213a.2(c)(2)(i)(A)–(B).

[50] *See* 8 CFR 213a.2(c)(2)(i)(A).

[51] *See* 8 CFR 213a.2(c)(2)(ii)(C).

[52] *See* 8 CFR 213a.2(c)(2)(ii)(C).

[53] *See* 8 CFR 213a.2(c)(2)(ii)(C).

[54] *See* INA section 213A(f)(6)(A)(ii), 8 U.S.C. 1183A(f)(6)(A)(ii). *See also* 8 CFR 213a.2(c)(2)(iii)(A)(*1*), 213a.2(c)(2)(iii)(B).

[55] *See* 8 CFR 213a.2(c)(2)(iii)(B).

[56] *See* 8 CFR 213a.2(c)(2)(iii)(B)(*3*).

[57] *See* 8 CFR 213a.2(c)(2)(iii)(B)(*1*).

[58] *See* 8 CFR 213a.2(c)(2)(iii)(B)(*2*).

[59] *See* 8 CFR 213a.2(c)(2)(iii)(B).

[60] *See* 8 CFR 213a.2(c)(2)(v).

[61] *See* 8 CFR 213a.2(f).

[62] An immigrant can be determined to be inadmissible as a public charge under INA section 212(a)(4), 8 U.S.C. 1182(a)(4), even if the immigrant has a sufficient affidavit of support. *See* 8 CFR 213a.2(c)(2)(iv).

[63] *See* 8 CFR 213a.2(e)(1). In cases where it is determined that either a Form I–864 executed by a joint sponsor or a Form I–864A executed by a household member is not needed because the petitioning sponsor or substitute sponsor demonstrated the means to maintain income at the applicable threshold, the support obligation associated with such Form I–864 or Form I–864A would not commence.

[64] *See* 8 CFR 213a.2(e)(2)(i)(A).

[65] *See* 42 U.S.C. 401, *et seq.*

with any quarter beginning after December 31, 1996, during which the sponsored immigrant receives or received any Federal means-tested public benefit);[66] the sponsored immigrant dies;[67] the sponsored immigrant abandons or loses lawful permanent resident status and departs the United States;[68] or, the sponsored immigrant obtains lawful permanent resident status on a new basis in removal proceedings based on a new Affidavit (if such an Affidavit is required).[69] The support obligation also terminates if the sponsor dies.[70] Divorce does not end the support obligation.[71]

If an Affidavit is deemed insufficient because the sponsor is determined to be unable to maintain household income at a level sufficient to meet the sponsor's support obligations, the intending immigrant will be inadmissible on the public charge ground under section 212(a)(4) of the INA, 8 U.S.C. 1182(a)(4).[72] The intending immigrant's application for adjustment of status or an immigrant visa will be denied.

1. Joint Sponsors and Substitute Sponsors

a. Joint Sponsors

Section 213A(f)(1) of the INA, 8 U.S.C. 1183a(f)(1), defines a sponsor as an ''individual who executes an affidavit of support with respect to the sponsored alien,'' and who, is a citizen or national of the United States or a lawful permanent resident;[73] is at least 18 years of age;[74] is domiciled in any of the several States of the United States, the District of Columbia, or any territory or possession of the United States;[75] is petitioning for the admission of the alien under section 204 of the Act, 8 U.S.C. 1154;[76] and demonstrates the means to maintain an annual income equal to at least 125 percent of the Federal poverty line.[77]

As stated previously, a petitioner who meets all the requirements of section 213A(f)(1) of the INA, 8 U.S.C. 1183a(f)(1), except for the requirement to demonstrate the means to maintain an annual income equal to at least 125 percent of the Federal poverty line, but accepts joint and several liability with a joint sponsor (as defined under section 213A(f)(5)(A) of the INA, 8 U.S.C. 1183a(f)(5)(A)), is also a sponsor.[78]

A joint sponsor is an individual who is not the petitioning sponsor, but who accepts joint and several liability with the petitioning sponsor and who demonstrates the means to maintain an annual income equal to at least 125 percent of the Federal poverty line.[79]

If a petitioner is qualifying as a sponsor under section 213A(f)(2) of the Act, 8 U.S.C. 1183a(f)(2), by accepting joint and several liability with a joint sponsor, both the petitioner and the joint sponsor must execute Form I–864.[80] A joint sponsor is permitted where the petitioning sponsor cannot demonstrate the means to maintain an annual income equal to at least 125 percent of the Federal poverty line, or 100 percent as applicable.[81] A joint sponsor cannot serve as a replacement for the petitioning sponsor; both the petitioner and the joint sponsor must accept joint and several liability.[82] Therefore, the joint sponsor must file Form I–864 in addition to the petitioning sponsor, and only if the petitioning sponsor does not meet the requirement of demonstrating the means to maintain an annual income as stated in the statute and regulations.[83] The joint sponsor must provide evidence of income or assets that independently meets the income threshold to support the sponsored immigrant(s).[84] The joint sponsor cannot meet the income threshold by combining his or her income with the income of the petitioning sponsor and/or the sponsored immigrant.[85]

An intending immigrant may not submit a Form I–864 executed by more than one joint sponsor.[86] However, if the joint sponsor's household income is insufficient to meet the income requirement with respect to the principal intending immigrant, plus any spouse and all the children who seek to accompany the principal intending immigrant,[87] the joint sponsor may specify on the Affidavit that it is submitted only on behalf of the principal intending immigrant and those accompanying family members specifically listed on the Affidavit.[88] Any remaining accompanying family members not included in the first joint sponsor's affidavit would be inadmissible under section 212(a)(4) of the INA, 8 U.S.C. 1182(a)(4), unless a second joint sponsor submits a Form I–864 on their behalf.[89] A family group consisting of the principal intending immigrant and the accompanying spouse and children may not have more than two joint sponsors.[90]

b. Substitute Sponsors

A petitioning sponsor's death ends the sponsor's obligation to meet the terms of the Affidavit. However, a petitioning sponsor's death does not end the requirement to submit a sufficient Affidavit, if such requirement applies. An applicant cannot meet the Affidavit requirement by relying on a Form I–864 or Form I–864EZ signed by a deceased petitioning sponsor. A substitute sponsor may submit an Affidavit if USCIS determines for humanitarian reasons that revocation of the approval of the immigrant petition would be inappropriate, or if the petition is being adjudicated pursuant to section 204(l) of the Act, 8 U.S.C. 1154(l).[91] Except for the requirement of petitioning for the admission of the alien under section 204 of the Act, 8 U.S.C. 1154, a substitute sponsor must meet the same sponsorship requirements as the petitioning sponsor.[92] A substitute sponsor must be related to the intending immigrant applicant in one of the ways

[66] *See* 8 CFR 213a.2(e)(2)(i)(B).

[67] *See* 8 CFR 213a.2(e)(2)(i)(E).

[68] *See* 8 CFR 213a.2(e)(2)(i)(C) (if the sponsored immigrant has not abandoned permanent resident status, executing the form designated by USCIS for recording such action, this provision will apply only if the sponsored immigrant is found in a removal proceeding to have abandoned that status while abroad).

[69] *See* 8 CFR 213a.2(e)(2)(i)(D).

[70] *See* 8 CFR 213a.2(e)(2)(ii).

[71] *See Affidavits of Support on Behalf of Immigrants,* 71 FR 35731, 35740 (June 21, 2006).

[72] *See* INA section 213A(a)(1), 8 U.S.C. 1183a(a)(1).

[73] *See* INA section 213A(f)(1)(A), 8 U.S.C. 1183a(f)(1)(A).

[74] *See* INA section 213A(f)(1)(B), 8 U.S.C. 1183a(f)(1)(B).

[75] *See* INA section 213A(f)(1)(C), 8 U.S.C. 1183a(f)(1)(C).

[76] *See* INA section 213A(f)(1)(D), 8 U.S.C. 1183a(f)(1)(D).

[77] *See* INA section 213A(f)(1)(E), 8 U.S.C. 1183a(f)(1)(E).

[78] *See* INA section 213A(f)(2), 8 U.S.C. 1183a(f)(2). *See* INA section 213A(f)(5)(A), 8 U.S.C. 1183a(f)(5)(A).

[79] *See* 8 CFR 213a.1.

[80] *See* INA section 213A(f)(2), 8 U.S.C. 1183a(f)(2). *See* INA section 213A(f)(5)(A), 8 U.S.C. 1183a(f)(5)(A).

[81] *See* INA section 213A(f)(3), 8 U.S.C. 1183a(f)(3).

[82] *See* INA section 213A(f)(2), 8 U.S.C. 1183a(f)(2). *See* INA section 213A(f)(5)(A), 8 U.S.C. 1183a(f)(5)(A).

[83] *See* INA section 213A(f)(2), (3), (5)(A), and (6), 8 U.S.C. 1183a(f)(2), (3), (5)(A), and (6). *See also* 8 CFR 213a.2(b)(1).

[84] *See* INA section 213A(f)(5)(A), 8 U.S.C. 1183a(f)(5)(A). *See also* 8 CFR 213a.2(c)(2)(iii)(C).

[85] *See* 8 CFR 213a.1.

[86] *See* 8 CFR 213.2(c)(2)(iii)(C).

[87] *See* INA section 203(d), 8 U.S.C. 1153(d).

[88] *See* 8 CFR 213a.2(c)(2)(iii)(C).

[89] *See* 8 CFR 213a.2(c)(2)(iii)(C).

[90] *See* 8 CFR 213a.2(c)(2)(iii)(C).

[91] *See* INA section 213A(f)(5)(B), 8 U.S.C. 1183a(f)(5)(B). *See* INA section 204(l), 8 U.S.C. 1154(l). *See also* 8 CFR 205.1(a)(3)(i)(C)(*2*).

[92] *See* INA section 213A(f)(1) and (5)(B), 8 U.S.C. 1183a(f)(1) and (5)(B). *See also* 8 CFR 213a.2(c)(2)(iii)(D).

specified in section 213A(f)(5)(B) of the INA, 8 U.S.C. 1183a(f)(5)(B).[93]

A Form I–864 signed by an eligible substitute sponsor is an acceptable replacement of the deceased petitioning sponsor's Form I–864 if submitted and received before the adjudication of the adjustment application. If the applicant does not have a substitute sponsor file a sufficient Form I–864 on his or her behalf, then the applicant is inadmissible under section 212(a)(4) of the INA, 8 U.S.C. 1182(a)(4).[94]

2. Household Members

In certain circumstances, a sponsor's household members may agree to use their income to financially support an intending immigrant.[95] Although not required by section 213A of the Act, 8 U.S.C. 1183a, in order to meet the income threshold, a sponsor may rely on the income of individuals included in the sponsor's household size (as determined for purposes of section 213A of the Act, 8 U.S.C. 1183a).[96] The individual must be at least 18 years old and the individual must execute Form I–864A.[97] Currently, the following individuals may be household members for purposes of executing Form I–864A: [98]

- The sponsor's spouse, parent, child, sibling, or adult child who has the same principal residence as the sponsor;
- Any person who the sponsor lawfully claims as a dependent on the sponsor's most recent Federal tax return;
- An intending immigrant who has the same principal residence as the sponsor if there is a spouse or child immigrating with the intending immigrant, and the intending immigrant can establish his or her income comes from authorized employment in the United States [99] and is the result of employment in a lawful enterprise or some other lawful source, and that employment from a lawful source will continue even after acquiring lawful permanent resident (LPR) status; or
- An intending immigrant who is the sponsor's spouse and can show his or her income comes from authorized employment in the United States [100] and is the result of employment in a lawful enterprise or some other lawful source, and that employment will continue from a lawful source, even after acquiring LPR status if a spouse or child is immigrating with the intending immigrant.

A household member submits Form I–864A with evidence of his or her income and/or assets.[101] In signing Form I–864A, the household member agrees to provide the petitioning ''sponsor as much financial assistance as may be necessary for the petitioning sponsor to maintain the intending immigrant at the annual income level required by section 213A(a)(1)(A) of the Act.'' [102] Household members are jointly and severally liable for any reimbursement obligation the sponsor may incur.[103]

As stated previously, the household member's support obligations terminate by operation of law when: The sponsored immigrant becomes a U.S. citizen; [104] the sponsored immigrant has worked or can be credited with 40 qualifying quarters of work in the United States under title II of the Social Security Act [105] (provided that the sponsored immigrant is not credited with any quarter beginning after December 31, 1996, during which the sponsored immigrant receives or received any Federal means-tested public benefit); [106] the sponsored immigrant dies; [107] the sponsored immigrant abandons or loses lawful permanent resident status and departs the United States; [108] or, the sponsored immigrant obtains lawful permanent resident status on a new basis in removal proceedings based on a new Affidavit (if such an Affidavit is required).[109]

A household member's obligation created by executing a Form I–864A also terminates when the household member dies.[110] The death of one person who had a support obligation under an Affidavit or a Contract does not terminate the support obligation of any other sponsor, substitute sponsor, joint sponsor, or household member with respect to the same sponsored immigrant.[111] Divorce does not end the support obligation.[112]

D. Reimbursement Process

Sponsors are responsible for reimbursing the cost of means-tested public benefits received by sponsored aliens. The Act states ''[u]pon notification that a sponsored alien has received any means-tested public benefit, the appropriate nongovernmental entity which provided such benefit or the appropriate entity of the Federal Government, a State, or any political subdivision of a State shall request reimbursement by the sponsor in an amount which is equal to the unreimbursed costs of such benefits.'' [113] Agencies can sue sponsors pursuant to the executed Affidavit.[114]

If an agency requests reimbursement from a sponsor, the agency must arrange for personal service of a written request for reimbursement upon the sponsor (and any household member who executed Form I–864A).[115] The request for reimbursement must specify the date the support obligation commenced, the sponsored immigrant's name, alien registration number, address, and date of birth, as well as the types of means-tested public benefit(s) that the sponsored immigrant received, the dates the sponsored immigrant received the benefits, and the total amount of the benefits received.[116] Agencies do not need to make a separate request for each type of benefit or for each separate payment; agencies may aggregate in a single request all benefit payments made as of the date of the request.[117] The reimbursement request must include an itemized statement supporting the claim for

[93] A substitute sponsor can be the spouse, parent, mother-in-law, father-in-law, sibling, child (if at least 18 years of age), son, daughter, son-in-law, daughter-in-law, sister-in-law, brother-in-law, grandparent, or grandchild of a sponsored alien or a legal guardian of a sponsored alien.

[94] *See* INA section 212(a)(4), 8 U.S.C. 1182(a)(4); *see* INA section 213A(a)(1), 8 U.S.C. 1183a(a)(1). *See also* 8 CFR 213a.2(c)(2)(iii)(D).

[95] *See* 8 CFR 213a.2(c)(2)(i)(C)*(1).*

[96] *See* 8 CFR 213a.2(c)(2)(i)(C)*(1). See Affidavit of Support on Behalf of Immigrants,* 62 FR 54346, 54348 (Oct. 20, 1997). *See Affidavit of Support on Behalf of Immigrants,* 71 FR 35732, 35736 (June 21, 2006).

[97] *See* 8 CFR 213a.2(c)(2)(i)(C)*(1). See Affidavit of Support on Behalf of Immigrants,* 62 FR 54346, 54348 (Oct. 20, 1997). *See Affidavit of Support on Behalf of Immigrants,* 71 FR 35732, 35736 (June 21, 2006).

[98] *See* 8 CFR 213a.1 and 213a.2(c)(2)(i)(C)(*1*).

[99] *See* 8 CFR 274a.12.

[100] *See* 8 CFR 274a.12.

[101] *See* 8 CFR 213a.2(c)(2)(i)(C)(*4*). The regulation provides that a household member must sign an ''affidavit of support attachment''. Form I–864A is the form USCIS designated for the affidavit of support attachment.

[102] *See* 8 CFR 213a.2(c)(2)(i)(C)(*2*).

[103] *See* 8 CFR 213a.2(c)(2)(i)(C)(*2*).

[104] *See* 8 CFR 213a.2(e)(2)(i)(A).

[105] *See* 42 U.S.C. 401, *et seq.*

[106] *See* 8 CFR 213a.2(e)(2)(i)(B).

[107] *See* 8 CFR 213a.2(e)(2)(i)(E).

[108] *See* 8 CFR 213a.2(e)(2)(i)(C) (if the sponsored immigrant has not abandoned permanent resident status, executing the form designated by USCIS for recording such action this provision will apply only if the sponsored immigrant is found in a removal proceeding to have abandoned that status while abroad).

[109] *See* 8 CFR 213a.2(e)(2)(i)(D).

[110] *See* 8 CFR 213a.2(e)(2)(ii).

[111] *See* 8 CFR 213a.2(e)(2)(ii).

[112] *See Affidavits of Support on Behalf of Immigrants,* 71 FR 35731, 35740 (June 21, 2006).

[113] *See* INA section 213A(b)(1), 8 U.S.C. 1183a(b)(1).

[114] *See* INA section 213A(b)(2), 8 U.S.C. 1183a(b)(2).

[115] *See* 8 CFR 213a.4(a)(1)(i).

[116] *See* 8 CFR 213a.4(a)(1)(ii).

[117] *See* 8 CFR 213a.4(a)(1)(iii).

reimbursement.[118] The reimbursement request must also include a notification to the sponsor (and any household members) that, within 45 days of the date of service, the sponsor (and any household members) must respond to the request for reimbursement either by paying the reimbursement or by arranging to begin payments pursuant to a schedule that is agreeable to the program official.[119]

A Federal, state, or local government entity or a private entity must wait 45 days from the date it serves the written request for reimbursement before filing a lawsuit against the sponsor or household member.[120] An entity may also bring an action against a sponsor for failure to abide by repayment terms.[121] No cause of action may be brought later than 10 years after the date on which the sponsored alien last received any means-tested public benefit to which an Affidavit applied.[122]

E. Information Sharing

USCIS considers a sponsor or household member to be in compliance with the support obligations of section 213A(i)(3) of the Act, 8 U.S.C. 1183a(i)(3), unless a party that has obtained a final judgment enforcing the obligations under sections 213A(a)(1)(A) or 213A(b) of the Act, 8 U.S.C. 1183a(a)(1)(A) or 1183a(b), has provided a copy of the final judgment to USCIS.[123]

PRWORA also requires certain information sharing between benefit granting agencies and DHS. For sponsored immigrants, section 421(e)(2) of PRWORA, 8 U.S.C. 1631(e)(2), requires agencies to notify DHS when an agency has made an indigency determination, and the notification must include the names of the sponsor and the sponsored immigrant involved.[124] This statutory requirement was implemented at 8 CFR 213a.4(c)(2), providing a mechanism for reporting this information to USCIS.

F. Problems Arising From Current Processes

1. Insufficient Information About Sponsors' and Household Members' Financial Ability To Maintain Income of at Least the Applicable Threshold or Meet Support Obligations

Although immigration officers and immigration judges make public charge inadmissibility determinations based, in part, on information contained in the Affidavit and supporting documents,[125] currently very little financial information is required from sponsors to make such determinations. Similarly, very little financial information is currently required from household members who submit a Contract. This provides limited insight into the sponsors' and household members' actual ability to maintain income at the income threshold or meet their support obligations. Situations such as variable income, a current or past receipt of means-tested public benefits, or the lack of a U.S. bank account, may indicate a sponsor or household member cannot maintain income of at least the statutory income threshold and/or will not be able to fulfill his or her support obligation to the intending immigrant. The Administration has identified enforcement of sponsorship obligations as a priority and DHS believes a more complete picture of the sponsor's and household member's financial situation would help immigration officers and immigration judges determine whether the sponsor can meet the requirements of section 213A of the Act, 8 U.S.C. 1183a, particularly whether the sponsor has demonstrated the means to maintain income as required by section 213A(f)(6), 8 U.S.C. 1183a(f)(6), and whether the sponsor and household member will actually fulfill his or her support obligation to the intending immigrant. USCIS believes that this will strengthen the integrity of the immigration process.

2. Too Many Household Members Contributing Income to the Sponsor's Household Income

Current DHS regulations do not limit how many household members can agree to make their income available to the sponsor for the purposes of the sponsor meeting the income threshold by executing Form I–864A. Even though such household members agree to provide the sponsor with enough support to maintain the sponsored immigrant and to be jointly and severally liable for any reimbursement obligation the sponsor incurs, household members may not have sufficient resources to individually fulfill a judgment related to the support obligation. Furthermore, despite the language on the Contract, it is not clear that the income of these additional household members is actually available to the sponsor for the support of the intending immigrant. Limiting household members will better ensure that any income listed on Form I–864A is actually available to the sponsor for the support of the intending immigrant.

3. Barriers to Repayment Actions and Reporting Problems

USCIS receives limited information from benefit-granting agencies or otherparties enforcing the Affidavit or Contract, despite the information sharing provisions in the statute and regulations. Current DHS regulations for obtaining copies of Affidavits are burdensome and inefficient because they require a subpoena. Laws governing subpoenas vary by jurisdiction, but subpoenas often need to be issued by a court clerk or by a licensed attorney,[126] which requires additional time and resources. The requirements in the current regulations may have contributed to unintended difficulties for benefit-granting agencies and sponsored immigrants seeking to hold sponsors legally responsible for their obligations based on Affidavits. Similarly, current regulations for reporting judgments against sponsors and indigency determination information to USCIS are confusing as there are multiple addresses to send notifications to, some of which are no longer current.[127] The existing regulation will also soon be incorrect as the mailing address in the regulation will no longer be used for USCIS.[128]

[118] *See* 8 CFR 213a.4(a)(1)(iv).

[119] *See* 8 CFR 213a.4(a)(1)(iv).

[120] *See* INA section 213A(b)(2)(A), 8 U.S.C. 1183a(b)(2)(A). *See also* 8 CFR 213a.4(a)(1)(v).

[121] *See* INA section 213A(b)(2)(B), 8 U.S.C. 1183a(b)(2)(B).

[122] *See* INA section 213A(b)(2)(C), 8 U.S.C. 1183a(b)(2)(C).

[123] *See* 8 CFR 213a.4(c)(1).

[124] *See* 8 U.S.C. 1631(e).

[125] *See* INA section 212(a)(4)(B)(ii), (C), (D), 8 U.S.C. 1182(a)(4)(B)(ii), (C), (D); INA section 213A(a)(1), 8 U.S.C. 1183a(a)(1). *See also* 22 CFR 40.41.

[126] For example, the Federal Rules of Civil Procedure permit court clerks or attorneys (authorized to practice in the issuing court) to issue subpoenas. *See* Fed. R. Civ. P. Rule 45(a)(3).

[127] 8 CFR 213a.4(a)(3) indicates that upon the receipt of a duly issued subpoena, USCIS may provide a certified copy of an Affidavit that has been filed on behalf of a specific alien for use as evidence in any action to enforce an Affidavit, and may also disclose the last known address and Social Security number of the sponsor, substitute sponsor, or joint sponsor, but that regulation currently does not provide an address or office to which the subpoena should be sent. 8 CFR 213a.4(c)(3) requires information to be sent to the Office of Program and Regulation Development, which no longer exits.

[128] *See* 8 CFR 213a.4(c)(3). USCIS expects to relocate its headquarters from 20 Massachusetts Ave. NW, Washington, DC 20529, which is the mailing address currently listed in the regulation for reporting purposes.

IV. Discussion of Proposed Rule

A. Requiring Joint Sponsors in Certain Circumstances

DHS is proposing revisions to 8 CFR 213a.2(c) to account for additional evidence relevant to determining whether the sponsor can demonstrate the means to maintain income at the income threshold and whether a sponsor can actually meet his or her support obligations.

1. Joint Sponsor Required When Petitioning or Substitute Sponsor Received Means-Tested Public Benefits

DHS proposes revising 8 CFR 213a.2(c)(2)(ii)(C) to require an applicant filing an application on or after the effective date of this rule to submit a Form I–864 executed by a joint sponsor when the petitioning sponsor or substitute sponsor has received one or more means-tested public benefits [129] on or after the effective date of this rule and within the 36 month period before the Form I–864 is filed. *See* proposed 8 CFR 213a.2(c)(2)(ii)(C)(*4*)(*i*). The 36-month period aligns with DHS' proposed revision to require 3 years of tax returns from sponsors and household members. *See* section D.2 below.

Under the current regulation, a sponsor's receipt of means-tested public benefits is excluded from the calculation of the sponsor's income.[130]

A petitioning sponsor's or substitute sponsor's receipt of means-tested public benefits within 36 months of filing Form I–864 indicates that the petitioning sponsor or substitute sponsor may be unable to maintain income equal to at least 125 percent of the Federal poverty line,[131] or 100 percent, as applicable,[132] during the period the Affidavit is in effect and indicates that he or she may not have the ability to meet the support obligations while the Affidavit is in effect.[133]

If the petitioning sponsor or substitute sponsor has received means-tested public benefits on or after the effective date of this rule and within the 36 month period prior to executing the Affidavit he or she would still be required to execute the Affidavit,[134] but would not meet the definition of a sponsor under section 213A(f)(1),(f)(3), or (f)(5)(B) of the Act, 8 U.S.C. 1183a(f)(1), (f)(3), or (f)(5)(B), and therefore, would be unable to meet the income requirements under section 213A of the Act, 8 U.S.C. 1183a. *See also* proposed 8 CFR 213a.2(c)(2)(ii)(C)(*4*)(*i*). Accordingly, the intending immigrant would be found to be inadmissible under section 212(a)(4) of the Act, 8 U.S.C. 1182(a)(4),[135] unless a joint sponsor executes a separate Affidavit.[136] Joint sponsors who have received a means-tested public benefit on or after the effective date of this rule and within 36 months of submitting the Affidavit would likewise be considered unable to meet the income requirement under section 213A(f)(1)(E) of the Act, 8 U.S.C. 1183a(f)(1)(E).[137]

DHS recognizes that an individual's financial circumstances can vary over time and the receipt of a means-tested public benefit in the past may be less indicative of a current inability to demonstrate the means to maintain income at the applicable threshold for an Affidavit However, DHS believes that looking at the 36-month period before executing Form I–864 will provide a more complete picture of the petitioning sponsor's or substitute sponsor's ability to maintain income and carry out his or her support obligations. Accordingly, DHS proposes to require a joint sponsor when the petitioning sponsor or substitute sponsor has received a means-tested public benefit within 36 months of executing Form I–864 if the means-tested public benefit was received on or after the effective date of the rule. The proposed lookback period also aligns with DHS' policy determination to require 3 years of Federal income tax returns.

Any receipt of a means-tested public benefit received before the effective date of the final rule would be considered only to the extent that it is excluded from the calculation of the sponsor's income, which is USCIS' current practice.[138]

This proposed rule provides advance notice to aliens and public benefit granting agencies that DHS is considering changing how receipt of means-tested public benefits would impact the determination of whether an Affidavit is sufficient. DHS notes that the proposed exclusion of receipt of means-tested public benefits received before the effective date may provide an opportunity for public benefit granting agencies to communicate the potential consequences of receiving means-tested public benefits to the extent such agencies deem appropriate before publication of a final rule. DHS also recognizes that as a result of a future final rule, some benefit-granting agencies may decide to modify enrollment processes and program documentation for designated benefits programs. For instance, agencies may choose to advise potential beneficiaries of the potential immigration consequences of receiving certain public benefits. DHS requests public comments regarding such potential modifications, including information regarding how long it would take to make such modifications, and the resources required to make such modifications. DHS may use this information to determine the appropriate effective date for a final rule, among other purposes.

As an alternative, DHS considered permanently barring an individual who had ever received means-tested public benefits from becoming a sponsor. However, DHS concluded such a policy would unreasonably restrict an individual from petitioning for eligible family members as is permitted by section 204 of the Act, 8 U.S.C. 1154.

DHS specifically requests public comments on the proposed requirement for a joint sponsor when the petitioning sponsor or substitute sponsor has received any means-tested public benefits on or after the effective date of this rule and within 36 months of filing Form I–864, including the 36-month lookback period. DHS is particularly interested in views and data that would inform whether, and to what extent, DHS should consider receipt of means-tested public benefits by petitioning sponsors and substitute sponsors or if there are other potential alternatives that would better ensure that sponsors can demonstrate the means to maintain income at the applicable level and are able to carry out their support obligations during the period of enforceability.

a. Exception for Petitioning Sponsors on Active Duty

DHS proposes not to apply the joint sponsor requirement when the petitioning sponsor has received means-tested public benefits within 36 months of filing the Form I–864 if the petitioning sponsor is on active duty (other than active duty for training) in the Armed Forces of the United States,

[129] The term ''means-tested public benefits'' is used as currently defined in 8 CFR 213a.1 throughout this proposed rule. The proposed rule does not substantively amend the definition of what constitutes a means-tested public benefit.

[130] *See Affidavits of Support on Behalf of Immigrants,* 71 FR 35731, 35738 (June 21, 2006).

[131] *See* INA section 213A(f)(1)(E), 8 U.S.C. 1183a(f)(1)(E).

[132] *See* INA section 213A(f)(3), 8 U.S.C. 1183a(f)(3).

[133] *See* INA section 213A(a)(1)(A), 8 U.S.C. 1183a(a)(1)(A).

[134] *See* INA section 213A(f)(1)(D), 8 U.S.C. 1183a(f)(1)(D).

[135] *See* INA section 213A(a)(1), 8 U.S.C. 1183a(a)(1).

[136] *See* INA section 213A(f)(2), 8 U.S.C. 1183a(f)(2). *See* INA section 213A(5)(A), 8 U.S.C. 1183a(5)(A).

[137] *See* INA section 213A(f)(5)(A), 8 U.S.C. 1183a(f)(5)(A). *See also* proposed 8 CFR 213a.2(c)(2)(ii)(C)(*3*)(*ii*).

[138] *See Affidavits of Support on Behalf of Immigrants,* 71 FR 35731, 35738 (June 21, 2006).

is petitioning for his or her spouse or child under section 204 of the Act, 8 U.S.C. 1154, and the petitioning sponsor received the means-tested public benefits while on active duty. *See* proposed 8 CFR 213a.2(c)(2)(ii)(C)(*5*). The United States Government is profoundly grateful for the unparalleled sacrifices of the members of our armed services and their families. Certain members of the military may earn relatively low salaries, particularly if they are early in their careers, that are supplemented by certain allowances and tax advantages.[139] The Act already imposes a different income threshold on petitioning sponsors who are on active duty (other than active duty for training) in the Armed Forces of the United States and who are petitioning for their spouse or child under section 204 of the Act, 8 U.S.C. 1134, who must demonstrate the means to maintain an income equal to at least 100 percent of the Federal poverty line,[140] rather than the 125 percent of the Federal poverty line threshold applicable to all other petitioning sponsors.[141] This exception to the joint sponsor requirement is consistent with Congress' intent to impose different requirements on certain military service-members and their families, as well as DHS' policy of supporting our military personnel.

DHS considered not excepting eligible military service-members from the proposed requirement for a joint sponsor if the petitioning sponsor has received means-tested public benefits within 36 months of filing an Affidavit. However, since certain service-members already have a different income threshold requirement, and recognizing the invaluable contributions of service-members and their families, DHS proposes excepting eligible service-members from this proposed requirement.

2. Joint Sponsor Required When Petitioning Sponsor or Substitute Sponsor Defaulted on Support Obligation

DHS proposes revising 8 CFR 213a.2(c)(2)(ii)(C) to require the applicant to submit a Form I–864 executed by a joint sponsor when the petitioning sponsor or substitute sponsor has previously defaulted on a support obligation, as shown by a court judgment requiring the petitioning sponsor or substitute sponsor to repay a means-tested public benefit received by a sponsored immigrant. *See* proposed 8 CFR 213a.2(c)(2)(ii)(C)(*4*)(*ii*). A petitioning sponsor's or substitute sponsor's default on a support obligation is indicative of the petitioning sponsor's or substitute sponsor's inability to demonstrate he or she has the means to maintain an annual income equal to at least 125 percent of the Federal poverty line,[142] or 100 percent as applicable;[143] it is also indicative of the inability to provide support to maintain the intending immigrant at the income threshold during the period the obligation is in effect.[144] In addition, if a petitioning sponsor or substitute sponsor has failed to meet his or her support obligations for a different alien under a prior Affidavit (as a sponsor) or Contract (as a household member), this can indicate that he or she may be unable to reimburse an agency for means-tested public benefits on additional Affidavits.

If the petitioning sponsor or substitute sponsor has failed to fulfill his or her obligation for a different alien on an Affidavit (as a sponsor) or Contract (as a household member) and is subject to a judgment for repayment, this may negatively impact the petitioning sponsor's or substitute sponsor's income because the judgment is similar to a debt that he or she must repay. There may be some instances when a petitioning sponsor's or substitute sponsor's income is obligated toward paying a judgment, and those petitioning sponsors or substitute sponsors may have less income available to support an intending immigrant. A petitioning sponsor's or substitute sponsor's failure to meet the obligation of an Affidavit or Contract is essentially breaching a contract with the Federal Government. As evidenced by the provisions in section 213a of the Act, 8 U.S.C. 1183a, providing for reimbursement and multiple remedies, including liens on real property and garnishment,[145] Congress intended for sponsors to satisfy these obligations and be held accountable when they failed to do so.

If the petitioning sponsor or substitute sponsor defaulted on a support obligation, he or she would still be required to execute an Affidavit but would be considered unable to meet the income requirements under section 213A of the Act, 8 U.S.C. 1183a; in particular, the petitioner would not be able to demonstrate the means to maintain income as required by section 213A(f)(6) of the Act, 8 U.S.C. 1183a(f)(6), regardless of whether the individual has since complied with the support obligation (for example, repaid what was owed), and regardless of the individual's current income.

Therefore, the intending immigrant would be found to be inadmissible under section 212(a)(4) of the Act, 8 U.S.C. 1182(a)(4), unless a joint sponsor executed a separate Affidavit.[146] Joint sponsors who have previously defaulted on a support obligation would likewise be considered unable to meet the income requirement under section 213A(f)(1)(E) of the Act, 8 U.S.C. 1183a(f)(1)(E).[147]

DHS considered the alternative of permanently barring an individual who had previously defaulted on a support obligation from becoming a sponsor. However, because section 213A(f)(1)(D) of the Act, 8 U.S.C. 1183a(f)(1)(D), requires that the petitioner for family-based immigrants be a sponsor, DHS concluded that such a policy would unreasonably restrict an individual from petitioning for eligible family members as permitted by section 204 of the Act, 8 U.S.C. 1154. Instead, DHS proposes requiring a joint sponsor execute a Form I–864 in this circumstance.

DHS specifically requests public comments on the proposed requirement for a joint sponsor if the petitioning sponsor or substitute sponsor has previously defaulted on any support obligation. DHS is particularly interested in views and data that would inform whether, and to what extent, DHS should consider previous defaults on support obligations by a petitioning sponsor or substitute sponsor or if there are other potential alternatives that would better ensure sponsors can demonstrate the means to maintain

[139] *See, e.g.,* 37 U.S.C. 201–212, 401–439 (Basic Pay and Allowances Other than Travel and Transportation Allowances, respectively); Lawrence Kapp, Cong. Research Serv., Defense Primer: Regular Military Compensation tbl.1 (Dec. 26, 2019), available at *https://fas.org/sgp/crs/natsec/IF10532.pdf* (reporting average regular military compensation of $41,177 at the E–1 level in 2019, comprised of $20,171 in average annual basic pay, plus allowances and tax advantage) (last visited June 2, 2020). *See* Lawrence Kapp et al., Cong. Research Serv., RL33446, Military Pay: Key Questions and Answers 6–9 (2019), available at *https://fas.org/sgp/crs/natsec/RL33446.pdf* (describing types of military compensation and Federal tax advantages)(last visited June 2, 2020).

[140] *See* INA section 213a(f)(3), 8 U.S.C. 1183a(f)(3).

[141] *See* INA section 213a(f)(1)(E), 8 U.S.C. 1183a(f)(1)(E).

[142] *See* INA section 213A(f)(1)(E), 8 U.S.C. 1183a(f)(1)(E).

[143] *See* INA section 213A(f)(3), 8 U.S.C. 1183a(f)(3).

[144] *See* INA section 213A(a)(1)(A), 8 U.S.C. 1183a(a)(1)(A).

[145] *See* INA section 213A(b)–(c), 8 U.S.C. 1183a(b)–(c).

[146] *See* INA section 213A(f)(2), 8 U.S.C. 1183a(f)(2). *See* INA section 213A(5)(A), 8 U.S.C. 1183a(5)(A).

[147] *See* INA section 213A(f)(5)(A), 8 U.S.C. 1183a(f)(5)(A).

income at the applicable level and are able to carry out their support obligations during the period of enforceability.

B. Changes to ''Household Income'' Definition

DHS proposes revising 8 CFR 213a.1 to change the definition of ''household income'' to limit household income to the income of the sponsor, the sponsor's spouse (if he or she executes a Contract), and, in specific circumstances, the intending immigrant. *See* proposed 8 CFR 213a.1(f). Currently, any household member who meets the criteria set forth in the current household income definition may execute a Contract. Under the proposed definition, household income would only include all income of the sponsor and the sponsor's spouse (if the sponsor's spouse executes a Form I–864A) obtained from employment in a lawful enterprise or some other lawful source. *See* proposed 8 CFR 213a.1(f). Under the proposed rule, household income will not include any income derived from unlawful enterprises, such as proceeds from illegal gambling or drug sales, or from means-tested public benefits. *See* proposed 8 CFR 213a.1(f). Like the current definition of household income, under the proposed rule, household income can include the income of the intending immigrant if the intending immigrant is either the sponsor's spouse or has the same principal residence as the sponsor, and the preponderance of the evidence shows that the intending immigrant's income is derived from employment in a lawful enterprise or some other lawful source, and such employment is authorized [148] and will continue to be available to the intending immigrant after they acquire lawful permanent resident status.[149]

By limiting whose income may be considered available to the sponsor, DHS believes it will reduce the possibility of counting income of household members who may not be able to, on their own, meet the support obligations. The Contract allows a sponsor to include the income of a household member as part of the sponsor's income in cases where the sponsor cannot meet it by himself or herself. While the household member agrees to be jointly and severally liable with the sponsor to support the sponsored immigrant(s), the household member does not need to demonstrate that he or she can maintain income at the applicable income threshold. Moreover, even where a household member has enough income and/or assets to help meet the income threshold, the household member's income and assets may actually be unavailable to support the sponsored immigrant because the household member has other financial obligations.

DHS believes that limiting household income to the income of the sponsor, the sponsor's spouse, and, in certain circumstances, the intending immigrant, more accurately reflects income that will be available to the sponsor to support the intending immigrant under the support obligation.

DHS believes there is a greater likelihood that the income of the sponsor's spouse (compared to other household members) would actually be available to the sponsor to support the intending immigrant because spouses often share financial resources with each other. DHS further believes that there is a greater likelihood that the income of an intending immigrant would actually be available to the sponsor if the intending immigrant is accompanied by his or her spouse or children because the intending immigrant has a vested interest in his or her own family's success and wellbeing in the United States. Therefore, DHS concluded that limiting the household members who could execute a Contract to the sponsor's spouse and the intending immigrant if accompanied by the intending immigrant's spouse and children would better ensure that the income the sponsor is relying on is actually available to support the intending immigrant.

DHS considered eliminating the Contract entirely, and considering only the sponsor's income for the purposes of the Affidavit. This would prevent any individual who is unable to meet the applicable income threshold based solely on his or her own income and assets from executing an Affidavit without a joint sponsor also executing an Affidavit in which the joint sponsor agrees to be jointly and severally liable for the sponsored immigrant. This alternative is consistent with section 213A(f)(6)(A)(ii) of the Act, 8 U.S.C. 1183a(f)(6)(A)(ii), which references only the income of intending immigrants and sponsors. Additionally, it is consistent with one of the aims of this rule—better ensuring that sponsors can meet their support obligations, insofar as the household member is not required to demonstrate the means to maintain income at the applicable income threshold on his or her own or that the income is actually available to the sponsor to use to support the intending immigrants. In cases in which the household member does not have income of at least the income threshold, it is possible that neither the sponsor nor the household members can alone meet the support obligations, even though both have agreed to be jointly and severally liable for the support obligation. However, DHS did not want to preclude the immigration of an intending immigrant's minor children because the petitioning sponsor could not use the income of the intending immigrant parent. Furthermore, DHS recognizes that dual income households are a common and accepted way for households to meet their needs, DHS decided to continue to take this fact into account. DHS specifically requests public comments on the proposed changes to the household income definition, including the proposed limitation on who may execute a Contract. DHS is particularly interested in views and data that would inform how DHS should define household income, or if there are other potential alternatives that would help ensure that household income is actually available to the sponsor to support the intending immigrant.

C. Changes to ''Household Size''

DHS proposes revising 8 CFR 213a.1 to change the definition of household size to also include, for purposes of counting household size: any aliens for whom the sponsor executed a Contract Between Sponsor and Household Member for whom the support obligation has not terminated (including any aliens for whom the sponsor has executed a Contract that has not yet become effective in accordance with 8 CFR 213a.2(e)(1), unless that Contract has been timely withdrawn or the adjustment of status application or immigrant visa application associated with that Contract has been denied and any appeal exhausted or waived); and any aliens the sponsor has sponsored under any other Affidavit for whom the sponsor's support obligation has not terminated (including any aliens for whom the sponsor has executed an Affidavit that has not yet become effective in accordance with 8 CFR 213a.2(e)(1), unless the sponsor has either timely withdrawn the Affidavit of Support or the adjustment of status application or immigrant visa application associated with that Affidavit has been denied and any appeal exhausted or waived). *See* proposed 8 CFR 213a.1(g). The sponsor has already agreed to support these individuals when those Affidavits or Contracts go into effect and these support obligations are relevant to the sponsor's ability to demonstrate means to maintain income to support the

[148] *See* 8 CFR 274a.12.

[149] *See* 8 CFR 213a.1.

intending immigrant listed on any other Affidavit, as well as the ability to meet his or her support obligations once the Affidavit goes into effect.

With respect to sponsored immigrants and household members who are counted as part of the household size, current regulations require only the inclusion of aliens whom the sponsor has sponsored under any Affidavit, and for whom the sponsor's support obligation has not been terminated, as well as the number of aliens to be sponsored under the current Affidavit.[150] However, a sponsor that previously agreed to make his or her income or assets available to support intending immigrants through a Contract will undertake a support obligation when that Contract goes into effect, which impacts the sponsor's ability to demonstrate that he or she meets the requirements of section 213A of the Act, 8 U.S.C. 1183a, and has the means to maintain income to support any other intending immigrants.

If the sponsor has executed other Affidavits and Contracts for aliens that have not yet gone into effect, the sponsor has demonstrated the intent to support these sponsored immigrants. However, this proposed change excludes from the household size individuals named on previously executed Affidavits and Contracts where the support obligation will never take effect because the Affidavit or Contract was timely withdrawn or the adjustment of status application or immigrant visa application associated with that Affidavit or Contract has been denied and any appeal exhausted or waived. This proposed change also reflects the reality of variable processing times and the fact that there may be a considerable lag between when an immigration officer or immigration judge reviews a sponsor's earlier-executed Affidavit or Contract and when an immigration officer or immigration judge reviews a later-submitted Affidavit from the same sponsor.

The sponsor's household size should reflect all support obligations the sponsor has agreed to undertake as either a sponsor or as a household member, which will ensure that the immigration officer or immigration judge can assess whether the sponsor meets the requirements set forth in section 213A of the Act, 8 U.S.C. 1183a, and that the sponsor has demonstrated the ability to meet his or her support obligations.

DHS considered keeping the existing household size definition. However, DHS concluded that including the number of individuals sponsored in pending Affidavits or Contracts as part of a sponsor's household size will reduce the instances of sponsors undertaking support obligations that they cannot, or do not intend to, fulfill. DHS believes the proposed change to the household size definition will help ensure sponsors have the means to maintain income at the applicable income threshold and can meet their support obligations. This proposed change will also preserve DHS' limited resources and protect the integrity of the immigration system by reducing insufficient Affidavit filings.

D. Revised Evidentiary Requirements

DHS is proposing revisions to 8 CFR 213a.2(c) to require additional documentary evidence that sponsors need to provide with their Affidavit to demonstrate that they have the means to maintain income at the applicable income threshold. Household members who execute a Contract will also be subject to the proposed additional evidentiary requirements.

1. Requiring Credit Reports and Credit Scores

DHS is proposing amending 8 CFR 213a.2(c)(2)(ii)(C) to allow immigration officers and immigration judges to take a sponsor's credit report and credit score into account when determining whether a sponsor has the means to maintain an annual income at or above the threshold, and whether the sponsor can, in fact, meet his or her support obligations. *See* proposed 8 CFR 213a.2(c)(2)(ii)(C). Credit reports contain information about an individual's bill payment history, loans, current debt, and other financial information such as the number and type of accounts with overdue payments, collection actions, outstanding debt, and the age of the accounts in the United States.[151] Credit reports may also provide information about an individual's work and places of residence, lawsuits, arrests, and bankruptcies in the United States.[152] Credit scores rate an individual's credit worthiness and credit risk at a point in time, and credit scores are based on an individual's financial history.[153] Credit reports and credit scores are frequently used by lenders, employers, insurers, and other entities when assessing individuals' financial circumstances.[154] For example, lenders use credit reports and scores to determine the likelihood that a prospective borrower will repay a loan.[155]

While the sponsor's credit score or report would not determine, by itself, whether he or she has demonstrated the means to maintain income of at least 125 percent of the Federal poverty line (or 100 percent as applicable),[156] or the means to carry out the support obligations, a poor credit score (below 580) [157] or negative information on the credit report such as a high amount of outstanding debt, late payments, delinquent accounts, collections actions, and bankruptcy may indicate that a sponsor does not have the means to maintain income to support the intending immigrant or that the sponsor will not be able to carry out the support obligations.

On the other hand, a fair or higher credit score (580 or above) or positive credit history may indicate that a sponsor has the means to maintain income to support the intending immigrant and that the sponsor will be able to carry out the support obligation.

For the same reasons set forth above, DHS also proposes to consider the credit report and score of a household member executing Form I–864A.

DHS considered not requesting credit reports and credit scores from sponsors and household members executing Form I–864A. However, DHS determined that the financial status information provided by credit reports and credit scores would assist USCIS in determining if a sponsor or a household member who executes Form I–864A actually has the means to maintain the required income level and whether the sponsor or household member can meet his or her support obligations.

[150] *See* 8 CFR 213a.1.

[151] *See USA.gov*, Credit Reports and Scores, available at *https://www.usa.gov/credit-reports* (last visited June 2, 2020). *See* also Fed. Trade Comm'n, *Consumer Information: Credit Scores* (Sept. 2013), available at *https://www.consumer.ftc.gov/articles/0152-credit-scores* (last visited June 2, 2020).

[152] *See USA.gov*, Credit Reports and Scores, available at *https://www.usa.gov/credit-reports* (last visited June 2, 2020).

[153] *See USA.gov*, Credit Reports and Scores, available at *https://www.usa.gov/credit-reports* (last visited June 2, 2020).

[154] *See USA.gov*, Credit Reports and Scores, available at *https://www.usa.gov/credit-reports* (last visited June 2, 2020). *See* Cheryl R. Cooper et. al., Congressional Research Services, R44125, *Consumer Credit Reporting, Credit Bureaus, Credit Scoring, and Related Policy Issues,* p. 1 (2020), available at *https://fas.org/sgp/crs/misc/R44125.pdf* (last visited June 2, 2020).

[155] *See* Cheryl R. Cooper et al., Congressional Research Services, R44125, *Consumer Credit Reporting, Credit Bureaus, Credit Scoring, and Related Policy Issues,* p. 1 (2020), available at *https://fas.org/sgp/crs/misc/R44125.pdf* (last visited June 2, 2020).

[156] *See* INA section 213A(f)(3), 8 U.S.C. 1183a(f)(3).

[157] *See* Experian, What is a Good Credit Score, available at *https://www.experian.com/blogs/ask-experian/credit-education/score-basics/what-is-a-good-credit-score/* (last visited June 2, 2020).

2. Federal Income Tax Returns for 3 Years

Consistent with DHS' authority in section 213A(f)(6)(A)(i) of the Act, 8 U.S.C. 1183a(f)(6)(A)(i), DHS is proposing to amend 8 CFR 213a.2(c)(2)(i)(A) to require sponsors and household members who execute Form I–864A to provide Internal Revenue Service-issued certified copies or Internal Revenue Service-issued transcripts [158] of their Federal income tax returns for the 3 most recent taxable years. *See* proposed 8 CFR 213a.2(c)(2)(i)(A). The statute permits DHS to require tax returns for the 3 most recent taxable years [159] but the existing regulation only requires sponsors to submit tax returns for the most recent taxable year.[160] The 1997 interim final rule implementing section 213A of the Act, 8 U.S.C. 1183a, required sponsors to provide copies of the 3 most recent tax years with an Affidavit.[161] However, in the 2006 final rule, DHS chose to require sponsors to only submit tax returns for the most recent tax year, as permitted by section 213A(f)(6)(B) of the Act, 8 U.S.C. 1183a(f)(6)(B).[162] The 2006 final rule also allowed sponsors to submit tax returns for the 3 most recent tax years, if they believe the additional tax returns may help to establish their ability to maintain the required household income.[163] The alternative of requiring only the tax return from the most recent tax year demonstrates a sponsor's income for that year, and does not allow immigration officers or immigration judges to review a sponsor's ability to maintain that income. Therefore, requiring only the tax return from the most recent tax year is not adequately representative of a sponsor's ability to support the sponsored immigrant throughout the obligation period. The provision in section 213A(f)(6)(B) of the Act, 8 U.S.C. 1183a(f)(6)(B), that permits DHS to limit the evidence that is submitted to demonstrate the means to maintain income to only the most recent tax year is discretionary, and therefore need not be applied to sponsors.

By reviewing 3 years of tax returns for all sponsors, as well as household members executing a Contract, immigration officers and immigration judges will have a more complete picture of a sponsor's financial circumstances in order to determine if a sponsor or household member who executed Form I–864A has demonstrated the means to maintain income at the income threshold for the sponsor's household size and whether the sponsor or household member who executed Form I–864A has demonstrated that he or she will actually be able to fulfill his or her support obligation to the intending immigrant. For purposes of demonstrating the means to maintain income, the total income, before deductions in the sponsor's tax return for the most recent taxable year, will continue to be generally determinative [164] of whether a sponsor's income is sufficient to maintain the sponsored immigrant at the income threshold for the sponsor's household size. As evidenced by the Act, Congress concluded that reviewing 3 years of tax returns was an important factor in demonstrating a sponsor's ability to maintain the required income.[165]

Also consistent with the Act, DHS proposes clarifying that the tax returns must be certified copies issued by the Internal Revenue Service (IRS).[166] Individuals may request certified copies from the IRS for the current tax year and the prior six years. DHS proposes conforming edits to the regulation to be consistent with these revisions. *See* proposed 8 CFR 213a.2(c)(2)(i)(B), 8 CFR 213a.2(c)(2)(i)(C)(*4*), and 8 CFR 213a.2(c)(2)(i)(D).

DHS considered keeping the existing requirement for only 1 year of tax returns. However, DHS concluded requiring 3 years of tax returns, instead of a single year, has significant value in determining sponsor eligibility. By reviewing 3 years of tax returns, immigration officers and immigration judges will be able to identify patterns in the yearly income of sponsors, and thereby better establish not only whether the sponsor's income reached the required threshold in the year the Affidavit was filed, but also the sponsor's ability to maintain the required income threshold over time.

E. Bank Account Information

DHS proposes to amend 8 CFR 213a.2(c)(2)(v) to add the collection of the sponsor's bank account information, such as type of account (*e.g.* checking, saving), bank account numbers and routing numbers. *See* proposed 8 CFR 213a.2(c)(2)(v). DHS also proposes to add the collection of bank account information for a household member who executes Form I–864A.

F. Address Change Requirements

DHS is proposing to revise 8 CFR 213a.3 to require that all household members who execute a Contract must notify DHS within 30 days if they change their address. *See* proposed 8 CFR 213a.3. The current regulation only requires sponsors to submit an address change to DHS using Form I–865.[167] Since household members agree to accept the same obligations as a sponsor with regards to the intending immigrant, it is important that DHS has household members' current addresses and DHS is timely notified of any address changes. All household members, whether an alien, U.S. citizen or U.S. national, would be required, under the proposed rule, to notify DHS within 30 days of any change of address.[168] This provision does not alter the current requirement that most aliens in the United States must report each change of address and new address within ten days of such change.[169]

Upon request, DHS provides information about sponsors and household members to benefit-granting agencies to assist agencies in performing income deeming and/or to seek reimbursement for means-tested public benefits issued to sponsored immigrants. DHS needs to have current address information for household members, as well as sponsors, in order to perform this service for benefit-granting agencies. DHS also proposes to make household members subject to the same civil penalty imposed on sponsors if they fail to provide notice of an address change to DHS as required. *See* proposed 8 CFR 213a.3(b).

G. Information Sharing Provisions

DHS is proposing to revise 8 CFR 213a.4 to update how certain information concerning sponsors and sponsored immigrants is submitted to or requested from USCIS.

[158] A tax transcript summarizes return information and they are available for the most current tax year after the IRS processes the return. Taxpayers can also get them for the past 3 years. *See How to Get Tax Transcripts and Copies of Tax Returns from the IRS,* available at *https://www.irs.gov/newsroom/how-to-get-tax-transcripts-and-copies-of-tax-returns-from-the-irs* (last visited June 2, 2020).

[159] *See* INA section 213A(f)(6)(a)(i), 8 U.S.C. 1183a(f)(6)(A)(i).

[160] *See* INA section 213A(f)(6)(B), 8 U.S.C. 1183a(f)(6)(B). *See also* 8 CFR 213a.2(c)(2)(i)(A).

[161] *See Affidavit of Support on Behalf of Immigrants,* 62 FR 54346, 54354 (Oct. 20, 1997).

[162] *See Affidavits of Support on Behalf of Immigrants,* 71 FR 35731 (June 21, 2006).

[163] *See* INA section 213A(f)(6)(B), 8 U.S.C. 1183a(f)(6)(B). *See also* 8 CFR 213a.2(c)(2)(i)(A). *See Affidavits of Support on Behalf of Immigrants,* 71 FR 35731 (June 21, 2006).

[164] *See* INA section 213A(f)(6)(B), 8 U.S.C. 1183a(f)(6)(B).

[165] *See* INA section 213A(f)(6)(A)(i), 8 U.S.C. 1183a(f)(6)(A)(i).

[166] *See* INA section 213A(f)(6)(A)(i), 8 U.S.C. 1183a(f)(6)(A)(i).

[167] *See* 8 CFR 213a.3(a)(1).

[168] *See* INA section 213A(d), 8 U.S.C. 1183a(d). *See also* 8 CFR 213a.3.

[169] *See* INA section 265(a), 8 U.S.C. 1305(a). *See also* 8 CFR 265.1.

1. Eliminating Subpoena Requirement

To assist benefit-granting agencies and sponsored immigrants in holding sponsors and household members accountable for their support obligations, DHS proposes to revise 8 CFR 213a.4(a)(3) to make it easier for certain parties to obtain certified copies of Affidavits from USCIS. *See* proposed 8 CFR 213a.4(a)(3). Currently, USCIS will provide a certified copy of an Affidavit only after USCIS receives a duly issued subpoena.[170] However, it is burdensome, costly, and inefficient for parties to obtain subpoenas merely to get a copy of an Affidavit. The existing requirement may discourage benefit-granting agencies and sponsored immigrants from enforcing the support obligations and/or seeking reimbursement. Also, in signing an Affidavit, sponsors have already authorized ''the release of information contained in [the] affidavit, in supporting documents, and in my USCIS or DOS records, to other entities and persons where necessary for the administration and enforcement of U.S. immigration law.'' [171] Household members who sign a Contract also authorize the release of information contained in the Contract.[172] DHS proposes to eliminate the subpoena requirement to make the reimbursement process easier and to better ensure that sponsors and household members who execute a Contract are meeting their support obligations.[173] Instead, DHS proposes that it will provide a certified copy of an Affidavit or Contract after receipt of a formal request to a party or entity authorized to receive a certified copy of an Affidavit or Contract, such as bringing an action to enforce an Affidavit or Contract, so that the Affidavit or Contract may be used as evidence in any action to enforce the support obligation or as part of a request for reimbursement. Authorized parties or entities will make a formal request by submitting to USCIS a new form, Request for Certified Copy of Affidavit of Support Under Section 213A of the INA or Contract Between Sponsor and Household Member (Form G–1563) (''request form''). The request form will not have a filing fee.

As an alternative, DHS considered leaving the subpoena requirement in the regulation. However, to better facilitate Congressional intent that sponsors fulfill their support obligations during the period of enforceability, DHS proposes eliminating the subpoena requirement in order to facilitate the initiation of repayment or reimbursement actions. This proposed change is also consistent with the Presidential Memo's directive to establish procedures for data sharing, which will better ensure that existing immigration laws are enforced and that sponsors fulfill their support obligations during the period of enforceability.

DHS specifically requests public comments on the proposed change to eliminate the subpoena requirement. DHS is particularly interested in views and data concerning costs associated with obtaining a duly-issued subpoena, or if there are other potential alternatives that would help ensure that support obligations, including reimbursement of means-tested public benefits, are met. DHS also requests comment on the proposed request form and instructions.

2. Revising Reporting Processes

DHS proposes revising the reporting provisions in 8 CFR 213a.4(c) to provide more efficient mechanisms for fulfilling the reporting requirements. The current regulation requires parties that obtain final judgments against a sponsor to mail certified copies of judgments to the ''Office of Program and Regulation Development'' at USCIS' headquarters in Washington, DC [174] However, the Office of Program and Regulation Development no longer exists and USCIS' headquarters is expected to relocate in the near future. Similarly, 8 CFR 213a.4(c)(2) directs entities that administer means-tested public benefits to mail written notice of indigency determinations to the Office of Program and Regulation Development. DHS proposes to delete 8 CFR 213a.4(c)(3) in its entirety as the program office and mailing address in that provision are no longer appropriate. DHS also proposes to revise 8 CFR 213a.4(c)(1) and (2) to delete the outdated mailing instructions. Instead, reporting parties will do so in a manner to be described by DHS. *See* proposed 8 CFR 213a.4(c)(1) and (2).

H. Revised Definitions

DHS proposes to add new definitions to 8 CFR 213a.1, revise current definitions of key terms in 8 CFR 213a.1, and also add alphabetical designations for each definition. *See* proposed 8 CFR 213a.1. By defining and clarifying key terms, this proposed rule would provide greater certainty regarding the eligibility criteria for sponsors and intending immigrants. Adding designations for each definition will enhance readability and clarity for the regulation.

- Add definition for active duty. DHS is proposing adding a definition for ''active duty'' to include: Full-time duty in the U.S. Armed Forces, other than active duty for training, full-time duty (other than for training purposes), as a commissioned officer of the Regular or Reserve Corps of the Public Health Service, full-time duty as a commissioned officer of the National Oceanic and Atmospheric Administration, and full-time duty as a cadet or midshipman at the United States Military Academy, United States Naval Academy, United States Air Force Academy, or the United States Coast Guard Academy. These added definitions clarify who is active duty as the term is used in section 213A(f)(3) of the Act, 8 U.S.C. 1183a(f)(3). DHS proposed this definition because it is consistent with a statutory definition of active duty created by Congress, which applies to Servicemembers and codified in 38 U.S.C. 1965.
- Add definition for active duty for training. DHS is proposing to add the definition for ''active duty for training'' to mean full-time duty in the U.S. Armed Forces performed by Reserves for training purposes, full-time duty for training purposes performed as a commissioned officer of the Reserve Corps of the Public Health Service, full-time duty as a member, cadet, or midshipman of the Reserve Officers Training Corps while attending field training or practice cruises, and, in the case of members of the National Guard or Air National Guard of any State, full-time duty under sections 316, 502, 503, 504, or 505 of the title 32, United States Code. The term ''active duty for training'' does not include duty performed as a temporary member of the Coast Guard Reserve. The added definition clarifies who is active duty for training as the term is used in section 213A(f)(3) of the Act, 8 U.S.C. 1183a(f)(3). DHS proposed this definition because it is consistent with a statutory definition of active duty for training duty created by Congress, which applies to Servicemembers codified in 38 U.S.C. 1965.
- Add definition for execute. DHS proposes to add the definition for ''execute'' to mean, for the purposes of 8 CFR 213a, an Affidavit of Support

[170] *See* 8 CFR 213a.4(a)(3).

[171] *See* Instructions for Affidavit of Support Under Section 213A of the INA, available at *https://www.uscis.gov/i-864* (last visited June 2, 2020).

[172] *See* Instructions for Contract Between a Sponsor and Household Member, available at *https://www.uscis.gov/i-864a* (last visited June 2, 2020).

[173] *See* Presidential Memorandum, *Enforcing the Legal Responsibilities of Sponsors of Aliens,* (May 23, 2019), available at *https://www.whitehouse.gov/presidential-actions/memorandum-enforcing-legal-responsibilities-sponsors-aliens/* (last visited May 24, 2019). *See* 8 CFR 213a.4(c)(1).

[174] *See* 8 CFR 213a.4(c)(1).

Under Section 213A of the INA or a Contract Between a Sponsor and Household Member is executed when a sponsor or household member signs and submits the appropriate forms in accordance with the form instructions to USCIS or the Department of State, as appropriate. This new definition replaces the definition in current 8 CFR 213a.2(a)(1)(ii), which defines the term execute only for the purposes of the Affidavit.

• Amend Federal poverty line definition. DHS proposes to revise the definition of ''Federal poverty line'' to replace the phrase ''the Service'' with ''DHS'', which reflects the dissolution of the Immigration and Naturalization Service and the transference of its duties and responsibilities to the U.S. Department of Homeland Security through the Homeland Security Act of 2002.[175] DHS is also proposing to amend the Federal poverty line definition to clarify that the poverty guidelines as referenced in the definition is the Federal Poverty Guidelines (FPG) as issued annually by HHS.

• Amend household income definition. DHS is proposing to revise the definition of ''household income'' to mean the income used to determine whether a sponsor meets the minimum income requirements under sections 213A(f)(1)(E), 213A(f)(3), or 213A(f)(5) of the Act, 8 U.S.C 1183a(f)(1)(E), (f)(3), or (f)(5). Under the proposed amended definition, household income will include all income, obtained from employment in a lawful enterprise or some other lawful source, of the sponsor, the sponsor's spouse if the spouse submitted a Contract, and the intending immigrant's income that will continue to be available to the intending immigrant after he or she acquires lawful permanent resident status. Household income will not include income from employment that has not yet actually begun, income derived from unlawful enterprises, such as proceeds from illegal gambling or drug sales, any intending immigrant income derived from employment that is not authorized under 8 CFR 274a.12, or income from means-tested public benefits, as defined in 8 CFR 213a.1(l). This proposed definition will clarify that household income will not include the income of household members other than the sponsor, the sponsor's spouse who executed a Contract, or the intending immigrant, in order for the sponsor to meet the income requirements of section 213A of the Act, 8 U.S.C. 1183a. This revision will better assist immigration officers and immigration judges in determining whether a sponsor has the means to maintain income of at least 125 percent of the Federal poverty line and whether the sponsor will be able to carry out their support obligations.

• Amend household size definition. DHS is proposing to revise the definition of ''household size'' to add the requirement that, in addition to the individuals included in the current definition, a sponsor must include any other aliens listed on an executed Affidavit that has not yet gone into effect, unless the sponsor has withdrawn the Affidavit, or the application associated with the Affidavit has been denied and any appeals have been exhausted or waived. DHS is also proposing to include in ''household size'' aliens for whom the sponsor has executed a Contract and the support obligation is still in effect, and any executed Contract that has not yet gone into effect, unless the sponsor has withdrawn the Contract, or the application associated with the Contract has been denied and any appeals have been exhausted or waived. The proposed amendment would also eliminate the sponsor's ability to include the income of household members besides a spouse who executed Form I–864A and the intending immigrant in order to meet the income requirements of section 213A of the Act, 8 U.S.C. 1183a. DHS is proposing this change to correspond with the proposed amendment of the definition of household income, which would exclude the income of any individual other than the sponsor, the sponsor's spouse, and the intending immigrant. These proposed amendments, consistent with the statute's purpose of ensuring sponsors fulfill their support obligations, will provide a more accurate assessment of the number of individuals the sponsor is currently supporting or is seeking to support. The revised definition will assist DHS in determining if a sponsor meets the support requirements, has demonstrated the means to maintain income at the required income level, and will be able to meet their support obligations.

• Amend immigration officer definition. DHS is proposing to revise the definition of ''immigration officer'' by updating an incorrect reference. Immigration officer as defined for purposes of 8 CFR chapter I is currently found in 8 CFR 1.2, and not 8 CFR 103.1(j) as 8 CFR 213a.1 currently indicates. Proposed 8 CFR 213a.1(h) is revised to provide that, solely for purposes of this part, immigration officer includes a consular officer, as defined by section 101(a)(9) of the Act, as well as an immigration officer, as defined by § 1.2 of the chapter. This is a technical correction that does not substantively change the definition of immigration officer as currently defined in 8 CFR 213a.1.

• Amend income definition. DHS is proposing to amend the definition of ''income'' to mean an individual's total income (*e.g.,* adjusted gross income for those who file an Income Tax Return for Single Filers With No Dependents) for purposes of the individual's U.S. Federal income tax liability, including a joint income tax return, excluding any income earned or derived from unlawful enterprises, such as illegal gambling or drug sales. Only an individual's Federal income tax return—that is, neither a state or territorial income tax return nor an income tax return filed with a foreign government—can be filed with an Affidavit or with a Contract, unless the individual had no duty to file a Federal income tax return, and claims his or her state, territorial or foreign taxable income is sufficient to establish the sufficiency of the Affidavit or the Contract. The proposed amendment, consistent with the statute, requires a sponsor to provide verified information regarding his or her income, and therefore provide reliable information regarding a sponsor's ability to support the intending immigrant.

• Amend joint sponsor definition. DHS is proposing to revise the definition of ''joint sponsor'' to refer to the sponsor who filed the immigrant petition on behalf of the intending immigrant as the ''petitioning sponsor''. This amendment corresponds with section 213A(f)(5)(A) of the Act, 8 U.S.C. 1183a(f)(5)(A), which uses the term 'petitioning sponsor' and clarifies the identity of the intending immigrant's sponsor.

• Add definition for petitioning sponsor. DHS is proposing to add a definition of ''petitioning sponsor'' to mean a sponsor who meets all the requirements of section 213A(f)(1)(A) through (E) of the Act; meets the requirements of section 213A(f)(1)(A), (B), (C), and (D) and (f)(2) of the Act; meets the requirements of section 213A(f)(1)(A), (B), (C), and (D) and (f)(3) of the Act; meets the requirements of section 213A(f)(1)(A), (B), (C), and (D) and (f)(4)(A) and (f)(4)(B)(i) of the Act; or meets the requirements of section 213A(f)(1)(A), (B), (C), (f)(4)(A) and (f)(4)(B)(ii) of the Act. This definition, consistent with the statute, differentiates between the petitioning sponsor, as proposed above, any joint sponsor who accepts joint and several

[175] *See* Homeland Security Act of 2002, Public Law 107–296 (Nov. 25, 2002).

liability with the petitioner,[176] and a substitute sponsor, who accepts the petitioning sponsor's support obligations if the petitioning sponsor dies after the immigrant petition was approved.[177] DHS proposes conforming edits throughout the regulation to be consistent with this new definition.

• Amend definition of sponsor. DHS is proposing to revise the definition of ''sponsor'' to include the three categories of sponsors: Petitioning sponsor, joint sponsor, and substitute sponsor. This proposed amendment, consistent with statute, clarifies the categories of sponsors and corresponds to the obligations defined in the statute of each category. DHS proposes conforming edits throughout the regulation to be consistent with this new definition.

• Add definition for U.S. Armed Forces, otherwise known as Armed Forces of the United States. DHS is proposing to add the definition of ''U.S. Armed Forces'' to mean Army, Navy, Air Force, Marine Corps, and Coast Guard as codified in 10 U.S.C. 101(a)(4). This definition, consistent with the statute, clarifies the key term in the proposed definitions for ''active duty'' and ''active duty for training.''[178]

I. Clarifying Affidavit Requirements for Certain Children of U.S. Citizens Acquiring U.S. Citizenship

DHS proposes to clarify the exemption from the Affidavit requirement for foreign-born children who will automatically acquire U.S. citizenship under section 320 of the Act after admission to the United States as an LPR and taking up residence in the legal and physical custody of their U.S. citizen parent. DHS is not adding a new exemption, but rather, is identifying which immigrant categories of children need to file an Affidavit, and which do not, as described below. Accordingly, DHS proposes to amend 8 CFR 213a.2(a)(2)(ii)(E) to clarify that 8 CFR 213a.2(a)(1) does not apply if the intending immigrant:

• Is the child of a U.S. citizen, and the child's lawful admission for permanent residence and residence in the United States in the U.S. citizen parent(s)' legal and physical custody will result in the child's automatic acquisition of citizenship under section 320 of the Act, 8 U.S.C. 1431, as amended, unless the child is considered to be coming to the United States for adoption under sections 101(b)(1)(F) and 101(b)(1)(G) of the Act, 8 U.S.C. 1101(b)(1)(F) and 1101(b)(1)(G).

The current regulation does not address the different ways that a child may come to the United States to be adopted as described in sections 101(b)(1)(E), 101(b)(1)(F), and 101(b)(1)(G) of the Act, 8 U.S.C. 1101(b)(1)(E), 1101(b)(1)(F), and 1101(b)(1)(G). Therefore, these clarifying edits provide the specific provisions under the INA that apply to adopted children who are and who are not subject to the Affidavit requirement.

Alien children of U.S. citizens, who must first establish eligibility for admission, are subject to section 212(a)(4) of the Act, 8 U.S.C. 1182(a)(4), even though they may later acquire U.S. citizenship upon meeting the requirements of section 320 of the Act, 8 U.S.C. 1431.[179] However, children of U.S. citizens who will automatically acquire citizenship under section 320 of the Act, 8 U.S.C. 1431, after admission to the United States as an LPR and taking up residence in the legal and physical custody of their U.S. citizen parent, are exempt from the Affidavit requirement under the current regulations and will continue to be exempt under the proposed regulations.[180]

The following categories of children automatically acquire citizenship after admission as lawful permanent residents and beginning to reside in the legal and physical custody of their U.S. citizen parent(s) and are exempt from filing an Affidavit:[181]

• Child of a U.S. citizen (IR–2/IR–7)—requires an approval of a Petition for Alien Relative, Form I–130. These children are generally admitted as lawful permanent residents or their status is adjusted to that of lawful permanent resident. The child may then file an Application for Certificate of Citizenship, Form N–600, to receive the Certificate of Citizenship.[182] The certificate generally would be dated as of the date the child was admitted as a lawful permanent resident. Stepchildren of U.S. citizens are not eligible for acquisition of citizenship under section 320 of the Act, 8 U.S.C. 1431, unless the child is adopted by the U.S. citizen step-parent.[183]

• Orphan adopted abroad by a U.S. citizen (IR–3/IR–8)—requires an approval of a Petition to Classify Orphan as an Immediate Relative, Form I–600. These children are generally admitted as lawful permanent residents, and USCIS will send a Certificate of Citizenship to the child without a Form N–600 being filed or adjudicated, provided the child has taken up residence in the United States in the legal and physical custody of the adoptive parents.

• Hague Convention Adoptee adopted abroad by a U.S. citizen (IH–3/IH–8)—requires an approval of a Petition to Classify Convention Adoptee as an Immediate Relative, Form I–800. These children are generally admitted as lawful permanent residents and USCIS will send a Certificate of Citizenship to the child without a Form N–600 being filed or adjudicated, provided the child has taken up residence in the United States in the legal and physical custody of the adoptive parents.

Children who are considered to be coming to the United States for adoption, however, must generally take some additional steps to acquire citizenship and therefore are required to file a Form I–864 or Form I–864EZ under the current and proposed regulations. The proposed rule would clarify which children are considered to be coming to the United States for adoption and therefore subject to the Affidavit requirement. The following categories of children are considered to be coming to the United States for adoption and required to file a Form I–864 or Form I–864EZ:

• Orphan to be adopted by a U.S. citizen (IR–4/IR–9). These children are admitted as lawful permanent residents. Generally, the parent(s) must complete the adoption in the United States.[184]

• Hague Convention Adoptee to be adopted by a U.S. citizen (IH–4/IH–9).

[176] *See* INA section 213A(f)(2), 8 U.S.C. 1183a(f)(2). *See* INA section 213A(5)(A), 8 U.S.C. 1183a(5)(A).

[177] *See* INA section 213A(f)(5)(B), 8 U.S.C. 1183a(f)(5)(B).

[178] *See* 10 U.S.C. 101(a)(4).

[179] Note that children born abroad to U.S. citizen parents may also acquire U.S. citizenship at birth under certain circumstances, such as where both parents are U.S. citizens and one parent had resided in the United States prior to the child's birth, or where one parent is a U.S. citizen who was physically present in the United States for at least five years, two of which were after age 14. Such children would enter the United States as U.S. citizens and would not be subject to an admissibility determination. *See* INA sections 301 and 309, 8 U.S.C. 1401 and 1409. These children would apply with DOS for a Consular Report of Birth Abroad and/or passport. *See* Department of State, Consular Reports on Birth Abroad, available at *https://travel.state.gov/content/congress-liaison-home/en/Congressional_Liaison/Americans-Abroad/consular-reports-of-birth-abroad.html* (last visited June 2, 2020).

[180] *See* Child Citizenship Act, Public Law 106–395, 114 Stat. 1631 (Oct. 30, 2000). *See also* 8 CFR 213a.2(a)(2)(ii)(E). Stepchildren of U.S. citizens are not eligible for acquisition of citizenship under section 320 of the Act unless the child is adopted by the U.S. citizen step-parent. *See* INA section 101(c)(1), 8 U.S.C. 1101(c)(1).

[181] *See* 8 CFR 213a.2(a)(2)(ii)(E).

[182] Except for stepchildren of U.S. citizens who are not eligible for acquisition of citizenship under section 320 of the Act or unless the child is adopted by the U.S. citizen step-parent. *See* INA section 101(c)(1), 8 U.S.C. 1101(c)(1).

[183] *See* INA section 101(c)(1), 8 U.S.C. 1101(c)(1).

[184] *See* 8 CFR 320.1.

These children are admitted as lawful permanent residents. Generally, the parent(s) must complete the adoption in the United States.[185]

Congress has enacted numerous laws over the last two decades to ensure that foreign-born children of U.S. citizens are not subject to adverse immigration consequences in the United States on account of their foreign birth. Most notably, the Child Citizenship Act of 2000[186] provides that children, including certain adopted children, of U.S. citizen parents automatically acquire U.S. citizenship if certain conditions are met.[187] The same year, Congress passed the Intercountry Adoption Act of 2000 (IAA)[188] to implement the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Hague Adoption Convention or Convention),[189] which established international standards of practices for intercountry adoptions. The IAA protects the rights of children, birth families, and adoptive parents, and improves the Government's ability to assist U.S. citizens seeking to adopt children from abroad.[190]

For these reasons, the continued exemption of children automatically acquiring citizenship under section 320 of the Act, 8 U.S.C. 1431, after admission as a lawful permanent resident and beginning to reside in the legal and physical custody of their U.S. citizen parent(s) from the Affidavit requirement is consistent with Congress' strong interest in supporting U.S. citizens seeking to welcome foreign-born children into their families.

J. Miscellaneous Other Changes

DHS proposes deleting 8 CFR 213a.2(a)(1)(ii), which explains when an Affidavit is executed. There is no similar provision that explains when a Contract is executed. As noted in section H. above, DHS proposes to add a definition for the term ''execute'' in proposed 8 CFR 213a.1 that would apply to both Affidavits and Contracts, and would clarify what execute means throughout the proposed rule. Therefore, the provision in 8 CFR 213a.2(a)(1)(ii) would no longer be necessary and DHS proposes its deletion.

DHS proposes deleting 8 CFR 213a.2(a)(1)(i)(B) as not necessary. Currently, the regulations require certain intending immigrants to file Form I–864W, Request for Exemption for Intending Immigrant's Affidavit of Support, to establish that they are exempt from the Affidavit requirement. However, DHS has determined these classes of intending immigrants must provide evidence that they are exempt from the Affidavit requirement as part of submitting the Form I–485, Application to Register Permanent Residence or Adjust Status.

As part of the adjustment of status process, USCIS is responsible for determining whether the applicant has met his or her burden of proof to establish eligibility for the benefit, which includes a determination of whether the alien has demonstrated that no inadmissibility grounds in section 212(a) of the Act, 8 U.S.C. 1182(a), apply.[191] Failure to submit an Affidavit when required results in a determination of inadmissibility based on the public charge ground irrespective of any other statutory factors.[192] Therefore, an adjustment of status applicant already needs to provide evidence that he or she is exempt from filing an Affidavit, thereby eliminating the need for filing Form I–864W.

Removing the requirement for certain applicants to file a form and affirmatively request the exemption will be less burdensome for applicants as well as USCIS. Accordingly, DHS will eliminate the use and consideration of Form I–864W.

DHS proposes revising 8 CFR 213a.2(a)(2)(ii) to accurately identify all of the classes of intending immigrants who are exempt from the Form I–864 requirement. *See* proposed 8 CFR 213a.2(a)(2)(ii)(F)–(EE).

DHS proposes revising the support requirements in 8 CFR 213a.2(c)(1)(i) to be more consistent with section 213A(f)(1) of the Act, 8 U.S.C. 1183a(f)(1) and include the requirements that in general, a sponsor must be petitioning for the admission of the alien under section 204 of the Act and demonstrate the means to maintain an annual income equal to at least 125 percent of the Federal Poverty guidelines based on the sponsor's household size. *See* proposed 8 CFR 213a.2(c)(1)(i).

DHS proposes amending 8 CFR 213a.2(c)(2)(iii)(B) to clarify which types of assets may be considered significant assets for Affidavit purposes, including that non-cash assets must be able to be converted into cash within 12 months. *See* proposed 8 CFR 213a.2(c)(2)(iii)(B). This revision reflects USCIS' existing policy and the instructions for Form I–864.[193] How DHS calculates significant assets would not change by clarifying that the significant assets are calculated by reference to FPG as this revision reflects the proposed revision of the definition of Federal poverty line which would be based on the FPG. DHS also proposes adding 8 CFR 213a.6, adding a severability clause in the event that any of the provisions in this part are not implemented.

K. Transition Period

DHS proposes that all applications for adjustment of status and applications for immigrant visas postmarked (or if applicable, electronically submitted) before the effective date of the final rule will be adjudicated under the criteria currently found in 8 CFR part 213a as

[185] *See* INA section 101(b)(1), 8 U.S.C. 1101(b).

[186] *See* Public Law 106–395, section 101(a), 114 Stat. 1631, 1631 (codified at INA section 320(a)–(b), 8 U.S.C. 1431(a)–(b)); *see also Children Born Outside the United States; Applications for Certificate of Citizenship,* 66 FR 32137 (June 13, 2001). The CCA applies to children who were under 18 as of February 27, 2001. The law was passed after several high-profile cases in which children who were adopted abroad were subject to deportation despite having grown up in the United States and having believed that they were U. S. citizens.

[187] *See* 8 CFR part 320; see also Dep't of State, FAQ: Child Citizenship Act of 2000, available at *https://travel.state.gov/content/travel/en/Intercountry-Adoption/adopt_ref/adoption-FAQs/child-citizenship-act-of-2000.html* (last visited June 2, 2020).

[188] *See* Public Law 106–279, 114 Stat. 1631 (codified at 42 U.S.C. 14901–14954). *See also Hague Convention on Intercountry Adoption; Intercountry Adoption Act of 2000; Accreditation of Agencies; Approval of Persons,* 71 FR 8063 (Feb. 15, 2006).

[189] The United States signed the Convention in 1994, and the Convention entered into force for the United States on April 1, 2008. *See Deposit of Instrument of Ratification by the United States of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption,* 72 FR 71730 (Dec. 18, 2007). For the full text of the Convention, *see also* Hague Conference, 33. Convention on Protection of Children and Co-Operation in Respects of Intercountry Adoption (Concluded May 29, 1993), available at *https://assets.hcch.net/docs/77e12f23-d3dc-4851-8f0b-050f71a16947.pdf* (last visited June 2, 2020).

[190] *See* IAA section 2, 42 U.S.C. 14901(a); see also 146 Cong. Rec. S8938–01, S8938 (daily ed. Sept. 21, 2000) (statement by Sen. Landrieu) (''I have said it before and I believe it rings true here, adoption brings people, whether they are Republican, Democrat, conservative, liberal, American, Russian or Chinese, together. United by the belief that all children deserve to grow in the love of a permanent family. Adoption breaks down barriers and helps build families.''). A year earlier, Congress passed Public Law 106–139, 113 Stat. 1696 (1999), to amend the definition of ''child'' in section 101(b)(1)(E) of the INA, 8 U.S.C. 1101(b)(1)(E), a change that allowed children adopted abroad to maintain their familial relationship with their natural siblings, making it easier for siblings to be adopted together.

[191] *See* INA section 291, 8 U.S.C. 1361.

[192] *See* INA section 212(a)(4)(C) and (D), 8 U.S.C. 1182(a)(4)(C) and (D).

[193] *See* Instructions for Affidavit of Support Under Section 213A of the INA, available at *https://www.uscis.gov/i-864. See also* USCIS Adjudicator's Field Manual, Chapter 20.5(k)(5)(B), available at *https://www.uscis.gov/sites/default/files/policymanual/afm/afm20-external.pdf* (last visited June 4, 2020).

promulgated by the 2006 final rule.[194] All applications for adjustment of status and applications for immigrant visaspostmarked (or if applicable, electronically submitted) on or after the effective date of the final rule will be adjudicated according to the provisions of the final rule. DHS invites public comment on other possible approaches to the transition period between the current regulations and the proposed revisions.

V. Statutory and Regulatory Requirements

A. Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review)

Executive Orders (E.O.) 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

This proposed rule is designated a ''significant regulatory action'' that is economically significant since it is estimated the proposed rule likely would have an annual effect on the economy of $100 million or more, under section 3(f)(1) of E.O. 12866. Accordingly, the Office of Management and Budget (OMB) has reviewed this proposed regulation.

1. Summary of Changes of the Proposed Rule

DHS is proposing to amend its regulations related to Affidavits at 8 CFR part 213a by revising sponsorship requirements to better ensure a sponsor has the means to support intending immigrants at the statutorily-required level. The proposed rule is intended to better ensure all sponsors and household members who execute an Affidavit or Contract can meet the support obligations under section 213A of the Act, 8 U.S.C. 1183a(a). This rule would also strengthen enforcement of Affidavits to hold sponsors and household members accountable if sponsored immigrants obtain means-tested public benefits during the period in which the obligations are in effect.

The proposed rule would update the evidentiary requirements for sponsors submitting an Affidavit. The updated evidentiary requirements would provide immigration officers and immigration judges more effective ways to determine whether the sponsor has the means to maintain an annual income at or above the required income threshold, and whether the sponsor is able to provide financial support to the intending immigrant and meet all support obligations during the period the Affidavit is in effect. Specifically, the proposed rule would require sponsors and household members to provide Federal income tax returns for the 3 most recent tax years, instead of 1 tax return for the most recent tax year, recent credit reports and credit scores, and bank account information.

In addition, the proposed rule would revise policies related to a sponsor's prior receipt of means-tested public benefits or default on another Affidavit or Contract support obligation. Sponsors who have themselves received means-tested public benefits may not have the financial means to support a sponsored immigrant. Similarly, a sponsor who has previously failed to fulfill their support obligations may be an unreliable source of support or repayment for Affidavit purposes. Specifically, this proposed rule would require a joint sponsor when a sponsor has received means-tested public benefits within the past 36 months and/or has had a judgment against him or her for a previous Affidavit.

Moreover, the proposed rule would revise who may execute a Contract. Currently, there is no limit on how many household members or which household members may execute a Contract. DHS intends to permit only a sponsor's spouse or, in certain circumstances, the intending immigrant, to execute a Contract. An intending immigrant may only execute a Contract if he or she has an accompanying spouse or children; if the intending immigrant is the only immigrant being sponsored, the intending immigrant's income may be included as part of the sponsor's Affidavit if it meets the definition of household income.[195] DHS believes who may execute a Contract would better ensure that any income used by the petitioning sponsor to support the sponsored alien is actually available to the sponsor for the support of the intending immigrant. As data are unavailable demonstrating that non-spouse household members are less likely to uphold their contract obligations, DHS cannot provide examples of or other information concerning enforcement involving non-spouse household members. This provision reflects DHS' policy preference that intending immigrants should not rely upon a sponsor and a potentially unlimited group of household members to satisfy the requirements of INA 213A.

The proposed rule would update and improve how means-tested public benefit-granting agencies obtain immigration status information from USCIS about individuals who are seeking means-tested public benefits and how means-tested public benefit granting agencies provide information to USCIS. The current practices are outdated and burdensome, and discourage important information sharing and data collection. In order to address this specifically, the proposed rule would:

- Eliminate the requirement of a duly issued subpoena in order for USCIS to provide a certified copy of an Affidavit to a requesting party, and instead allow requesting parties to submit a formal request for an Affidavit or a Contract to USCIS. Eliminating this requirement would allow for a less cumbersome process than obtaining a subpoena.
- Implement the proposed new Form G–1563, Request for Certified Copy of Affidavit of Support Under Section 213A of the INA or Contract Between Sponsor and Household Member, for those from a party or entity authorized to bring an action to enforce an Affidavit or Contract making a formal request to USCIS to provide a certified copy of the requested Affidavit or Contract that has been executed on behalf of a sponsored immigrant for use as evidence in any action of enforcement.
- Remove an incorrect address and state that parties who obtain judgments against a sponsor or household member who executed a Contract Between Sponsor and Household Member, and Federal, state, or local program or private entities that make a determination under section 421(e) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 in the case of any sponsored immigrant, must notify USCIS in a manner to be designated by USCIS.

Lastly, DHS proposes to update the regulation to clarify which categories of aliens are exempt from the requirement to file an Affidavit, and to add and revise definitions to provide greater clarity within the regulations and conform to statutory changes made since the final rule was promulgated in 2006.

[194] *See Affidavits of Support on Behalf of Immigrants,* 71 FR 35731 (June 21, 2006).

[195] *See* 8 CFR 213a.1.

2. Summary of Costs and Benefits of the Proposed Rule

The proposed rule would impose new net costs on the population of sponsors executing an Affidavit using Form I–864 or Form I–864EZ as well as the population of household members who execute a Contract using Form I–864A so that a sponsor can use the household member's income and/or assets to demonstrate means to maintain income. Additionally, the proposed rule would impose new net costs on the population executing Form I–864A as a household member who would now be required to submit Form I–865 to provide notice of a change of address after moving. Moreover, the proposed rule would produce some cost savings for immigrants applying for adjustment of status who would have needed to request an exemption from filing an Affidavit as DHS is proposing to eliminate Form I–864W for use when filing Form I–485. Instead, individuals would be required to provide the information previously requested on Form I–864W when filing Form I–485. DHS has determined that the information an applicant provides on Form I–485 would be sufficient for an adjudications officer to be able to verify whether an immigrant is statutorily required to file an Affidavit.

This proposed rule also would impose new costs on those from a party or entity authorized to bring an action to enforce an Affidavit or Contract making a formal request using the proposed new Form G–1563 so that USCIS may provide a certified copy of the requested Affidavit or Contract that has been executed on behalf of a sponsored immigrant for use as evidence in any action of enforcement. DHS estimates the total cost for filing the proposed new Form G–1563 would be approximately $779 annually.[196]

DHS estimates the total new quantified net costs imposed by the proposed rule would be approximately $240,314,623 annually for those executing an Affidavit for an intending immigrant using Form I–864, Form I–864EZ, for those executing a Contract using Form I–864A, and for those submitting a notice of a change of address after moving using Form I–865, for those filing Form G–1563 to make a formal request for a certified copy of and Affidavit or Contract, as well as accounting for the estimated cost savings for immigrants applying for adjustment of status who would have needed to request an exemption from filing an Affidavit as DHS is proposing to eliminate Form I–864W for use when filing Form I–485. The estimated new quantified net costs of the proposed rule would be based on an increased opportunity costs of time for completing Form I–864, Form I–864A, and Form I–864EZ,[197] as well as new requirements for completing these forms, including:

- Obtaining credit reports and credit scores,
- obtaining Internal Revenue Service (IRS)-issued certified copies or transcripts of Federal income tax returns for the 3 most recent taxable years, and
- opportunity cost of time to file IRS Form 4506, Request for Copy of Tax Return, to obtain IRS-issued certified Federal income tax returns for completing Form I–864 and Form I–864EZ.

The estimated new quantified net costs of the proposed rule also would be based on the proposed requirement that those who file Form I–864A use Form I–865 to provide notice of a change of address after moving.

Over the first 10 years of implementation, DHS estimates the total quantified new net costs of the proposed rule would be $2,403,146,230 (undiscounted). DHS estimates that the 10-year discounted total net costs of this proposed rule would be about $2,049,932,479 at a 3 percent discount rate and about $1,687,869,350 at a 7 percent discount rate.

The primary benefit of the proposed rule would be to better ensure that the sponsored immigrant is financially supported, as required by law, and that means-tested public benefit granting agencies can more efficiently seek reimbursement from sponsors or household members when a sponsored immigrant receives means-tested public benefits.

DHS also anticipates the proposed rule to produce benefits by strengthening the enforcement mechanism for Affidavits and Contracts through elimination of the subpoena requirement in 8 CFR 213a.4 to make it easier for means-tested public benefit granting agencies to recover payment for any means-tested public benefits that an intending immigrant receives during the period in which an Affidavit or a Contract is enforceable. The proposed rule would update the evidentiary requirements for sponsors submitting an Affidavit and household members submitting Contracts, which would provide immigration officers and immigration judges more effective ways to determine whether individuals have the means to maintain an annual income at or above the outlined income threshold and provide financial support to the intending immigrant and meet all support obligations during the period an Affidavit or Contract is in effect. Additionally, the proposed rule would update and improve how means-tested public benefit granting agencies obtain information from USCIS about sponsors and household members who have a support obligation in effect and how means-tested public benefit granting agencies provide information to USCIS.

Table 2 provides a more detailed summary of the proposed provisions and their impacts.

TABLE 2—SUMMARY OF MAJOR CHANGES TO PROVISIONS AND ESTIMATED ECONOMIC IMPACTS OF THE PROPOSED RULE

Provisions	Proposed provision	Estimated impact of proposed provision
Amending 8 CFR 213a.1. Definitions.	Adds new and updates existing definitions.	Quantitative: *Costs:* • Total annual net costs of the proposed rule would be about $240.3 million, including: • $226.6 million to applicants who must file Form I–864; • $10.63 million to those who must complete Form I–864A;
Revising 8 CFR 213a.2. Use of Affidavit of Support.	Outlines circumstances, requirements, and exemptions for executing an Affidavit of Support Under Section 213A of the INA.	

[196] Calculation: $31.17 (cost per filer to file Form G–1563) * 25 (estimated annual population who would make a formal request using Form G–1563) = $779.25 = $779 (rounded) annual total cost to file Form G–1563.

[197] The quantified cost of the new requirement to provide bank account information for those individuals filing Forms I–864, I–864A, and I–864EZ are accounted for in the increased time burden estimate for completing these forms.

TABLE 2—SUMMARY OF MAJOR CHANGES TO PROVISIONS AND ESTIMATED ECONOMIC IMPACTS OF THE PROPOSED RULE—Continued

Provisions	Proposed provision	Estimated impact of proposed provision
Adding 8 CFR 213a.3 Change of Address.	Requires sponsors and household members to notify USCIS of any change of address within 30 days while the sponsor's and/or household member's support obligation is in effect.	• $6.75 million to applicants who must file Form I–864EZ; • $3.68 million cost savings to applicants from eliminating Form I–864W; • $2,751 to those who must file Form I–865; and • $779 to those who file the proposed new Form G–1563.
Amending 8 CFR 213a.4. Actions for reimbursement, public notice, and congressional reports.	Outlines process by which USCIS provides a certified copy of Affidavit of Support Under Section 213A of the INA or Contract Between Sponsor and Household Member that has been executed to a party or authorized entity.	• Total net costs over a 10-year period would range from: • $2.40 billion for undiscounted net costs; • $2.05 billion at a 3 percent discount rate; and • $1.69 billion at a 7 percent discount rate. Qualitative: *Costs* • The proposed rule may impose some costs if a joint sponsor must execute an Affidavit in cases where a sponsor has received any means-tested public benefits within 36 months of filing the Affidavit and/or has failed to meet the support or reimbursement obligations under an existing Affidavit or Contract. • There could be a reduction in the number of immigrants granted an immigration benefit in cases where the intending immigrant is unable to obtain a sponsor who can meet the new requirements under this proposed rule. • The proposed rule could result in some sponsors who may intend to sponsor a family member in the future to forego enrollment or disenroll from a means-tested public benefits program to avoid triggering the proposed additional requirements. • The proposed rule may result in an increased number of individuals with support obligations who are held accountable for the reimbursement of the cost of means-tested public benefits. Further, sponsors or household members would incur the cost of reimbursing the means-tested public benefits-granting agency and would likely incur the costs of legal representation if means-tested public benefits granting agencies choose to pursue legal action to recover the means-tested public benefits a sponsored individual received. *Benefits* • Update evidentiary requirements to provide USCIS with more effective ways to determine whether the sponsor has the means to maintain an annual income at or above the outlined income threshold. These updated requirements would better enable officers to determine whether the sponsor is able to provide financial support to the intending immigrant and meet all support obligations during the period the Affidavit is in effect; • Update and improve how means-tested public benefit-granting agencies obtain immigration status information from USCIS about individuals who are seeking means-tested public benefits and how means-tested public benefit-granting agencies provide information to USCIS. This proposed provision would eliminate the requirement of obtaining a duly issued subpoena before USCIS is authorized to provide a certified copy of Form I–864 or Form I–864EZ to a requesting party for use in any action to enforce the support obligation and instead allow a requesting party to submit a formal request for an Affidavit or a Contract directly to USCIS. This will strengthen the enforcement mechanism for Affidavits and Contracts, which would allow means-tested public benefits-granting agencies to recover payment for any means-tested public benefits that a sponsored alien receives during the period in which an Affidavit or Contract is enforceable; and • Revise the process for informing USCIS about judgments obtained against sponsors (for failing to meet prior support obligations as a sponsor or household member) and indigency determinations to give USCIS flexibility to determine a more efficient mechanism for information reporting, whereby USCIS would be permitted to provide a different mechanism for submitting copies of judgments and indigency determinations to ensure accuracy and efficiency.

Source: USCIS analysis.

DHS does not have sufficient data to quantify the expected benefits of the proposed rule. However, the Administration has identified enforcement of sponsorship obligations as a priority and DHS has made a policy determination that the proposed changes in this rule will assist with better ensuring sponsors and household members who execute a Contract are capable of meeting their support obligations under section 213A of the INA, 8 U.S.C. 1183a, and strengthening the enforcement mechanism for the Affidavit and Contract so that sponsors and household members are held accountable for those support obligations.

In addition to the impacts summarized above and as required by OMB Circular A–4, Table 3 presents the prepared accounting statement showing the costs associated with this proposed regulation.[198]

[198] *See* OMB Circular A–4 is available at *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A4/a-4.pdf* (last visited June 2, 2020).

TABLE 3—OMB A–4 ACCOUNTING STATEMENT ($, 2019)

Category	Primary estimate	Minimum estimate	Maximum estimate	Source citation
Benefits:				
Monetized Benefits	N/A			RIA.
Annualized quantified, but un-monetized, benefits	N/A			RIA.
Unquantified Benefits	DHS anticipates the proposed rule would produce qualitative benefits that would: • Update evidentiary requirements to provide USCIS more effective ways to determine whether the sponsor has the means to maintain an annual income at or above the outlined income threshold. These updated requirements would better enable USCIS to determine whether the sponsor is able to provide financial support to the intending immigrant and meet all support obligations during the period the Affidavit is in effect; • Update and improve how means-tested public benefit-granting agencies obtain immigration status information from USCIS about individuals who are seeking means-tested public benefits and how means-tested public benefit-granting agencies provide information to USCIS. This proposed provision would eliminate the requirement of obtaining a duly issued subpoena before USCIS is authorized to provide a certified copy of Form I–864 or Form I–864EZ to a requesting party for use in any action to enforce the support obligation and instead allow a requesting party to submit a formal request for an Affidavit or a Contract directly to USCIS. This will strengthen the enforcement mechanism for Affidavits and Contracts, which would allow means-tested public benefits-granting agencies to recover payment for any means-tested public benefits that a sponsored alien receives during the period in which an Affidavit or Contract is enforceable; and • Revise the process for informing USCIS about judgments obtained against sponsors (for failing to meet prior support obligations as a sponsor or household member) and indigency determinations to give USCIS flexibility to determine a more efficient mechanism for information reporting, whereby USCIS would be permitted to provide a different mechanism for submitting copies of judgments and indigency determinations to ensure accuracy and efficiency.			RIA.
Costs:				
Annualized monetized net costs (discount rate in parenthesis).	(3%) $240,314,623 (7%) $240,314,623			RIA.
Annualized quantified, but un-monetized, costs	N/A			RIA.
Qualitative (unquantified) costs	The proposed rule may impose some impacts and/or costs associated with the proposed provisions that a joint sponsor must execute an Affidavit in cases where a sponsor has received any means-tested public benefits within 36 months of filing the Affidavit and/or has failed to meet the support or reimbursement obligations under an existing Affidavit or Contract. There could be a reduction in the number of immigrants granted an immigration benefit in cases where the intending immigrant is unable to obtain a sponsor who can meet the new requirements under this proposed rule. The proposed rule could result in some sponsors who may intend to sponsor a family member in the future foregoing enrollment or disenrolling from a means-tested public benefits program to avoid triggering the proposed additional requirements. The proposed rule may result in an increased number of individuals with support obligations who are held accountable for the reimbursement of the cost of means-tested public benefits. Further, sponsors or household members would incur the cost of reimbursing the means-tested public benefits-granting agency and would likely incur the costs of legal representation if means-tested public benefits granting agencies choose to pursue legal action to recover the means-tested public benefits a sponsored individual received.			RIA.

TABLE 3—OMB A–4 ACCOUNTING STATEMENT ($, 2019)—Continued

Category	Primary estimate	Minimum estimate	Maximum estimate	Source citation
	The proposed rule may cause the Department of State (DOS) to incur additional costs to provide adjudication services for Affidavits or Contracts. While it is difficult at this time to quantify these increased costs, DOS identified several sources of possible increased costs for these services resulting from this proposed rule such as contract modifications.			
Miscellaneous Analyses/Category	*Effects*			*Source Citation*
Effects on state, local, and/or tribal governments	None.			
Effects on small businesses	None			RFA.
Effects on wages Effects on growth	None. None.			

3. Background and Purpose of the Rule

As discussed in the preamble, DHS is seeking to update the regulations at 8 CFR part 213a by amending sponsorship requirements to better ensure that all sponsors, as well as household members who execute a Contract, have the means to maintain income at the applicable income threshold and are capable of meeting their support obligations under section 213A of the INA, 8 U.S.C. 1183a, during the period in which the Affidavit or the Contract is enforceable and support the intended immigrant(s) at the statutorily required level. Sponsors may demonstrate that they have the means to maintain an annual income equal to at least 125 of the Federal poverty line, or 100 percent as applicable,[199] through a combination of income and/or significant assets.[200] This proposed rule seeks to expand the types of additional financial information required from sponsors to further help make such determinations. A more complete picture of the sponsor's and household member's financial situation would help immigration officers and immigration judges determine whether the sponsor can meet the requirements of section 213A of the Act, 8 U.S.C. 1183a, particularly whether the sponsor has demonstrated the means to maintain income as required by section 213A(f)(6), 8 U.S.C. 1183a(f)(6), and whether the sponsor and household member will actually fulfill his or her support obligation to the intending immigrant. USCIS believes that this will strengthen the integrity of the immigration process.

DHS notes that the baseline would include the number of sponsors who currently maintain support of an immigrant according to the requirements of an Affidavit as well as the number of sponsors who have not met their financial obligations and from whom means-tested public benefits-granting agencies have sought reimbursement. However, DHS does not have data on reimbursement efforts or successful recoveries by benefits-granting agencies. USCIS receives limited information from benefit-granting agencies or other parties enforcing the Affidavit or Contract, despite the information sharing provisions in the statute and regulations and thus is unable to determine whether the proposed rule's benefits are likely to exceed its costs. However, the Administration has identified enforcement of the reimbursement requirement as a problem that needs fixing. Enforcing support obligations is a priority for the Administration.

DHS also is seeking to update the provisions to allow means-tested public benefit granting agencies to more easily obtain information from USCIS in order to seek reimbursement from a sponsor when the sponsored immigrant has received means-tested public benefits. Most family-based immigrants pursuant to section 212(a)(4)(C) of the Act, 8 U.S.C. 1182(a)(4)(C), and some employment-based immigrants under pursuant to section 212(a)(4)(D) of the Act, 8 U.S.C. 1182(a)(4)(D), are required to submit an Affidavit executed by the petitioning sponsor. This proposed change is intended to strengthen the enforcement mechanism for the Affidavit so that sponsors and household members who agree to use their income and assets to support the sponsored immigrant are held accountable if the sponsored immigrant ultimately receives means-tested public benefits during the period in which the Affidavit or the Contract is enforceable. USCIS receives limited information from benefit-granting agencies or other parties enforcing the Affidavit or Contract, despite the information sharing provisions in the statute and regulations. Current DHS regulations for obtaining copies of Affidavits are burdensome and inefficient because they require a subpoena. Laws governing subpoenas vary by jurisdiction, but subpoenas often need to be issued by a court clerk or by a licensed attorney,[201] which requires additional time and resources. The requirements in the current regulations may have contributed to unintended difficulties for benefit-granting agencies and sponsored immigrants seeking to hold sponsors legally responsible for their obligations based on Affidavits.

An Affidavit is a legally enforceable contract between the sponsor that completes the Affidavit and the U.S. Government. A sponsor must show on the Affidavit that he or she has the means to maintain income to support the intending immigrant at 125 percent of the Federal Poverty Guidelines (FPG) based on the sponsor's household size, or 100 percent of the FPG for an individual who is on active duty (other than active duty for training) in the Armed Forces of the United States and who is petitioning for his or her spouse or child. If a sponsored immigrant receives means-tested public benefits, the agency providing the means-tested public benefit may request the sponsor repay the cost of those benefits. The agency can also sue the sponsor for failure to repay the means-tested public benefits.

A petitioning sponsor must complete an Affidavit at one of the following points in the immigration process

[199] *See* INA section 213A(f)(3), 8 U.S.C. 1183a(f)(3).

[200] *See* INA section 213A(f)(6)(A)(i)–(ii), 8 U.S.C. 1183a(f)(6)(A)(i)-(ii).

[201] For example, the Federal Rules of Civil Procedure permit court clerks or attorneys (authorized to practice in the issuing court) to issue subpoenas. *See* Fed. R. Civ. P. Rule 45(a)(3).

depending on the type of immigration benefit the applicant is seeking:

- When the principal immigrant submits a visa application with a consular officer abroad;
- when the principal immigrant submits an application for adjustment of status to permanent resident status with USCIS; or,
- when directed by an immigration judge in the United States.

If necessary, a joint sponsor must also complete an Affidavit.

Sponsors complete either a Form I–864 or the shorter Form I–864EZ. Sponsors may use Form I–864EZ only in the following circumstances: The sponsor is the petitioner who filed the Form I–130, Form I–129F, or Form I–600, for the relative being sponsored; the relative being sponsored is the only person, other than the petitioner, listed on the petition; and the income the sponsor is using to qualify for the Affidavit is based entirely on the sponsor's salary or pension and is shown on one or more IRS Form W–2s. Household members who agree to use their income and/or assets to financially support an intending immigrant execute a Contract, along with using Form I–864A.

The information collected on Form I–864, Form I–864EZ, and Form I–864A is designed to ensure individuals are qualified to be sponsors or household members, respectively. Depending on the form type, sponsors and household members must also submit certain required evidence with the form. For example, sponsors must provide proof they are a U.S. citizen, a U.S. national, or a lawful permanent resident. All sponsors and household members must currently submit a copy of their Federal income tax return, including supporting documents, for the most recent tax year, or provide evidence demonstrating why they were not required to file a Federal tax return for that year.

If an Affidavit is deemed insufficient because the sponsor has not demonstrated that he or she has the means to maintain the required income level, the intending immigrant will be considered inadmissible based on the public charge ground under section 212(a)(4) of the Act, 8 U.S.C. 1182(a)(4). The intending immigrant will not be able to adjust status or obtain an immigrant visa.

When a sponsor executes Form I–864 in support of an intending immigrant, the sponsor agrees to undertake the support obligations as described in section 213A of the Act, 8 U.S.C. 1183a.

Categories of immigrants required to submit Form I–864 completed by a petitioning sponsor in order to demonstrate eligibility for adjustment of status include: (1) Immediate relatives of U.S. citizens (spouses, unmarried children under 21 years of age, and parents of U.S. citizens 21 years of age and older); (2) family-based preference immigrants (unmarried sons and daughters of U.S. citizens, spouses and unmarried sons and daughters of lawful permanent residents, married sons and daughters of U.S. citizens, and brothers and sisters of U.S. citizens 21 years of age and older); and (3) employment-based preference immigrants in cases when a certain U.S. citizen, lawful permanent resident, or U.S. national relative filed the Immigrant Petition for Alien Workers, Form I–140, or such relative has a significant ownership interest (5 percent or more) in the entity that filed the Form I–140. However, certain immigrants are exempt from the requirement to submit Form I–864, as are intending immigrants who have earned or can receive credit for 40 qualifying quarters (credits) of work in the United States.

Form I–864 includes a supplemental contract, Form I–864A, which may be filed when a sponsor's income and assets do not meet the income requirements and the sponsor's household member chooses to combine his or her resources with the income and/or assets of a sponsor to meet those requirements. Currently, a separate Form I–864A must be completed for each household member whose income and/or assets the sponsor is using to meet the income requirements. The Form I–864A must be submitted with Form I–864. In addition, Form I–864A serves as a contractual agreement between the sponsor and household member that, along with the sponsor, the household member is responsible for the support obligations.

In cases where the petitioning sponsor or substitute sponsor cannot meet the income requirements by him or herself, an individual applying to adjust status may also meet the affidavit of support requirement by obtaining a joint sponsor who is willing to accept joint and several liability with the petitioning sponsor or substitute sponsor as to the obligation to provide support to the sponsored alien. The joint sponsor must demonstrate income or assets that independently meet the requirements to support the sponsored immigrant(s) as required under sections 213A(f)(2) and (f)(5) of the Act, 8 U.S.C. 1183a(f)(2) and (f)(5). The joint sponsor's income and assets may not be combined with the income/assets of the petitioning sponsor, substitute sponsor (if applicable), or the sponsored immigrant, *i.e.* the joint sponsor must have income and assets of at least the required threshold. The petitioning sponsor (or substitute sponsor, if applicable), and the joint sponsor must each complete a Form I–864.

As data are unavailable demonstrating that non-spouse household members are less likely to uphold their contract obligations, DHS cannot provide examples of or other information concerning enforcement involving non-spouse household members. This provision reflects DHS' policy preference that intending immigrants should not rely upon a sponsor and a potentially unlimited group of household members to satisfy the requirements of INA 213A. DHS welcomes public comment regarding data, information, or examples that non-spouse household members are less likely to uphold their contract obligations.

Certain classes of immigrants currently are exempt from the requirement to file Form I–864 or Form I–864EZ. Based on the information provided in an underlying form, such as Form I–485, Application to Register Permanent Residence or Adjust Status, an officer can verify whether an alien is statutorily required to file an Affidavit.

Three different agencies review an Affidavit and Contract for sufficiency, each in a different context. USCIS reviews an Affidavit and Contract while adjudicating certain applications for adjustment of status. DOS consular officers review Affidavits and Contracts as part of the immigrant visa application process. An alien seeking an immigrant visa in a classification where an Affidavit is required must submit an Affidavit that complies with the terms and conditions established by the Secretary of Homeland Security. 22 CFR 40.41(a)(7). Immigration Courts, which are part of the U.S. Department of Justice (DOJ) Executive Office for Immigration Review (EOIR), may review Affidavits and Contracts in the context of an alien in removal proceedings who is seeking adjustment of status as a form of relief from removal, or when otherwise adjudicating an Affidavit or Contract filed in connection with a public charge ground of inadmissibility or deportability, but this rule also does not directly revise DOJ standards or processes.

4. Population

The proposed rule would affect sponsors of most family-based sponsored immigrants and some employment-based intending immigrants filing Form I–864 or Form I–864EZ who are required to show that they have adequate means of financial

support and are not likely at any time to become a public charge.[202] The proposed rule also would affect household members filing Form I–864A whose income and/or assets would be used to help the sponsor demonstrate the means to maintain income. In such cases, a sponsor's income and assets do not meet the income requirements of Form I–864 and the qualifying household member chooses to combine his or her resources with the income and/or assets of a sponsor to meet the requirements.

Certain classes of aliens applying for admission or adjustment of status are required to submit an Affidavit executed by a sponsor in order to avoid being found inadmissible under section 212(a)(4) of the Act, 8 U.S.C. 1182(a)(4). When an Affidavit is submitted, a contract is established between the sponsor and the U.S. Government to establish a legally enforceable obligation to support the intending immigrant financially once the intending immigrant becomes an LPR.

DOS provided the estimates of the population of individuals who submit each Affidavit or Contract to DOS in conjunction with an immigrant visa application's pre-processing at the NVC. DOS extrapolated the data from recent electronic caseloads for each fiscal year. Legacy systems do not capture the number and type of Affidavits or Contracts. Specifically, the total receipts number from DOS reflects the cases sent from the NVC to consular posts during each fiscal year as documentarily qualified for the immigrant visa application and required interview with a consular officer. DOS total receipts number does not include Affidavits or Contracts submitted to DOS for cases that were not documentarily qualified in the given timeframe and also does not include Affidavits or Contracts submitted directly to consular posts overseas, which DOS has no process of tracking. The number of Affidavits or Contracts submitted to DOS annually are higher than the numbers below because this data does not include the forms submitted directly to consular posts overseas. Cases submitted to the NVC rather than filed directly with a consular post overseas represent the vast majority of immigrant visa applications.[203]

a. Population of Sponsors Executing Form I–864

With this proposed rule, DHS intends to align sponsorship requirements with statutory provisions and to amend sponsorship requirements to better ensure a sponsor has demonstrated the means to maintain income to support intending immigrants at the statutorily required level. DHS also intends to ensure all sponsors and household members can meet the support obligations under section 213A of the Act, 8 U.S.C. 1183a. This proposed rule would also strengthen enforcement of the Affidavit and the Contract to hold sponsors and household members accountable if sponsored immigrants obtain means-tested public benefits. Therefore, DHS estimates the population of individuals who execute Form I–864 as sponsors for intending immigrants.

Table 4 shows the total population in fiscal years 2014 to 2018 that filed Form I–864 for both USCIS receipts and DOS receipts. The annual population of sponsors filing Form I–864 increased from 786,495 filings in fiscal year 2014 to 1,213,367 filings in fiscal year 2016, an increase of almost 55 percent. Filings decreased to 1,110,986 in fiscal year 2018, a decrease of about 8 percent from fiscal year 2016. Over the 5-year period, the population of sponsors who filed Form I–864 ranged from a low of 786,495 in fiscal year 2014 to a high of 1,213,367 in fiscal year 2016. While the trend in the annual number of Affidavits executed was increasing from fiscal year 2014 to 2016, the trend decreased by about 8 percent in fiscal year 2018. DHS acknowledges this proposed new regulatory provision would likely reduce the number of individuals who would be eligible to qualify as a sponsor who may execute an Affidavit and, as a result, may reduce the number of Affidavits executed using Form I–864. However, DHS is unable to determine the magnitude of the reduction in Form I–864 filings annually at this time. Therefore, DHS uses the estimated annual average total population filing Form I–864 of 1,041,077 for the analysis in this proposed rule.

TABLE 4—TOTAL RECEIPTS FOR FORM I–864 BY USCIS AND DOS, FY 2014 TO FY 2018

Fiscal year	USCIS form I –864 receipts	DOS form I –864 receipts	Total
2014	357,055	429,440	786,495
2015	379,921	635,467	1,015,388
2016	438,605	774,762	1,213,367
2017	495,681	583,468	1,079,149
2018	451,163	659,823	1,110,986
Total	2,122,425	3,082,960	5,205,385
5-year Average	424,485	616,592	1,041,077

Source: USCIS, Office of Intake and Document Production (OIDP); U.S. Department of State, Visa Office.

DHS welcomes public comments on our estimates of the total population that is required to submit an Affidavit using Form I–864 showing evidence of having adequate means of financial support.

b. Population of Household Members Filing Form I–864A

Form I–864A is submitted as an attachment to Form I–864 and is considered as supporting documentation. A separate Form I–864A must be used for each household member whose income and/or assets are being used by a sponsor to qualify. Therefore, each Form I–864A is completed and signed by two individuals: A sponsor who is completing Form I–864 and a household member who is promising to make his or her income and/or assets available to the sponsor to help support the

[202] Employment-based preference immigrants must file an Affidavit only in cases when a U.S. citizen, lawful permanent resident, or U.S. national relative filed the immigrant visa petition or such relative has a significant ownership interest (five percent or more) in the entity that filed the petition.

[203] DOS provided the total receipts for Forms I–864, I–864A, and I–864EZ. DOJ does not track any data related the receipts of Affidavits and Contracts so DHS is unable to include these numbers in the population.

sponsored immigrants. When both the sponsor and the household member sign the form, it constitutes an agreement that the household member is responsible along with the sponsor for the support of the individuals named.

DHS estimates the population of applicants who file Form I–864A with USCIS is approximately 42,892 annually[204] and DOS is approximately 5,932 annually,[205] for a total of 48,824 annually. However, DHS does not have receipt data for Form I–864A as USCIS does not generate receipt numbers for this supplemental form, which makes it difficult to determine how many Form I–864A are submitted annually. As a result, USCIS would need to manually review applicant files to obtain Form I–864A data to more accurately determine the number of receipts of this form. Therefore, DHS relies on the likely number of Form I–864A respondents estimated through periodic and ongoing information collection efforts. Such collections of information rely on a combination of information USCIS obtains from databases, subject matter experts, and projected intakes from other collections of information, which may have a relationship to the form for which an estimate is provided. The agency uses this information and/or may use other data that might not be found in an official database to guide decision-making on an estimated number of respondents as it is the best information available at this time.

Moreover, DHS reiterates that this proposed rule would revise the current regulatory requirements concerning who can qualify as a household member for purposes of executing a Contract using Form I–864A. Currently, there is no limitation on the number of household members who may execute a Form I–864A. However, DHS is proposing to permit only a sponsor's spouse or an intending immigrant with the same principal residence as the sponsor to execute Form I–864A. DHS acknowledges this proposed new regulatory provision may reduce the number of individuals who would be eligible to qualify as a household member who may submit a Contract and, as a result, may reduce the number of Contracts executed using Form I–864A. However, DHS is unable to determine the magnitude of the reduced number of Form I–864A filings annually at this time.

DHS welcomes public comments on our estimates of the total population that is required to execute a Contract showing evidence of having adequate means of financial support. In addition, DHS welcomes comments regarding the effect of the revision to the current regulatory requirements in this proposed rule concerning who may qualify as a household member for purposes of executing a Contract using Form I–864A.

c. Population of Sponsors Filing Form I–864EZ

Form I–864EZ is a shorter version of Form I–864 and is designed for cases that meet certain criteria. Like Form I–864, Form I–864EZ is legally required for many family-based immigrants to show the intending immigrant has adequate means of financial support and is not inadmissible on the public charge ground. Individuals who meet all of the following criteria may file Form I–864EZ:

- The individual is the person who filed or is filing Form I–130, Form I–129F, or Form I–600 or Form I–800, Petition to Classify Convention Adoptee as an Immediate Relative, for a relative being sponsored;
- The relative being sponsored is the only person listed on the form, other than the petitioner; and
- The income the individual is using to qualify is based entirely on that individual's salary or pension and is shown on one or more IRS Form W–2s provided by the individual's employers or former employers.

Table 5 shows the total population in fiscal years 2014 to 2018 that filed Form I–864EZ with both USCIS and DOS. The annual population of sponsors filing Form I–864EZ increased from 24,545 in fiscal year 2014 to 36,909 in fiscal year 2016, an increase of about 26 percent. Filings decreased to 31,442 in fiscal year 2018, a decrease of about 16 percent. Over the 5-year period, the population of sponsors who filed Form I–864EZ ranged from a low of 24,545 in fiscal year 2014 to a high of 36,909 in fiscal year 2018. In addition, the average annual population of sponsors over 5 fiscal years who filed Form I–864EZ was 30,991. Therefore, DHS estimates the annual average total population filing Form I–864EZ would be 30,991 for this proposed rule.

TABLE 5—TOTAL RECEIPTS FOR FORM I–864EZ BY USCIS AND DOS, FY 2014 TO FY 2018.

Fiscal year	USCIS form I–864EZ receipts	DOS form I–864EZ receipts	Total
2014	10,238	14,307	24,545
2015	9,924	21,172	31,096
2016	11,097	25,812	36,909
2017	11,524	19,439	30,963
2018	9,459	21,983	31,442
Total	52,242	102,713	154,955
5-year Average	10,448	20,543	30,991

Source: USCIS, Office of Intake and Document Production (OIDP); U.S. Department of State, Visa Office.

DHS is proposing to revise 8 CFR 213a.2(c)(2)(ii)(C) to require the applicant to submit a Form I–864 executed by a joint sponsor when the petitioning sponsor has received one or more means-tested public benefits within the 36 months prior to executing the Form I–864EZ. *See* proposed 8 CFR 213a.2(c)(2)(ii)(C)(*4*)(*ii*). If a petitioner has received a means-tested public benefit within the 36 months prior to filing Form I–864EZ, he or she would be considered unable to meet the income requirements of a sponsor.[206] In such cases, the petitioning sponsor would

[204] Source for Form I–864A population estimate based on USCIS receipts: *See* Paperwork Reduction Act (PRA) Affidavit of Support Under Section 213A of the INA (Forms I–864, I–864A, I–864EZ) (OMB control number 1615–0075). The PRA Supporting Statement A can be found at Question 12 on Reginfo.gov at *https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201705-1615-004* (last visited June 2, 2020).

[205] Source: U.S. Department of State, Visa Office.

[206] A petitioning sponsor who is on active duty (other than active duty for training) in the Armed Forces of the United States and is petitioning for his or her spouse or child under section 204 of the INA does not need a joint sponsor if he or she has received means-tested public benefits in the 36 month-period before filing the Affidavit.

still be required to complete the Affidavit, but a joint sponsor who has not received a means-tested public benefit in the past 36 months also must complete an Affidavit for the intending immigrant to not be found inadmissible.

DHS recognizes this new requirement may result in fewer annual filings of Form I–864EZ and may increase the number of filings of Form I–864 since both a sponsor needing a joint sponsor, for any reason, and the joint sponsor each would file an Affidavit using Form I–864. However, DHS is unable to estimate the potential number of Form I–864EZ filers who may be required to file Form I–864 with a joint sponsor due to receipt of means-tested public benefits within the 36 months prior to filing as this information is not collected in USCIS databases. Moreover, DHS acknowledges this proposed new regulatory provision would likely reduce the number of individuals who would be eligible to qualify as a sponsor who may execute an Affidavit and, as a result, may reduce the number of Affidavits executed using Form I–864EZ. As noted above, DHS is unable to determine the magnitude of the reduction in Form I–864EZ filings annually at this time. Therefore, as with the population estimate for Form I–864, DHS uses the estimated annual average total population filing Form I–864EZ of 30,991 for the analysis of this proposed rule.

DHS welcomes public comments on our estimates of the total population that is required to execute an Affidavit using Form I–864EZ showing evidence of having adequate means of financial support. In addition, DHS welcomes comments regarding the effect of the revision to the current regulatory requirements in this proposed rule concerning who may qualify to execute an Affidavit using Form I–864EZ.

d. Population of Filing Form I–864W

Certain classes of immigrants currently are exempt from the requirement to file Form I–864 or Form I–864EZ and therefore must file Form I–864W, Request for Exemption for Intending Immigrant's Affidavit of Support. However, DHS is proposing to eliminate Form I–864W and instead would require individuals to provide the information previously requested on the Form I–864W using Form I–485. Applicants, therefore, would not be required to file a separate Form I–864W apart from the Form I–485. Based on the information provided in the Form I–485, an officer can verify whether an immigrant is statutorily required to file an Affidavit.

DHS estimates the population of immigrants who must file Form I–864W is approximately 98,119 annually.[207] Due to data limitations, DHS cannot easily determine the number of annual filings of Form I–864W. Therefore, DHS relies on the likely number of Form I–864W respondents estimated through periodic and ongoing information collection efforts. Such collections of information rely on a combination of information DHS obtains from databases, subject matter experts, and projected intakes from other collections of information, which may have a relationship to the form for which an estimate is provided. The agency uses this information and/or may use other data that might not be found in an official database to guide decision-making on an estimated number of respondents as it is the best information available at this time. DHS welcomes public comments on our estimates of the total population who must file Form I–864W.

e. Population of Filing Form I–865

Currently, all sponsors of immigrants in the United States who have executed an Affidavit using Form I–864 or I–864EZ at any time in the past must file Form I–865, Sponsor's Notice of Change Address, to report a change of address within 30 days of the change if the sponsorship agreement is still in force. The sponsorship agreement remains in force until the sponsored immigrant:

- Becomes a U.S. citizen;
- Receives credit for 40 quarters of work;
- Departs the United States permanently and either formally abandons lawful permanent resident status (by filing Form I–407, Record of Abandonment of Lawful Permanent Resident Status) or is formally held in a removal proceeding to have abandoned that status;
- In a removal proceeding, loses the lawful permanent resident status that the sponsored immigrant obtained based on the Form I–864; or
- Becomes deceased.

Table 6 shows the total annual receipts for filings of Form I–865 during fiscal years 2014 to 2018. The total annual receipts of Form I–865 decreased over the period from a high of 8,055 in fiscal year 2014 to a low of 5,354 in fiscal year 2017, an overall decrease of about 34 percent. In fiscal year 2018, the total annual receipts of Form I–865 increased to 5,536, about a 3 percent increase compared to fiscal year 2017. In addition, the average number of receipts of Form I–865 over the 5-fiscal year period was about 6,089. While the total number of Form I–865 receipts was much greater in fiscal year 2014, the subsequent overall trend showed much more moderate decline and leading to an increase in filings in fiscal year 2018. Preliminary data for fiscal year 2019 show an increase in Form I–865 filing to about 6,007, an increase of almost 8 percent compared to fiscal year 2018.[208] Therefore, since a consistent increasing or decreasing trend cannot be observed, DHS uses the total annual average population filing Form I–865 of approximately 6,089 for the baseline of this proposed rule.

TABLE 6—TOTAL ANNUAL RECEIPTS OF FORM I–865, SPONSOR'S NOTICE OF CHANGE OF ADDRESS

Fiscal year	Receipts
2014	8,055
2015	6,049
2016	5,449
2017	5,354
2018	5,536
Total	30,443
5-Year Average	6,089

Source: USCIS Office of Policy & Strategy, Policy Research Division search of the USCIS Computer-Linked Application and Information System 3 (CLAIMS 3) database.

Under the proposed rule, the population executing Form I–864A would also be required to file Form I–865 to provide notice of a change of address. In order to estimate the likely increase in the number of Form I–865 filings due to the new proposed requirement, DHS calculated the percentage of the total annual receipts of Form I–865 compared to the total average annual filings of Form I–864 and Form I–864EZ. DHS estimates that the current total average annual filings of Form I–864 and Form I–864EZ is

[207] Source for I–864W population: Paperwork Reduction Act (PRA) Affidavit of Support Under Section 213A of the INA (Forms I–864, I–864A, I–864EZ, I–864W) (OMB control number 1615–0075). The PRA Supporting Statement A can be found at Question 12 on *Reginfo.gov* at *https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201705-1615-004.*

[208] Form I–865 receipts data for fiscal year 2019 are not shown in the table as the data is preliminary, but also to maintain a consistent period of analysis, to the extent possible, with other data presented in this economic analysis.

approximately 1,072,068.[209] On average, the annual number of filings of Form I–865 is about 0.6 percent of the number filings of Form I–864 and Form I–864EZ.[210] DHS applies the 0.6 percent to the total annual average number of filings of Form I–864A of 48,824 (from Section 4.b of this analysis) to determine how many Form I–864A filers would likely be required to file Form I–865 under the new provision of the proposed rule. Based on the average annual percentage of the number of individuals who filed Form I–864 and Form I–864EZ that filed Form I–865, DHS estimates there would be an average of about 293 additional annual filings of Form I–865 from the Form I–864A filers under the proposed provision.[211] Therefore, DHS estimates the total annual average population filing Form I–865 for the proposed rule would be about 6,382.[212]

DHS welcomes public comments on our estimates of the total population that is required to submit Form I–865 to provide notice of a change of address, including the current and proposed populations that would be required to submit Form I–865 in the event of a change of address.

5. Cost-Benefit Analysis

DHS expects this proposed rule to produce quantified costs associated with filing an Affidavit or Contract using Form I–864, Form I–864A, and Form I–864EZ; and quantified costs associated with filing Form I–865 for those who would now be required to provide notice of a change of address.

For this proposed rule, DHS uses the unweighted mean hourly wage of $25.72 for all occupations to estimate the opportunity cost of time for the populations in this economic analysis filing an Affidavit or Contract using Form I–864, Form I–864A, and Form I–864EZ, and for those who must file Form I–865 to provide notice of a change of address.[213] For these populations, DHS assumes individuals are dispersed throughout the various occupational groups and industry sectors of the U.S. economy. However, the wage for all occupations ($25.72) is an unweighted mean hourly wage that does not account for worker benefits. DHS accounts for worker benefits when estimating the opportunity cost of time by calculating a benefits-to-wage multiplier using the most recent Department of Labor (DOL), Bureau of Labor Statistics (BLS) report detailing the average employer costs for employee compensation for all civilian workers in major occupational groups and industries. DHS estimates the benefits-to-wage multiplier is 1.46 and, therefore, is able to estimate the full opportunity cost per applicant, including employee wages and salaries and the full cost of benefits such as paid leave, insurance, and retirement.[214] For the individuals filing an Affidavit or Contract, therefore, DHS calculates the average total rate of compensation as $37.55 per hour, where the mean hourly wage is $25.72 per hour worked and average benefits are $11.83 per hour.[215]

a. Baseline Estimate of Current Costs

The baseline estimate of current costs is the best assessment of costs and benefits absent the regulatory action. For this proposed rule, DHS estimates the baseline according to current operations and requirements and compares that to the estimated costs and benefits of the provisions set forth in the proposed rule. Therefore, DHS defines the baseline by assuming ''no change'' to DHS regulations to establish an appropriate basis for evaluating the provisions of the proposed rule. DHS notes that the baseline would include the number of sponsors who currently maintain support of an immigrant according to the requirements of an Affidavit as well as the number of sponsors who have not met their financial obligations and from whom means-tested public benefits-granting agencies have sought reimbursement. However, DHS does not have data on reimbursement efforts or successful recoveries by benefits-granting agencies. As previously noted, USCIS receives limited information from benefit-granting agencies or other parties enforcing the Affidavit or Contract, despite the information sharing provisions in the statute and regulations. Therefore, the costs detailed as part of the baseline include all current costs associated with completing and filing Form I–864, Form I–864A, Form I–864EZ, and Form I–865. As noted previously in the background section, the source of additional costs imposed by this proposed rule generally would come from increased time burden estimates for completing Form I–864, Form I–864A, and Form I–864EZ. An additional source of costs imposed by the proposed rule would come from the requirement to file Form I–865 to provide notice of a change of address. These costs are analyzed later in this economic analysis. However, DHS welcomes public comments or data on individuals executing an Affidavit or a Contract who have received means-tested public benefits. DHS welcomes public comments or references to studies on the correlation between sponsors' receipt of means-tested public benefits in the past and their failure to reimburse agencies for benefits received by immigrants they sponsor. Additionally, DHS welcomes public comments or data on enforcement actions by means-tested public benefit granting agencies for Affidavits and Contracts to recover payment for any means-tested public benefits that an intending immigrant receives during the period in which an Affidavit or a Contract is enforceable.

Table 7 shows the estimated population and annual costs of filing Form I–864, Form I–864A, Form I–864EZ, I–864W, and Form I–865 for the proposed rule.

[209] Calculation: (Estimated population for Form I–864) + (Estimated population for Form I–864EZ) = 1,041,077 + 30,991 = 1,072,068.

[210] Calculation: (5-Year average total annual receipts of Form I–865/Total average annual filings fo Form I–864 and Form I–864EZ) * 100 = (6,089/1,072,068) * 100 = 0.568 = 0.6 percent (rounded)

[211] Calculation: (Estimated total average annual number of filings of Form I–864A) * (Estimated average annual percentage of the number of individuals who filed Form I–864 and Form I–864EZ that filed Form I–865) = 48,824 * 0.006 = 293 (rounded) additional filings of Form I–865 under the proposed rule for those who file Form I–864A.

[212] Calculation: (Estimated total annual average number of filings for Form I–865) + (Estimated additional filings of Form I–865 under the proposed rule for those who file Form I–864A) = 6,089 + 293 = 6,382 estimated proposed total annual average number of filings for Form I–865.

[213] The May 2019 national mean hourly wage across all occupations is $25.72. *See* Department of Labor, Bureau of Labor Statistics, May 2019 National Occupational Employment and Wage Estimates, United States All Occupations, available at *https://www.bls.gov/oes/2019/may/oes_nat.htm.* (last visited June 2, 2020).

[214] The benefits-to-wage multiplier is calculated as follows: (Total Employee Compensation per hour)/(Wages and Salaries per hour) = $37.10/$25.47 = 1.457 = 1.46 (rounded). *See* Economic News Release, *Employer Cost for Employee Compensation (March 2020),* U.S. Dept. of Labor, BLS, Table 1. Employer costs per hour worked for employee compensation and costs as a percent of total compensation: Civilian workers, by major occupational and industry group. March 19, 2020, available at *https://www.bls.gov/news.release/archives/ecec_03192020.pdf* (last viewed June 2, 2020).

[215] The calculation of the weighted mean hourly wage for applicants: $25.72 per hour * 1.46 = $37.5512 = $37.55 (rounded) per hour.

TABLE 7—TOTAL AVERAGE ANNUAL BASELINE (CURRENT) COSTS OF THE PROPOSED RULE

Form	Estimated average annual population	Estimated total annual cost
Form I–864	1,041,077	$234,554,648
Opportunity Cost of Time (OCT)		234,554,648
Form I–864A	48,824	3,208,225
OCT		3,208,225
Form I–864EZ	30,991	2,909,435
OCT		2,909,435
Form I–864W	98,119	3,684,368
OCT		3,684,368
Form I–865	6,089	57,176
OCT		57,176
Total Baseline Costs		244,413,852

Source: USCIS analysis.

As previously discussed, Form I–864 is required for most family-based immigrants and some employment-based immigrants to show they have adequate means of financial support and are not likely at any time to become a public charge.[216] Additionally, Form I–864 may be filed with Form I–864A, when a sponsor's income and assets do not meet the income threshold and the household member chooses to combine his or her resources with the income and/or assets of a sponsor to meet the applicable income threshold. Some petitioning sponsors may be able to file Form I–864EZ, provided they meet certain criteria. Moreover, certain classes of immigrants currently are exempt from the requirement to file Form I–864 or Form I–864EZ, but must file Form I–864W. Based on the information provided in an underlying form, such as Form I–485, an officer can verify whether an alien is statutorily required to file an Affidavit.

i. Current Baseline Cost Estimate of Filing Form I–864

There is currently no filing fee associated with filing Form I–864 with USCIS.[217] However, DHS estimates the time burden associated with a sponsor filing Form I–864 is 6 hours per filer, including the time for reviewing instructions, gathering the required documentation and information, completing Form I–864, preparing statements, attaching necessary documentation, and submitting Form I–864.[218] Therefore, using the average total rate of compensation of $37.55 per hour, DHS estimates the opportunity cost of time for completing and submitting Form I–864 would be $225.30 per petitioner.[219] DHS assumes the average rate of total compensation used to calculate the opportunity cost of time for Form I–864 is appropriate since the sponsor of an immigrant, who is agreeing to provide financial and material support, is instructed to complete and submit the form. Using the estimated annual total population of 1,041,077 individuals filing an affidavit of support using Form I–864, DHS estimates the opportunity cost of time associated with completing and submitting Form I–864 is $234,554,648 annually.[220]

ii. Current Baseline Cost Estimate of Filing Form I–864A

There is also no filing fee associated with filing Form I–864A with USCIS.[221] However, DHS estimates the time burden associated with filing Form I–864A is 1 hour and 45 minutes (1.75 hours) per filer, including the time for reviewing instructions, gathering the required documentation and information, completing the Contract, preparing statements, attaching necessary documentation, and submitting the Contract.[222] Therefore, using the average total rate of compensation of $37.55 per hour, DHS estimates the opportunity cost of time for completing and submitting Form I–864A is approximately $65.71 per petitioner.[223] DHS assumes the average

[216] Employment-based preference immigrants must file Form I–864 only in cases when a U.S. citizen, lawful permanent resident, or U.S. national relative filed the immigrant visa petition or such relative has a significant ownership interest (five percent or more) in the entity that filed the petition.

[217] The Department of State (DOS) charges a $120 fee per case for reviewing Affidavit of Support forms (Forms I–864, I–864A, I–864W, and/or I–864EZ) when the form(s) is (are) filed in the United States and processed at the DOS National Visa Center (NVC). An applicant is charged only one fee, even if there are multiple financial sponsors associated with a single case. Moreover, DHS notes that three different agencies review an Affidavit and Contract for sufficiency, each in a different context. USCIS reviews an Affidavit and Contract while adjudicating certain applications for adjustment of status. DOS consular officers also review Affidavits and Contracts as part of the immigrant visa application process, and when an Affidavit is required, to assess potential ineligibility on public charge grounds. *See* 22 CFR 40.41. Immigration Courts, which are part of the U.S. Department of Justice (DOJ) Executive Office for Immigration Review (EOIR), may review Affidavits and Contracts in the context of an alien in removal proceedings who is seeking adjustment of status as a form of relief from removal, or when otherwise adjudicating an Affidavit or Contract filed in connection with a public charge ground of inadmissibility or deportability, but this rule does not directly revise DOJ standards or processes.

[218] *See* Instructions for Affidavit of Support Under Section 213A of the INA, Form I–864, for time burden estimate in the Paperwork Reduction Act section. OMB No. 1615–0075. Expires 3/31/2020. Available at *https://www.uscis.gov/i-864* (last June 2, 2020).

[219] Calculation opportunity cost of time for completing and submitting Form I–864: ($37.55 per hour * 6 hours) = $225.30 per filer.

[220] Calculation: (Form I–864 estimated opportunity cost of time) * (Estimated annual population filing Form I–864) = $225.30 * 1,041,077 = $234,554,648.10 = $234,554,648 (rounded) total annual opportunity cost of time for filing Form I–864.

[221] The Department of State (DOS) charges a $120 fee per case for reviewing Affidavit of Support forms (Forms I–864, I–864A, I–864W, and/or I–864EZ) when the form(s) is (are) filed in the United States and processed in the DOS National Visa Center (NVC). An applicant is charged only one fee, even if there are multiple financial sponsors associated with a single case. Moreover, DHS notes that three different agencies review an Affidavit and Contract for sufficiency, each in a different context. USCIS reviews an Affidavit and Contract while adjudicating certain applications for adjustment of status. DOS consular officers also review Affidavits and Contracts as part of the immigrant visa application process, and when an Affidavit is required, to assess potential ineligibility on public charge grounds. *See* 22 CFR 40.41. Immigration Courts, which are part of the U.S. Department of Justice (DOJ) Executive Office for Immigration Review (EOIR), may review Affidavits and Contracts in the context of an alien in removal proceedings who is seeking adjustment of status as a form of relief from removal, or when otherwise adjudicating an Affidavit or Contract filed in connection with a public charge ground of inadmissibility or deportability, but this rule does not directly revise DOJ standards or processes.

[222] *See* Instructions for Contract Between Sponsor and Household Member, Form I–864A, for time burden estimate in the Paperwork Reduction Act section. OMB No. 1615–0075. Expires 3/31/2020. Available at *https://www.uscis.gov/i-864a* (last visited June 2, 2020).

[223] Calculation opportunity cost of time for completing and submitting Form I–864A: ($37.55

Continued

total rate of compensation used for calculating the opportunity cost of time for Form I–864A since both the sponsor and another household member agree to provide financial support for an intending immigrant. However, the household member also may be the intending immigrant. Using the estimated annual total population of 48,824 for individuals that would file Form I–864A as a household member, DHS estimates the opportunity cost of time associated with completing and submitting Form I–864A is $3,208,225 annually.[224]

iii. Current Baseline Cost Estimate of Filing Form I–864EZ

As with Form I–864, there is no filing fee associated with filing Form I–864EZ with USCIS.[225] However, DHS estimates the time burden associated with filing Form I–864EZ is 2 hours and 30 minutes (2.5 hours) per filer, including the time for reviewing instructions, gathering the required documentation and information, completing the Form I–864EZ, preparing statements, attaching necessary documentation, and submitting the Form I–864EZ.[226] Therefore, using the average total rate of compensation of $37.55 per hour, DHS estimates the opportunity cost of time for completing and submitting Form I–864EZ is $93.88 per petitioner.[227] Using the estimated annual total population of 30,991 individuals filing an affidavit of support using Form I–864EZ, DHS estimates the opportunity cost of time associated with completing and submitting Form I–864EZ is $2,909,435 annually.[228]

iv. Current Baseline Cost Estimate of Filing Form I–864W

DHS is proposing to eliminate Form I–864W and would instead require individuals to provide the information previously requested on the Form I–864W using Form I–485. Applicants, therefore, would not be required to file a separate Form I–864W apart from the Form I–485. Based on the information provided in the Form I–485, an officer can verify whether an immigrant is statutorily required to file an Affidavit. While the information currently collected using Form I–864W would be collected using Form I–485 under this proposed rulemaking, DHS does not anticipate an increase in the fee, time burden, or other changes in the requirements for completing and filing Form I–485.

There is no filing fee associated with filing Form I–864W with USCIS.[229] However, DHS estimates the time burden associated with filing this form is 60 minutes (1 hour) per petitioner, including the time for reviewing instructions, gathering the required documentation and information, completing the request, preparing statements, attaching necessary documentation, and submitting the request.[230] Therefore, using the average total rate of compensation of $37.55 per hour, DHS estimates the opportunity cost of time for completing and submitting Form I–864W is approximately $37.55 per filer.[231] Using the estimated annual total population of 98,119 for individuals who would file Form I–864W as a Household Member, DHS estimates the opportunity cost of time associated with completing and submitting Form I–864W is approximately $3,684,368 annually.[232]

v. Current Baseline Cost Estimate of Filing Form I–865

Form I–865 is currently identified by OMB as exempt from control under the Paperwork Reduction Act (PRA). However, as recently as 2015, Form I–865 was an OMB-approved collection for which DHS estimated the time burden associated with filing the form was 15 minutes (0.25 hours), including the time for reviewing instructions, and completing and submitting the form.[233] Therefore, using the average total rate of compensation of $37.55 per hour, DHS estimates the opportunity cost of time for completing and submitting Form I–865 is approximately be $9.39 per filer.[234]

per hour * 1.75 hours) = $65.713 = $65.71 (rounded) per petitioner.

[224] Calculation: (Form I–864A estimated opportunity cost of time) * (Estimated annual population filing Form I–864A) = $65.71 * 48,824 = $3,208,225.04 = $3,208,225 (rounded) total annual opportunity cost of time for filing Form I–864A.

[225] The Department of State (DOS) charges a $120 fee per case for reviewing Affidavit of Support forms (Forms I–864, I–864A, I–864W, and/or I–864EZ) when the form(s) is (are) filed in the United States and processed in the DOS National Visa Center (NVC). An applicant is charged only one fee, even if there are multiple financial sponsors associated with a single case. Moreover, DHS notes that three different agencies review an Affidavit and Contract for sufficiency, each in a different context. USCIS reviews an Affidavit and Contract while adjudicating certain applications for adjustment of status. DOS consular officers also review Affidavits and Contracts as part of the immigrant visa application process, and when an Affidavit is required, to assess potential ineligibility on public charge grounds. *See* 22 CFR 40.41. Immigration Courts, which are part of the U.S. Department of Justice (DOJ) Executive Office for Immigration Review (EOIR), may review Affidavits and Contracts in the context of an alien in removal proceedings who is seeking adjustment of status as a form of relief from removal, or when otherwise adjudicating an Affidavit or Contract filed in connection with a public charge ground of inadmissibility or deportability, but this rule does not directly revise DOJ standards or processes.

[226] *See* Instructions for Affidavit of Support Under Section 213A of the INA, Form I–864EZ, for time burden estimate in the Paperwork Reduction Act section. OMB No. 1615–0075. Expires 3/31/2020. Available at *https://www.uscis.gov/i-864ez* (last visited June 2, 2020).

[227] Calculation opportunity cost of time for completing and submitting Form I–864EZ, Affidavit of Support Under Section 213A of the INA: ($37.55 per hour * 2.5 hours) = $93.875 = $93.88 per filer.

[228] Calculation: (Form I–864EZ estimated opportunity cost of time) * (Estimated annual population filing Form I–864EZ) = $93.88 * 30,991 = $2,909,435.08 = $2,909,435 (rounded) total annual opportunity cost of time for filing Form I–864EZ.

[229] The Department of State (DOS) charges a $120 fee per case for reviewing Affidavit of Support forms (Forms I–864, I–864A, I–864W, and/or I–864EZ) when the form(s) is (are) filed in the United States and processed in the DOS National Visa Center (NVC). An applicant is charged only one fee, even if there are multiple financial sponsors associated with a single case. Moreover, DHS notes that three different agencies review an Affidavit and Contract for sufficiency, each in a different context. USCIS reviews an Affidavit and Contract while adjudicating certain applications for adjustment of status. DOS consular officers also review Affidavits and Contracts as part of the immigrant visa application process, and when an Affidavit is required, to assess potential ineligibility on public charge grounds. See 22 CFR 40.41. Immigration Courts, which are part of the U.S. Department of Justice (DOJ) Executive Office for Immigration Review (EOIR), may review Affidavits and Contracts in the context of an alien in removal proceedings who is seeking adjustment of status as a form of relief from removal, or when otherwise adjudicating an Affidavit or Contract filed in connection with a public charge ground of inadmissibility or deportability, but this rule does not directly revise DOJ standards or processes.

[230] See Instructions for Request for Exemption for Intending Immigrant's Affidavit of Support, Form I–864W, for time burden estimate in the Paperwork Reduction Act section. OMB No. 1615–0075. Expires 3/31/2020. Available at *https://www.uscis.gov/i-864w* (last accessed Oct. 22, 2019).

[231] Calculation of opportunity cost of time for completing and submitting Form I–864W: ($37.55 per hour * 1.0 hours) = $37.55.

[232] Calculation: (Form I–864W estimated opportunity cost of time) * (Estimated annual population filing Form I–864W) = $37.55 * 98,119 = $3,684,368.45 = $3,684,368 (rounded) total annual opportunity cost of time for filing Form I–864W.

[233] *See* Paperwork Reduction Act (PRA) Supporting Statement for Form I–865. The PRA Supporting Statement A can be found at Question 12 on *Reginfo.gov* at *https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201209-1615-010* (last viewed June 2, 2020). DHS notes this is the supporting statement for Form I–865 prior to the form becoming exempt from control under the PRA. This supporting statement provides the best estimate of the time burden to complete Form I–865.

[234] Calculation of opportunity cost of time for completing and submitting Form I–865: ($37.55 per hour * 0.25 hours) = $9.388 = $9.39 (rounded).

Using the estimated annual total population of 6,089 for individuals who would file Form I–865 to provide notice of a change of address, DHS estimates the opportunity cost of time associated with completing and submitting Form I–865 is approximately $57,176 annually.[235]

b. Costs of the Proposed Regulatory Changes

The primary source of quantified new costs for the proposed rule would be from increases in the estimated time burdens to complete Form I–864, I–864A, and Form I–864EZ, as well as new filing requirements such as providing additional tax transcripts and credit reports and credit scores. The proposed rule would also impose new costs on the population executing a Contract as household members would now be required to submit Form I–865 to provide notice of a change of address after moving. Moreover, the proposed rule also would impose new costs on those using the proposed new Form G–1563 to make a formal request from a party or entity authorized to bring an action to enforce an Affidavit or Contract so that USCIS may provide a certified copy of the requested Affidavit or Contract that has been executed on behalf of a sponsored immigrant for use as evidence in any action of enforcement. Table 8 shows the estimated annual new quantified costs the proposed rule would impose on individuals filing Form I–864, I–864A, Form I–864EZ, and Form I–865.

TABLE 8—TOTAL NEW QUANTIFIED COSTS OF THE PROPOSED RULE

Form	Estimated annual population	Total annual cost
Form I–864	1,041,077	$226,621,641
Opportunity Cost of Time (OCT)—Additional to Baseline (Current) Costs		19,551,426
Cost of obtaining credit report and credit score		20,811,129
Cost to obtain Internal Revenue Service (IRS)-issued certified copies or transcripts of Federal income tax returns (3 most recent taxable years required)		156,161,550
OCT to file IRS Form 4506 to obtain IRS-issued certified Federal income tax returns		30,097,536
Form I–864A	48,824	10,628,009
OCT—Additional to Baseline (Current) Costs		916,915
Cost of obtaining credit report and credit score		975,992
Cost to obtain Internal Revenue Service (IRS)-issued certified copies or transcripts of Federal income tax returns (3 most recent taxable years required)		7,323,600
OCT to file IRS Form 4506 to obtain IRS-issued certified Federal income tax returns		1,411,502
Form I–864EZ	30,991	6,745,811
OCT—Additional to Baseline (Current) Costs		581,701
Cost of obtaining credit report and credit score		619,510
Cost to obtain Internal Revenue Service (IRS)-issued certified copies or transcripts of Federal income tax returns (3 most recent taxable years required)		4,648,650
OCT to file IRS Form 4506 to obtain IRS-issued certified Federal income tax returns		895,950
Form I–865	6,382	2,751
Expanded population subject to the requirement to file Form I–865 to provide notice of change of address		2,751
Form G–1563	25	779
OCT to file		779
Total New Quantified Costs of the Proposed Rule		243,998,991

Source: USCIS analysis.

The proposed rule would require individuals completing Affidavits using Form I–864 to read additional instructions and provide additional information, which increases the estimated time to complete the form. The current estimated time to complete Form I–864 is 6 hours per filer. For the proposed rule, DHS estimates the time burden for completing Form I–864 will increase by 30 minutes to account for the additional time petitioners will spend on reviewing instructions, gathering the required documentation and information, completing the request, preparing statements, attaching necessary documentation, and submitting the request. The 30 minutes of increased time burden to complete the form takes into account the proposed new requirement to provide USCIS with bank account information as well as credit reports and credit scores.[236] Therefore, the proposed time burden to complete Form I–864 is estimated to be 6.5 hours per filer.

For the proposed rule, DHS estimates the opportunity cost of time for completing and filing Form I–864 would be $244.08 per individual based on the 30-minute increase in the time burden estimate.[237] Therefore, using the total population estimate of 1,041,077 annual filings for Form I–864, DHS estimates the total opportunity cost of time associated with completing and filing Form I–864 is approximately $254,106,074 annually.[238]

The new costs imposed by this proposed rule would be the difference between the proposed estimated opportunity cost of time to complete

[235] Calculation: (Form I–865 estimated opportunity cost of time) * (Estimated annual population filing Form I–865) = $9.39 * 6,089 = $57,175.71 = $57,176 (rounded) total annual opportunity cost of time for filing Form I–865.

[236] DHS notes that some low-income individuals may be ''unbanked'' and do not have bank accounts and/or credit reports and credit scores. Therefore, such individuals would not be able to provide this information and may not incur this opportunity cost of time. *See* Federal Deposit Insurance Corporation (FDIC). ''FDIC National Survey of Unbanked and Underbanked Households,'' Appendix Tables, Table A.1 Banking Status by Household Characteristics, 2017, available at *https://www.fdic.gov/householdsurvey/2017/2017appendix.pdf,* (last visited June 2, 2020).

[237] Calculation opportunity cost of time for completing and submitting Form I–864: ($37.55 per hour * 6.5 hours) = $244.075 = $244.08 (rounded) per filer.

[238] Calculation: (Form I–864 estimated opportunity cost of time for proposed rule) * (Estimated annual population filing Form I–864) = $244.08 * 1,041,077 = $254,106,074.16 = $254,106,074 (rounded) proposed rule total annual estimated opportunity cost of time for filing Form I–864.

Form I–864 and the current estimated opportunity cost of time to complete the form due to the increased time burden estimate. As a result, DHS estimates the proposed rule would impose additional annual new costs of approximately $19,551,426 to Form I–864 filers.[239]

In addition to the opportunity cost of time associated with completing and filing Form I–864, filers must bear the cost of obtaining a credit report and credit score from any one of the three major credit bureaus in the United States to be submitted with the Affidavit.[240] Consumers may obtain a free credit report once a year from each of the three major consumer reporting agencies (*i.e.,* credit bureaus) under the Fair Credit Reporting Act (FCRA).[241] However, consumers are not necessarily entitled to a free credit score, for which consumer reporting agencies may charge a fair and reasonable fee.[242] DHS does not assume all individuals are able to obtain a free credit report under FCRA specifically for fulfilling the requirements of filing Form I–864 and acknowledges obtaining a credit score would be an additional cost. Therefore, DHS assumes each individual would bear the cost of obtaining a credit report and credit score from at least one of the three major credit bureaus. DHS estimates the cost of obtaining a credit report and credit score is $19.99 per applicant, as this is the maximum amount the three major credit bureaus charge.[243] DHS notes all individuals who file an Affidavit will also be required to comply with this requirement, unless he or she is applying in a category exempt from the public charge inadmissibility ground. Therefore, based on the estimated average annual population of 1,041,077, DHS estimates the total annual cost associated with obtaining a credit report and credit score as part of the requirements for filing Form I–864 would be approximately $20,811,129.[244]

DHS is proposing a new requirement that those filing Form I–864 would be required to provide IRS-issued certified copies or transcripts of their Federal income tax returns for the 3 most recent taxable years.[245] *See* proposed 8 CFR 213a.2(c)(2)(i)(A). Consistent with the Act, DHS is proposing to clarify in the regulation that tax returns must be certified copies issued by the IRS.[246] Individuals may request certified copies from the IRS for the current tax year and the prior six years. DHS proposes conforming edits to the regulation to be consistent with these revisions. *See* proposed 8 CFR 213a.2(c)(2)(i)(B), (c)(2)(i)(C)(*4*), and (c)(2)(i)(D). Sponsors currently have the option of submitting tax returns for the 3 most recent tax years, but are only required to submit tax returns for the most recent tax year.[247]

A transcript summarizes return information and includes Adjusted Gross Income (AGI). They are available for the most current tax year after the IRS has processed the return. IRS-certified copies of a tax return are available for the current tax year and as far back as six years. The fee per copy for each return requested is $50. Individuals requesting IRS-certified copies of a tax return must complete and mail IRS Form 4506 to the appropriate IRS office listed on the form.

Using the estimated annual total population of 1,041,077 individuals filing Form I–864, DHS estimates the cost to obtain three tax transcripts using IRS Form 4506 in accordance with the proposed requirement for submitting Form I–864 would be approximately $156,161,550 annually.[248]

The estimated time burden associated with filing IRS Form 4506 is 46 minutes (.77 hours) per filer, including learning about the law or form, preparing the form, and copying, assembling, and sending the form to the IRS. Therefore, using the total rate of compensation of $37.55 per hour, DHS estimates the opportunity cost of time for completing and submitting IRS Form 4506 would be $28.91 per applicant.[249] Using the total population estimate of 1,041,077 annual filings for Form I–864, DHS estimates the total opportunity cost of time associated with completing and submitting IRS Form 4506 would be approximately $30,097,536 annually.[250]

In sum, DHS estimates the total proposed new cost to complete and file Form I–864 would be approximately $226,621,641 annually.[251] The total estimated annual new costs include those associated with the opportunity cost of time to complete the form, obtaining a credit report and credit score, obtaining IRS-issued certified copies or transcripts of Federal income tax returns for the 3 most recent taxable years using IRS Form 4506, and the opportunity cost of time to file IRS Form 4506 for the total population estimate of 1,041,077 annual filings for Form I–864.

The current estimated time to complete Form I–864A is 1 hour and 45 minutes (1.75 hours) per filer.[252] For the proposed rule, DHS estimates the time

[239] Calculation of estimated new costs for completing Form I–864: Proposed rule estimate of opportunity cost of time to complete Form I–864 ($254,106,074)—Current estimate of opportunity cost of time to complete Form I–864 ($234,554,648) = $19,551,426 estimated annual new costs of the proposed rule.

[240] The three major credit bureaus are Equifax, Experian, and TransUnion. Each of these bureaus is a publicly-traded, for-profit company that is not owned by the Federal Government. DHS notes that there may be differences in the information contained in the credit reports from each of the three major credit bureaus since one credit bureau may have unique information on a consumer that is not captured by the other credit bureaus.

[241] *See* Fair Credit Reporting Act (FCRA), *Section 612, Charges for Certain Disclosures.* 15 U.S.C. 1681j, available at *https://www.consumer.ftc.gov/articles/pdf-0111-fair-credit-reporting-act.pdf* (last visited June 2, 2020).

[242] *See* FCRA, *Section 609(f)(8), Disclosures to Consumers, Disclosure of Credit Scores.* 15 U.S.C. 1681g, available at *https://www.consumer.ftc.gov/articles/pdf-0111-fair-credit-reporting-act.pdf* (last visited June 2, 2020).

[243] Each of the three major credit charge the following prices for a credit report, including a credit score:

Experian—$19.99, *available at https://www.experian.com/consumer-products/compare-credit-report-and-score-products.html* (last visited Nov. 7, 2019);

Equifax—$15.95, *available at https://www.equifax.com/personal/products/credit/report-and-score* (last visited Nov. 7, 2019); and

TransUnion—$11.50, *available at https://disclosure.transunion.com/dc/disclosure/disclosure.jsp* (last visited Nov. 7, 2019).

[244] Calculation: (Estimated cost for credit score and credit report) * (Estimated annual population filing Form I–864) = $19.99 * 1,041,077 = $20,811,129.23 = $20,811,129 (rounded) annual estimated costs for obtaining a credit report and credit score as part of the requirements for filing Form I–864.

[245] A tax transcript summarizes return information and they are available for the most current tax year after the IRS processes the return. Taxpayers can also get them for the past 3 years. *See How to Get Tax Transcripts and Copies of Tax Returns from the IRS,* available at *https://www.irs.gov/newsroom/how-to-get-tax-transcripts-and-copies-of-tax-returns-from-the-irs* (last visited June 2, 2020).

[246] *See* INA section 213A(f)(6)(A)(i), 8 U.S.C. 1183a(f)(6)(A)(i).

[247] *See* INA section 213A(f)(6)(B), 8 U.S.C. 1183a(f)(6)(B); see also 8 CFR 213a.2(c)(2)(i)(A).

[248] Calculation: (Cost per IRS-certified tax transcript) * (Proposed number of transcripts required [3]) * (Estimated annual population filing Form I–864) = $50 * 3 * 1,041,077 = $156,161,550 total proposed cost to obtain IRS-certified tax transcripts for filing Form I–864.

[249] Calculation of opportunity cost of time to file IRS Form 4506 for those filing Form I–864: ($37.55 per hour * .77 hours) = $28.914 = $28.91 (rounded) per filer.

[250] Calculation: (Estimated opportunity cost of time for IRS Form 4506) * (Estimated annual population filing Form I–864) = $28.91 * 1,041,077 = $30,097,536.07 = $30,097,536 (rounded) annual opportunity cost of time for filing IRS Form 4506 for those filing Form I–864.

[251] Calculation: $19,551,426 (Opportunity cost of time to complete Form I–864) + $20,811,129 (Cost of credit report and credit score) + $156,161,550 (Cost to obtain Internal Revenue Service (IRS)-issued certified copies or transcripts of Federal income tax returns) + $30,097,536 (Opportunity cost of time to file IRS Form 4506 to obtain IRS-issued certified Federal income tax returns = $226,621,641 total proposed estimated annual cost to complete and file Form I–864.

[252] *See* USCIS Instructions for Form I–864A, Contract Between Sponsor and Household Member available at *https://www.uscis.gov/i-864a.*

burden for completing Form I–864A will increase by 30 minutes to account for the additional time petitioners will spend on reviewing instructions, gathering the required documentation and information, completing the request, preparing statements, attaching necessary documentation, and submitting the request. The 30 minutes of increased time burden to complete the form takes into account the proposed new requirement to provide USCIS with bank account information as well as credit reports and credit scores.[253] Therefore, the proposed time burden to complete Form I–864A is estimated to be 2 hours and 15 minutes (2.25 hours) per filer.

For the proposed rule, DHS estimates the opportunity cost of time for completing Form I–864A would be $84.49 per application based on the 30-minute increase in the time burden estimate.[254] Therefore, using the total population estimate of 48,824 for individuals who would complete and submit Form I–864A as a household member,[255] DHS estimates the total opportunity cost of time associated with completing Form I–864A would be approximately $4,125,140 annually.[256]

The new costs imposed by this proposed rule would be the difference between the proposed estimated opportunity cost of time to complete Form I–864A and the current estimated opportunity cost of time to complete the form due to the increased time burden estimate. As a result, DHS estimates the proposed rule would impose additional annual new costs of $916,915 to Form I–864A filers.[257]

In addition to the opportunity cost of time associated with completing Form I–864A, filers must bear the cost of obtaining a credit report and credit score from any one of the three major credit bureaus in the United States to be submitted with the Contract. DHS estimates the cost of obtaining a credit report and credit score is $19.99 per applicant, as this is the maximum amount the three major credit bureaus charge.[258] Therefore, DHS estimates the total proposed new cost to those filing Form I–864A would be approximately $19.99 per filer. Based on the total population estimate of 48,824 for individuals would file Form I–864A as a household member, DHS estimates the total annual cost associated with obtaining a credit report and credit score as part of the requirements for filing Form I–864A would be $975,992.[259]

DHS is also proposing that those filing Form I–864A would be required to provide IRS-issued certified copies or transcripts of their Federal income tax returns for the 3 most recent taxable years. *See* proposed 8 CFR 213a.2(c)(2)(i)(A). The fee per copy for each return requested is $50. DHS estimates the cost to obtain tax transcripts for the 3 most recent taxable years using IRS Form 4506 in accordance with the proposed requirement for submitting Form I–864A is $150 for each individual filing Form I–864A. Using the estimated annual total population of 48,824 individuals filing Form I–864A, DHS estimates the cost to obtain three tax transcripts using IRS Form 4506 in accordance with the proposed requirement for submitting Form I–864A would be approximately $7,323,600 annually.[260]

The estimated time burden associated with filing IRS Form 4506 is 46 minutes (.77 hours) per filer, including learning about the law or form, preparing the form, and copying, assembling, and sending the form to the IRS. Therefore, using the total rate of compensation of $37.55 per hour, DHS estimates the opportunity cost of time for completing and submitting IRS Form 4506 would be $28.91 per filer.[261] Using the total population estimate of 48,824 annual filings for Form I–864A, DHS estimates the total opportunity cost of time associated with completing and submitting IRS Form 4506 would be approximately $1,411,502 annually.[262]

In sum, DHS estimates the total proposed new cost to complete Form I–864A would be approximately $10,628,009 annually.[263] The total proposed estimated annual new costs include those associated with the opportunity cost of time to complete the form, obtaining a credit report and credit score, obtaining IRS-issued certified copies or transcripts of Federal income tax returns for the 3 most recent taxable years using IRS Form 4506, and the opportunity cost of time to file IRS Form 4506 for the total population estimate of 48,824 annual filings for Form I–864A. DHS notes we are unable to determine the exact number filings of Form I–864A since not all individuals filing I–864 need to file Form I–864A with a household member. Therefore,

[253] DHS notes that some low-income individuals may be ''unbanked'' and do not have bank accounts and/or credit reports and credit scores. Therefore, such individuals would not be able to provide this information and may not incur this opportunity cost of time. *See* Federal Deposit Insurance Corporation (FDIC). ''FDIC National Survey of Unbanked and Underbanked Households,'' Appendix Tables, Table A.1 Banking Status by Household Characteristics, 2017, available at *https://www.fdic.gov/householdsurvey/2017/2017appendix.pdf,* (last visited June 2, 2020).

[254] Calculation opportunity cost of time for completing and submitting Form I–864A: ($37.55 per hour * 2.25 hours) = $84.488 = $84.49 (rounded) per application.

[255] DHS again notes that this proposed rule would revise the current regulatory requirements concerning who can qualify as a household member for purposes of submitting and executing a Contract using Form I–864A. Currently, there is no limitation on the number of household members who may execute a Form I–864A. However, DHS is proposing to permit only a sponsor's spouse or an intending immigrant with the same principal residence as the sponsor to execute Form I–864A. DHS acknowledges this proposed new regulatory provision would reduce the number of individuals who would be eligible to qualify as a household member who may submit a Contract and, as a result, may reduce the number of Contracts submitted using Form I–864A. However, DHS is unable to determine the magnitude of the reduced number of Form I–864A filings annually. Therefore, the estimated new costs of the proposed rule for those filing Form I–864A are likely overstated.

[256] Calculation: (Form I–864A estimated opportunity cost of time for proposed rule) * (Estimated annual population filing Form I–864A) = $84.49 * 48,824 = $4,125,139.76 = $4,125,140 (rounded) proposed rule total annual estimated opportunity cost of time for filing Form I–864A.

[257] Calculation of estimated new costs for completing Form I–864A: Proposed rule estimate of opportunity cost of time to complete Form I–864A ($4,125,140)—Current estimate of opportunity cost of time to complete Form I–864A ($3,208,225) = $916,915 estimated annual new costs of the proposed rule.

[258] Each of the three major credit charge the following prices for a credit report, including a credit score:

Experian—$19.99, *available at https://www.experian.com/consumer-products/compare-credit-report-and-score-products.html* (last visited Nov. 7, 2019);

Equifax—$15.95, *available at https://www.equifax.com/personal/products/credit/report-and-score* (Nov. 7, 2019); and

TransUnion—$11.50, *available at https://disclosure.transunion.com/dc/disclosure/disclosure.jsp* (last visited Nov. 7, 2019).

[259] Calculation: (Estimated cost for credit score and credit report) * (Estimated annual population filing Form I–864A) = $19.99 * 48,824 = $975,991.76 = $975,992 (rounded) annual estimated costs for obtaining a credit report and credit score as part of the requirements for filing Form I–864A.

[260] Calculation: (Cost per IRS-certified tax transcript) * (Proposed number of transcripts required [3]) * (Estimated annual population filing Form I–864A) = $50 * 3 * 48,824 = $7,323,600 total proposed cost to obtain IRS-certified tax transcripts for filing Form I–864A.

[261] Calculation of opportunity cost of time to file IRS Form 4506 for those filing Form I–864EZ: ($37.55 per hour * .77 hours) = $28.914 = $28.91 (rounded) per filer.

[262] Calculation: (Estimated opportunity cost of time for IRS Form 4506) * (Estimated annual population filing Form I–864A) = $28.91 * 48,824 = $1,411,501.84 = $1,411,502 (rounded) annual opportunity cost of time for filing IRS Form 4506 for those filing Form I–864.

[263] Calculation: $916,915 (Opportunity cost of time to complete Form I–864A) + $975,992 (Cost of credit report and credit score) + $7,323,600 (Cost to obtain Internal Revenue Service (IRS)-issued certified copies or transcripts of Federal income tax returns) + $1,411,502 (Opportunity cost of time to file IRS Form 4506 to obtain IRS-issued certified Federal income tax returns = $10,628,009 total proposed estimated annual cost to complete and file Form I–864.

the costs for Form I–864A are likely to be overestimated.

The current estimated time to complete Form I–864EZ is 2 hours and 30 minutes (2.5 hours) per filer.[264] For the proposed rule, DHS estimates the time burden for completing Form I–864EZ will increase by 30 minutes to account for the additional time petitioners will spend on reviewing instructions, gathering the required documentation and information, completing the request, preparing statements, attaching necessary documentation, and submitting the request. The 30 minutes of increased time burden to complete the form takes into account the proposed new requirement to provide USCIS with bank account information as well as credit reports and credit scores.[265] Therefore, the proposed time burden to complete Form I–864EZ is estimated to be 3 hours per filer.

For the proposed rule, DHS estimates the opportunity cost of time for completing Form I–864EZ would be $112.65 per application based on the 30-minute increase in the time burden estimate.[266] Therefore, using the total population estimate of 30,991 applicants would file an Affidavit using Form I–864EZ, DHS estimates the total opportunity cost of time associated with completing Form I–864EZ would be approximately $3,491,136 annually.[267]

The new costs imposed by this proposed rule would be the difference between the proposed estimated opportunity cost of time to complete Form I–864EZ and the current estimated opportunity cost of time to complete the form due to the increased time burden estimate. As a result, DHS estimates the proposed rule would impose additional annual new costs of $581,701 to Form I–864EZ filers.[268]

In addition to the opportunity cost of time associated with completing Form I–864EZ, filers must bear the cost of obtaining a credit report and credit score from any one of the three major credit bureaus in the United States to be submitted with the Affidavit. Therefore, based on the estimated average annual population of 30,991, DHS estimates the total annual cost associated with obtaining a credit report and credit score as part of the requirements for filing Form I–864EZ would be $619,510.[269]

DHS is also proposing that those filing Form I–864EZ would be required to provide IRS-issued certified copies or transcripts of their Federal income tax returns for the 3 most recent taxable years. *See* proposed 8 CFR 213a.2(c)(2)(i)(A). The fee per copy for each return requested is $50. Using the estimated annual total population of 30,991 individuals filing Form I–864EZ, DHS estimates the cost to obtain three tax transcripts using IRS Form 4506 in accordance with the proposed requirement for submitting Form I–864EZ is $4,648,650 annually.[270]

The estimated time burden associated with filing IRS Form 4506 is 46 minutes (.77 hours) per filer, including learning about the law or form, preparing the form, and copying, assembling, and sending the form to the IRS. Therefore, using the average total rate of compensation of $37.55 per hour, DHS estimates the opportunity cost of time for completing and submitting IRS Form 4506 would be $28.91 per applicant.[271] Using the total population estimate of 30,991 annual filings for Form I–864EZ, DHS estimates the total opportunity cost of time associated with completing and submitting IRS Form 4506 is approximately $895,950 annually.[272]

In sum, DHS estimates the total proposed new cost to complete and file Form I–864EZ would be approximately $6,745,811 annually.[273] The total proposed estimated annual new costs include those associated with the opportunity cost of time to complete the form, obtaining a credit report and credit score, obtaining IRS-issued certified copies or transcripts of Federal income tax returns for the 3 most recent taxable years using IRS Form 4506, and the opportunity cost of time to file IRS Form 4506 for the total population estimate of 30,991 annual filings for Form I–864EZ.

Additionally, DHS is proposing to revise Sponsor's Notice of Change of Address (Form I–865). If the address of a sponsor or household member (who executed a Contract Between a Sponsor and a Household Member [Form I–864A]) changes while the sponsor's or household member's support obligation is in effect, the sponsor or household member (who executed a Contract) would be required to file a change of address notice within 30 days with USCIS.

There is currently no fee to file Form I–865. In addition, Form I–865 has been identified as exempt from control under the Paperwork Reduction Act (PRA). However, as recently as 2015, Form I–865 was an OMB-approved collection for which DHS estimated the time burden associated with filing the form was 15 minutes (0.25 hours), including the time for reviewing instructions, and completing and submitting the form.[274] Therefore, using the average total rate of compensation of $37.55 per hour, DHS estimates the opportunity cost of time

[264] *See* USCIS Instructions for Form I–864EZ, Affidavit of Support Under Section 213A of the Act available at *https://www.uscis.gov/i-864ez* (last visited June 2, 2020).

[265] DHS notes that some low-income individuals may be ''unbanked'' and do not have bank accounts and/or credit reports and credit scores. Therefore, such individuals would not be able to provide this information and may not incur this opportunity cost of time. *See* Federal Deposit Insurance Corporation (FDIC). ''FDIC National Survey of Unbanked and Underbanked Households,'' Appendix Tables, Table A.1 Banking Status by Household Characteristics, 2017, available at *https://www.fdic.gov/householdsurvey/2017/2017appendix.pdf,* (June 2, 2020).

[266] Calculation opportunity cost of time for completing and submitting Form I–864EZ: ($37.55 per hour * 3.0 hours) = $112.65 per application.

[267] Calculation: (Form I–864EZ estimated opportunity cost of time for proposed rule) * (Estimated annual population filing Form I–864EZ) = $112.65 * 30,991 = $3,491,136.15 = $3,491,136 (rounded) proposed rule total annual estimated opportunity cost of time for filing Form I–864EZ.

[268] Calculation of estimated new costs for completing Form I–864EZ: Proposed rule estimate of opportunity cost of time to complete Form I–864EZ ($3,491,136) – Current estimate of opportunity cost of time to complete Form I–864EZ ($2,909,435) = $581,701 estimated annual new costs of the proposed rule.

[269] Calculation: (Estimated cost for credit score and credit report) * (Estimated annual population filing Form I–864EZ) = $19.99 * 30,991 = $619,510.09 = $619,510 (rounded) annual estimated costs for obtaining a credit report and credit score as part of the requirements for filing Form I–864EZ.

[270] Calculation: (Cost per IRS-certified tax transcript) * (Proposed number of transcripts required [3]) * (Estimated annual population filing Form I–864EZ) = $50 * 3 * 30,991 = $4,648,650 total proposed cost to obtain IRS-certified tax transcripts for filing Form I–864EZ.

[271] Calculation of opportunity cost of time to file IRS Form 4506 for those filing Form I–864EZ: ($37.55 per hour * 0.77 hours) = $28.914 = $28.91 (rounded) per applicant.

[272] Calculation: (Estimated opportunity cost of time for IRS Form 4506) * (Estimated annual population filing Form I–485) = $28.91 * 30,991 = $895,949.81= $895,950 (rounded) annual opportunity cost of time for filing IRS Form 4506 for those filing Form I–864EZ.

[273] Calculation: $581,701 (Opportunity cost of time to complete Form I–864EZ) + $619,510 (Cost of credit report and credit score) + $4,648,650 (Cost to obtain Internal Revenue Service (IRS)-issued certified copies or transcripts of Federal income tax returns) + $895,950 (Opportunity cost of time to file IRS Form 4506 to obtain IRS-issued certified Federal income tax returns) = $6,745,811 total proposed estimated annual cost to complete and file Form I–864EZ.

[274] *See* Paperwork Reduction Act (PRA) Supporting Statement for Form I–865. The PRA Supporting Statement A can be found at Question 12 on *Reginfo.gov* at *https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201209-1615-010* (last viewed June 2, 2020). DHS notes this is the supporting statement for Form I–865 prior to the form becoming exempt from control under the PRA. This supporting statement provides the best estimate of the time burden to complete Form I–865.

for completing and submitting Form I–865 would be $9.39 per applicant.[275]

As part of this proposed rulemaking, household members who execute a Contract would be required to submit Form I–865 in the event of a change of address. DHS estimated the current annual total population that would file Form I–865 to provide notice of a change of address is approximately 6,089. For the proposed rule, as previously calculated, DHS estimates the total annual average number of filings of Form I–865 would be approximately 6,382 annually, an increase of 293 filings.

Therefore, using the estimated total annual average number of Form I–865 filings of 6,382, DHS estimates the proposed total opportunity cost of time associated with completing and filing Form I–865 would be approximately $59,927 annually.[276]

The new costs imposed by this proposed rule would be the difference between the proposed estimated opportunity cost of time to complete Form I–865 and the current estimated opportunity cost of time to complete the form due to the increased population estimate. As a result, DHS estimates the proposed rule would impose additional annual new costs of approximately $2,751 for filing Form I–865.[277]

Moreover, this proposed rule would also impose new costs on those from a party or entity authorized to bring an action to enforce an Affidavit or Contract making a formal request using the proposed new Form G–1563 so that USCIS may provide a certified copy of the requested Affidavit or Contract that has been executed on behalf of a sponsored immigrant for use as evidence in any action of enforcement. With the creation of this proposed new form, DHS estimates the time burden associated with filing Form G–1563 is 50 minutes (0.83 hours) per filing to make a formal request for a certified copy of an Affidavit or Contract, including the time for reviewing instructions and completing and submitting the form. Using the average total rate of compensation of $37.55 per hour, DHS estimates the opportunity cost of time for completing and submitting Form G–1563 would be $31.17 per filer.[278] While the process for using the proposed Form G–1563 would be new and historical data are not available, DHS estimates there would be approximately 25 formal requests to USCIS for certified copies of an Affidavit or Contract annually. Therefore, DHS estimates the total cost to file Form G–1563 would be approximately $779 annually.[279]

Since the proposed Form G–1563 would be new and historical data are not available, DHS welcomes public comment and data regarding the potential number of formal requests for certified copies of Affidavits or Contracts that have been executed on behalf of a sponsored immigrant for use as evidence in any action of enforcement.

c. Cost Savings of the Proposed Regulatory Changes

DHS anticipates that the proposed rule would produce some cost savings as DHS is proposing to eliminate Form I–864W for use in filing an adjustment application. DHS would instead require individuals to provide the information previously requested on the Form I–864W when filing Form I–485. Applicants, therefore, would not be required to file Form I–864W when filing Form I–485. DHS has determined that the information an applicant provides on Form I–485 would be sufficient for an adjudications officer to be able to verify whether an immigrant is statutorily required to file an Affidavit. While the information currently collected using Form I–864W would be collected using Form I–485 under this proposed rulemaking, DHS does not anticipate an increase in the fee, time burden, or other changes in the requirements for completing and filing Form I–485.

Currently, there is no filing fee associated with filing Form I–864W. However, DHS estimates the time burden associated with filing this form is 60 minutes (1 hour) per applicant.[280] Using the average total rate of compensation of $37.55 per hour, DHS estimates the amount of cost savings that would accrue from eliminating Form I–864W is about $37.55 per applicant, which equals the opportunity cost of time for completing Form I–864W.[281]

For the proposed rule, DHS estimates the cost for completing Form I–864W is approximately $3,684,368 annually,[282] based on the opportunity cost of time for the estimated annual total population of 98,119 for individuals who would file Form I–864W.

Since immigrants filing for adjustment of status using Form I–485 will no longer need to submit Form I–864W to request an exemption from filing an Affidavit, the proposed rule would produce some cost savings from this population. The estimated total cost savings of the proposed rule for immigrants filing for adjustment of status who would have needed to request an exemption from filing an Affidavit would be equal to the current estimated cost of filing Form I–864W for this population. Therefore, DHS estimates the total cost savings of the proposed rule for immigrants applying for adjustment of status who would have needed to request an exemption from filing an Affidavit would be approximately $3,684,368 annually.

d. Net Costs of the Proposed Regulatory Changes

The primary source of quantified new costs for the proposed rule would be from increases in the estimated time burdens to complete Form I–864, I–864A, and Form I–864EZ, as well as new filing requirements such as providing additional tax transcripts and credit reports and credit scores. The proposed rule would also impose new costs on the population executing a Contract as household members would now be required to submit Form I–865 to provide notice of a change of address after moving. DHS estimates the total new costs of the proposed rule would be approximately $243,998,212 annually.

In addition, DHS anticipates that the proposed rule would produce cost savings with the proposal to eliminate Form I–864W for use in filing an adjustment application where individuals instead would be required

[275] Calculation of opportunity cost of time to file Form I–865: ($37.55 per hour * 0.25 hours) = $9.388 = $9.39 (rounded) per filer.

[276] Calculation: (Form I–865 estimated opportunity cost of time for proposed rule) * (Estimated annual population filing Form I–865) = $9.39 * 6,382 = $59,926.98 = $59,927 (rounded) proposed rule total annual estimated opportunity cost of time for filing Form I–865.

[277] Calculation of estimated new costs for completing Form I–864: Proposed rule estimate of opportunity cost of time to complete Form I–864 ($59,927) − Current estimate of opportunity cost of time to complete Form I–865 ($57,176) = $2,751 proposed estimated annual new costs for filing Form I–865.

[278] Calculation of opportunity cost of time to file Form G–1563: ($37.55 per hour * 0.83 hours) = $31.167 = $31.17 (rounded) per filer.

[279] Calculation: $31.17 (cost per filer to file Form G–1563) * 25 (estimated annual population who would make a formal request using Form G–1563) = $779.25 = $779 (rounded) annual total cost to file Form G–1563.

[280] Source for I–864W time burden estimate: Paperwork Reduction Act (PRA) Affidavit of Support Under Section 213A of the INA (Forms I–864, I–864A, I–864EZ, I–864W) (OMB control number 1615–0075). The PRA Supporting Statement can be found at Question 12 on *Reginfo.gov* at *https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201705-1615-004.*

[281] Calculation opportunity cost of time for completing and submitting Form I–864W: ($37.55 per hour * 1.0 hours) = $37.55.

[282] Calculation: (Form I–864W estimated opportunity cost of time) * (Estimated annual population filing Form I–864W) = $37.55 * 98,119 = $3,684,368.45 = $3,684,368 (rounded) total annual opportunity cost of time for filing Form I–864W.

to provide the information previously requested on this form when filing Form I–485. DHS estimates the total cost savings of the proposed rule would be approximately $3,684,368 annually.

In comparing the estimated costs and costs savings of the proposed rule, the estimated costs are greater than the estimated cost savings. Therefore, the net costs of the proposed rule are positive. DHS estimates the net costs of the proposed rule would be approximately $240,313,844 annually.

e. Qualitative Impacts of the Proposed Regulatory Changes

The proposed rule may impose some qualitative impacts and/or costs/transfers associated with the proposed provisions that a joint sponsor must execute an Affidavit in cases where a sponsor has received any means-tested public benefits within 36 months of filing the Affidavit and/or has failed to meet the support or reimbursement obligations under an existing Affidavit or Contract. While this proposed requirement would better ensure that a sponsor has demonstrated the means to maintain income at the requisite level to support that intending immigrant, the indirect impact of this proposed provision could be a reduction in the number of immigrants granted an immigration benefit in cases where the intending immigrant is unable to submit a sufficient Affidavit. Additionally, the proposed provision could result in increased costs to sponsors for executing Affidavits, as those who agree to execute Affidavits as joint sponsors must comply with all of the requirements of executing Form I–864.

Moreover, it may be possible that the proposed provision could result in some sponsors and joint sponsors who may intend to sponsor a family member in the future foregoing enrollment or disenrolling from a means-tested public benefits program to avoid triggering the proposed additional requirements. This could result in additional indirect impacts incurred from the change of behavior due to this proposed rule. The disenrollment or foregone enrollment of individuals in public benefits programs could reduce the transfer payments from the Federal and state government to sponsors who might otherwise receive public benefits.

The proposed rule may also impose impacts and/or costs associated with the proposed provisions to update and improve how means-tested public benefit granting agencies obtain information from USCIS about sponsors and household members who have a support obligation in effect and how means-tested public benefit granting agencies provide information to USCIS. Specifically, as discussed above, the proposed rule seeks to eliminate the requirement in current regulations that a duly issued subpoena be issued in order for USCIS to provide a certified copy of an Affidavit to a requesting party for use in any action to enforce the support obligation,[283] [284] and instead allow requesting parties to submit a formal request for an Affidavit or a Contract to USCIS. Eliminating this requirement may allow for a less cumbersome process than obtaining a subpoena and it may result in an increased number of individuals with support obligations who are held accountable for the reimbursement of the cost of means-tested public benefits. Further, if means-tested public benefits granting agencies choose to pursue legal action to recover the means-tested public benefits a sponsored individual received, those sponsors or household members would incur the cost of reimbursing the means-tested public benefits-granting agency and would likely incur the costs of legal representation. DHS welcomes public comment on duly issued subpoenas that are issued in order for USCIS to provide a certified copy of an Affidavit to a requesting party for use in any action to enforce the support obligation. Specifically, DHS welcomes public comment on the number of subpoenas issued annually, the costs associated with obtaining a subpoena, and what costs are incurred to request and obtain a subpoena.

f. Discounted Direct Costs

To compare costs over time, DHS applied a 3 percent and a 7 percent discount rate to the total estimated net costs associated with the proposed rule. Table 9 presents a summary of the quantified net costs of the proposed rule as well as the estimated total net costs in undiscounted dollars and total costs discounted at 3 percent and 7 percent rates over a 10-year period.

TABLE 9—TOTAL ESTIMATED NET COSTS OF THE PROPOSED RULE WITH TOTAL ESTIMATED NET COSTS DISCOUNTED AT 3 PERCENT AND 7 PERCENT

Form	Source of costs and cost savings	Total estimated annual costs and cost savings (undiscounted)	Total estimated net costs over 10-year period
Form I–864	—Opportunity cost of time (OCT) associated with the increased time burden for completing form;. —Obtaining credit reports/credit scores; —Obtaining IRS-issued certified Federal income tax returns; and —OCT associated with obtaining income tax returns.	$226,621,641	$2,266,216,410
Form I–864A	—OCT associated with the increased time burden for completing form;. —Obtaining credit reports/credit scores; —Obtaining IRS-issued certified Federal income tax returns; and —OCT associated with obtaining income tax returns.	10,628,009	106,280,090
Form I–864EZ	—OCT associated with the increased time burden for completing form;.	6,745,811	67,458,110

[283] *See* 8 CFR 213a.4(a)(3). This provision indicates that upon the receipt of a duly issued subpoena, USCIS may provide a certified copy of an Affidavit that has been filed on behalf of a specific alien for use as evidence in any action to enforce an Affidavit, and may also disclose the last known address and Social Security number of the sponsor, substitute sponsor, or joint sponsor, but that regulation currently does not provide an address or office to which the subpoena should be sent.

[284] Current DHS regulations for obtaining copies of Affidavits are burdensome and inefficient because they require a subpoena. Laws governing subpoenas vary by jurisdiction, but subpoenas often need to be issued by a court clerk or by a licensed attorney, which requires additional time and resources. The requirements in the current regulations may have contributed to unintended difficulties for benefit-granting agencies and sponsored immigrants seeking to hold sponsors legally responsible for their obligations based on Affidavits. Similarly, current regulations for reporting judgments against sponsors and indigency determination information to USCIS are confusing as there are multiple addresses to send notifications to, some of which are no longer current.

TABLE 9—TOTAL ESTIMATED NET COSTS OF THE PROPOSED RULE WITH TOTAL ESTIMATED NET COSTS DISCOUNTED AT 3 PERCENT AND 7 PERCENT—Continued

Form	Source of costs and cost savings	Total estimated annual costs and cost savings (undiscounted)	Total estimated net costs over 10-year period
	—Obtaining credit reports/credit scores; —Obtaining IRS-issued certified Federal income tax returns; and —OCT associated with obtaining income tax returns.		
Form I–864W	—Cost savings for OCT associated with time burden for completing form that is being eliminated.	−3,684,368	−36,843,680
Form I–865	—Expanded population subject to the requirement to file Form I–865 to provide notice of change of address.	2,751	27,510
Form G–1563	—OCT for filing	779	7,790
Total Undiscounted Net Costs.		240,314,623	2,403,146,230
Total Net Costs at 3 Percent Discount Rate.			2,049,932,479
Total Net Costs at 7 Percent Discount Rate.			1,687,869,350

Source: USCIS analysis.

Over the first 10 years of implementation, DHS estimates the quantified net costs of the final rule would be about $2,403,146,230 (undiscounted). In addition, DHS estimates the 10-year discounted net cost of this final rule to individuals subject to this proposed rule would be about $2,049,932,479 at a 3 percent discount rate and about $1,687,869,350 at a 7 percent discount rate.

This economic analysis presents the quantified net costs of the proposed rule based on the estimated populations that are subject to the Affidavit requirement, agree to submit a Contract, and/or must file a notice of a change of address. The quantified net costs of the proposed rule include the opportunity cost of time associated with the increased time burden estimate for completing Form I–864, Form I–864A, and Form I–864EZ; the costs to obtain credit reports and credit scores; the cost of obtaining IRS-issued certified copies or transcripts of Federal income tax returns for the 3 most recent taxable years; the opportunity cost of time for filing IRS Form 4506 to obtain IRS-issued certified Federal income tax returns; the increased population required to submit Form I–865 to provide notice of a change of address. The quantified net costs shown in the table also include the estimated cost savings for the opportuntity cost of time associated with filing Form I–864W, which would to be eliminated, as well as the estimated total cost for filing the proposed new Form G–1563.

g. Costs to the Federal Government

The INA provides for the collection of fees at a level that will ensure recovery of the full costs of providing adjudication and naturalization services by DHS, including administrative costs and services provided without charge to certain applicants and petitioners.[285] DHS notes USCIS establishes its fees by assigning costs to an adjudication based on its relative adjudication burden and use of USCIS resources. Fees are established at an amount that is necessary to recover these assigned costs such as clerical, officers, and managerial salaries and benefits, plus an amount to recover unassigned overhead (*e.g.,* facility rent, IT equipment and systems among other expenses) and immigration benefits provided without a fee charge. Consequently, since USCIS immigration fees are based on resource expenditures related to the benefit in question, USCIS uses the fee associated with an information collection as a reasonable measure of the collection's costs to USCIS. Most of the forms affected by this proposed rule do not currently charge a filing fee, such as the Affidavit of Support forms (Form I–864, Form I–864A, and Form I–864EZ) as well as Sponsor's Notice of Change of Address (Form I–865). DHS notes the time necessary for USCIS to review the information submitted with each of these forms includes the time to adjudicate the underlying benefit request. While each of these forms does not charge a fee, the cost to USCIS is captured in the fee for the underlying benefit request form. DHS notes that the proposed rule may increase USCIS' costs associated with the adjudicating immigration benefit requests. Future adjustments to the fee schedule maybe necessary to recover these additional operating costs and will be determined at USCIS' next comprehensive biennial fee review. DHS invites public comments on the potential impacts of these additional operating costs.

For most immigrant visa applications, Affidavits and Contracts are submitted to the NVC. DOS charges a $120 fee to ensure that the Affidavit is properly completed before it is forwarded to a consular post for adjudication of an immigrant visa.[286] An applicant is charged only one fee in certain circumstances. For example, Affidavits from an individual concurrently sponsoring an immediate relative spouse and child would be the same in substance, and essentially duplicative and therefore only one fee is charged. When the Affidavits and Contracts are submitted directly to a consular post overseas, no fee is charged.

Pursuant to statute, DOS sets the fee for Affidavits and Contracts based on the costs to the DOS for providing these services in order to ensure Affidavits and Contracts are properly completed and forwarded to a consular post for adjudication of an immigrant visa by a

[285] *See* INA section 286(m), 8 U.S.C. 1356(m).

[286] The fee authority is contained in 8 U.S.C. 1183a Note, added by Public Law 106–113, Div. B, 1000(a)(7) [Div. A, Title II, sec. 232], Nov. 29, 1999, 113 Stat. 1536, 1501A–425, as amended Public Law 107–228, Div. A, Title II, sec. 211(b), Sept. 30, 2002, 116 Stat. 1365.

consular officer.[287] DOS expects that it will incur additional costs to provide this service as a result of this proposed rule. While it is difficult at this time to quantify these increased costs, DOS identified several sources of possible increased costs for these services resulting from this proposed rule such as contract modifications. Many of the additional costs that DOS would incur under this proposed rule would ultimately be factored into the fee DOS would charge to those submitting an Affidavit or Contract when fees are revised and, if so, these costs would be borne by applicants in the form of higher fees.

h. Benefits of Proposed Regulatory Changes

DHS anticipates that the proposed rule would produce some qualitative benefits. DHS anticipates the proposed rule to produce benefits by strengthening the enforcement mechanism for Affidavits and Contracts through elimination of the subpoena requirement in 8 CFR 213a.4, which would make it easier for means-tested public benefits granting agencies to recover payment for any means-tested public benefits that an intending immigrant receives during the period in which an Affidavit or a Contract is enforceable.[288] The changes DHS is proposing would hold accountable sponsors and household members who agree to use their income and assets to support an intending immigrant if an intending immigrant ultimately receives means-tested public benefits.

Additionally, the proposed rule would update the evidentiary requirements for sponsors submitting an Affidavit and household members submitting Contracts. The updated evidentiary requirements would provide immigration officers and immigration judges more effective ways to determine whether the sponsor has the means to maintain an annual income at or above the outlined income threshold, and whether the sponsor is able to provide financial support to the intending immigrant and meet all support obligations during the period an Affidavit is in effect. DHS welcomes public comment regarding reimbursement from sponsors as well the frequency in which sponsors have insufficient means to reimburse benefits-granting agencies.

Moreover, the proposed rule would update and improve how means-tested public benefit-granting agencies obtain immigration status information from USCIS about individuals who are seeking means-tested public benefits and how means-tested public benefit-granting agencies provide information to USCIS. The current regulations require a duly issued subpoena before USCIS is authorized to provide a certified copy of Form I–864 or Form I–864EZ to a requesting party for use in any action to enforce the sponsorship obligation.[289] The proposed rule would eliminate this requirement and instead allow a requesting party to submit a formal request for an Affidavit or a Contract directly to USCIS. DHS also is proposing to revise the process for informing USCIS about judgments obtained against sponsors and indigency determinations to give USCIS flexibility to determine a more efficient mechanism for information reporting. The current regulations require that copies of judgments and indigency determinations be mailed to a specific USCIS office in Washington, DC.[290] The proposed rule would remove the address specified in the regulation[291] and permit USCIS to provide a different mechanism for submitting copies of judgments and indigency determinations.

i. Regulatory Alternatives

DHS considered various regulatory alternatives to a number of the provisions of the proposed rule. First, DHS considered permanently barring an individual who had ever received means-tested public benefits from executing an Affidavit. However, DHS concluded such a policy would unreasonably restrict an individual from petitioning for eligible family members as is permitted by section 204 of the Act, 8 U.S.C. 1154. DHS welcomes public comments or data on individuals executing an Affidavit or a Contract who have received means-tested public benefits. DHS welcomes public comments or references to studies on the correlation between sponsors' receipt of means-tested public benefits in the past and their failure to reimburse agencies for benefits received by immigrants they sponsor.

A study conducted by the U.S. Census Bureau examined participation in government assistance programs from 2009 to 2012.[292] According to the study, the average monthly participation rate in one or more major means-tested assistance programs over this period was approximately 52.2 million people in 2012, which was about 21.3 percent of the U.S. population. In the context of the proposed rule, if we applied this percentage to the estimated total population of 1,072,068 executing an Affidavit using Form I–864 and Form I–864EZ, approximately 228,350 fewer individuals annually could execute an Affidavit and serve as sponsors to intending immigrants.[293]

DHS requests public comments on the economic effect of the proposed requirement for a joint sponsor when the petitioning sponsor or substitute sponsor has received any means-tested public benefits within 36 months of executing an Affidavit. DHS is particularly interested in views and data that would inform us about the economic effect that DHS should consider concerning the receipt of means-tested public benefits by petitioning sponsors and substitute sponsors.

Another regulatory alternative DHS considered was to permanently bar an individual who had previously defaulted on a support obligation from executing an Affidavit. However, because section 213A(f)(1)(D) of the Act, 8 U.S.C. 1183a(f)(1)(D), requires that the petitioner for family-based immigrants execute an Affidavit, DHS concluded that such a policy would unreasonably restrict an individual from petitioning for eligible family members as permitted by section 204 of the Act, 8 U.S.C. 1154. Instead, DHS is proposing to require a joint sponsor execute an Affidavit in this circumstance.

DHS requests public comments on the economic effect of the proposed requirement for a joint sponsor if the petitioning sponsor or substitute sponsor has previously defaulted on any support obligation. DHS is particularly interested in views and data that would inform us about the economic effect that

[287] DOS determines this fee based on the costs to DOS in doing this review.

[288] *See* 8 CFR 213a.4(a)(3). This provision indicates that upon the receipt of a duly issued subpoena, USCIS may provide a certified copy of an Affidavit that has been filed on behalf of a specific alien for use as evidence in any action to enforce an Affidavit, and may also disclose the last known address and Social Security number of the sponsor, substitute sponsor, or joint sponsor, but that regulation currently does not provide an address or office to which the subpoena should be sent.

[289] *See* 8 CFR 213a.4(a)(3).

[290] *See* 8 CFR 213a.4(c).

[291] *See* 8 CFR 213a.4(c)(3).

[292] *See* U.S. Census Bureau, Dynamics of Economic Well-Being: Participation in Government Programs, 2009–2012: Who Gets Assistance? (May 2015), available at *https://www.census.gov/content/dam/Census/library/publications/2015/demo/p70-141.pdf* (last visited June 2, 2020).

[293] Calculation: (Estimated total population executing an Affidavit using Forms I–864 or I–864EZ) * (Average monthly participation rate in one or more major means-tested assistance programs) = 1,072,068 * 21.3 percent = 228,350.484 = 228,350 (rounded) fewer individuals annually could execute an Affidavit and serve as sponsors to intending immigrants.

DHS should consider regarding previous defaults on support obligations by a petitioning sponsor or substitute sponsor.

DHS also considered eliminating the Contract entirely, and consider only the sponsor's income and assets for the purposes of the Affidavit, which would prevent any individual who is unable to meet the applicable income threshold based solely on his or her own income and assets from undertaking a support obligation without a joint sponsor agreeing to be jointly and severally liable for the sponsored immigrant. This alternative is consistent with section 213A(f)(6)(A) of the Act, 8 U.S.C. 1183a(f)(6)(A), which references only the income and assets of intending immigrants and sponsors. Additionally, it is consistent with one of the aims of this rule—better ensuring that sponsors can meet their support obligations, insofar as the household member is not required to demonstrate the means to maintain income at the applicable income threshold or that the income is actually available to the sponsor to use to support the intending immigrant. In cases in which the household member does not have income over the income threshold, it is possible that neither the sponsor nor the household member can meet the support obligations alone, even though agreeing to be jointly and severally liable.

However, DHS did not want preclude the immigration of an intending immigrant's minor children because the petitioning sponsor could not use the income and assets of the intending immigrant parent. Furthermore, DHS recognizes that dual income households are a common and accepted way for households to meet their needs. Accordingly, DHS decided to retain the option of the Contract, but limit the individuals who are eligible to execute it.

In the context of the proposed rule, the estimated annual total population of household members who execute a Contract by filing Form I–864A is approximately 48,824. Therefore, the regulatory alternative to eliminate the Contract altogether could prevent as many as approximately 48,824 immigrants annually from being able to obtain sponsorship through executed Affidavits in need of support of household members by executing a Contract.

Currently, any household member who meets the criteria set forth in the current household income definition may execute a Contract. Under the proposed definition, household income would only include all income of the sponsor and the sponsor's spouse (if the sponsor's spouse executes a Form I–864A) obtained from employment in a lawful enterprise or some other lawful source. *See* proposed 8 CFR 213a.1(f). DHS believes that limiting household income to the income of the sponsor, the sponsor's spouse, and, in certain circumstances, the intending immigrant, more accurately reflects income that will be available to the sponsor to support the intending immigrant under the support obligation. Moreover, DHS believes there is a greater likelihood that the income of the sponsor's spouse (compared to other household members) would actually be available to the sponsor to support the intending immigrant because spouses often share financial resources with each other. DHS further believes that there is a greater likelihood that the income of an intending immigrant would actually be available to the sponsor if the intending immigrant is accompanied by his or her spouse or children because the intending immigrant has a vested interest in his or her own family's success and well-being in the United States.

DHS requests public comments on the economic effect of the proposed changes to the household income definition, including the proposed limitation on who may execute a Contract. DHS is particularly interested in views and data that would inform us about the economic effect that DHS should consider regarding the definition of household income and the availability of household income to a sponsor to support an intending immigrant.

Finally, DHS considered maintaining in the regulation the requirement that USCIS will provide a certified copy of an Affidavit only after USCIS receives a duly issued subpoena.[294] By maintaining this provision, a requesting party would be required to continue navigating a burdensome and costlier process for obtaining a subpoena just to receive a copy of an Affidavit. Additionally, the existing requirement may discourage benefit-granting agencies and sponsored immigrants from enforcing the support obligations and/or seeking reimbursement from those who have received public benefits and were not eligible to receive them.

Consistent with Congressional intent that sponsors fulfill their support obligations during the period of enforceability, DHS is proposing to eliminate the subpoena requirement in order to facilitate the initiation of repayment or reimbursement actions. This proposed change is also consistent with the Presidential Memorandum's directive to establish procedures for data sharing, which will better ensure that existing immigration laws are enforced and that sponsors fulfill their support obligations during the period of enforceability. As a result of eliminating this requirement, it would be less costly, less burdensome, and more efficient to instead allow requesting parties to submit a formal request for an Affidavit or a Contract to USCIS.

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

This proposed rule is expected to be an E.O. 13771 regulatory action. Details on the estimated costs of this proposed rule can be found in the rule's economic analysis.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121 (March 29, 1996), requires Federal agencies to consider the potential impact of regulations on small businesses, small governmental jurisdictions, and small organizations during the development of their rules. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, or governmental jurisdictions with populations of less than 50,000.[295]

This proposed rule seeks to amend its regulations related to the Affidavit. The proposed rule changes certain requirements for the Affidavit and is intended to better ensure that all sponsors, as well as household members who execute a Contract, have the means to maintain income at the applicable income threshold and are capable of meeting their support obligations under section 213A of the Act, 8 U.S.C. 1183a, during the period in which the Affidavit is enforceable. This rule is also aimed at strengthening the enforcement mechanism for the Affidavit and Contract, which would allow means-tested public benefits granting agencies to recover payment for any means-tested public benefits that an intending immigrant receives during the period in which the Affidavit or Contract is enforceable.

This proposed rule would make changes to the process of filing an Affidavit or Contract and the requirements sponsors and household

[294] *See* 8 CFR 213a.4(a)(3).

[295] A small business is defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act, 15 U.S.C. 632.

members must fulfill, including updating the evidentiary requirements for sponsors and household members submitting an Affidavit or Contract, specifying that a sponsor's prior receipt of means-tested public benefits and a sponsor's failure to meet support obligations on another executed Affidavit or Contract can impact the determination as to whether the sponsor has the means to maintain the required income threshold to support the intending immigrant, who would be considered as a household member for purposes of submitting and executing a Contract, updating and improving how means-tested public benefit-granting agencies obtain from and provide information to USCIS, and clarifying which categories of aliens are exempt from the Affidavit requirement.

Of the categories of immigrants where a sponsor is required to submit Form I–864 for an immigrant, there may be employment-based immigrants in cases where a U.S. citizen, lawful permanent resident, or U.S. national relative filed the employment-based immigrant visa petition or such relative has a significant ownership interest (five percent or more) in the entity that filed the petition.[296] In such employment-based immigrant cases, the relative and not the entity is the sponsor (or a sponsor if the relative needs a joint sponsor), and submits a Form I–864. The entities are an avenue for such immigrants to enter into the country, however, the entities themselves are not the sponsors of such intending immigrants. The relative in these circumstances is the sponsor (or a sponsor if the relative needs a joint sponsor), and must meet the financial obligations of Form I–864. In such a scenario where a U.S. citizen, U.S. national, or lawful permanent resident employer who owns a small entity that has a legitimate business need for an alien worker and petitions for an immigrant relative to obtain an employment-based immigrant visa would also need to agree to be that immigrant's sponsor by submitting an Affidavit using Form I–864. Similarly, where a small business entity that has a legitimate business need for an alien worker files an employment-based immigrant petition for an alien who is a relative of a U.S. citizen, U.S. national, or lawful permanent relative who owns five percent or more of that small business entity, the U.S. citizen, U.S. national, or lawful permanent relative of the alien would also need to agree to be that immigrant's sponsor by submitting an Affidavit using Form I–864. Therefore, this proposed rule regulates individuals and individuals are not defined as a ''small entity'' by the RFA. Based on the evidence presented in this RFA and throughout this preamble, DHS certifies that this rule will not have a significant economic impact on a substantial number of small entities.

C. Small Business Regulatory Enforcement Fairness Act of 1996

This proposed rule is a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This proposed rule likely would result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

D. Congressional Review Act

This proposed rule is a major rule as defined by 5 U.S.C. 804, also known as the ''Congressional Review Act,'' as enacted in section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, 110 Stat. 847, 868 *et seq.* Accordingly, this rule, if enacted as a final rule, would be effective at least 60 days after the date on which Congress receives a report submitted by DHS under the Congressional Review Act, or 60 days after the final rule's publication, whichever is later.

E. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMRA) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of UMRA requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may directly result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector. The inflation-adjusted value of $100 million in 1995 is approximately $168 million in 2019 based on the Consumer Price Index for All Urban Consumers.[297]

This proposed rule does not contain such a mandate. The requirements of Title II of UMRA, therefore, do not apply, and DHS has not prepared a statement under UMRA.

F. Executive Order 13132: Federalism

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. DHS does not expect this proposed rule would impose substantial direct compliance costs on State and local governments, or preempt State law. Therefore, in accordance with section 6 of Executive Order 13132, it is determined this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

G. Executive Order 12988: Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

H. Paperwork Reduction Act

USCIS Form I–864

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all agencies are required to submit to OMB, for review and approval, any reporting requirements inherent in a rule. DHS and USCIS invite comments on the impact to the proposed collection of information. In accordance with the PRA, the information collection notice is published in the **Federal Register** to obtain comments regarding the proposed edits to the information collection instrument.

Comments are encouraged and will be accepted until December 1, 2020. All submissions received must include the agency name and OMB Control Number

[296] The other categories include: (1) All immediate relatives of U.S. citizens (spouses, unmarried children under 21 years of age, and parents of U.S. citizens 21 years of age and older); and (2) All family-based preference immigrants (unmarried sons and daughters of U.S. citizens, spouses and unmarried sons and daughters of lawful permanent residents, married sons and daughters of U.S. citizens, and brothers and sisters of U.S. citizens 21 years of age and older).

[297] *See* U.S. Bureau of Labor Statistics, *Historical Consumer Price Index for All Urban Consumers (CPI–U): U.S. City Average, All Items, available at https://www.bls.gov/cpi/tables/supplemental-files/historical-cpi-u-202003.pdf* (last visited June 2, 2020).

Calculation of inflation: (1) Calculate the average monthly CPI–U for the reference year (1995) and the current year (2019); (2) Subtract reference year CPI–U from current year CPI–U; (3) Divide the difference of the reference year CPI–U and current year CPI–U by the reference year CPI–U; (4) Multiply by 100 = [(Average monthly CPI–U for 2019—Average monthly CPI–U for 1995)/(Average monthly CPI–U for 1995)] * 100 = [(255.657 – 1 52.383)/152.383] * 100 = (103.274/152.383) *100 = 0.6777 * 100 = 67.77 percent = 68 percent (rounded)

Calculation of inflation-adjusted value: $100 million in 1995 dollars * 1.68 = $168 million in 2019 dollars.

1615–0075 in the body of the submission. Comments on this information collection should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, 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 information collection:

(1) *Type of Information Collection:* Revision of a Currently Approved Collection

(2) *Title of the Form/Collection:*

- Affidavit of Support Under Section 213A of the INA, Form I–864
- Affidavit of Support Under Section 213A of the INA, Form I–864EZ
- Contract Between Sponsor and Household Member, Form I–864A

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–864, Form I–864EZ, and Form I–864A; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

- *Form I–864:* Primary: Individuals: This form was developed for sponsors to submit for intending immigrants who are required to submit Form I–864 with their application for adjustment of status or an immigrant visa. Supporting documentation demonstrating sponsor eligibility must be submitted with the form. The form instructions list the relevant documentation. USCIS is revising this form and accompanying instructions to correspond with revisions related to information about a sponsor's receipt of means-tested public benefits, default on prior Affidavits of Support Under Section 213A of the INA or Contracts Between Sponsor and Household Member, requiring 3 years of tax returns, requiring credit reports and credit scores, and changes to household members.
- *Form I–864EZ:* Primary: Individuals: This form was developed for sponsors to submit for intending immigrants who are required to submit Form I–864 with their application for adjustment of status or an immigrant visa. A sponsor may use Form I–864EZ only if the sponsor is (1) sponsoring only one intending immigrant, and (2) relying solely on income to demonstrate their ability to maintain the necessary level of income. Supporting documentation demonstrating sponsor eligibility must be submitted with the form. The form instructions list the relevant documentation. USCIS is revising this form and accompanying instructions to correspond with revisions related to information about a sponsor's receipt of means-tested public benefits, default on prior Affidavits of Support Under Section 213A of the INA or Contracts Between Sponsor and Household Member, requiring 3 years of tax returns, requiring credit reports and credit scores, and changes to who can file the form.
- *Form I–864A:* Primary: Individuals: Form I–864A was developed for household members who have agreed to use their income and assets to help a sponsor support an intending immigrant. Supporting documentation demonstrating financial ability must be submitted with the form. The form instructions list the relevant documentation. USCIS is revising this form and accompanying instructions to correspond with revisions related to which individuals can be household members for Affidavit of Support Under Section 213A of the INA purposes, and requiring 3 years of tax returns.
- *Form I–864W:* USCIS is proposing to eliminate the Form I–864W instrument. The information from this form will instead be collected on Form I–485.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The Paperwork Reduction Act requires an agency to provide an estimated number of likely respondents for each collection of information. USCIS relies on a combination of information obtained from databases, subject matter experts, and projected intakes from other collections of information, which may have a relationship to the form for which an estimate is provided. The agency uses this information and/or may use other data that might not be found in an official database to guide decision-making on an estimated number of respondents. Since the estimates for purposes of PRA submissions may be made while official projections are still in progress, it should be understood that these estimates are subject to being updated as more data become available.

The estimated total number of respondents for the information collection Form I–864 is 446,313 and the estimated hour burden per response is 6.5 hours. The estimated total number of respondents for the information collection Form I–864A is 42,892 and the estimated hour burden per response is 2.25 hours. The estimated total number of respondents for the information collection Form I–864EZ is 114,860 and the estimated hour burden per response is 3 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection of information is 3,342,122 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $147,995,925.00.

USCIS Form I–485

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all agencies are required to submit to OMB, for review and approval, any reporting requirements inherent in a rule. DHS and USCIS invite comments on the impact to the proposed collection of information. In accordance with the PRA, the information collection notice is published in the **Federal Register** to obtain comments regarding the proposed edits to the information collection instrument.

Comments are encouraged and will be accepted until December 1, 2020. All submissions received must include the agency name and OMB Control Number 1615–0023 in the body of the submission. Comments on this information collection should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, 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 information collection:

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application to Register Permanent Residence or Adjust Status.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–485; Form I–485A; Form I–485J; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. The information on Form I–485 is used to request and determine eligibility for adjustment of permanent residence status or an immigrant visa. Supplement A is used to adjust status under section 245(i) of the Immigration and Nationality Act (Act).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–485 is 382,264 and the estimated hour burden per response is 6.42 hours. The estimated total number of respondents for the information collection I–485, Supplement A is 36,000 and the estimated hour burden per response is 1.25 hour. The estimated total number of respondents for the information collection I–485, Supplement J is 28,309 and the estimated hour burden per response is 1 hour. The estimated total number of respondents for the information collection of Biometrics is 305,811 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 2,885,243 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $131,116,552.

USCIS Form G–1563

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all agencies are required to submit to OMB, for review and approval, any reporting requirements inherent in a rule. DHS and USCIS invite comments on the impact to the proposed collection of information. In accordance with the PRA, the information collection notice is published in the **Federal Register** to obtain comments regarding the proposed edits to the information collection instrument.

Comments are encouraged and will be accepted until December 1, 2020. All submissions received must include the agency name and OMB Control Number 1615–NEW in the body of the submission. Comments on this information collection should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, 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 information collection:

(1) *Type of Information Collection:* Request for New Information Collection.

(2) *Title of the Form/Collection:* Request for Certified Copy of Affidavit of Support Under Section 213A of the INA or Contract Between Sponsor and Household Member.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* G–1563; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or entities. Individuals and entities who are authorized to receive a certified copy of an Afidavit or Contract, such as when the certified copy is for use in any action to enforce an Affidait or Contract against a sponsor or against a household member who executed a Contract, will complete G–1563 to request a certified copy of an Affidavit or Contract pertaining to a specific alien. USCIS will use the information collected on the form to determine if the requestor is authorized to receive a certified copy of an Affidavit or Contract executed on behalf of a specific alien. See Proposed 8 CFR 213a.4(a)(3). This information collection will replace the requirement for a duly issued subpoena that is currently in the regulations, which will enable USCIS to more accurately and efficiently respond to requests for certified copies of Affidavits and Contracts, and will facilitate the enforcement of the support obligations and/or seeking reimbursement.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection G–1563 is 25 and the estimated hour burden per response is 0.833 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 21 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $1,250.

I. Family Assessment

DHS has reviewed this proposed rule in line with the requirements of section 654 of the Treasury General Appropriations Act, 1999, Public Law 105–277. With respect to the criteria specified in section 654(c)(1), DHS has determined that the proposed rule may decrease disposable income and increase the poverty of certain families and children, including U.S. citizen children. For the reasons stated elsewhere in this preamble, however, DHS has determined that the benefits of the action justify the financial impact on the family. Further, the proposed action modifies the sponsorship requirement of demonstration of means to maintain income. As a result, the proposed regulatory action, if finalized, may increase the number of aliens found inadmissible under section 212(a)(4) of the Act, 8 U.S.C. 1182(a)(4).

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

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

K. National Environmental Policy Act (NEPA)

DHS assesses proposed actions to determine whether NEPA applies and the appropriate level of NEPA review. DHS Directive 023–01, Rev. 01 and DHS Instruction Manual 023–01–001–01, Rev. 01, *Implementation of the National*

Environmental Policy Act, establish the procedures DHS and its components use to comply with NEPA and the Council on Environmental Quality (CEQ) regulations for implementing NEPA, codified in 40 CFR parts 1500 through 1508. The CEQ regulations allow Federal agencies to establish, with CEQ review and concurrence, categories of actions (''categorical exclusions'') which experience has shown do not individually or cumulatively have a significant effect on the human environment and, therefore, do not require an Environmental Assessment or Environmental Impact Statement. 40 CFR 1507.3(b)(2)(ii)and 1508.4. DHS has established categorical exclusions in Appendix A of the Instruction Manual.

Under DHS NEPA implementing procedures, for an action to be categorically excluded, it must satisfy each of the following three conditions: (1) The entire action clearly fits within one or more of the categorical exclusions; (2) the action is not a piece of a larger action; and (3) no extraordinary circumstances exist that create the potential for a significant environmental impact. Instruction Manual, section V.B(2)(a–c).

This action is the promulgation of proposed amendments to the existing Affidavits of Support on Behalf of Immigrants regulations codified in 8 CFR part 213a. Under section 213A of the Immigration and Nationality Act (INA), 8 U.S.C. 1183a, certain immigrants are required to submit an Affidavit of Support Under Section 213A of the INA (Affidavit) executed by a sponsor who promises to provide financial support for the sponsored immigrant and accepts liability for reimbursing the costs of any means-tested public benefits a sponsored immigrant receives while the Affidavit is in effect. The proposed amendments change certain requirements for the Affidavit and are intended to better ensure that all sponsors, as well as household members who execute a Contract Between Sponsor and Household Member (Contract), have the means to maintain income at the applicable threshold and are capable of meeting their support obligations as required under section 213A of the Act, 8 U.S.C. 1183a. The amendments would make changes to the following: When an applicant is required to submit an Affidavit from a joint sponsor; who may be a household member for purposes of executing a Contract; the evidentiary requirements for sponsors completing an Affidavit and household members completing a Contract; and who is considered as part of a sponsor's household size. The amendments would also update procedural requirements for reporting and information sharing between authorized parties and USCIS.

In general, the proposed amendments would require a more in-depth administrative evaluation of the evidence submitted as part of the applicant's immigration benefit application by an officer when determining whether an Affidavit would be accepted as sufficient, and could result in more adjudicative findings of ineligibility for adjustment of status, due to inadmissibility based on the public charge ground. There is a high demand for immigrant visas. Even if a greater number of aliens were found to be inadmissible on the public charge ground, there may be some replacement effect from others who would, in turn, be considered for the existing visas. DHS cannot estimate with any degree of certainty the extent to which increased findings of inadmissibility on the public charge ground would result in fewer individuals being admitted to the United States. DHS does not anticipate that the revised administrative evaluation of Affidavits would result in an increase in the number of individuals found to be eligible for adjustment of status. Therefore, DHS foresees no change in any environmental effect of the existing 8 CFR part 213a regulations.

DHS has determined that this action clearly falls within categorical exclusions A3(a) because the proposed amended regulations are strictly administrative or procedural in nature and A3(d) because the proposed amendments will not change any environmental effect of the existing 8 CFR part 213a regulations. Furthermore, the proposed amendments are not part of a larger action and do not present extraordinary circumstances creating the potential for significant environmental impacts. Therefore, this action is categorically excluded from further NEPA review.

L. National Technology Transfer and Advancement Act

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standard bodies. This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Signature

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

List of Subjects in 8 CFR Part 213a

Administrative practice and procedure, Immigration, Reporting and recordkeeping requirements.

Proposed Regulatory Amendments

Accordingly, DHS proposes to amend part 213a of chapter I of title 8 of the Code of Federal Regulations as follows:

PART 213a—AFFIDAVITS OF SUPPORT ON BEHALF OF IMMIGRANTS

■ 1. The authority citation for part 213a continues to read as follows:

Authority: 8 U.S.C. 1183a; 8 CFR part 2.

■ 2. Section 213a.1 is amended by:
■ a. Designating the definitions as paragraphs (a) through (o);
■ b. Redesignating newly designated paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), and (o) as paragraphs (c), (e), (f), (g), (h), (i), (j), (k), (l), (n), (o), (p), (q), (r), and (s), respectively;
■ c. Adding new paragraphs (a) and (b);
■ d. Revising newly redesignated paragraph (c);
■ e. Adding a new paragraph (d);
■ f. Revising newly redesignated paragraphs (e) through (i) and (k);
■ g. Adding a new paragraph (m);
■ h. Revising newly redesignated paragraph (q); and
■ i. Adding paragraph (t).

The additions and revisions read as follows:

§ 213a.1 Definitions.

* * * * *

(a) *Active duty* means:

(1) Full-time duty in the U.S. Armed Forces, other than active duty for training;

(2) Full-time duty (other than for training purposes) as a commissioned officer of the Regular or Reserve Corps of the Public Health Service;

(3) Full-time duty as a commissioned officer of the National Oceanic and Atmospheric Administration; and

(4) Full-time duty as a cadet or midshipman at the United States

Military Academy, United States Naval Academy, United States Air Force Academy, or the United States Coast Guard Academy.

(b) *Active duty for training* means:

(1) Full-time duty in the U.S. Armed Forces performed by Reserves for training purposes;

(2) Full-time duty for training purposes performed as a commissioned officer of the Reserve Corps of the Public Health Service;

(3) Full-time duty as a member, cadet, or midshipman of the Reserve Officers Training Corps while attending field training or practice cruises; and

(4) In the case of members of the National Guard or Air National Guard of any State, full-time duty under sections 316, 502, 503, 504, or 505 of title 32, United States Code. The term ''active duty for training'' does not include duty performed as a temporary member of the Coast Guard Reserve.

(c) *Domicile* means the place where a sponsor has his or her principal residence, as defined in section 101(a)(33) of the Act, with the intention to maintain that residence for the foreseeable future.

(d) *Execute,* for the purpose of this part, means signing and submitting an Affidavit of Support Under Section 213A of the INA or a Contract Between a Sponsor and Household Member on the appropriate forms in accordance with the form instructions to USCIS or the Department of State, as appropriate.

(e) *Federal poverty line* means the level of income in the Federal Poverty Guidelines, as issued by the Secretary of Health and Human Services in accordance with 42 U.S.C. 9902, that is applicable based on the household size involved. For purposes of considering the Affidavit of Support Under Section 213A of the INA, DHS and Consular Posts will use the most recent poverty guidelines published in the **Federal Register** by the U.S. Department of Health and Human Services. These guidelines are updated annually, and DHS and Consular Posts will begin to use updated guidelines on the first day of the second month after the date the guidelines are published in the **Federal Register**.

(f) *Household income* means the income used to determine whether the sponsor meets the minimum income requirements under sections 213A(f)(1)(E), 213A(f)(3), or 213A(f)(5) of the Act.

(1) Household income includes all income, obtained from employment in a lawful enterprise or some other lawful source, of the sponsor and the sponsor's spouse, if the spouse is at least 18 years old and has executed a Contract Between Sponsor and Household Member.

(2) Household income does not include the income of an intending immigrant unless:

(i) The intending immigrant is either the sponsor's spouse or has the same principal residence as the sponsor; and

(ii) The preponderance of the evidence shows that the intending immigrant's income results from employment in a lawful enterprise or some other lawful source and such employment is authorized pursuant to 8 CFR 274a.12 and will continue to be available to the intending immigrant after acquiring lawful permanent resident status.

(iii) The prospect of employment in the United States that has not yet actually begun will not be sufficient to meet the requirement of this paragraph (f)(2).

(3) Household income also does not include any income accrued or earned from unlawful enterprises or unlawful activities, such as proceeds from illegal gambling or drug sales, or from means-tested public benefits, as defined in paragraph (l) of this section.

(g) *Household size* means the number obtained by adding the number of individuals specified in this paragraph (g). In calculating the sponsor's household size, each individual is only counted once. If the intending immigrant's spouse or child is a U.S. citizen or already holds the status of an alien lawfully admitted for permanent residence, then the sponsor should not include that spouse or child in determining the total household size, unless the intending immigrant's spouse or child is a dependent of the sponsor, or is otherwise part of the sponsor's household size as outlined in this section.

(1) In all cases, the household size includes:

(i) The sponsor;

(ii) The sponsor's spouse;

(iii) All of the sponsor's children, as defined in section 101(b)(1) of the Act (other than a stepchild who meets the requirements of section 101(b)(1)(B) of the Act, if the stepchild does not reside with the sponsor, is not claimed by the sponsor as a dependent for tax purposes, and is not seeking to immigrate based on the stepparent/stepchild relationship), unless these children have reached the age of majority under the law of the place of domicile and the sponsor did not claim them as dependents on the sponsor's Federal income tax return for the most recent tax year;

(iv) Any other individuals (whether related to the sponsor or not) whom the sponsor has claimed as dependents on the sponsor's Federal income tax return for the most recent tax year, even if such individuals do not have the same principal residence as the sponsor, plus the number of aliens the sponsor has sponsored under any other Affidavit of Support Under Section 213A of the INA for whom the sponsor's support obligation has not terminated (including any aliens for whom the sponsor has executed an Affidavit of Support Under Section 213A of the INA that has not yet become effective in accordance with § 213a.2(e)(1), unless the sponsor has either timely withdrawn the Affidavit of Support Under Section 213A of the INA or the adjustment of status application or immigrant visa application associated with that Affidavit of Support Under Section 213A of the INA has been denied and any appeal exhausted or waived); and

(v) All aliens to be sponsored under the current Affidavit of Support Under Section 213A of the INA, even if such aliens do not or will not have the same principal residence as the sponsor, plus the number of aliens for whom the sponsor executed a Contract Between Sponsor and Household Member for whom the support obligation has not terminated (including any aliens for whom the sponsor has executed a Contract Between Sponsor and Household Member that has not yet become effective in accordance with § 213a.2(e)(1), unless that Contract Between Sponsor and Household Member has been timely withdrawn or the adjustment of status application or immigrant visa application associated with that Contract Between Sponsor and Household Member has been denied and any appeal exhausted or waived).

(2) If a child, as defined in section 101(b)(1) of the Act, or spouse of the principal intending immigrant is an alien who does not currently reside in the United States and who either is not seeking to immigrate at the same time as, or will not seek to immigrate within six months of the principal intending immigrant's immigration, the sponsor may exclude that child or spouse in calculating the sponsor's household size.

(h) *Immigration officer,* solely for purposes of this part, includes a consular officer, as defined by section 101(a)(9) of the Act, as well as an immigration officer, as defined in 8 CFR 1.2.

(i) *Income* means an individual's total income (adjusted gross income for those who file an Income Tax Return for Single Filers With No Dependents) for purposes of the individual's U.S. Federal income tax liability, including a

joint income tax return, excluding any income earned or derived from unlawful enterprises or unlawful activities, such as proceeds from illegal gambling or drug sales, or from means-tested public benefits, as defined in paragraph (l) of this section. Only an individual's Federal income tax return—that is, neither a state or territorial income tax return nor an income tax return filed with a foreign government—can be filed with an Affidavit of Support Under Section 213A of the INA, or with the Contract Between Sponsor and Household Member, unless the individual had no duty to file a Federal income tax return, and claims his or her state, territorial, or foreign taxable income is sufficient to establish the sufficiency of the Affidavit of Support Under Section 213A of the INA or Contract Between Sponsor and Household Member.

* * * * *

(k) *Joint sponsor* refers to any individual who meets the requirements of section 213A(f)(1)(A), (B), (C), and (E) of the Act and 8 CFR 213a.2(c)(1)(i), and who, as permitted by section 213A(f)(5)(A) of the Act, executes an Affidavit of Support Under Section 213A of the INA in which he or she accepts joint and several liability with the petitioning sponsor or substitute sponsor, in any case in which the petitioning sponsor's or substitute sponsor's household income is not sufficient to satisfy the requirements of section 213A of the Act.

* * * * *

(m) *Petitioning sponsor* refers to any individual who meets all the requirements of section 213A(f)(1)(A) through (E) of the Act; meets the requirements of section 213A(f)(1)(A), (B), (C), and (D) and (f)(2) of the Act; meets the requirements of section 213A(f)(1)(A), (B), (C), and (D) and (f)(3) of the Act; meets the requirements of section 213A(f)(1)(A), (B), (C), (f)(4)(A) and (f)(4)(B)(i) of the Act; or meets the requirements of section 213A(f)(1)(A), (B), (C), (f)(4)(A) and (f)(4)(B)(ii) of the Act.

* * * * *

(q) *Sponsor* refers to any individual who is a petitioning sponsor, joint sponsor, or substitute sponsor, as defined in this part, unless otherwise specified.

* * * * *

(t) *U.S. Armed Forces,* otherwise known as Armed Forces of the United States, means Army, Navy, Air Force, Marine Corps, and Coast Guard.

■ 3. Section 213a.2 is amended by:

■ a. Removing paragraph (a)(1)(i)(B) and redesignating paragraph (a)(1)(i)(A) as paragraph (a)(1)(i).

■ b. Removing paragraph (a)(1)(ii) and redesignating paragraphs (a)(1)(iii) through (v) as paragraphs (a)(1)(ii) through (iv).

■ c. Revising paragraphs (a)(2)(ii), (c)(1)(i), (c)(2)(i)(A) through (D), (c)(2)(ii)(C), (c)(2)(iii)(B), and (c)(2)(v).

The revisions and additions read as follows:

§ 213a.2 Use of affidavit of support.

(a) * * *

(2) * * *

(ii) Paragraph (a)(1) of this section does not apply if the intending immigrant:

(A) Filed a visa petition on his or her own behalf pursuant to section 204(a)(1)(A)(ii), (iii), or (iv) or section 204(a)(1)(B)(ii) or (iii) of the Act, or who seeks to accompany or follow-to-join an immigrant who filed a visa petition on his or his own behalf pursuant to section 204(a)(1)(A)(ii), (iii), or (iv) or section 204(a)(1)(B)(ii) or (iii) of the Act;

(B) Seeks admission as an immigrant on or after December 19, 1997, in a category specified in paragraph (a)(2)(i) of this section with an immigrant visa issued on the basis of an immigrant visa application filed with the Department of State officer before December 19, 1997;

(C) Establishes, on the basis of the alien's own Social Security Administration record or those of his or her spouse or parent(s), that he or she has already worked, or under section 213A(a)(3)(B) of the Act, can already be credited with, 40 qualifying quarters of coverage as defined under title II of the Social Security Act, 42 U.S.C. 401, *et seq;*

(D) Is a child admitted under section 211(a) of the Act and 8 CFR 211.1(b)(1);

(E) Is the child of a U.S. citizen and the child's lawful admission for permanent residence and residence in the United States in the U.S. citizen parent(s)' legal and physical custody will result in the child's automatic acquisition of citizenship under section 320 of the Act, as amended, unless the child is considered to be coming to the United States for adoption under section 101(b)(1)(F) or 101(b)(1)(G) of the Act;

(F) Is a VAWA Self-Petitioner unless adjusting status based on an employment-based petition that requires an Affidavit of Support Under Section 213A of the INA as described in section 212(a)(4)(D) of the Act;

(G) Is in valid T nonimmigrant status under section 101(a)(15)(T) of the Act at the time the alien seeks adjustment and maintains that status through time of adjudication, unless adjusting status based on an employment-based petition that requires an Affidavit of Support Under Section 213A of the INA as described in section 212(a)(4)(D) of the Act;

(H) Is in valid U nonimmigrant status under section 101(a)(15)(U) of the Act at the time the alien adjusts status and maintains that status through time of adjudication, unless adjusting status based on an employment-based petition that requires an Affidavit of Support Under Section 213A of the INA as described in section 212(a)(4)(D) of the Act;

(I) Seeks admission based on Section 13 of Public Law 85–316 (September 11, 1957), as amended by Public Law 97–116 (December 29, 1981);

(J) Is in valid S nonimmigrant status under section 101(a)(15)(S) of the Act and seeks to adjust status based on Section 245(j) of the Act;

(K) Seeks admission based on the Amerasian Act, Public Law 97–359 (October 22, 1982);

(L) Seeks admission as an Afghan and Iraqi interpreter, or Afghan or Iraqi national employed by or on behalf of the U.S. Government as described in section 1059(a)(2) of the National Defense Authorization Act for Fiscal Year 2006 Public Law 109–163 (Jan. 6, 2006), as amended, and section 602(b) of the Afghan Allies Protection Act of 2009, Public Law 111–8, title VI (Mar. 11, 2009), as amended, 8 U.S.C. 1101 note, and section 1244(g) of the National Defense Authorization Act for Fiscal Year 2008, as amended Public Law 110–181 (Jan. 28, 2008);

(M) Is an alien applying for adjustment of status under the Cuban Adjustment Act, Public Law 89–732 (Nov. 2, 1966), as amended, 8 U.S.C. 1255 note;

(N) Is a Haitian applying for adjustment of status under section 902 of the Haitian Refugee Immigration Fairness Act of 1998, Public Law 105–277, 112 Stat. 2681 (Oct. 21, 1998), as amended, 8 U.S.C. 1255 note;

(O) Is a Lautenberg parolee as described in section 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1990, Public Law 101–167, 103 Stat. 1195, title V (Nov. 21, 1989), as amended, 8 U.S.C. 1255 note;

(P) Is a national of Vietnam, Cambodia, and Laos applying for adjustment of status under section 586 of Public Law 106–429 under 8 CFR 245.21;

(Q) Is an alien who entered the United States prior to January 1, 1972, and who meets the other conditions for being granted lawful permanent residence

under section 249 of the Act and 8 CFR part 249 (Registry);

(R) Is an individual born in the U.S. under diplomatic status under 8 CFR 101.3;

(S) Is an applicant adjusting status who qualifies for a benefit under section 1703 of the National Defense Authorization Act, Public Law 108–136, 117 Stat. 1392 (Nov. 24, 2003), 8 U.S.C. 1151 note (posthumous benefits to surviving spouses, children, and parents);

(T) Is an Amerasian under Amerasian Homecoming Act, Public Law 100–202 (Dec. 22, 1987);

(U) Is a Polish and Hungarian Parolee who was paroled into the United States from November 1, 1989 to December 31, 1991 under section 646(b) of the IIRIRA, Public Law 104–208, Div. C, Title VI, Subtitle D (Sept. 30, 1996), 8 U.S.C. 1255 note;

(V) Is an American Indian born in Canada determined to fall under section 289 of the Act;

(W) Is an asylee or refugee adjusting status under section 209 of the Act;

(X) Is an employment-based immigrant who is not seeking admission or adjustment of status based on an employment-based petition that requires an Affidavit of Support Under Section 213A of the INA as described in section 212(a)(4)(D) of the Act;

(Y) Is a Haitian adjusting status under the Help Haitian Adoptees Immediately to Integrate Act of 2010 (Help HAITI Act), Public Law 111–293, 124 Stat. 3175 (December 9, 2010);

(Z) Is a Diversity Immigrant;

(AA) Is a qualified alien described in section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 U.S.C. 1641(c), under section 212(a)(4)(E)(iii) of the Act unless adjusting status based on an employment-based petition that requires an Affidavit of Support Under Section 213A of the INA as described in section 212(a)(4)(D) of the Act;

(BB) Is a Cuban and Haitian entrant applying for adjustment of status under section 202 of the Immigration Reform and Control Act of 1986 (IRCA), Public Law 99–603, 100 Stat. 3359 (Nov. 6, 1986), as amended, 8 U.S.C. 1255a note;

(CC) Is a Nicaraguan and other Central American applying for adjustment of status under sections 202(a) and section 203 of the Nicaraguan Adjustment and Central American Relief Act (NACARA), Public Law 105–100, 111 Stat. 2193 (Nov. 19, 1997), as amended, 8 U.S.C.1255 note;

(DD) Is a special immigrant juvenile as described in section 245(h) of the Act;

(EE) Is a Liberian adjusting under the Liberian Refugee Immigration Fairness Act, Section 7611 of the National Defense Authorization Act for Fiscal Year 2020, Public Law 116–92 (December 20, 2019); or

(FF) Any other category of aliens not required to file an Affidavit of Support Under Section 213A of the INA under section 212(a)(4)(C) or (D) of the Act.

* * * * *

(c) * * *

(1)(i) *General.* A sponsor must meet the following requirements:

(A) Be at least 18 years of age;

(B) Be domiciled in the United States or any territory or possession of the United States;

(C) Be a U.S. citizen, U.S. national, or an alien who is lawfully admitted for permanent residence;

(D) Is petitioning for the admission of the alien under section 204 of the Act; and

(E) Demonstrate the means to maintain an annual income equal to at least 125 percent of the Federal Poverty Guidelines based on the sponsor's household size.

* * * * *

(2) * * *

(i) * * *

(A) The sponsor must include with the Affidavit of Support Under Section 213A of the INA an Internal Revenue Service-issued transcript or Internal Revenue Service-transcript or Internal Revenue Service-issued certified copy of his or her complete Federal income tax return for the 3 most recent taxable years (counting from the date of signing, rather than the date of filing of the Affidavit of Support Under Section 213A of the INA). Along with the Internal Revenue Service (IRS)-issued transcript or certified copy, the sponsor must also submit as initial evidence copies of all schedules filed with each return and (if the sponsor submits certified copies, rather than IRS transcripts of the tax return(s)) all Forms W–2 (if the sponsor relies on income from employment) and Forms 1099 (if the sponsor relies on income from sources documented on Forms 1099) in meeting the income threshold. The sponsor may also include as initial evidence: Letter(s) evidencing his or her current employment and income, paycheck stub(s) showing earnings for the most recent six months, financial statements, or other evidence of the sponsor's anticipated household income for the year in which the intending immigrant files the application for an immigrant visa or adjustment of status. By executing an Affidavit of Support Under Section 213A of the INA, the sponsor certifies under penalty of perjury under United States law that the evidence of his or her current household income is true and correct and that each transcript or photocopy of each income tax return is a true and correct transcript or photocopy of the return that the sponsor filed with the Internal Revenue Service for each taxable year.

(B) If the sponsor had no legal duty to file a Federal income tax return for one or more of the 3 most recent tax years, the sponsor must explain why he or she had no legal duty to file a Federal income tax return for each year. If the sponsor claims he or she had no legal duty to file for any reason other than the level of the sponsor's income for that year, the initial evidence submitted with the Affidavit of Support Under Section 213A of the INA must also include any evidence of the amount and source of the income the sponsor claims was exempt from taxation and a copy of the provisions of any statute, treaty, or regulation that supports the claim he or she had no duty to file an income tax return with respect to that income. If the sponsor had no legal obligation to file a Federal income tax return, he or she may submit other evidence of annual income. The fact a sponsor had no duty to file a Federal income tax return does not relieve the sponsor of the duty to file an affidavit of support.

(C)(*1*) The sponsor's ability to meet the income requirement in this paragraph (c)(2)(i) will be determined based on the sponsor's household income. In demonstrating he or she has sufficient household income, the sponsor may rely entirely on his or her individual income, if it is sufficient to meet the income requirement in this paragraph (c)(2)(i). The sponsor may also rely on the income of his or her spouse, or any intending immigrant who shares the same principal residence, if the spouse or intending immigrant is at least 18 years old and has completed and signed a Contract Between Sponsor and Household Member. The spouse does not need to be a U.S. citizen, national, or alien lawfully admitted for permanent residence in order to sign Contract Between Sponsor and Household Member.

(*2*) Each individual who signs a Contract Between Sponsor and Household Member agrees, in consideration of the sponsor's signing of the Affidavit of Support Under Section 213A of the INA, to provide to the sponsor as much financial assistance as may be necessary to enable the sponsor to maintain the intending immigrants at the annual income level required by section 213A(a)(1)(A) of the Act, to be jointly and severally liable for any

reimbursement obligation that the sponsor may incur, and to submit to the personal jurisdiction of any court that has subject matter jurisdiction over a civil suit to enforce the contract or the affidavit of support, and understands that a failure to meet all sponsorship obligations may prevent him or her from sponsoring intending immigrants in the future. The sponsor, as a party to the contract, may bring suit to enforce the contract with the spouse. The intending immigrants and any Federal, state, or local agency or private entity that provides a means-tested public benefit to an intending immigrant are third party beneficiaries of the contract between the sponsor and the spouse on whose income the sponsor relies and may bring an action to enforce the contract in the same manner as third party beneficiaries of other contracts.

(*3*) If there is no spouse or child immigrating with the intending immigrant, then there will be no need for the intending immigrant to sign a Contract Between Sponsor and Household Member, even if the sponsor will rely on the continuing income of the intending immigrant to meet the income requirement in this paragraph (c)(2)(i). If, however, the sponsor seeks to rely on an intending immigrant's continuing income to establish the sponsor's ability to support the intending immigrant's spouse or children, then the intending immigrant whose income is to be relied on must sign a Contract Between Sponsor and Household Member.

(*4*) If the sponsor relies on the income of any individual who has signed a Contract Between Sponsor and Household Member, the sponsor must also include with the Affidavit of Support Under Section 213A of the INA and the Contract Between Sponsor and Household Member, with respect to the person who signed the Contract Between Sponsor and Household Member, the initial evidence required under paragraph (c)(2)(i)(A) of this section. The household member must submit transcripts or certified copies of tax returns for the same 3 most recent taxable years as the sponsor (except the household member need not submit a tax return for any taxable year if he or she had no legal duty to file). If the sponsor had no legal duty to file a tax return for a given year, the household member must nonetheless submit transcripts or certified copies for that taxable year, unless the household member also had no legal duty to file a tax return. An individual who signs a Contract Between Sponsor and Household Member certifies, under penalty of perjury, that the submitted transcripts or certified copies of the tax returns are true and correct transcripts or certified copies of the Federal income tax returns filed with the Internal Revenue Service, and that the information concerning that person's employment and income is true and correct.

(D) If a sponsor or household member did not file a Federal income tax return for any year for which transcripts or certified copies must be provided, the Affidavit of Support Under Section 213A of the INA or Contract Between Sponsor and Household Member will not be considered sufficient to satisfy the requirements of section 213A of the Act, even if the household income meets the requirements of section 213A of the Act, unless the sponsor or household member proves, by a preponderance of the evidence, that he or she had no legal duty to file. If the sponsor or household member cannot prove he or she had no legal duty to file, then the Affidavit of Support Under Section 213A of the INA or Contract Between Sponsor and Household Member will not be considered sufficient to satisfy the requirements of section 213A of the Act until the sponsor or household member proves he or she has satisfied the obligation to file the Federal income tax return(s) and provides transcripts or certified copies of the Federal income tax return(s).

(ii) * * *

(C) *Means to maintain annual income.* (*1*) Except as provided in this paragraph (c)(2)(ii)(C), or in paragraph (a)(1)(v)(B) of this section, a sponsor's Affidavit of Support Under Section 213A of the INA will be considered sufficient to satisfy the requirements of section 213A of the Act and this section if the reasonably expected household income for the year in which the intending immigrant filed the application for an immigrant visa or adjustment of status, calculated under paragraph (c)(2)(iii)(A) of this section, would equal at least 125 percent of the Federal Poverty Guidelines for the sponsor's household size as defined in § 213a.1(g), under the Federal Poverty Guidelines in effect when the intending immigrant filed the application for an immigrant visa or for adjustment of status, except that the sponsor's income need only equal at least 100 percent of the Federal poverty line for the sponsor's household size, if the sponsor is on active duty (other than for active duty for training) in the U.S. Armed Forces and the intending immigrant is the sponsor's spouse or child.

(*2*) The sponsor's household income for the year in which the intending immigrant filed the application for an immigrant visa or adjustment of status will be given the greatest evidentiary weight; any tax return and other information relating to the sponsor's financial history, including the sponsor's credit history and credit score, will serve as evidence tending to show whether the sponsor is likely to be able to maintain his or her income in the future.

(*3*) Even if the sponsor's projected household income for the year in which the intending immigrant filed the application for an immigrant visa or adjustment of status meets the applicable income threshold, the Affidavit of Support Under Section 213A of the INA may be determined to be insufficient on the basis of the sponsor's household income based on facts that suggest that the sponsor cannot maintain income at the income threshold for the sponsor's household size, including, but not limited to the following:

(*i*) Evidence of a material change in employment or income history of the sponsor or household member;

(*ii*) The number of intending immigrants included in any Affidavit of Support Under Section 213A of the INA or Contract Between Sponsor and Household Member that the sponsor has executed but for whom the support obligation has not yet become effective in accordance with paragraph (e) of this section; and

(*iii*) Any other relevant facts.

(*4*) Even if the sponsor's projected household income for the year in which the intending immigrant filed the application for an immigrant visa or adjustment of status meets the applicable income threshold, the Affidavit of Support Under Section 213A of the INA will be determined to be insufficient on the basis of the sponsor's household income if:

(*i*) Unless otherwise provided in this paragraph (c)(2)(ii)(C)(*4*), the sponsor or household member received means-tested public benefits on or after [DATE 60 DAYS FROM DATE OF PUBLICATION OF THE FINAL RULE] and within the 36-month period before the Affidavit of Support Under Section 213A of the INA was executed; or

(*ii*) The sponsor or household member had a judgment entered against him or her at any time for failing to meet the support or reimbursement obligations under an existing Affidavit of Support Under Section 213A of the INA.

(*5*) Receipt of means-tested public benefits by petitioning sponsors who, at the time of receipt, are on active duty, as defined in § 213a.1(a), will not be considered when determining whether the petitioning sponsor has the means to

maintain an annual income at the income threshold for the petitioning sponsor's household size.

(iii) * * *

(B) *Significant assets.* The sponsor may submit evidence of the sponsor's ownership of significant assets, such as checking and savings accounts; stocks; bonds; certificates of deposit; net cash value of real estate holdings minus the sum of all loans secured by a mortgage, trust deed, or other lien on the home; annuities; securities; retirement and educational accounts; and any other assets that can easily be converted into cash. Non-cash assets must be able to be converted into cash within 12 months. An intending immigrant may submit evidence of the intending immigrant's assets as a part of the petitioning sponsor's Affidavit of Support Under Section 213A of the INA, even if the intending immigrant is not required to sign an Contract Between Sponsor and Household Member. The assets of any person who has signed a Contract Between Sponsor and Household Member may also be considered in determining whether the assets are sufficient to meet the requirement of this paragraph (c)(2)(iii)(B). To qualify as significant assets the combined cash value of all the assets (the total value of the assets less any offsetting liabilities) must be at least:

(*1*) If the intending immigrant is the spouse or child of a United States citizen (and the child has reached his or her 18th birthday), three times the difference between the sponsor's household income and 125 percent of the Federal poverty line (or 100 percent when permitted under section 213A(f)(3) of the Act) for the sponsor's household size (including all immigrants sponsored in any Affidavit of Support Under Section 213A of the INA in force or submitted under this section);

(*2*) If the intending immigrant is an orphan or Hague Convention adoptee who is considered to be coming to the United States for adoption, the difference between the sponsor's household income and 125 percent of the Federal poverty line (or 100 percent of the Federal poverty line when permitted under section 213A(f)(3) of the Act) for the sponsor's household size (including all immigrants sponsored in any Affidavit of Support Under Section 213A of the INA in force or submitted under this section); or

(*3*) In all other cases, five times the difference between the sponsor's household income and 125 percent of the Federal poverty line (or 100 percent of the Federal poverty line when permitted under section 213A(f)(3) of the Act) for the sponsor's household size (including all immigrants sponsored in any Affidavit of Support Under Section 213A of the INA in force or submitted under this section).

* * * * *

(v) *Verification of employment, income, and assets.* (A) The Federal Government may pursue verification of any information provided on or with an Affidavit of Support Under Section 213A of the INA or Contract Between Sponsor and Household Member, with an employer, financial or other institutions, the Internal Revenue Service, or the Social Security Administration, including, but not limited to, information about:

(*1*) Employment;

(*2*) Income;

(*3*) Assets; or

(*4*) Bank account(s) (including, but not limited, to bank account numbers and routing numbers).

(B) To facilitate the verification process described in paragraph (c)(2)(v)(A) of this section, sponsors or household members must sign and submit any necessary waiver form when directed to do so by the immigration officer, immigration judge, or consular officer who has jurisdiction to adjudicate the case to which the Affidavit of Support Under Section 213A of the INA or Contract Between Sponsor and Household Member relates. The failure or refusal of a sponsor or household member (who executed a Contract Between a Sponsor and a Household Member) to sign any waiver needed to verify the information when directed to do so constitutes a withdrawal of the Affidavit of Support Under Section 213A of the INA or Contract Between Sponsor and Household Member, so that, in adjudicating the intending immigrant's application for an immigrant visa or adjustment of status, the Affidavit of Support Under Section 213A of the INA or Contract Between Sponsor and Household Member will be deemed not to have been filed.

* * * * *

■ 4. Section 213a.3 is amended by revising paragraphs (a)(1) through (4) and (b) to read as follows:

§ 213a.3 Change of address.

(a) * * *

(1) *Filing requirements.* If the address of a sponsor or household member (who executed a Contract Between a Sponsor and a Household Member) changes while the sponsor's support obligation is in effect, the sponsor or household member (who executed a Contract Between a Sponsor and a Household Member) must file a change of address notice within 30 days, in accordance with instructions provided by USCIS.

(2) *Proof of mailing.* USCIS will accept a photocopy of the change of address form together with proof of the form's delivery to USCIS as evidence that the sponsor or household member (who executed a Contract Between a Sponsor and a Household Member) has complied with the requirement in paragraph (a)(1) of this section.

(3) *Electronic notices.* USCIS will provide the sponsor or household member (who executed a Contract Between a Sponsor and a Household Member) with a receipt notice for an address change.

(4) *Alien sponsors and household members.* If the sponsor or household member (who executed a Contract Between a Sponsor and a Household Member) is an alien that is not exempted by section 263(b) of the Act, the sponsor or household member (who executed a Contract Between a Sponsor and a Household Member) must still comply with the requirements of 8 CFR 265.1.

(b) *Civil penalty.* If the sponsor or household member (who executed a Contract Between a Sponsor and a Household Member) fails to give notice in accordance with paragraph (a) of this section, DHS may impose on the sponsor or household member (who executed a Contract Between a Sponsor and a Household Member) a civil penalty in an amount within the penalty range established in section 213A(d)(2)(A) of the Act. Except, if the sponsor or household member (who executed a Contract Between a Sponsor and a Household Member), knowing that the sponsored immigrant has received any means-tested public benefit, fails to give notice in accordance with paragraph (a) of this section, DHS may impose on the sponsor or household member (who executed a Contract Between a Sponsor and a Household Member) a civil penalty in an amount within the penalty range established in section 213A(d)(2)(B) of the Act. The procedure for imposing a civil penalty is established at 8 CFR part 280.

■ 5. Section 213a.4 is amended by revising paragraphs (a)(3) and (c)(1) and (2) to read as follows:

§ 213a.4 Actions for reimbursement, public notice, and congressional reports.

(a) * * *

(3) *Role of USCIS and DHS.* Upon the receipt of a formal request from a party or entity authorized to bring an action to enforce an Affidavit of Support Under Section 213A of the INA or Contract

Between Sponsor and Household Member, in the manner and on the form designated by USCIS for this purpose, USCIS may provide a certified copy of an Affidavit of Support Under Section 213A of the INA or Contract Between Sponsor and Household Member that has been executed on behalf of a sponsored immigrant for use as evidence in any action to enforce an Affidavit of Support Under Section 213A of the INA or Contract Between Sponsor and Household Member (including, but not limited to, requests for reimbursement), and may also disclose the last known address and Social Security number of the sponsor and household member. Requesting information through the Systematic Alien Verification for Entitlement (SAVE) Program is sufficient, and a subpoena is not required to obtain the sponsored immigrant's current immigration or citizenship status, or the name, Social Security number and last known address of a sponsor or household member.

* * * * *

(c) * * *

(1) For purposes of section 213A(i)(3) of the Act, USCIS will consider a sponsor or household member to be in compliance with the financial obligations of section 213A of the Act unless a party that has obtained a final judgment enforcing the sponsor's obligations under section 213A(a)(1)(A) or 213A(b) of the Act has provided a certified copy of the final judgment to the USCIS in a manner to be designated by USCIS. Failure to file a certified copy of the final civil judgment in accordance with this section has no effect on the plaintiff's ability to collect on the judgment pursuant to law.

(2) If a Federal, state, or local agency or private entity that administers any means-tested public benefit makes a determination under section 421(e) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 in the case of any sponsored immigrant, the program official must provide notice of such determination, including the name of the sponsored immigrant and of the sponsor, to USCIS in a manner to be designated by USCIS.

* * * * *

■ 6. Add § 213a.6 to read as follows:

§ 213a.6 Severability.

The provisions in this part are intended to be independent severable sections. In the event that any provision in this part is not implemented, DHS intends that the remaining provisions be implemented as an independent rule.

Chad R. Mizelle,

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

[FR Doc. 2020–21504 Filed 10–1–20; 8:45 am]

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Part V

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Chapter 1

Federal Acquisition Regulations; Final Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR–2020–0051, Sequence No. 6]

Federal Acquisition Regulation; Federal Acquisition Circular 2021–01; Introduction

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of a final rule.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rule agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2021–01. A companion document, the *Small Entity Compliance Guide* (SECG), follows this FAC.

DATES: For effective date see the separate document, which follows.

FOR FURTHER INFORMATION CONTACT: Mr. Michael O. Jackson, Procurement Analyst, at 202–208–4949 or *Michaelo.jackson@gsa.gov* for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite FAC 2021–01, FAR Case 2019–013.

RULE LISTED IN FAC 2021–01

Subject	FAR case
Inflation Adjustment of Acquisition-Related Thresholds	2019–013

ADDRESSES: The FAC, including the SECG, is available via the internet at *https://www.regulations.gov.*

SUPPLEMENTARY INFORMATION: A summary for the FAR rule follows. For the actual revisions and/or amendments made by this FAR case, refer to the specific subject set forth in the document following this summary. FAC 2021–01 amends the FAR as follows:

Inflation Adjustment of Acquisition-Related Thresholds (FAR Case 2019–013)

This final rule amends the Federal Acquisition Regulation (FAR) to further implement 41 U.S.C. 1908. Section 1908 requires an adjustment every 5 years (in years evenly divisible by 5) of statutory acquisition-related thresholds for inflation using the Consumer Price Index for all urban consumers, except for the Construction Wage Rate Requirements statute (Davis-Bacon Act), Service Contract Labor Standards statute, and trade agreements thresholds (see FAR 1.109). DoD, GSA, and NASA are also using the same methodology to change nonstatutory FAR acquisition-related thresholds for adjustment in 2020. This final rule will not have a significant economic impact on a substantial number of small entities.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Federal Acquisition Circular (FAC) 2021–01 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator of National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2021–01 is effective October 2, 2020 except for FAR Case 2019–013, which is effective October 1, 2020.

Linda W. Neilson,

Director, Defense Acquisition Regulations System Department of Defense.

Jeffrey A. Koses,

Senior Procurement Executive/Deputy CAO, Office of Acquisition Policy, U.S. General Services Administration.

William G. Roets, II,

Acting Assistant Administrator, Office of Procurement, National Aeronautics and Space Administration.

[FR Doc. 2020–21689 Filed 10–1–20; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR–2020–0051, Sequence No. 6]

Federal Acquisition Regulation; Federal Acquisition Circular 2021–01; Small Entity Compliance Guide

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of DOD, GSA, and NASA. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rule appearing in Federal Acquisition Circular (FAC) 2021–01, which amends the Federal Acquisition Regulation (FAR). An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding this rule by referring to FAC 2021–01, which precedes this document. These documents are also available via the internet at *https://www.regulations.gov.*

DATES: October 2, 2020.

FOR FURTHER INFORMATION CONTACT: Mr. Michael O. Jackson, Procurement Analyst, at 202–208–4949 or *Michaelo.jackson@gsa.gov* for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite FAC 2021–01, FAR case 2019–013.

RULE LISTED IN FAC 2021–01

Subject	FAR case
* Inflation Adjustment of Acquisition-Related Thresholds	2019–013

ADDRESSES: The FAC, including the SECG, is available via the internet at *https://www.regulations.gov.*

SUPPLEMENTARY INFORMATION: A summary for the FAR rule follows. For the actual revisions and/or amendments made by this FAR case, refer to the specific subject set forth in the document following this summary. FAC 2021–01 amends the FAR as follows:

Inflation Adjustment of Acquisition-Related Thresholds (FAR Case 2019–013)

This final rule amends the Federal Acquisition Regulation (FAR) to further implement 41 U.S.C. 1908. Section 1908 requires an adjustment every 5 years (in years evenly divisible by 5) of statutory acquisition-related thresholds for inflation using the Consumer Price Index for all urban consumers, except for the Construction Wage Rate Requirements statute (Davis-Bacon Act), Service Contract Labor Standards statute, and trade agreements thresholds

(see FAR 1.109). DoD, GSA, and NASA are also using the same methodology to change nonstatutory FAR acquisition-related thresholds for adjustment in 2020. This final rule will not have a significant economic impact on a substantial number of small entities.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2020–21691 Filed 10–1–20; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 2, 3, 5, 6, 8, 9, 10, 12, 13, 15, 16, 17, 19, 22, 26, 32, 36, 42, 50, 52, and 53

[FAC 2021–01, FAR Case 2019–013, Docket No. FAR–2019–0013; Sequence No. 1]

RIN 9000–AN96

Federal Acquisition Regulation: Inflation Adjustment of Acquisition-Related Thresholds

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to further implement the statute which requires an adjustment every five years of statutory acquisition-related thresholds for inflation. The adjustment uses the Consumer Price Index for all urban consumers, and does not apply to the Construction Wage Rate Requirements statute (Davis-Bacon Act), Service Contract Labor Standards statute, and trade agreements thresholds. DoD, GSA, and NASA are also using the same methodology to adjust nonstatutory FAR acquisition-related thresholds in 2020.

DATES: *Effective:* October 1, 2020.

FOR FURTHER INFORMATION CONTACT: Mr. Michael O. Jackson, Procurement Analyst, at 202–208–4949 or *Michaelo.jackson@gsa.gov* for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite FAC 2021–01, FAR Case 2019–013.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule at 85 FR 39146 on June 30, 2020, to further implement 41 U.S.C. 1908. Section 1908 requires an adjustment every five years (on October 1 of each year evenly divisible by five) of statutory acquisition-related thresholds for inflation, using the Consumer Price Index (CPI) for all urban consumers, except for the Construction Wage Rate Requirements statute (Davis-Bacon Act), Service Contract Labor Standards statute, and trade agreements thresholds (see FAR 1.109). As a matter of policy, DoD, GSA, and NASA are also using the same methodology to adjust nonstatutory FAR acquisition-related thresholds on October 1, 2020.

The preamble to the proposed rule contained detailed explanations of—

- What an acquisition-related threshold is;
- What acquisition-related thresholds are not subject to escalation adjustment under this case;
- How the Defense Acquisition Regulations Council and the Civilian Agency Acquisition Council (Councils) analyze statutory and non-statutory acquisition-related thresholds; and
- The effect of this rule on the most heavily used thresholds.

DoD, GSA, and NASA implemented three rules that have reduced the complexity and impact of the October 1, 2020, threshold adjustments throughout the FAR. The changes implemented through these rules significantly reduced the number of cite-specific inflation adjustments in the FAR and associated matrix.

FAR Case 2018–004, published as a final rule on July 2, 2020 (85 FR 40064) implemented section 217(b) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Pub. L. 114–328) and sections 805, 806, and 1702(a) of the NDAA for FY 2018 (Pub. L. 115–91), to increase the micro-purchase threshold (MPT) to $10,000 and simplified acquisition threshold (SAT) to $250,000 throughout the FAR. The case also changed some stated dollar thresholds to text to ensure continued alignment with the value defined in FAR subpart 2.101.

FAR Case 2018–005, published as a final rule on July 2, 2020 (85 FR 40071) implemented section 811 of the NDAA for FY 2018 that amended 10 U.S.C. 2306a, Cost or Pricing Data: Truth in Negotiations and 41 U.S.C. 3502, Required cost or pricing data and certification. The case increased the threshold for requesting certified cost or pricing data from $750,000 to $2 million for contracts entered into after June 30, 2018.

FAR Case 2018–007, published as a final rule on May 6, 2020 (85 FR 27088) implemented section 821 of the NDAA for FY 2018 (Pub. L. 115–91) which made inflation adjustments of statutory acquisition-related thresholds under 41 U.S.C. 1908 applicable to existing contracts and subcontracts that contain the clause implementing section 821 and that are in effect on the date of the adjustment. The case replaced throughout FAR part 52 as appropriate, numerical values based on the value of the MPT or the SAT with the term ''micro-purchase threshold'' or ''simplified acquisition threshold''. When such terms are used, there is a reference to the definition in FAR 2.101. In addition to the MPT and SAT, numerical values for certain thresholds have been replaced with a reference to the applicable FAR text that specifies the numerical threshold.

The following list identifies the impact of this rule on heavily-used thresholds.

- The micro-purchase threshold at FAR 2.101 was raised to $10,000 by statute (see FAR Case 2018–004). No further increase to the basic threshold is made at this time, as there has been insufficient inflation. Paragraph 3(ii) of the definition, for acquisitions to support contingency operations or to facilitate defense against certain attacks, is increasing from $30,000 to $35,000.
- The simplified acquisition threshold was changed to $250,000 by statute (see FAR Case 2018–004). No further increase in the basic threshold is proposed, as there has been insufficient inflation. Paragraph (1)(i) of the definition for acquisitions to support contingency operations or to facilitate defense against certain attacks, is increasing from $750,000 to $800,000.
- The preaward and post-award notices (FAR part 5) remain at $25,000 because of trade agreements.
- The requirements for limiting competition (FAR part 6) to eligible 8(a) awards over $22 million is increased to $25 million.
- The simplified procedures for certain commercial items ceiling (FAR 13.500) is increased from $7 million to $7.5 million. For acquisitions described at 13.500(c), the ceiling is increasing from $13.5 million to $15 million.
- The cost or pricing data threshold (FAR 15.403–4) was increased by statute from $750,000 to $2 million (see FAR Case 2018–005) and is not increasing in this case.
- The prime contractor subcontracting plan (FAR 19.702) threshold is increasing from $700,000 to

$750,000, but the construction threshold of $1.5 million will not change. Standard Form 294 at General Instruction 3 has a reference to $700,000, which will be changed.

• The threshold for reporting first-tier subcontract information including executive compensation will not change (FAR subpart 4.14 and 52.204–10).

This is the fourth review of FAR acquisition-related thresholds since the statute was passed on October 28, 2004 (section 807 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005). The last review was conducted under FAR case 2014–022 during FY 2015. The final rule under that case was published in the **Federal Register** on July 2, 2015 (80 FR 38293), effective October 1, 2015.

Seven respondents submitted comments on the proposed rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the comments in the development of the final rule.

A. Summary of Significant Changes

Minor edits were made to the final rule to account for baseline updates caused by publication of other FAR interim or final rules.

The proposed rule included some thresholds that were very close but, ultimately, did not reach the statutory calculation formula amount. As a result, the Councils have removed them from the text of the final rule: FAR 9.405–2, 9.409, 13.402, $3,500 at 16.505(b), 19.1406(a)(2)(ii), 28.102–1 to 28.102–3, and 42.1502(f). In one case, for FAR 50.102–3, the statutory calculation did increase the threshold to $35 million, but this is lower than the value published in the proposed rule.

Some thresholds were inadvertently omitted, but are now included because they did reach the statutory calculation formula amount: 16.503(d), 19.804–6, 19.1506, 52.209–12, 52.222–50, and 52.222–56.

The FAR text also makes a correction to 52.222–50(i)(1). The paragraphs marked as (A) and (B) have been corrected to (i) and (ii), respectively.

B. Analysis of Public Comments

A discussion of the comments is provided as follows:

Comment: A respondent stated that there appeared to be an error in the proposed rule with a reference to FAR 42.709–0, as the current FAR has no 42.709–0; and did we mean the reference to 42.709–6 to be 42.709–7.

Response: The proposed rule contained the correct section numbering for sections 42.709–0 through 42.709–6. The *Acquisition.Gov* website reflected incorrect references, however, the Electronic Code of Federal Regulations reflected the correct FAR text.

Comment: A respondent asked why FAR 19.804–6 and 19.1506 did not appear in the proposed rule.

Response: These were inadvertently omitted. The required statutory changes now appear in the final rule.

Comment: A respondent stated it is unclear why the existing thresholds at FAR 19.1406(a)(2)(i) and 19.1506(c)(1)(i) are different than those established under FAR 19.805–1. The respondent stated that prior to 2006, FAR 19.805–1, 19.1306, and 19.1406 appear to have been identical (or similar) and one would assume that if these thresholds were adjusted based on the CPI, they would remain the same.

Response: The thresholds at FAR 19.1406(a)(2)(i), 19.1506(c)(1)(i), and 19.805–1 were established by different statutes. The calculations are set by 41 U.S.C. 1908, and are based on the enactment date of the underlying statute. The calculation for FAR 19.1406(a)(2) is based on a statute enacted December 16, 2003; paragraph (a)(2)(i) will increase to $7 million, but paragraph (a)(2)(ii) was not sufficient for that threshold to change in the final rule, and will remain at $4 million. FAR 19.1506(c)(1)(i) and (ii) are subject to the inflation statute, but were inadvertently omitted from the proposed rule; they appear in the final rule with increased thresholds of $7 million and $4.5 million. The calculation for FAR 19.805–1 and 19.1306 were based on statutes enacted before October 1, 2000. For more information on the calculations please see FAR 1.109 and the matrix referenced there.

Comment: A respondent recommended that the Miller Act threshold be raised to $250,000 to be in line with the increase of the SAT to $250,000.

Response: There is no statute allowing this.

Comment: Two respondents stated that the $35,000 payment bond thresholds at FAR 28.102–1(b)(1), 28.102–2(c), and 28.102–3(b) should not be increased, as (1) they are not acquisition-related thresholds, instead being closer to ''required levels of insurance'', and (2) the increase would harm small business by increasing the risk of nonpayment by prime contractors.

Response: These thresholds are not increasing in the final rule because they did not reach the statutory calculation formula amount (see Section II.A. of this preamble). In regard to whether bond thresholds are considered acquisition-related thresholds, the Councils disagree with the commenter's assertion that the thresholds are ''required levels of insurance''. The application of payment bond requirements are specific to a particular contract, however required levels of insurance apply more generally to a particular contractor. An example of a required level of insurance can be found at FAR 28.307–2, such as worker's compensation insurance which is required at $100,000. In regard to the comment that the increase will harm small business, this is a policy matter which does not override the statutory requirement to apply the inflation increase to acquisition-related statutory thresholds. These particular thresholds have increased in previous FAR inflation cases, to include the most recent FAR case 2014–022, from the $25,000 found in 40 U.S.C. 3132 to the current FAR amount of $35,000.

Comment: A respondent expressed general support for the rule.

Response: The support is noted.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Items, Including Commercially Available Off-the-Shelf (COTS) Items

This final rule does not create any new provisions or clauses, nor does it change the applicability or burden of any existing provisions or clauses included in solicitations and contracts valued at or below the SAT, or for commercial items, including COTS items, except for the changes in the thresholds themselves.

IV. Executive Orders 12866 and 13563

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

V. Executive Order 13771

The rule is not subject to E.O. 13771, because this rule is not a significant regulatory action under E.O. 12866.

VI. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

This final rule amends the Federal Acquisition Regulation to implement 41 U.S.C. 1908 and to amend other acquisition-related dollar thresholds that are based on policy rather than statute in order to adjust for the changing value of the dollar. 41 U.S.C. 1908 requires adjustment every five years of statutory acquisition-related dollar thresholds, except for Construction Wage Rate Requirements statute (Davis-Bacon Act), Service Contract Labor Standards statute, and trade agreements thresholds. While reviewing all statutory acquisition-related thresholds, this case presented an opportunity to also review all nonstatutory acquisition-related thresholds in the FAR that are based on policy. The objective of the case is to maintain the status quo, by adjusting acquisition-related thresholds for inflation.

There were no significant issues raised by the public in response to the initial regulatory flexibility analysis.

DoD, GSA, and NASA do not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The threshold changes in this rule are not expected to have any significant economic impact on small business concerns because the threshold changes are intended to maintain the status quo by adjusting for changes in the value of the dollar. Often any impact will be beneficial, by preventing burdensome requirements from applying to more and more acquisitions, as the dollar loses value.

One threshold change in this rule which may impact small business concerns is the increase of the threshold for requiring a justification or determination for sole source 8(a) awards made pursuant to FAR 6.303–1 from $22 million to $25 million. This threshold increase is expected to benefit small businesses under the 8(a) program by expanding their access to contract opportunities. To assess the impact of the increase, data was requested from the Federal Procurement Data System. For FY 2017 through FY 2019, there was an average of 300 contracts and calls/orders between $22 million and $25 million. Of these actions, an average of 134 went to small business concerns, 27 of which were 8(a) program participants. We expect that many of these awards will still go to small business concerns and potentially increase the number of awards to 8(a) program participants.

This rule does not include any new reporting, recordkeeping, or other compliance requirements on any small entities.

There are no known significant alternative approaches to the rule that would meet the stated objectives of the applicable statute.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat Division. The Regulatory Secretariat Division has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

VII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does apply; however, these changes to the FAR do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control numbers: 9000–0006, 9000–0007, 1250–0004, and 1293–0005.

List of Subjects in 48 CFR Parts 1, 2, 3, 5, 6, 8, 9, 10, 12, 13, 15, 16, 17, 19, 22, 26, 32, 36, 42, 50, 52, and 53

Government Procurement.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 1, 2, 3, 5, 6, 8, 9, 10, 12, 13, 15, 16, 17, 19, 22, 26, 32, 36, 42, 50, 52, and 53 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 2, 3, 5, 6, 8, 9, 10, 12, 13, 15, 16, 17, 19, 22, 26, 32, 36, 42, 50, 52, and 53 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.109 [Amended]

■ 2. Amend section 1.109, in paragraph (e) by removing ''2014–022'' and adding ''2019–013'' in its place.

PART 2—DEFINITIONS OF WORDS AND TERMS

2.101 [Amended]

■ 3. Amend section 2.101, in paragraph (b)(2) by—

■ a. In the definition ''Major system'', removing from paragraph (2) ''$ 2 million'' and adding ''$2.5 million'' in its place;

■ b. In the definition ''Micro-purchase threshold'', removing from paragraph (3)(ii) ''$30,000'' and adding ''$35,000'' in its place; and

■ c. In the definition ''Simplified acquisition threshold'', removing from paragraph (1)(i) ''$750,000'' and adding ''$800,000'' in its place.

PART 3—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

3.1004 [Amended]

■ 4. Amend section 3.1004 by removing from paragraphs (a), (b)(1)(i), and (b)(3) ''$5.5 million'' and adding ''$6 million'' in their places, respectively.

PART 5—PUBLICIZING CONTRACT ACTIONS

5.303 [Amended]

■ 5. Amend section 5.303 in paragraph (a) by removing ''$4 million'' and adding ''$4.5 million'' in its place.

PART 6—COMPETITION REQUIREMENTS

6.204 [Amended]

■ 6. Amend section 6.204 in paragraph (b) by removing ''$22 million'' and adding ''$25 million'' in its place.

6.302–5 [Amended]

■ 7. Amend section 6.302–5 by—

■ a. Removing from paragraph (b)(4) ''$22 million. (See subpart 19.8.)'' and adding ''$25 million. (See subpart 19.8.)'' in its place; and

■ b. Removing from paragraph (c)(2)(iii) ''$22 million'' and adding ''$25 million'' in its place.

6.303–1 [Amended]

■ 8. Amend section 6.303–1 in paragraph (b) introductory text by removing ''$22 million'' and adding ''$25 million'' in its place.

6.303–2 [Amended]

■ 9. Amend section 6.303–2 by removing from the introductory text of paragraphs (b) and (d) ''$22 million'' and adding ''$25 million'' in their places, respectively.

6.304 [Amended]

■ 10. Amend section 6.304 by—

■ a. Removing from paragraph (a)(1) ''$700,000'' and adding ''$750,000'' in its place;

■ b. Removing from paragraph (a)(2) ''$700,000'' and ''$13.5 million'' and adding ''$750,000'' and ''$15 million'' in their places, respectively;

■ c. Removing from paragraph (a)(3) introductory text ''$13.5 million'', ''$68 million'', and ''$93 million'' and adding ''$15 million'', ''$75 million'', and ''$100 million'' in their places, respectively; and

■ d. Removing from paragraph (a)(4) ''$68 million'' and ''$93 million'' and adding ''$75 million'' and ''$100 million'' in their places, respectively.

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

8.404 [Amended]

■ 11. Amend section 8.404 in paragraph (b)(2) by removing ''$550,000'' and adding ''$600,000'' in its place.

8.405–3 [Amended]

■ 12. Amend section 8.405–3 by—
■ a. Removing from paragraph (a)(3)(ii) introductory text ''$112 million'' and adding ''$100 million'' in its place;
■ b. Removing from paragraph (a)(3)(iii) ''$112 million'' and adding ''$100 million'' in its place; and
■ c. Removing from paragraph (a)(7)(v) ''$112 million'' and adding ''$100 million'' in its place.

8.405–6 [Amended]

■ 13. Amend section 8.405–6 by—
■ a. Removing from paragraph (d)(1) ''$700,000'' and adding ''$750,000'' in its place;
■ b. Removing from paragraph (d)(2) ''$700,000'' and ''$13.5 million'' and adding ''$750,000'' and ''$15 million'' in their places, respectively;
■ c. Removing from paragraph (d)(3) introductory text ''$13.5 million'', ''$68 million'', and ''$93 million'' and adding ''$15 million'', ''$75 million'', and ''$100 million'' in their places, respectively; and
■ d. Removing from paragraph (d)(4) ''$68 million'' and ''$93 million'' and adding ''$75 million'' and ''$100 million'' in their places, respectively.

PART 9—CONTRACTOR QUALIFICATIONS

9.104–5 [Amended]

■ 14. Amend section 9.104–5 in paragraph (c) by removing ''$5,000,000'' and adding ''$5.5 million'' in its place.

9.104–7 [Amended]

■ 15. Amend section 9.104–7 by—
■ a. Removing from paragraphs (b) and (c)(1) ''$550,000'' and adding ''$600,000'' in their places, respectively; and
■ b. Removing from paragraph (e) ''$5,000,000'' and adding ''$5.5 million'' in its place.

PART 10—MARKET RESEARCH

10.001 [Amended]

■ 16. Amend section 10.001 in paragraph (d) by removing ''$5.5 million'' and adding ''$6 million'' in its place.

10.003 [Amended]

■ 17. Amend section 10.003 by removing ''$5.5 million'' and adding ''$6 million'' in its place.

PART 12—ACQUISITION OF COMMERCIAL ITEMS

12.102 [Amended]

■ 18. Amend section 12.102 in paragraph (f)(2) by removing ''$19 million'' and adding ''$20 million'' in its place.

12.203 [Amended]

■ 19. Amend section 12.203 by removing ''$7 million ($13 million'' and adding ''$7.5 million ($15 million'' in its place.

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

13.000 [Amended]

■ 20. Amend section 13.000 by removing ''$7 million ($13 million'' and adding ''$7.5 million ($15 million'' in its place.

13.003 [Amended]

■ 21. Amend section 13.003 by removing from paragraphs (c)(1)(ii) and (g)(2) ''$7 million ($13 million'' and adding ''$7.5 million ($15 million'' in their places, respectively.

13.201 [Amended]

■ 22. Amend section 13.201 in paragraph (g)(1)(ii) by removing ''$30,000'' and adding ''$35,000'' in its place.

13.303–5 [Amended]

■ 23. Amend section 13.303–5 by—
■ a. Removing from paragraph (b)(1) ''$7 million'' and ''$13 million'' and adding ''$7.5 million'' and ''$15 million'' in their places, respectively; and
■ b. Removing from paragraph (b)(2) ''$7 million ($13 million'' and adding ''$7.5 million ($15 million'' in its place.

13.500 [Amended]

■ 24. Amend section 13.500 by—
■ a. Removing from paragraph (a) ''$7 million ($13 million'' and adding ''$7.5 million ($15 million'' in its place; and
■ b. Removing from paragraph (c) introductory text ''$13 million'' and adding ''$15 million'' in its place.

13.501 [Amended]

■ 25. Amend section 13.501 by—
■ a. Removing from paragraph (a)(2)(i) ''$700,000'' and adding ''$750,000'' in its place;
■ b. Removing from paragraph (a)(2)(ii) ''$700,000'' and ''$13.5 million'' and adding ''$750,000'' and ''$15 million'' in their places, respectively;
■ c. Removing from paragraph (a)(2)(iii) ''$13.5 million'', ''$68 million'', and ''$93 million'' and adding ''$15 million'', ''$75 million'', and ''$100 million'' in their places, respectively; and
■ d. Removing from paragraph (a)(2)(iv) ''$68 million'' and ''$93 million'' and adding ''$75 million'' and ''$100 million'' in their places, respectively.

PART 15—CONTRACTING BY NEGOTIATION

15.403–1 [Amended]

■ 26. Amend section 15.403–1 in paragraph (c)(3)(iv) by removing ''$19 million'' and adding ''$20 million'' in its place.

15.404–3 [Amended]

■ 27. Amend section 15.404–3 in paragraph (c)(1)(i) by removing ''$13.5 million'' and adding ''$15 million'' in its place.

15.407–2 [Amended]

■ 28. Amend section 15.407–2 by removing from paragraphs (c)(1) and (c)(2) introductory text ''$13.5 million'' and adding ''$15 million'' in their places, respectively.

15.408 [Amended]

■ 29. Amend section 15.408, in Table 15–2, section II, paragraph A.(2) by removing ''$13.5 million'' and adding ''$15 million'' in its place.

PART 16—TYPES OF CONTRACTS

16.503 [Amended]

■ 30. Amend section 16.503 by—
■ a. Removing from paragraph (b)(2) ''$112 million'' and adding ''$100 million'' in its place; and
■ b. Removing from paragraph (d)(1) ''$13.5 million'' and adding ''$15 million'' in its place.

16.504 [Amended]

■ 31. Amend section 16.504 by—
■ a. Removing from paragraphs (c)(1)(ii)(D)(*1*) and (D)(*3*) introductory text, ''$112 million'' and adding ''$100 million'' in their places, respectively; and
■ b. Removing from paragraph (c)(2)(i) introductory text ''$13.5 million'' and adding ''$15 million'' in its place.

16.505 [Amended]

■ 32. Amend section 16.505 by—
■ a. Removing from paragraph (b)(1)(iv) introductory text ''*$5.5 million*'' wherever it appears and adding ''*$6 million*'' in their places, respectively;
■ b. Removing from paragraph (b)(2)(ii)(C)(*1*) ''$700,000'' and adding ''$750,000'' in its place;
■ c. Removing from paragraph (b)(2)(ii)(C)(*2*) ''$700,000'' and ''$13.5 million'' and adding ''$750,000'' and

''$15 million'' in their places, respectively;

■ d. Removing from paragraph (b)(2)(ii)(C)(*3*) introductory text ''$13.5 million'', ''$68 million'', and ''$93 million'' and adding ''$15 million'', ''$75 million'' and ''$100 million'' in their places, respectively;

■ e. Removing from paragraph (b)(2)(ii)(C)(*4*) ''$68 million'' and ''$93 million'' and adding ''$75 million'' and ''$100 million'' in their places, respectively; and

■ f. Removing from paragraph (b)(6) introductory text ''*$5.5 million*'' wherever it appears and adding ''*$6 million*'' in their places, respectively.

16.506 [Amended]

■ 33. Amend section 16.506 by—

■ a. Removing from paragraphs (f) and (g) ''$13.5 million'' and adding ''$15 million'' in their places, respectively; and

■ b. Removing from paragraph (h) ''$5.5 million'' and adding ''$6 million'' in its place.

PART 17—SPECIAL CONTRACTING METHODS

17.108 [Amended]

■ 34. Amend section 17.108 by—

■ a. Removing from paragraph (a) ''$13.5 million'' and adding ''$15 million'' in its place; and

■ b. Removing from paragraph (b) ''$135.5 million'' and adding ''$150 million'' in its place.

17.500 [Amended]

■ 35. Amend section 17.500 in paragraph (c)(2) by removing ''$550,000'' and adding ''$600,000'' in its place.

PART 19—SMALL BUSINESS PROGRAMS

19.702 [Amended]

■ 36. Amend section 19.702 by removing from paragraphs (a)(1)(i) through (iii) ''$700,000'' and adding ''$750,000'' in their places, respectively.

19.704 [Amended]

■ 37. Amend section 19.704 by—

■ a. Removing from paragraph (a) introductory text ''plan'' and adding ''plan required'' in its place; and

■ b. Removing from paragraph (a)(9) ''$700,000'' and adding ''$750,000'' in its place.

19.708 [Amended]

■ 38. Amend section 19.708 in paragraph (b)(1) introductory text by removing ''$700,000'' and adding ''$750,000'' in its place.

19.804–6 [Amended]

■ 39. Amend section 19.804–6 in paragraph (c)(2) by removing ''$7 million'' and ''$4 million'' and adding ''$7.5 million'' and ''$4.5 million'' in their places, respectively.

19.805–1 [Amended]

■ 40. Amend section 19.805–1 in paragraph (a)(2) by removing ''$7 million'' and ''$4 million'' and adding ''$7.5 million'' and ''$4.5 million'' in their places, respectively.

19.808–1 [Amended]

■ 41. Amend section 19.808–1 in paragraph (a) by removing ''$22 million'' and adding ''$25 million'' in its place.

19.1306 [Amended]

■ 42. Amend section 19.1306 by—

■ a. Removing from paragraph (a)(2)(i) ''$7 million'' and adding ''$7.5 million'' in its place; and

■ b. Removing from paragraph (a)(2)(ii) ''$4 million'' and adding ''$4.5 million'' in its place.

19.1406 [Amended]

■ 43. Amend section 19.1406 by removing from paragraph (a)(2)(i) ''$6.5 million'' and adding ''$7 million'' in its place.

19.1506 [Amended]

■ 44. Amend section 19.1506 by—

■ a. Removing from paragraph (c)(1)(i) ''$6.5 million'' and adding ''$7 million'' in its place; and

■ b. Removing from paragraph (c)(1)(ii) ''$4 million'' and adding ''$4.5 million'' in its place.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

22.1103 [Amended]

■ 45. Amend section 22.1103 by removing ''$700,000'' and adding ''$750,000'' in its place.

22.1701 [Amended]

■ 46. Amend section 22.1701 in paragraph (b)(2) by removing ''$500,000'' and adding ''$550,000'' in its place.

22.1703 [Amended]

■ 47. Amend section 22.1703 by removing from paragraphs (c)(1)(i)(B) and (c)(3)(i)(B) ''$500,000'' and adding ''$550,000'' in their places, respectively.

22.1705 [Amended]

■ 48. Amend section 22.1705 in paragraph (b)(1) by removing ''$500,000'' and adding ''$550,000'' in its place.

PART 26—OTHER SOCIOECONOMIC PROGRAMS

26.404 [Amended]

■ 49. Amend section 26.404 by removing ''$25,000'' and adding ''$30,000'' in its place.

PART 32—CONTRACT FINANCING

32.104 [Amended]

■ 50. Amend section 32.104 by removing from paragraphs (d)(2)(i) and (ii) ''$2.5 million'' and adding ''$3 million'' in their places, respectively.

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

36.303–1 [Amended]

■ 51. Amend section 36.303–1 in paragraph (a)(4) by removing ''$4 million'' and adding ''$4.5 million'' in its place.

PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

42.709–0 [Amended]

■ 52. Amend section 42.709–0 in paragraph (b) by removing ''$750,000'' and adding ''$800,000'' in its place.

42.709–6 [Amended]

■ 53. Amend section 42.709–6 by removing ''$750,000'' and adding ''$800,000'' in its place.

42.1502 [Amended]

■ 54. Amend section 42.1502 by removing from paragraph (e) ''$700,000'' twice and adding ''$750,000'' in their places, respectively.

PART 50—EXTRAORDINARY CONTRACTUAL ACTIONS AND THE SAFETY ACT

50.102–1 [Amended]

■ 55. Amend section 50.102–1 in paragraph (b) by removing ''$70,000'' and adding ''$75,000'' in its place.

50.102–3 [Amended]

■ 56. Amend section 50.102–3 by—

■ a. Removing from paragraph (b)(4) ''$34 million'' and adding ''$35 million'' in its place; and

■ b. Removing from paragraphs (e)(1)(i) and (ii) ''$70,000'' and adding ''$75,000'' in their places.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 57. Amend section 52.209–12 by revising the date of the provision, and

removing from paragraph (b) ''$5,000,000'' and adding ''$5.5 million'' in its place.

The revision reads as follows:

52.209–12 Certification Regarding Tax Matters.

* * * * *

Certification Regarding Tax Matters (OCT 2020)

* * * * *

■ 58. Amend section 52.212–5 by—

■ a. Revising the date of the clause;

■ b. Removing from paragraph (b)(35)(i) ''(JAN 2019)'' and adding ''(OCT 2020)'' in its place;

■ c. Removing from paragraph (e)(1)(xiii)(A) ''(JAN 2019)'' and adding ''(OCT 2020)'' in its place;

■ d. Revising the date of Alternate II; and

■ e. In paragraph (e)(1)(ii)(L) of Alternate II removing ''(JAN 2019)'' and adding ''(OCT 2020)'' in its place.

The revisions read as follows:

52.212–5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items.

* * * * *

Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items (OCT 2020)

* * * * *

Alternate II (OCT 2020). * * *

* * * * *

■ 59. Amend section 52.213–4 by revising the date of the clause, and removing from paragraph (b)(1)(viii)(A) ''(JAN 2019)'' and adding ''(OCT 2020)'' in its place.

The revision reads as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

* * * * *

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items) (OCT 2020)

* * * * *

■ 60. Amend section 52.222–50—

■ a. Revising the date of the clause;

■ b. Removing from paragraph (h)(1)(ii) ''$500,000'' and adding $550,000'' in its place;

■ c. Redesignating paragraphs (i)(1)(A) and (B) as paragraphs (i)(1)(i) and (ii); and

■ d. Removing from newly redesignated paragraph (i)(1)(ii) ''$500,000'' and adding ''$550,000'' in its place.

The revision reads as follows:

52.222–50 Combating Trafficking in Persons.

* * * * *

Combating Trafficking in Persons (OCT 2020)

* * * * *

■ 61. Amend section 52.222–56 by revising the date of the provision, and removing from paragraph (b)(2) ''$500,000'' and adding ''$550,000'' in its place.

The revision reads as follows:

52.222–56 Certification Regarding Trafficking in Persons Compliance Plan.

* * * * *

Certification Regarding Trafficking in Persons Compliance Plan (OCT 2020)

* * * * *

■ 62. Amend section 52.244–6 by revising the date of the clause, and removing from paragraph (c)(1)(xiv)(A) ''(JAN 2019)'' and adding ''(OCT 2020)'' in its place.

The revision reads as follows:

52.244–6 Subcontracts for Commercial Items.

* * * * *

Subcontracts for Commercial Items (OCT 2020)

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■ 63. Amend section 52.248–3 by revising the date of the clause, and removing from paragraph (h) ''$70,000'' and adding ''$75,000'' in its place.

The revision reads as follows:

52.248–3 Value Engineering—Construction.

* * * * *

Value Engineering—Construction (OCT 2020)

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PART 53—FORMS

53.219 [Amended]

■ 64. Amend section 53.219 by removing ''(Rev. 8/2016)'' and adding ''(Rev. OCT 2020)'' in its place.

[FR Doc. 2020–21690 Filed 10–1–20; 8:45 am]

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Part VI

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 660

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Pacific Coast Groundfish Fishery Management Plan; Amendment 29; 2021–22 Biennial Specifications and Management Measures; Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 200928–0257]

RIN 0648–BJ74

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Pacific Coast Groundfish Fishery Management Plan; Amendment 29; 2021–22 Biennial Specifications and Management Measures

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

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would establish the 2021–22 harvest specifications for groundfish taken in the U.S. exclusive economic zone off the coasts of Washington, Oregon, and California, consistent with the Magnuson-Stevens Fishery Conservation and Management Act and the Pacific Coast Groundfish Fishery Management Plan (PCGFMP). This proposed rule would also revise the management measures that are intended to keep the total annual catch of each groundfish stock or stock complex within the annual catch limits. These proposed measures are intended to help prevent overfishing, rebuild overfished stocks, achieve optimum yield, and ensure that management measures are based on the best scientific information available. Additionally, this proposed rule announces the receipt of exempted fishing permit applications. NMFS has made a preliminary determination that these applications warrant further consideration. NMFS requests public comment on these applications. This action also would implement Amendment 29 to the PCGFMP, which would designate shortbelly rockfish as an ecosystem component species, and would make changes to the trawl/non-trawl allocations for blackgill rockfish within the southern slope complex south of 40°10′ North latitude (N lat.), petrale sole, lingcod south of 40°10′ N lat., and widow rockfish.

DATES: Comments must be received no later than November 2, 2020.

ADDRESSES: Submit your comments, identified by NOAA–NMFS–2020–0098, by either of the following methods:

- *Federal e-Rulemaking Portal:* Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2020-0098,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments. The exempted fishing permit (EFP) applications will be available under Supporting Documents through the same link.
- *Mail:* Submit written comments to Barry Thom, Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070.

Instructions: NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the comment period ends. All comments received are a part of the public record and NMFS will post for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender is publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Electronic Access

This rule is accessible via the internet at the Office of the Federal Register website at *https://www.federalregister.gov/.* Background information and documents including an integrated analysis for this action (Analysis), which addresses the statutory requirements of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the National Environmental Policy Act, Presidential Executive Order 12866, and the Regulatory Flexibility Act are available at the NMFS West Coast Region website at *http://www.westcoast.fisheries.noaa.gov/fisheries/groundfish/index.html* and at the Pacific Fishery Management Council's website at *http://www.pcouncil.org.* The final 2020 Stock Assessment and Fishery Evaluation (SAFE) report for Pacific Coast groundfish, as well as the SAFE reports for previous years, are available from the Pacific Fishery Management Council's website at *http://www.pcouncil.org.*

FOR FURTHER INFORMATION CONTACT: Karen Palmigiano, phone: 206–526–4491 or email: *karen.palmigiano@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Chapter 5 of the Pacific Coast Groundfish Fishery Management Plan (PCGFMP) requires the Pacific Fishery Management Council (Council) to assess the biological, social, and economic conditions of the Pacific coast groundfish fishery and use this information to develop harvest specifications and management measures at least biennially. This proposed rule is based on the Council's final recommendations for harvest specifications and management measures for the 2021–22 biennium made at its April and June 2020 meetings.

The Council deemed the proposed regulations necessary and appropriate to implement these actions in an August, 26, 2020, letter from Council Executive Director, Chuck Tracy, to Regional Administrator Barry Thom. Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), NMFS is required to publish proposed rules for comment after preliminarily determining whether they are consistent with applicable law. We are seeking comment on the proposed regulations in this action and whether they are consistent with the PCGFMP, the Magnuson-Stevens Act and its National Standards, and other applicable law.

Concurrent with this proposed rule, NMFS also published a Notice of Availability (NOA) to announce the proposed Amendment 29 to the PCGFMP. The NOA requests public review and comment on proposed changes to the Council fishery management plan document (85 FR 54529; September 2, 2020).

A. Specification and Management Measure Development Process

The Northwest Fisheries Science Center (NWFSC) conducted full stock assessments in 2019 for 7 of the 128 stocks [1] currently included under the PCGFMP as stocks that require conservation and management (cabezon, big skate, longnose skate, sablefish, cowcod, gopher rockfish, and black-and-yellow rockfish). Additionally, the NWFSC reviewed assessment updates for Petrale sole and widow rockfish, as well as catch-only assessment updates for a number of previously assessed stocks (black rockfish, blackgill rockfish, California blue/deacon rockfish north of Point Conception, canary rockfish, China rockfish, darkblotched rockfish, Dover sole, lingcod, longspine thornyheads, rougheye and blackspotted rockfishes, and shortspine thornyhead). The NWFSC did not update assessments for the remaining stocks, so harvest

[1] Stocks for which annual catch limits (ACLs) or ACL contributions to stock complex ACLs are calculated. Assessments do not include stocks designated as ecosystem component species.

specifications for these stocks are based on assessments from previous years. The full stock assessments used to set catch limits for this biennium are available on the Council website (*https://www.pcouncil.org/*).

The Council's stock assessment review panel (STAR panel) reviewed the stock assessments, including assessments on stocks for which some biological indicators are available, as described below, for technical merit, and to determine that each stock assessment document was sufficiently complete. Finally, the Council's Scientific and Statistical Committee (SSC) reviewed the stock assessments and STAR panel reports and made its recommendations to the Council (Agenda Item H.5, September 2019 Council Meeting).

The Council considered the new stock assessments, stock assessment updates, catch-only updates, public comment, recommendations from the SSC, and advice from its advisory bodies over the course of six Council meetings during development of its recommendations for the 2021–22 harvest specifications and management measures. At each Council meeting between June 2019 and June 2020, the Council made a series of decisions and recommendations that were, in some cases, refined after further analysis and discussion. Table 2 in the Analysis describes the Council's meeting schedule for developing the 2021–22 biennial harvest specifications. Additionally, detailed information, including the supporting documentation the Council considered at each meeting, is available at the Council's website, *www.pcouncil.org.*

The 2021–22 biennial management cycle was the third cycle following PCGFMP Amendment 24 (80 FR 12567, March 10, 2015), which established default harvest control rules and was analyzed through an Environmental Impact Statement (EIS) (Final Environmental Impact Statement for Pacific Coast Groundfish Harvest Specifications and Management Measures for 2015–2016 and Biennial Periods Thereafter, and Amendment 24 to the PCGFMP, published January 2015). The EIS described the ongoing implementation of the PCGFMP and default harvest control rules, along with 10-year projections for harvest specifications and a range of management measures. Under Amendment 24, the default harvest control rules used to determine the previous biennium's harvest specifications (*i.e.,* overfishing limits [OFLs], acceptable biological catches (ABCs), and annual catch limits [ACLs]) are applied automatically to the best scientific information available to determine the future biennium's harvest specifications. NMFS implements harvest specifications based on the default harvest control rules used in the previous biennium unless the Council makes a recommendation to deviate from the default. Therefore, this rule implements the default harvest control rules, consistent with the last biennium (2019–20), for most stocks, and discusses Council-recommended departures from the defaults. The Analysis supporting this action identifies the preferred harvest control rules, management measures, and other management changes that were not described in the 2015 EIS, and will be posted on the NMFS West Coast Region web page (see Electronic Access).

Information regarding the OFLs, ABCs, and ACLs proposed for groundfish stocks and stock complexes in 2021–22 is presented below, followed by a discussion of the proposed management measures for commercial and recreational groundfish fisheries.

II. Proposed Harvest Specifications

This proposed rule would set 2021–22 harvest specifications and management measures for 127 of the 128 groundfish stocks which currently have ACLs or ACL contributions to stock complexes managed under the PCGFMP, except for Pacific whiting. Pacific whiting harvest specifications are established annually through a separate bilateral process with Canada. Shortbelly rockfish, which is currently managed with harvest specifications, would no longer be managed with harvest specifications beginning in the 2021–22 biennium and would instead be classified as an ecosystem component species. The change to shortbelly management is made through Amendment 29 to the PCGFMP and is discussed in detail in the NOA for that amendment. Public comment is open on the NOA (see **ADDRESSES**).

The proposed OFLs, ABCs, and ACLs are based on the best available biological and socioeconomic data, including projected biomass trends, information on assumed distribution of stock biomass, and revised technical methods used to calculate stock biomass. The PCGFMP specifies a series of three stock categories for the purpose of setting maximum sustainable yield (MSY) [2], OFLs, ABCs, ACLs, and rebuilding standards. Category one represents the highest level of information quality available, while category three represents the lowest. Category one stocks are the relatively few stocks for which the NWFSC can conduct a ''data rich'' quantitative stock assessment that incorporates catch-at-age, catch-at-length, or other data. The SSC can generally calculate OFLs and overfished/rebuilding thresholds for these stocks, as well as ABCs, based on the uncertainty of the biomass estimated within an assessment or the variance in biomass estimates between assessments for all stocks in this category. The set of category two stocks includes a large number of stocks for which some biological indicators are available, yet status is based on a ''data-moderate'' quantitative stock assessment. The category three stocks include minor stocks which are caught, but for which there is, at best, only information on landed biomass. For stocks in this category, there is limited data available for the SSC to quantitatively determine MSY, OFL, or an overfished threshold. Typically, catch-based methods (*e.g.,* depletion-based stock reduction analysis, depletion corrected average catch, and average catches) are used to determine the OFL for category three stocks. A detailed description of each of these categories can be found in Section 4.2 of the PCGFMP.

A. Proposed OFLs for 2021 and 2022

The OFL serves as the maximum amount of fish that can be caught in a year without resulting in overfishing. Overfishing occurs when a stock has a harvest rate, denoted as $F_{x\%}$, is set higher than the rate that produces the stock's MSY. The SSC derives OFLs for groundfish stocks with stock assessments by applying the harvest rate to the current estimated biomass (B). Harvest rates represent the rates of fishing mortality (F) that will reduce the female spawning potential ratio (SPR) to X percent of its unfished level. As an example, a harvest rate of $F_{40\%}$ is more aggressive than $F_{45\%}$ or $F_{50\%}$ harvest rates because $F_{40\%}$ allows more fishing mortality on a stock (as it allows a harvest rate that would reduce the stock to 40 percent of its unfished level). The OFL does not account for scientific or management uncertainty, so the SSC typically recommends an ABC that is lower than the OFL in order to account for this uncertainty. Usually, the greater the amount of scientific uncertainty, the lower the ABC is set compared to the OFL.

For 2021–22, the Council maintained its policy of using a default harvest rate as a proxy for the fishing mortality rate that is expected to achieve F_{MSY}. The Council also maintained the same default harvest rate proxies as used in

[2] MSY is the largest long-term average catch that can be taken from a fish stock under prevailing environmental and fishery conditions.

the 2019–20 biennium, based on the SSC's recommendations: $F_{30\%}$ for flatfish (meaning an SRP harvest rate that would reduce the stock to 30 percent of its unfished level), $F_{50\%}$ for rockfish (including longspine and shortspine thornyheads), $F_{50\%}$ for elasmobranchs, and $F_{45\%}$for other groundfish such as sablefish and lingcod. For unassessed stocks, the Council recommended using a historical catch-based approach (*e.g.,* average catch, depletion-corrected average catch, or depletion-based stock reduction analysis) to set the OFL. See Tables 1a and 2a to Part 660, Subpart C in the proposed regulatory text supporting this rule for the proposed 2021–22 OFLs.

A detailed description of the scientific basis for all of the SSC-recommended OFLs proposed in this rule is included in the SAFE document for 2020, available at the Council's website, *www.pcouncil.org.*

B. Proposed ABCs for 2021 and 2022

The ABC is the stock or stock complex's OFL reduced by an amount associated with scientific uncertainty. The SSC-recommended P star-sigma approach determines the amount by which the OFL is reduced to account for this uncertainty. Under this approach, the SSC recommends a sigma (σ) value. The σ value is generally based on the scientific uncertainty in the biomass estimates generated from stock assessments and is usually related to the stock category. After the SSC determines the appropriate σ value, the Council chooses a P star (P*) based on its chosen level of risk aversion considering the scientific uncertainties. A P* of 0.5 equates to no additional reduction for scientific uncertainty beyond the σ value reduction. The PCGFMP specifies that the upper limit of P* will be 0.45. The P*-sigma approach is discussed in detail in the proposed and final rules for the 2011–12 (75 FR 67810, November 3, 2010; 76 FR 27508, May 11, 2011) and 2013–14 (77 FR 67974, November 12, 2012; 78 FR 580, January 3, 2013) biennial harvest specifications and management measures.

The SSC recently endorsed new σ values that increase the scientific uncertainty estimate and reduce the proposed ABCs and ACLs relative to what they could have been under the σ and P* values used in the previous biennium. The new σ values, endorsed by the Council at its March 2019 meeting, include a new base reduction for Category 1 stocks of 0.5 and an increase in the buffer between the OFL and ABC as the age of the assessment increases. Currently, σ is the same for each year regardless of the age of the assessment. Table 1 provides the σ values used in previous biennium and the new σ values with a higher base year deduction and progressively increasing σ values with the age of the assessment.

Table 1 -- Old and New σ Values for Category 1-3 Stocks Over a 10 Year Period

P*=0.45	Category 1 Stocks		Category 2 Stocks		Category 3 Stocks	
Year	Old σ (Percentage)	New σ (Percentage)	Old σ (Percentage)	New σ (Percentage)	Old σ (Percentage)	New σ (Percentage)
1	4.4	6.1	8.7	11.8	16.6	22.2
2	4.4	6.5	8.7	12.6	16.6	22.2
3	4.4	7.0	8.7	13.5	16.6	22.2
4	4.4	7.4	8.7	14.3	16.6	22.2
5	4.4	7.8	8.7	15.1	16.6	22.2
6	4.4	8.3	8.7	15.9	16.6	22.2
7	4.4	8.7	8.7	16.7	16.6	22.2
8	4.4	9.1	8.7	17.4	16.6	22.2
9	4.4	9.6	8.7	18.2	16.6	22.2
10	4.4	10.0	8.7	19	16.6	22.2

Based on the new methodology, the SSC quantified major sources of scientific uncertainty in the estimates of OFLs and generally recommended a σ value of 0.5 for category one stocks (previously 0.36), a σ value of 1.0 for category two stocks (previously 0.72), and a σ value of 2.0 for category three stocks (previously 1.44). For category two and three stocks, there is greater scientific uncertainty in the OFL estimate because the assessments for these stocks are informed by less data than the assessments for category one stocks. Therefore, the scientific uncertainty buffer is generally greater than that recommended for stocks with data-rich stock assessments. Assuming the same P* is applied, a larger σ value results in a larger reduction from the OFL. For 2021–22, the Council continued the general policy of using the SSC-recommended σ values for each stock category.

For 2021–22, the Council maintained the P* policies it established for the previous biennium for most stocks, except Oregon black rockfish, cowcod south of 40°10′ N lat., sablefish, and shortbelly rockfish. The Council considered alternative P* values for Petrale sole but ultimately decided to stay with the default P* value used in the previous biennium. As was done in 2015–16, 2017–18, and 2019–20, the Council recommended using P* values of 0.45 for all individually managed category one stocks, except sablefish and yelloweye rockfish. Combining the category one σ value of 0.5 with the P* value of 0.45 results in a reduction of 6.1 percent from the OFL when deriving the ABC. For category two stocks, the Council's general policy was to apply a P* of 0.4, with a few exceptions. The Council recommended applying a P* of 0.45 for big skate, cowcod south of 34°27′ N lat., English sole, longnose skate, Pacific ocean perch, and all of the stocks managed in the Oregon blue/deacon/black rockfish complex,

Nearshore Rockfish complexes, and the Other Fish complex. When combined with the σ values of 1.00 for category two, a P* value of 0.45 corresponds to an 11.8 percent reduction and a P* value of 0.40 corresponds to a 22.4 percent reduction. For category three stocks, the Council's general policy was to apply a P* value of 0.45 for these stocks, except the Council recommended a P* value of 0.40 for cowcod between 40°10′ N lat. and 34°27′ N lat., Pacific cod, starry flounder, and all stocks in the Other Flatfish complex. When combined with the σ values of 2.00 for category three, a P* value of 0.45 corresponds to 22.2 percent reduction and a P* value of 0.40 corresponds to a 39.8 percent reduction. See Tables 1–3 in Agenda Item H.8, Supplemental Attachment 2, September 2019 Council meeting for the full description of σ and P* values by stock. See Tables 1a and 2a to Part 660, Subpart C in the in the proposed regulatory text of this proposed rule for the proposed 2021–22 ABCs.

C. Proposed ACLs for 2019 and 2020

The Council recommends ACLs for each stock and stock complex that is in need of conservation and management or ''in the fishery,'' as defined in the PCGFMP. To determine the ACL for each stock, the Council will determine the best estimate of current stock abundance and its relation to the precautionary and overfished/rebuilding thresholds. Under the PCGFMP, the biomass level that produces MSY, or B_{MSY}, is defined as the precautionary threshold. When the biomass for an assessed category one or two stock falls below B_{MSY}, the ACL is set below the ABC using a harvest rate reduction to help the stock return to the B_{MSY} level, which is the management target for groundfish stocks. If a stock biomass is larger than B_{MSY}, the ACL may be set equal to the ABC, or the ACL may be set below the ABC to address conservation objectives, socioeconomic concerns, management uncertainty, or other factors necessary to meet management objectives. The overfished/rebuilding threshold is 25 percent of the estimated unfished biomass level for non-flatfish stocks or 50 percent of B_{MSY}, if known. The overfishing/rebuilding threshold for flatfish stocks is 12.5 percent of the estimated unfished biomass level. When a stock is below B_{MSY} (the precautionary threshold) but above the overfishing/rebuilding threshold, it is considered to be in the precautionary zone.

Under PCGFMP Amendment 24, the Council set up default harvest control rules, which established default policies that would be applied to the best available scientific information to set ACLs each biennial cycle, unless the Council has reasons to diverge from that harvest control rule. A complete description of the default harvest control rules for setting ACLs is described in the proposed and final rule for the 2015–16 harvest specifications and management measures and PCGFMP Amendment 24 (80 FR 687, January 6, 2015; 80 FR 12567, March 10, 2015).

The PCGFMP defines the 40–10 harvest control rule for stocks with a B_{MSY} proxy of $B_{40\%}$ that are in the precautionary zone as the standard reduction. The analogous harvest control rule with the standard reduction for assessed flatfish stocks is the 25–5 harvest control rule for flatfish stocks with a B_{MSY} proxy of $B_{25\%}$. The further the stock biomass is below the precautionary threshold, the greater the reduction in ACL relative to the ABC, until at $B_{10\%}$ for a stock with a B_{MSY} proxy of $B_{40\%}$, or $B_{5\%}$ for a stock with a B_{MSY} proxy of $B_{25\%}$, the ACL would be set at zero.

Under the PCGFMP, the Council may recommend setting the ACL at a different level than what the default harvest control rules specify as long as the ACL does not exceed the ABC and complies with the requirements of the Magnuson-Stevens Act (see Chapter 8 of the analysis for information on the Magnuson-Stevens Act and other applicable laws). For most of the stocks and all the stock complexes managed with harvest specifications for 2021–22, the Council chose to maintain the default harvest control rules from the previous biennial cycle. For four stocks, Oregon Black rockfish, cowcod south of 40°10′ N lat., sablefish, and shortbelly rockfish, the Council recommended deviating from the default harvest control rule. Table 2 presents a summary table of the proposed changes to default harvest control rules for certain stocks for 2021–22. Each of these changes is discussed further below.

Table 2 -- Proposed Changes to Harvest Control Rules for 2021–22

Stock	Alternative	Harvest Control Rule	ACL[a/]
Cowcod. south of 40°10' N lat.	Default	ACL=ABC (P*=0.45)	98 mt (2021), 96 mt (2022)
	Proposed change	ACL=ABC (P*=0.40)	84 mt (2021), 82 mt (2022)
Oregon Black Rockfish	Default	ACL=ABC (P*=0.45)	479 mt (2021), 472 mt (2022)
	Proposed change	ACL=2020 ABC	512 mt (2021), 512 mt (2022)
Sablefish[b]	Default	ACL=ABC (P*=0.40)	ACL North-6,435 mt, South-1,773 mt (2021), ACL North-6,124 mt, South-1,687 mt (2022)
	Proposed change	ACL=ABC (P*=0.45)	ACL North- 6,479 mt, South-2,312 mt (2021), ACL North-6,172 mt, South-2,203 mt (2022)
Shortbelly rockfish	Default	P*=0.40, fixed ACL	500 mt
	Proposed change	Designate as an Ecosystem Component Species	N/A

[a/] Default ACL is for 2021 and 2022 under the default harvest control rule, Proposed change ACL is for 2021 and 2022 under the alternative harvest specifications.
[b/]The coastwide ABC is apportioned 78.4 percent north of 36° N. lat. (ACL North) and 21.5 percent south of 36° N. lat. (ACL South).

Cowcod South of 40°10′ N Lat.

A new cowcod assessment conducted by the NWFSC in 2019 indicated the stock south of 40°10′ N lat. had transitioned from a rebuilding stock to a stock with current depletion estimate at the start of 2019 of 57 percent of unfished spawning output (Agenda Item H.5. Attachment 9, September 2019), which is far above the precautionary threshold of 50 percent. When a stock is determined to be rebuilt, its harvest control rule automatically reverts back to the default harvest control rule for the next biennium. For the 2021–22 biennium, cowcod south of 40°10′ N lat. was the only stock declared rebuilt.

Consistent with the Council's preferred alternative, this action proposes that the cowcod south of 40°10′ N lat. ACL would be set equal to the ABC with a P* of 0.4, resulting in ACLs of 84 mt in 2021 and 82 mt in 2022. The Council recommended a lower P* value for cowcod south of 40°10′ N lat. than what would have been applied under the default P* value (P* = 0.45) to address the relatively high uncertainty in the estimated biomass and productivity in the cowcod assessment due to a lack of adequate data (particularly age data) for estimating growth, natural mortality, and recruitment. The revised P* value of 0.40 is consistent with other category two stocks. See Section 2.2.2.2 of the Analysis for more information on the Council's consideration of alternative harvest specifications for cowcod south of 40°10′ N lat.

The resulting ACLs would increase by more than eight times the amount in place in 2019 (10 mt). As an additional precaution due to the uncertainty in the assessment, the Council also recommended, and NMFS is proposing, an ACT of 50 mt for cowcod south of 40°10′ N lat. The ACT is a management measure and is discussed further in Section III of this preamble.

Oregon Black Rockfish

Oregon black rockfish is a category two stock, managed as part of the Oregon blue/deacon/black rockfish complex. Oregon black rockfish was first assessed as a single stock in 2015. In 2019, the Oregon black rockfish stock was estimated to be at 56 percent of its unfished spawning output. For 2021–22, the NWFSC conducted a catch-only update to the 2015 assessment by adding realized catch data from 2015–2018 and estimates of catch for 2019 and 2020. In Oregon, realized catches were closer to projected catches in 2015–2017, but lower in 2018 resulting in OFL projections for 2021 and 2022 that are slightly higher than the projections in the previous assessment. In addition to the catch data update, the SSC applied the newly endorsed σ values to each year in the forecast (as discussed above in *B. Proposed ABCs for 2021 and 2022*). Because Oregon black rockfish is a category two stock, a base σ value of 1.0 was applied to years 2021–2030 (Table 1–2 in Agenda Item H.5, Attachment 15, September 2019). Black rockfish was last assessed in 2015, so the stock is also subject to further σ value reductions. However, the Council recommended and NMFS is proposing a

phased-in approach to incorporating this additional ABC reduction.

Black rockfish is the primary target for the Oregon recreational and commercial nearshore fisheries. In 2017, Oregon recreational fisheries were shut down early because of black rockfish concerns, and the Council received public testimony as to the severe negative consequences for charter business operators and tourist-revenue dependent coastal communities resulting from this closure. Due to the constraining nature of black rockfish in Oregon and the biomass level being above the precautionary threshold, the Oregon Department of Fish and Wildlife (ODFW) requested the Council consider an alternative for the 2021–22 biennium where the 2020 ABC (512 mt) is specified for 2021 and 2022, and the ACLs are set equal to ABCs. The Magnuson-Stevens Act and the PCGFMP allow the SSC to recommend an ABC that differs from the ABC control rule on a case by case basis, provided the SSC offers justification for its recommended deviation. In 2023, the current default harvest control rule (ABC = ACL, P* of 0.45) would once again apply to Oregon black rockfish. In this case, long-term projections under the Council's default harvest control rule and the alternative 2021 and 2022 ABC both result in a projected stock biomass at 54 percent of its unfished spawning output in 2030. Stocks with biomass estimates greater than 40 percent depletion are above the precautionary thresholds in the PCGFMP. Because the biomass is the same under either option, the SSC recommended the alternative 2021 and 2022 ABC.

Therefore based on the Analysis, the Council has recommended and NMFS is proposing alternative harvest specifications for Oregon black rockfish as part of the Oregon blue/deacon/black rockfish complex. The alternative harvest control rule would implement an ACL for the 2021 and 2022 biennium of 512 mt in each year. This ACL contributes to the overall stock complex ACL.

Sablefish

The NWFSC completed a full stock assessment for sablefish in 2019 (Agenda Item H.5. Attachment 7, September 2019). In 2019, the sablefish stock is estimated to be at 39 percent of unfished spawning output. However, biomass is projected to increase, and the spawning output is projected to be above the precautionary threshold (B_{40}) in 2021. The expected increase in biomass is driven in part by the estimated, but highly uncertain, size of the 2016 year class. Now that sablefish biomass is projected to be above B_{MSY}, the Council considered alternative harvest specifications for the 2021–22 biennium.

Additionally, the Council recommended revising the apportionment of the ACL north and south 36° N Lat. Each biennium, the coastwide sablefish ABC is apportioned to ACLs for the areas north and south of 36° N Lat. based on a percentage. In 2019–20, the Council used the average swept area biomass from the trawl survey to determine this percentage. However, for the 2021–22 biennium, the Council recommended updating its methods for determining this percentage and will now be using a rolling 5-year average of the swept area biomass instead of the long-term average. This results in an increase in the percentage of the sablefish apportioned north of 36° N Lat. ACL from 73.7 percent to 78.4 percent and a decrease in the percentage of the sablefish apportioned south of 36° N Lat. ACL from 26.3 percent to 21.5 percent. The change in apportionment of the north and south sablefish ACLs is expected to result in higher attainment of both of the ACLs and should better align with recent catches by area.

Under the default harvest control rule, the ABC would be set equal to the ACL with a P* value of 0.4. The P* value of 0.4 was set when the unfished spawning output was below 40 percent. Under a P* value of 0.4, the unfished spawning output is estimated to be at 46 percent in 2021 and 47 percent by 2030 assuming full ACL removals each year. The ACLs would no longer be subject to the 40–10 rule reduction because the stock would be above the B_{MSY} proxy in 2021 and would therefore be set equal to the ABC. The ACLs under the default harvest control rule and the revised apportionment percentages would be 6,435 mt for north of 36° N Lat. and 1,773 mt for south of 36° N Lat. in 2021. In 2022, the ACL would be 6,124 mt for north of 36° N Lat. and 1,687 mt for south of 36° N Lat.

Based on the 2019 sablefish stock assessment, the Council recommended an alternative harvest specifications for sablefish using a P* value of 0.45 for the 2021–22 biennium. Under the increased P* value, the unfished spawning output is estimated to be at 46 percent in 2021 and 44 percent by 2030, assuming full ACL removals each year. No reduction to the ACL would be necessary, similar to the default, because the stock's unfished spawning output is above 40 percent. Therefore, under the P* value of 0.45, the 2021 ACLs for the north and south would be 6,479 mt and 2,312, mt, respectively. The 2022 ACLs for the north and south would be 6,172 mt and 2,203 mt, respectively.

Therefore, the Council recommended, and NMFS is proposing, to implement an alternative harvest control rule for sablefish for the 2021–22 biennium. The alternative harvest control rule would set the ABC equal to the ACL with a P* value of 0.45 resulting in ACLs that are higher than under the Council's No Action default harvest control rule for sablefish.

Shortbelly Rockfish

Shortbelly rockfish has been a topic of discussion on every Council agenda beginning in November 2018 due to higher than anticipated bycatch in recent years. Shortbelly rockfish is currently a species managed within the PCGFMP in section 3.1 of the PCGFMP and directed fishing is allowed even though it is not the target of a directed fishery.

As part of the 2021–22 biennium, the Council recommended and NMFS is proposing to reclassify shortbelly rockfish as an ecosystem component species through Amendment 29 to the PCGFMP. For more information on this reclassification, see the NOA for Amendment 29 (see **ADDRESSES**).

Stocks in Rebuilding Plans

When a stock has been declared overfished, the Council must develop and manage the stock in accordance with a rebuilding plan. For overfished stocks in the PCGFMP, this means that the harvest control rule for overfished stocks sets the ACL based on the rebuilding plan. The proposed rules for the 2011–12 (75 FR 67810, November 3, 2010) and 2013–14 (77 FR 67974, November 14, 2012) harvest specifications and management measures contain extensive discussions on the management approach used for overfished stocks, which are not repeated here. In addition, the SAFE document posted on the Council's website at *http://www.pcouncil.org/groundfish/safe-documents/* contains a detailed description of each overfished stock, its status and management, as well as the SSC's approach for rebuilding analyses. This document provides information on cowcod south of 40°10′ N lat., which has rebuilt since the last biennium, and yelloweye rockfish which is the only remaining rebuilding stock in the PCGFMP. The Council proposed yelloweye rockfish ACLs for 2021 and 2022 based on the current yelloweye rockfish rebuilding plan, so additional details are not repeated here. Appendix F to the PCGFMP contains the most recent rebuilding plan parameters, as well as a

history of each overfished stock, and can be found at *http://www.pcouncil.org/groundfish/fisherymanagement-plan/.*

Yelloweye rockfish was declared overfished in 2002. The Council adopted a rebuilding plan for the stock in 2004, and revised the rebuilding plan in 2011 under Amendment 16–4 to the PCGFMP, and again during the 2019–20 biennium.

Additionally, the Council recommended, and NMFS is proposing, to establish annual catch targets (ACTs) within the nontrawl allocation harvest guideline (HG). The nontrawl sector includes the limited entry fixed gear (LEFG) and open access (OA) fisheries as well as the recreational fisheries for Washington, Oregon, and California. The nearshore fisheries occur off of Oregon and California and are subject to both Federal and state HGs as well as other state-specific management measures. The non-nearshore fisheries include the limited entry and Federal open access fixed gear fleets. Tables 3 and 4 outline the proposed harvest specifications for 2021 and 2022 for yelloweye rockfish.

Table 3 -- 2021 Harvest Specifications for Yelloweye Rockfish

	OFL (mt)	ABC (mt)	ACL (mt)	HG (mt)	ACT (mt)
All sectors	97	83	50	41.2	
Nontrawl				37.9	29.5
Non-Nearshore				7.9	6.2
Nearshore					
Washington Recreational				9.7	7.5
Oregon Recreational				8.8	6.9
California Recreational				11.4	8.9
Trawl				3.3	

Table 4 -- 2022 Harvest Specifications for Yelloweye Rockfish

	OFL (mt)	ABC (mt)	ACL (mt)	HG (mt)	ACT (mt)
All sectors	98	83	51	42.2	
Nontrawl				38.8	30.4
Non-Nearshore				8.1	6.3
Nearshore					
Washington Recreational				9.9	7.8
Oregon Recreational				9.0	7.1
California Recreational				11.7	9.2
Trawl				3.4	

The Council recommended using ACTs for the nontrawl sector as a precaution. As discussed in the Analysis, because yelloweye rockfish catch has been restricted for many years, it is difficult to project encounter rates. This precautionary approach to higher catch limits would allow more access to target fisheries for the nontrawl sector, while also managing for the uncertainty and volatility in catch of this rebuilding stock by this sector.

D. Summary of ACL Changes From 2019 to 2021–22

Table 5 compares the ACLs for major stocks for 2019, 2020, and 2021–22. Under this proposed rule, nine stocks would have higher ACLs in 2021 and 2022 than in 2019. Of the 43 stocks and stock complexes managed with ACLs in 2020, 21 stocks have ACLs that would decrease in 2021 from 2020 and 12 stocks have ACLs that would be close to the amount in place in 2020 (Table 4.6 of the Analysis). Shortbelly rockfish are proposed to be no longer be managed with an ACL and one stock, Pacific cod, would have the same ACLs in 2020, 2021, and 2022. Two stocks (big skate and cowcod south of 40°10′ N lat.) have ACLs that would increase more than 100 percent, and one stock complex, Washington's cabezon/kelp greenling, has an ACL that would increase by 92.3 percent. These increases are due to new information provided in the 2019 stock assessments for these stocks. The ACL for the shelf rockfish north complex would decrease by 26.5 percent, which is the largest ACL decrease between 2020 and 2021, followed by the ACL for arrowtooth flounder, which would decrease by 22.1 percent. These decreases are due to updated projections based on the new sigma values.

Table 5 -- ACLs for Major Stocks for 2020, and 2021–22

Stock/Complex	Area	ACL (mt)			Percent Change 2020 to 2021
		2020	2021	2022	
YELLOWEYE ROCKFISH	Coastwide	49	50	51	2.0
Arrowtooth Flounder	Coastwide	12,750	9,933	8,458	-22.1
Big Skate	Coastwide	494	1,477	1,389	199.0
Black Rockfish	WA	297	293	291	-1.5
Black Rockfish	CA	326	348	341	6.7
Bocaccio	S of 40°10	2,011	1,748	1,724	-13.1
Cabezon	CA	146	210	195	43.6
Cabezon/Kelp Greenling	WA	10	20	17	92.3
Cabezon/Kelp Greenling	OR	204	198	190	-3.1
California Scorpionfish	Coastwide	307	291	275	-5.4
Canary Rockfish	Coastwide	1,368	1,338	1,307	-2.2
Chilipepper	S of 40°10	2,410	2,358	2,259	-2.2
Cowcod	S of 40°10	10	84	82	740.0
Darkblotched Rockfish	Coastwide	815	882	831	8.2
Dover Sole	Coastwide	50,000	50,000	50,000	0.0
English Sole	Coastwide	10,135	9,175	9,101	-9.5
Lingcod	N of 40°10	4,541	5,369	4,958	18.2
Lingcod	S of 40°10	869	1,102	1,172	26.9
Longnose Skate	Coastwide	2,000	1,823	1,761	-8.9
Longspine Thornyhead	N of 34°27	2,470	2,634	2,452	6.7
Longspine Thornyhead	S of 3427	780	832	774	6.7
Pacific Cod	Coastwide	1,600	1,600	1,600	0.0
Pacific Ocean Perch	N of 4010	4,229	3,854	3,711	-8.9
Petrale Sole	Coastwide	2,845	4,115	3,660	44.6
Sablefish	N of 36	5,723	6,479	6,172	13.2
Sablefish	S of 36	2,032	2,312	2,203	13.8
Shortspine Thornyhead	N of 3427	1,669	1,428	1,393	-14.4
Shortspine Thornyhead	S of 3427	883	756	737	-14.4
Spiny Dogfish	Coastwide	2,059	1,621	1,585	-21.3
Splitnose	S of 4010	1,731	1,666	1,630	-3.7

Starry Flounder	Coastwide	452	392	392	-13.3
Widow Rockfish	Coastwide	11,199	14,725	13,788	31.5
Yellowtail Rockfish	N of 4010	5,986	6,050	5,831	1.1
Blue/Deacon/Black Rockfish	OR	611	603	600	-1.2
Nearshore Rockfish North	N of 4010	82	77	76	-6.2
Nearshore Rockfish South	S of 4010	1,163	1,016	1,010	-12.6
Other Fish	Coastwide	239	223	223	-6.5
Other Flatfish	Coastwide	6,041	4,802	4,838	-20.5
Shelf Rockfish North	N of 4010	2,048	1,511	1,450	-26.2
Shelf Rockfish South	S of 4010	1,625	1,438	1,428	-11.5
Slope Rockfish North	N of 4010	1,732	1,595	1,568	-7.9
Slope Rockfish South	S of 4010	743	709	705	-4.5

Note: Rebuilding stocks are capitalized.

III. Proposed Management Measures

This section describes proposed management measures (*i.e.,* biennial fishery harvest guidelines and set-asides) used to further allocate the ACLs to the various components of the fishery and control fishing. Management measures for the commercial fishery modify fishing behavior during the fishing year to ensure that catch does not exceed the ACL, and include trip and cumulative landing limits, time/area closures, size limits, and gear restrictions. Management measures for the recreational fisheries include bag limits, size limits, gear restrictions, fish dressing requirements, and time/area closures.

A. Deductions From the ACLs

Before making allocations to the primary commercial and recreational components of groundfish fisheries, the Council recommends ''off-the-top deductions,'' or deductions from the ACLs to account for anticipated mortality for certain types of activities: Harvest in Pacific Coast treaty Indian tribal fisheries; harvest in scientific research activities; harvest in non-groundfish fisheries (incidental catch); and harvest that occurs under EFPs. These off-the-top deductions are proposed for individual stocks or stock complexes and can be found in the footnotes to Tables 1a and 2a to part 660, subpart C. The details of the EFPs are discuss below in Section III., J.

B. Tribal Fisheries

The Quileute Tribe, Quinault Indian Nation, Makah Indian Tribe, and Hoh Indian Tribe (collectively, ''the Pacific Coast Tribes'') implement management measures for Tribal fisheries both independently as sovereign governments and cooperatively with the management measures in the Federal regulations. The Pacific Coast Tribes may adjust their Tribal fishery management measures inseason to stay within the Tribal harvest targets and estimated impacts to overfished stocks. Table 6 provides the proposed Tribal harvest targets proposed for the 2021–22 biennium.

Table 6 -- Proposed Tribal Harvest Targets for the 2021–22 Biennium Compared to Those in Place in 2020

Stock	Off the Top Deduction	
	2020 (mt)	2021-2022 (mt)
Arrowtooth Flounder	2,041	2,041
Big Skate	15	15
WA Black Rockfish	18	18
Canary Rockfish	50	50
Darkblotched Rockfish	0.2	0.2
Dover Sole	1,497	1,497
English Sole	200	200
Lingcod N. of 40°10' N. lat.	250	250
Longnose Skate	130	220
Longspine Thornyhead N. of 34°27' N. lat.	30	30
Pacific cod	500	500
Pacific Ocean Perch	9.2	9.2
Pacific whiting	36,251	TBD
Petrale Sole	220	350
Sablefish N. of 36° N. lat.	604	689.2
Shortspine Thornyhead S. of 34°27 N. lat.	50	50
Spiny Dogfish	275	275
Widow rockfish	200	200
Yellowtail Rockfish	1,000	1,000
WA Cabezon/Kelp Greenling	-	2
Nearshore Rockfish North	1.5	1.5
Other Flatfish	60	60
Shelf Rockfish North	30	30
Slope Rockfish North	36	36

The Pacific Coast Tribes proposed trip limit management in Tribal fisheries for 2021–22 for several stocks, including several rockfish stocks and stock complexes. This rule proposes the trip limits for Tribal fisheries as provided to the Council at its April 2020 meeting in Supplemental Tribal Report 1, Agenda Item G.6.a. For rockfish stocks, Tribal regulations will continue to require full retention of all overfished rockfish stocks and marketable non-overfished rockfish stocks. The Pacific Coast Tribes will continue to develop management measures, including depth, area, and time restrictions, in the directed Tribal Pacific halibut fishery in order to minimize incidental catch of yelloweye rockfish.

C. Biennial Fishery Allocations

The Council routinely recommends 2-year trawl and nontrawl allocations during the biennial specifications process for stocks without formal allocations (as defined in Section 6.3.2 of the PCGFMP) or stocks where the long-term allocation is suspended because the stock is declared overfished. As part of the 2021–22 biennium, the Council also decided to revise the 2-year allocations for canary rockfish, as well as Petrale sole, widow rockfish, lingcod south of 40°10′ N lat., and the slope rockfish complex south of 40°10′ N lat., which were established through Amendment 21 to the PCGFMP (75 FR 32993, June 10, 2010), to better align these allocations with current harvest trends. The changes to these allocations are proposed as part of Amendment 29 to the PCGFMP (see I. Background).

The trawl and nontrawl allocations, with the exception of sablefish north of 36° N lat., are based on the fishery harvest guideline. The fishery harvest guideline is the tonnage that remains after subtracting the off-the-top deductions described in Section III., A, entitled ''Deductions from the ACLs,'' in this preamble. The trawl and nontrawl allocations and recreational harvest guidelines are designed to accommodate anticipated mortality in each sector as well as variability and uncertainty in those mortality estimates. Additional information on the Council's allocation framework and formal allocations can be found in Section 6.3 of the PCGFMP and § 660.55 of the Federal regulations. Allocations described below are detailed in the harvest specification tables appended to 50 CFR part 660, subpart C, in the regulatory text of this proposed rule.

The Council's recommended and NMFS' proposed allocations are shown Tables 1b and 2b in the proposed regulatory text for this proposed rule and summarized below.

Big Skate

The Council recommended and NMFS is proposing the allocations shown in Table 7 for big skate in 2021 and 2022. These allocations are anticipated to accommodate estimates of mortality of big skate, by sector, in 2021–22. Allocations of big skate are determined on a biennial basis. For 2021–22, the Council elected to maintain the current big skate split of 95 percent to the trawl fishery and 5 percent to the non-trawl fishery

resulting in a trawl allocation of 1,348.7 mt and a non-trawl allocation of 71 mt in 2021 and 2022. No further allocations or deductions are made.

Table 7 -- 2021 and 2022 Trawl/Nontrawl Allocations of Big Skate

	Percentage	2021 Allocation (mt)	2022 Allocation (mt)
Nontrawl	5	71	66.6
Trawl	95	1,348.7	1,265.1

Bocaccio South of 40°10′ N Lat.

Specifications for bocaccio are determined through the biennial specifications process. For 2021–22, the Council recommended and NMFS is proposing the allocations shown in Table 8 for bocaccio in 2021 and 2022, which maintain the allocation structure from the previous biennium. These allocations are anticipated to accommodate estimates of mortality of bocaccio, by sector, in 2021–22. In each year, the fishery harvest guideline is split with 39 percent going to the trawl sectors and 61 percent to the non-trawl sectors. For the trawl sector this results in an allocation of 663.8 mt in 2021 and 654.4 mt in 2022. The non-trawl sectors would receive 1,036.4 mt in 2021 and 1,021.8 mt in 2022. The non-trawl allocation is then distributed between the commercial (nearshore and non-nearshore fisheries) and California recreational fisheries. In 2021, the commercial sector would receive 30.9 percent of the non-trawl allocation or 320.2 mt, and the California recreational sector would receive 716.2 mt. In 2022, the same percentage would remain in place with the commercial sector receiving 315.7 mt and the California recreational sector receiving 706.1 mt.

Table 8 -- 2021 and 2022 Allocations of Bocaccio

	Percentage	2021 Allocation (mt)	2022 Allocation (mt)
Trawl	39	663.8	654.4
NonTrawl [a/]	61	1,036.4	1,021.8

[a/] The California recreational sector share of the nontrawl allocation is 716.2 in 2021 and 706.1 in 2022.

Canary Rockfish

The Council recommended and NMFS is proposing the allocations in Table 9 for canary rockfish in 2021 and 2022, which maintain the status quo proportions from the 2017–18 biennium, but also combine the commercial fixed gear harvest guideline for the nearshore and non-nearshore fisheries. These allocations are anticipated to accommodate estimates of mortality of canary rockfish, by sector, in 2021–22. For canary rockfish, the fishery harvest guideline is distributed to the trawl and non-trawl sectors with trawl receiving 72.3 percent and non-trawl sectors receiving 27.7 percent each year. In 2021, the trawl sector would receive 917 mt of canary rockfish, of which 36 mt would be deducted to account for bycatch in the at-sea sectors, and the remaining 881.2 mt would be distributed to the shorebased individual fishing quota (IFQ) sector. The non-trawl sector would receive 351.4 mt which is distributed to the commercial nontrawl (126.5 mt), WA recreational (43.2 mt), OR recreational (65 mt), and CA recreational (116.7 mt) fisheries. In 2022, the trawl sector would receive 894.6 mt of canary rockfish, of which 36 mt would be deducted to account for bycatch in the at-sea sectors, and the remaining 858.6 mt would be distributed to the shorebased IFQ sector. The non-trawl sector would receive 343.1 mt, which is distributed to the commercial nontrawl sector (123.5 mt), WA recreational (42.2 mt), OR recreational (63.5 mt), and CA recreational (113.9 mt) fisheries.

Table 9 -- 2021 and 2022 Allocations of Canary Rockfish

	2021 Allocation (mt)	2022 Allocation (mt)
Shorebased IFQ Program	881.2	858.6
At-sea Sectors	36	36
Nearshore/Non-nearshore	126.5	123.5
Washington recreational	43.3	42.2
Oregon recreational	65.1	63.5
California recreational	116.7	113.9

Cowcod

For 2021–22, the Council recommended and NMFS is proposing setting a cowcod ACT below the fishery harvest guideline at 50 mt, and having it function as a fishery harvest guideline similar to the ACT in the 2017–18 and 2019–20 bienniums. The ACT would be allocated across groundfish fisheries. Table 9 shows the trawl/nontrawl allocations for cowcod for 2021 and 2022. NMFS anticipates the proposed allocation structure will keep catch below the 2021–22 cowcod ACT. The ACT is distributed to the trawl and non-trawl sectors, with the trawl sector receiving 36 percent and the non-trawl sector receiving 64 percent each year. In 2021 and 2022, the trawl sector would receive 18 mt of cowcod. The non-trawl sector would receive 32 mt, which is distributed to the commercial and recreational sectors as a 50/50 split.

Table 9 -- 2021 and 2022 Trawl/Nontrawl Allocations of Cowcod

	Percentage	2021 Allocation (mt)	2022 Allocation (mt)
Nontrawl	64	18	18
Trawl	36	32	32

Lingcod South of 40°10′ N Lat.

The Council recommended and NMFS is proposing the trawl/nontrawl allocations for lingcod south of 40°10′ N lat. in Table 10. These allocations are anticipated to accommodate estimates of mortality of lingcod, by sector, in 2021–22. Specifications of lingcod south of 40°10′ N lat. were established through Amendment 21 with a trawl/non-trawl allocation set at 45 percent to trawl and 55 percent to non-trawl. For the 2021–22 biennium, the Council recommended revising the fixed percentages through Amendment 29 to the PCGFMP to better align with current catch levels and provide some relief to the nontrawl sector which is usually constrained by lingcod south of 40°10′ N lat. Therefore, beginning with the 2021–22 biennium, the Council recommended and NMFS is proposing changing trawl/non-trawl allocations of lingcod south of 40°10′ N lat., so that 40 percent of the harvest guideline for lingcod south of 40°10′ N lat. is allocated to the trawl sector and 60 percent is allocated to the nontrawl sector. In 2021, the distribution results in 435.6 mt to the trawl sector and 653.4 mt to the non-trawl sectors. In 2022, the distribution results in 463.6 mt to the trawl sectors and 695.4 mt to the non-trawl sectors. No further allocations or distributions are made. The NOA for Amendment 29 is available for public comment (see **ADDRESSES**).

Table 10 -- 2021 and 2022 Trawl/Nontrawl Allocations of Lingcod south of 40°10' N. lat.

	Percentage	2021 Allocation (mt)	2022 Allocation (mt)
Nontrawl	60	435.6	463.6
Trawl	40	653.4	695.4

Longnose Skate

The Council recommended and NMFS is proposing the trawl/nontrawl allocations for longnose skate in Table 11. The allocation percentages, 90 percent to trawl and 10 percent to nontrawl, reflect historical catch of longnose skate in the two sectors. These allocations are anticipated to accommodate estimates of mortality of longnose skate rockfish, by sector, in 2021–22. In 2021, the 90/10 distribution results in 1,414.4 mt to the trawl sectors and 157.2 mt to the non-trawl sectors. In 2022, the distribution results in 1,358.6 mt to the trawl sectors and 151 mt to the non-trawl sectors.

Table 11 -- 2021 and 2022 Trawl/Nontrawl Allocations of Longnose Skate

	Percentage	2021 Allocation (mt)	2022 Allocation (mt)
Nontrawl	10	157.2	151
Trawl	90	1,414.4	1,358.6

Minor Shelf Rockfish

Allocations for Minor Shelf Rockfish are recommended by the Council and proposed by NMFS for each biennial cycle. The proposed allocations for 2021 and 2022 are shown in Table 12. Specifications for the shelf rockfish complex north of 40°10′ N lat. were established through the biennial process with a trawl/non-trawl allocation for the 2021–22 specifications of 60.2 percent to trawl sectors and 39.8 percent to non-trawl sectors. In 2021, the distribution results in 864.2 mt to the trawl sectors and 571.4 mt to the non-trawl sectors. In 2022, the distribution results in 827.5 mt to the trawl sectors and 547.1 mt to

the non-trawl sectors. Of the amount going to the trawl sectors, 35 mt is deducted each year from the trawl allocation to account for bycatch in the at-sea whiting sectors, with the remaining 829.2 mt in 2021 and 792.49 mt in 2022 going to the shorebased IFQ fishery. No further allocations or distributions are made.

Specifications for the shelf rockfish complex south of 40°10′ N lat. were established through the biennial process with a trawl/non-trawl allocation for the 2021–22 specifications of 12.2 percent to trawl sectors and 87.8 percent to non-trawl sectors. In 2021, the distribution results in 161.7 mt to the trawl sectors and 1,163.6 mt to the non-trawl sectors. In 2022, the distribution results in 160.5 mt to the trawl sectors and 1,154.8 mt to the non-trawl sectors. No further allocations or distributes are made.

Table 12 -- Trawl/Nontrawl Allocations for Minor Shelf Rockfish North and South of 40°10' N. lat.

		Percentage	2021 Allocations (mt)	2022 Allocations (mt)
Minor Shelf Rockfish north of 40°10' N. lat.	Trawl	60.2	866	827.5
	Nontrawl	39.8	572.5	547.1
Minor Shelf Rockfish south of 40°10' N. lat.	Trawl	12.2	159.2	160.5
	Nontrawl	87.8	1,146	1,154.8

Slope Rockfish Complex

The slope rockfish complex south of 40°10′ N lat. is a fixed allocation with a trawl/non-trawl allocation of 63 percent to trawl and 37 percent to non-trawl. For the 2021–22 biennium, the Council recommended the fixed allocation be revised through Amendment 29 to the PCGFMP and made into a 2-year allocation, with custom shares for blackgill rockfish, to be reviewed each biennium. In 2021, the distribution results in 556.9 mt to the trawl sectors and 152.1 mt to the non-trawl sectors. In 2022, the distribution results in 515.6 mt to the trawl sectors and 142.1 mt to the non-trawl sectors. The NOA for Amendment 29 is open for public comment (see **ADDRESSES**).

Table 13 -- Trawl/Nontrawl Allocations for Minor Slope Rockfish South of 40°10' N. lat.

Category	2021 Allocations (mt)		2022 Allocations (mt)	
	Trawl	NonTrawl	Trawl	NonTrawl
Blackgill rockfish shares	72.4 (41%)	104.2 (59 %)	71.4 (41%)	102.7 (59%)
"Other slope rockfish" shares	484.5 (91%)	47.9 (9%)	483.2(91%)	47.8 (9%)
Total Share (mt)	556.9	152.1	554.5	150.5
Percentage of Total Share	78.5	21.5	78.6	21.4

Petrale Sole

The Council recommended and NMFS is proposing the trawl/nontrawl allocations for Petrale sole in Table 14. These allocations are anticipated to accommodate estimates of mortality of Petrale sole, by sector, in 2021–22. Petrale sole has a fixed allocation with a trawl/non-trawl allocation of the fishery harvest guideline of 95 percent to the trawl fishery and 5 percent to the non-trawl fishery. As part of the 2021–22 biennium, the Council recommended changing the fixed allocation to a biennial allocation through Amendment 29 to the PCGFMP and revising the percentages to better align with current catch by sector. Therefore, beginning in 2021, specifications for Petrale sole will be determined as part of the biennial specifications process. For the 2021–22 biennium, 30 mt of Petrale sole will be allocated to the nontrawl sector and the remainder will go to the trawl sector each year. This would shift around 150 and 130 mt to the shorebased IFQ sector in 2021 and 2022, respectively, and would not constrain the nontrawl sector. In 2021, the distribution results in 3,697.9 mt to the trawl sector. In 2022, the trawl sector would receive 3,242.5 mt. The NOA for Amendment 29 is open for public comment (see **ADDRESSES**).

Table 14 -- 2021 and 2022 Trawl/Nontrawl Allocations of Petrale Sole

	Percentage	2021 Allocation (mt)	2022 Allocation (mt)
Nontrawl	-	30	30
Trawl	-	3,697.9	3,242.5

Widow Rockfish

The Council recommended and NMFS is proposing the trawl/nontrawl allocations for Widow rockfish in Table 15. These allocations are anticipated to accommodate estimates of mortality of widow rockfish, by sector, in 2021–22. Widow rockfish is an Amendment 21 species with a trawl/non-trawl allocation of the fishery harvest guideline of 91 percent to the trawl fishery and 9 percent to the non-trawl fishery. As part of the 2021–22 biennium, and through Amendment 29 to the PCGFMP, the Council recommended making it a biennial allocation and providing a fixed amount to the nontrawl sector to better align with current catch by sector. Therefore, beginning in 2021, specifications for widow rockfish will be determined as part of the biennial specifications process. For the 2021–22 biennium, 400 mt of widow rockfish will be allocated to the nontrawl sector and the remainder will go to the trawl sector each year. This would shift just under 1,000 mt of widow rockfish to the shorebased IFQ sector in 2021 and 2022, and would not constrain the nontrawl sector. In 2021, the distribution results in 14,076.7 mt to the trawl sector. In 2022, the trawl sector would receive 13,139.7 mt. The NOA for Amendment 29 is open for public comment (see **ADDRESSES**).

Table 15 -- 2021 and 2022 Trawl/Nontrawl Allocations of Widow Rockfish

	Percentage	2021 Allocation (mt)	2022 Allocation (mt)
Nontrawl	-	400	400
Trawl	-	14,076.7	13,139.7

D. Corrections to Waypoints for Rockfish Conservation Areas

Rockfish Conservation Areas (RCAs) are large area closures intended to reduce the catch of a stock or stock complex by restricting fishing activity at specific depths. The boundaries for RCAs are defined by straight lines connecting a series of latitude and longitude coordinates that approximate depth contours. These sets of coordinates, or lines, are not gear or fishery specific, but can be used in combination to define an area. NMFS then implements fishing restrictions for a specific gear and/or fishery within each defined area.

For the 2021–22 biennium, the Council recommended and NMFS is proposing minor adjustments to the 40 fathom (fm) depth contour offshore of San Mateo in Central California, and the 100 fm depth contours off of California to more accurately refine the depth contours, as well as the addition of a 100 fm line around the Channel Islands. See Chapter 2 of the Analysis for more details on these changes.

E. Limited Entry Trawl

The limited entry trawl fishery is made up of the shorebased IFQ program, whiting and non-whiting, and the at-sea whiting sectors. For some stocks and stock complexes with a trawl allocation, an amount is first set-aside for the at-sea whiting sector with the remainder of the trawl allocation going to the shorebased IFQ sector. Set-asides are not managed by NMFS or the Council except in the case of a risk to the ACL.

At-Sea Set Asides

For several species, the trawl allocation is reduced by an amount set-aside for the at-sea whiting sector. This amount is designed to accommodate catch by the at-sea whiting sector when they are targeting Pacific whiting. The Council considered several proposals to generate amounts for these set-asides. After much discussion and analysis, the Council is recommending and NMFS is proposing the set-asides in Table 16 for the 2021–22 biennium.

Table 16 -- 2021–22 At-sea Set-asides for Vessels Targeting Pacific Whiting While Fishing as Part of the At-sea Sector

Stock or Stock Complex	Area	At-sea Set Aside Amount (mt)
Arrowtooth Flounder	Coastwide	70
Canary rockfish	Coastwide	36
Darkblotched rockfish	Coastwide	76.4
Dover sole	Coastwide	10
Lingcod	N. of 40°10' N. lat.	15
Longnose skate	Coastwide	5
Minor shelf rockfish	N. of 40°10' N. lat.	35
Minor slope rockfish	N. of 40°10' N. lat.	300
Other flatfish	Coastwide	35
Pacific halibut [b/]	Coastwide	10
Pacific ocean perch	N. of 40°10' N. lat.	300
Petrale sole	Coastwide	5
Sablefish	N. of 36° N. lat.	100
Shortspine thornyhead	N. of 34°27' N. lat.	70
Widow rockfish	Coastwide	476
Yellowtail rockfish	N. of 40°10' N. lat.	320

Incidental Trip Limits for IFQ Vessels

For vessels fishing in the Shorebased IFQ Program, with either groundfish trawl gear or nontrawl gears, the following incidentally-caught stocks are managed with trip limits: Minor Nearshore Rockfish north and south, black rockfish, cabezon (46°16′ to 40°10′ N lat. and south of 40°10′ N lat.), spiny dogfish, shortbelly rockfish, big skate, Pacific whiting, and the Other Fish complex. For all these stocks except big skate, this rule proposes maintaining the same IFQ fishery trip limits for these stocks for the start of the 2021–22 biennium as those in place in 2019. For big skate, the Council proposes an unlimited trip limit to start the 2021 fishing year. Additionally, the Council is recommending and NMFS is proposing a trip limit for blackgill rockfish within the southern slope rockfish complex. The trip limit would be unlimited to start the 2021 fishing year. The purpose of the blackgill trip limit would be to allow the Council to reduce targeting of blackgill rockfish inseason, if needed. Trip limits for the IFQ fishery can be found in Table 1 North and Table 1 South to part 660, subpart D, in the regulatory text of this proposed rule. Changes to trip limits would be considered a routine measure under § 660.60(c), and may be implemented or adjusted, if determined necessary, through inseason action.

F. LEFG and OA Nontrawl Fishery

Management measures for the LEFG and OA nontrawl fisheries tend to be similar because the majority of participants in both fisheries use hook-and-line gear. Management measures, including area restrictions (*e.g.,* nontrawl RCA) and trip limits in these nontrawl fisheries, are generally designed to allow harvest of target stocks while keeping catch of overfished stocks low. For the 2021–22 biennium, the Council considered increasing trip limits for almost all LEFG and OA fisheries, many of which are decades old and do not reflect stocks rebuilding in previous biennium and management changes (*e.g.,* stock complex reorganizations). LEFG and OA trip limits are specified in Table 2 (North), Table 2 (South) to subpart E for LEFG and in Table 3 (North) and Table 3 (South) to subpart F for OA in the regulatory text of this proposed rule.

Sablefish Trip Limits

Sablefish are managed separately north and south of 36° N lat. For the portion of the stock north of 36° N lat., the Council recommended and NMFS is proposing higher trip limits for the LEFG and OA fisheries in 2021. For the portion south of 36° N lat., the Council recommended removing the daily trip limit for the OA fishery but maintaining the same weekly and bimonthly trip limits as were in place in the start of 2019. The proposed sablefish trip limits for 2021–22 are shown in Table 17.

Table 17 -- Sablefish Trip Limits for Limited Entry and Open Access Sectors North and South of 36° N. lat.

Sector	Area	Jan-Feb	Mar-Apr	May-Jun	Jul-Aug	Sept-Oct	Nov-Dec
Limited entry	north of 36° N. lat.	1,700 lb (771 kg)/week; not to exceed 5,100 lb (2,313 kg) bi-monthly					
	south of 36° N. lat.	2,000 lb (907 kg)/week					
Open Access	north of 36° N. lat.	300 lb (136 kg) daily, or one landing per week up to 1,400 lb (635 kg), not to exceed 2,800 lb (1,270 kg) bi-monthly					
	south of 36° N. lat.	1,600 lb (726 kg)/week; not to exceed 4,800 lb (2177 kg) bimonthly					

LEFG and OA Trip Limits

The Council recommended, and NMFS is proposing higher trip limits for LEFG and OA fisheries in 2021, including trip limits for shortspine thornyhead, longspine thornyhead, widow rockfish, shelf rockfish, shortbelly rockfish, canary rockfish, Pacific ocean perch, yellowtail rockfish, slope rockfish, darkblotched rockfish, Lingcod, nearshore rockfish, black rockfish, Other Flatfish, bocaccio south of 40°10′ N lat., and chilipepper rockfish (Agenda Item G.6.a., Supplemental GMT Report 2, April 2020). These increases in trip limits are meant to help members of industry harvest more fish while still keeping total mortality within the ACLs for these stocks and stock complexes. Further information on these trip limits can be found in Section 4.3.5.1 of the Analysis.

As part of the Council's recommended trip limits for the LEFG and OA fisheries, the Council established an OA trip limit for shortspine and longspine thornyheads in the area between 40°10′ N lat. and 34°27′ N lat. As part of the Council's action during the 2019–20 biennium, the Council recommended and NMFS implemented, trip limits for OA fisheries for shortspine and longspine thornyheads north of 40°10′ N. lat. and south of 34°27′ N lat., but inadvertently omitted the trip limit for the area between 40°10′ N lat. and 34°27′ N lat., leaving this area closed. The Council is recommending, and NMFS is proposing, implementing a 50 lb (22.7 kg) per month limit for OA fisheries targeting shortspine and longspine thornyheads in the area between 40°10′ N lat. and 34°27′ N lat. This is the same trip limit currently proposed for OA fisheries targeting shortspine and longspine thornyheads north of 40°10′ N lat. See Section 4.5.6.1 of the Analysis for more information on this change.

Primary Sablefish Tier Limits

Some limited entry fixed gear permits are endorsed to receive annual sablefish quota, or tier limits. Vessels registered with one, two, or up to three of these permits may participate in the primary sablefish fishery. The proposed tier limits are as follows: In 2021, Tier 1 at 58,649 lb (26,602 kg), Tier 2 at 26,659 lb (12,092 kg), and Tier 3 at 15,234 lb (6,910 kg). For 2022, Tier 1 at 55,858 lb (25,337 kg), Tier 2 at 25,390 lb (11,517 kg), and Tier 3 at 14,509 lb (6,581 kg).

Yellowtail Trip Limit for the Salmon Troll Fishery North of 40°10′ N lat.

During public comment at the November 2019 Council meeting, there was a request to increase the yellowtail rockfish ratio and monthly limits in the salmon troll fishery north of 40°10′ N lat. The current ratio and limit are 1lb (0.45 kg) of yelloweye rockfish for every 2 lb (0.9 kg) of salmon landed, with a 200 lb (91 kg) monthly limit. As part of the 2017–18 biennial cycle, yellowtail rockfish was removed from the OA multi-stock trip limit, and a new separate trip limit of 500 lb (227 kg) per month was recommended by the Council and implemented by NMFS; however, the salmon troll yellowtail rockfish trip limit did not reflect this change. Agenda Item G.6., Attachment 3 (April 2019) contains a detailed analysis of the salmon troll trip limits considered by the Council. After consideration of the detailed analysis, the Council recommended and NMFS is proposing increasing the yellowtail rockfish limit in the salmon troll fishery north of 40°10′ N lat. from 200 lbs (91 kg) to 500 lbs (227 kg) and removing the ratio for yellowtail to salmon.

Removal of Other Flatfish Gear Restriction Off California

Currently, Federal regulations in Table 2 (South) to Part 660, Subpart E and Table 3 (South) to Part 660, Subpart F include a gear restriction for vessels targeting stocks in the Other Flatfish complex south of 42° N lat. while inside the boundaries of the nontrawl RCA. The gear restriction limits the number of hooks per line, size of the hooks, and the number and size of the weights. Other flatfish include butter sole, curlfin sole, Pacific sanddab, rex sole, rock sole, and sand sole, as defined in 50 CFR 660.11. This management measure was originally implemented in 2003 to protect bocaccio, which was overfished at that time and was thought to provide protections to other overfished groundfish stocks in following years (*e.g.,* Petrale sole) while still allowing an artisanal sanddab fishery off California. However, it was determined in subsequent cycles that it was not effective at preventing bycatch of overfished species. During the 2009–10 harvest specifications cycle, this restriction was removed from regulations for the recreational fishery but was kept for the commercial fishery.

Since this measure was first implemented the stocks it was intended to protect have all been rebuilt while the Other Flatfish complex continues to be under-attained. Therefore, to provide more opportunity to target stocks in the Other Flatfish complex, the Council recommended and NMFS is proposing removing the gear restrictions for the LEFG and OA fisheries targeting stocks in the Other Flatfish complex inside the RCA south of 42° N lat.

Nontrawl RCA Adjustments

Increasing the LEFG and OA trip limits, as proposed in Section III, F., LEFG and OA Fishery, of this proposed rule is one way to help increase attainment of many currently under-attained species. However, as has been discussed under public comment at Council meetings during development of this action, increasing trip limits without providing access to the areas where those fish can be found does little to help with attainments. Therefore, as part of the 2021–22 biennium, the Council recommended and NMFS is proposing the following changes to the Nontrawl RCA off Oregon and Washington:

- Between 40°10′ N lat. and 46°16′ N lat. (the Oregon-Washington border): Open the area between the 30- and 40-fm management lines to hook-and-line gear except bottom longline and dinglebar, as defined in the ''general definitions'' section of the Federal regulations at 50 CFR 660.11;
- Between 38°57.5′ N lat. and 34°27′ N lat., (Point Arena to Point Conception): Open the area between 40 fm and 50 fm; and
- South of 34°27′ N lat.: Open the area between 75 fm and 100 fm.

These proposals, along with the proposed changes to recreational conservation areas (discussed in Section III, H., Recreational Fisheries) will provide much needed access to these areas for the LEFG and OA fisheries to better attain their trip limits. Section 4.7.2 of the Analysis provides a detailed assessment of the impacts of these openings. Nontrawl RCA closures can be found in the LEFG and OA trip limits in Table 2 (North), Table 2 (South) to subpart E for LEFG and in Table 3 (North) and Table 3 (South) to subpart F for OA in the proposed regulatory text of this proposed rule.

As provided in the Analysis, the purpose of opening these areas is to provide LEFG and OA fisheries access to areas where they can catch abundant target stocks, such as bocaccio, canary rockfish, yellowtail rockfish, and widow rockfish. All of these stocks have been underutilized by the LEFG and OA fisheries since they were rebuilt due to limited access to the areas where they can be found. Opening these areas of the nontrawl RCA, many of which are currently already open to other types of fishing (*i.e.,* trawl or recreational fishing with hook and line gear), along with the increased LEFG and OA trip limits for many of these stocks and stock complexes will likely result in greater attainment of the nontrawl allocations and therefore the ACLs without increasing the risks of exceeding these limits.

New Management Line at 38°57.5′ N lat.

In order to make some of the proposed changes to the Nontrawl RCA, the Council also recommended and NMFS is proposing creating a new management line at 38°57.5′ N lat., which is Point Arena, California. Point Arena is already defined in Federal regulations under the definition for North-South Management Areas, as a commonly used geographic coordinate.

H. Recreational Fisheries

This section describes the recreational fisheries management measures proposed for 2021–22. The Council primarily recommends depth restrictions and groundfish conservation areas to constrain catch within the recreational harvest guidelines for each stock. Washington, Oregon, and California each proposed, and the Council recommended, different combinations of seasons, bag limits, area closures, and size limits for stocks targeted in recreational fisheries. These measures are designed to limit catch of overfished stocks found in the waters adjacent to each state while allowing target fishing opportunities in their particular recreational fisheries. The following sections describe the recreational management measures proposed in each state.

Washington

The state of Washington manages its marine fisheries in four areas: Marine Area 1 extends from the Oregon/Washington border to Leadbetter Point; Marine Area 2 extends from Leadbetter Point to the mouth of the Queets Rivers; Marine Area 3 extends from the Queets River to Cape Alava; and Marine Area 4 extends from Cape Alava to the Sekiu River. This proposed rule would adopt the following season structure in Table 18.

Table 18 -- Washington Recreational Fishing Season Structure

Marine Area	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
3 and 4 (North Coast)	Closed		Open		Open<20 fm June 1-August 31 [a/ b/]				Open		Closed	
2 (South Coast)	Closed		Open [c/d/]			Open [d/]					Closed	
1 (Columbia River)	Closed		Open [e/ f/]								Closed	

a/ Retention of lingcod, Pacific cod and sablefish allowed >20 fm on days when Pacific halibut is open.
b/ Retention of yellowtail and widow rockfish is allowed > 20 fm in July.
c/ From May 1 through May 31 lingcod retention prohibited > 30 fathoms except on days that the primary halibut season is open.
d/ When lingcod is open, retention is prohibited seaward of line drawn from Queets River (47°31.70' N. lat. 124°45.00' W. Lon.) to Leadbetter Point (46° 38.17' N. lat. 124°30.00' W. Lon.), except on days open to the primary halibut fishery and, June 1 – 15 and September 1 - 30.
e/ Retention of groundfish allowed during the all-depth Pacific halibut fishery. Lingcod retention is only allowed north of the WA-OR border with halibut on board.
f/ Retention of lingcod is prohibited seaward of a line drawn from Leadbetter Point (46° 38.17' N. lat. 124°21.00' W. Lon.) to 46° 33.00' N. lat. 124°21.00' W. Lon. year round except lingcod retention is allowed from June 1 - June 15 and Sept 1 - Sept 30.

The aggregate groundfish bag limits in waters adjacent to Washington would continue to be nine fish in all areas with a sub-bag limit for cabezon (one per day), rockfish (seven per day), and lingcod (two per day). The flatfish limit would increase from three fish to five fish, and is not counted towards the groundfish bag limit of nine but is in addition to it. The Council recommended these season and bag limit changes, which allow more access to target stocks with fewer restrictions.

Consistent with the 2019–20 biennium, the Council recommended and NMFS is proposing to continue to prohibit recreational fishing for groundfish and Pacific halibut inside the North Coast Recreational Yelloweye Rockfish Conservation Area (YRCA), a C-shaped closed area off the northern Washington coast. However, the Council recommended and NMFS is proposing opening the South Coast Recreational YRCA and the Westport Offshore YRCA to recreational fishing for the 2021–22 biennium. Coordinates for YRCAs are defined at § 660.70.

Opening the South Coast Recreational YRCA and the Westport Offshore YRCA would provide additional access to healthy underutilized stocks. Originally closed to recreational fishing in 2007 to protect canary rockfish and yelloweye rockfish, these closures may no longer be needed since canary rockfish has been rebuilt and higher harvest guidelines were implemented for yelloweye rockfish. As stated by the Washington Department of Fish and Wildlife (WDFW) in their analysis for this proposal, the additional impacts to target and non-target species expected from allowing recreational hook-and-line fishing in these areas would be minimal because the areas to be opened are very small, particularly in comparison to the overall area used by Washington recreational fisheries (Agenda Item F.1.a, Supplemental WDFW Report 1, June 2020).

Oregon

The Council proposed that Oregon recreational fisheries in 2021–22 would operate under an all months all depths season structure to start the 2021 fishing year. The Council proposed maintaining the 2019–20 aggregate bag limits and size limits in Oregon recreational fisheries for 2021–22. The proposed limits are: Three lingcod per day, with a minimum size of 22 in (56 cm); 25 flatfish per day, excluding Pacific halibut; and a marine fish aggregate bag limit of 10 fish per day, where cabezon have a minimum size of 16 in (41 cm).

The ODFW also requested that the Council consider allowing longleader gear fishing and ''all-depth'' Pacific halibut fishing on the same trip, which had been requested by Oregon anglers during discussion of the 2019 Pacific halibut Catch Sharing Plan process. Currently, combining the two trip types is prohibited; this prohibition was meant to limit interactions with yelloweye rockfish.

Impacts to yelloweye rockfish or other species of concern (*e.g.,* Chinook and Coho salmon) are unlikely to increase significantly under this proposed change as effort is not expected to increase by much. Instead, removing the prohibition would allow anglers already participating in one or the other fisheries to have additional opportunity while offshore. As ODFW's analysis to the Council shows (Agenda Item F.1.a, June 2020), over the past 2 years that the longleader gear fishery has been allowed to operate, the average encounter rates of yelloweye rockfish, Chinook salmon, and Coho salmon has been extremely low at around 0.02, 0.6, and 6 fish per angler, respectively. When added to the encounters from the traditional bottomfish fishery, the total annual encounters would not be much different than the recent years' total estimates, and should not increase the potential for the total groundfish salmon thresholds to be reached or exceeded. Therefore the Council recommended and NMFS is proposing removing the prohibition on combining Oregon longleader trips with all depths halibut trips.

California

The Council manages recreational fisheries in waters adjacent to California in five separate management areas. Season and area closures differ between California management areas to limit incidental catch of overfished stocks while providing as much recreational fishing opportunity as possible. The Council's proposed California season structure includes additional time and depth opportunities, which are supported by the proposed increase to the yelloweye rockfish ACL described in Section C. Table 19 shows the proposed season structure and depth limits by management area for 2021 and 2022.

Table 19 -- Proposed Season Structure and Depth Limits by Management Area for 2021 and 2022

Management Area	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Northern (42° N. lat. to 40°10' N. lat.)	CLOSED				May 1-October 31 <30 fm						All Depths	
Mendocino (40°10' N. lat. to 38°57.50' N. lat.)	CLOSED				May 1-October 31 <30 fm						All Depths	
San Francisco (38°57.50' N. lat. to 37°11' N. lat.)	CLOSED			April 1-December 31 <50 fm								
Central (37°11'N. lat. to 34°27' N. lat.)	CLOSED			April 1-December 31 <50 fm								
Southern (South of 34°27' N. lat)	CLOSED		March 1-December 31 <50 fm									

The Council recommended that size limits would remain the same as for 2020 for all stocks. However, the Council recommended and NMFS is proposing to eliminate the sub-bag limits for black rockfish, canary rockfish, and cabezon, and establish a sub-bag limit for vermillion rockfish of five fish.

J. Exempted Fishing Permits

This action is authorized by the PCGFMP and the regulations implementing the Magnuson-Stevens Act at 50 CFR 600.745, which state that EFPs may be used to authorize fishing activities that would otherwise be prohibited.

At its June 2020 meeting, the Council recommended that NMFS approve five EFP applications for the 2021 fishing year and preliminarily approve the EFP applications for the 2022 fishing year. The Council considered these EFP applications concurrently with the 2021–2022 biennial harvest specifications and management process because expected catch under most EFP projects is included in the catch limits for groundfish stocks. Three of the EFP applications are renewals, and request to test hook-and-line gear that selectively targets underutilized, midwater rockfish species (*e.g.,* yellowtail rockfish) while avoiding overfished, bottom-dwelling rockfish species (*e.g.,* yelloweye rockfish). An EFP is necessary for these activities because they will all occur in the non-trawl RCA, which is closed to fishing with non-trawl fixed gear to protect overfished groundfish stocks. The other two EFP applications are new, and request to retain certain prohibited species in order to collect fishery-dependent data for potential use in upcoming stock assessments. A summary of each EFP application is provided below:

• *Groundfish EFP Proposal—Yellowtail Rockfish Jig Fishing off California:* The San Francisco Community Fishing Association (SFCFA) and private open access fisherman Daniel Platt submitted a renewal application for research that has been conducted since 2013. The purpose of the EFP project is to continue testing the potential for a commercial jig gear configured to target underutilized, midwater yellowtail and shelf rockfish species while avoiding the rebuilding, bottom-dwelling yelloweye rockfish. The EFP project would require exemptions from: (1) The prohibition to fish inside the non-trawl RCA with non-trawl gear (see § 660.330(d)(12)(i)); (2) the prohibition on transiting through the non-trawl RCA without non-trawl gear stowed (see § 660.330(d)(12)(ii)); and (3) the prohibition on retaining and landing groundfish harvested from inside the non-trawl RCA with non-trawl gear (see § 660.330(d)(12)(iii)). If approved, NMFS would authorize up to seven vessels to target midwater rockfish inside the non-trawl RCA off the California coast—specifically between 40° 10′ north latitude (N lat.) and Point Conception, California, at depths ranging from 35 to 150 fathoms (64 to 274 meters (m)).

• *Groundfish EFP Proposal—Commercial Midwater Hook-and-Line Rockfish Fishing in the RCA off the Oregon Coast:* Scott Cook, a private fisherman of Coos Bay, Oregon submitted a renewal application to continue research that has been conducted since 2019. The purpose of the EFP project is to test a modified, midwater trolled longline gear configured to target underutilized, midwater yellowtail, widow, and canary rockfish, while avoiding the rebuilding, bottom-dwelling yelloweye rockfish. The EFP project would require exemptions from: (1) The prohibition to fish inside the non-trawl RCA with non-trawl gear (see § 660.330(d)(12)(i)); (2) the prohibition on transiting through the non-trawl RCA without non-trawl gear stowed (see § 660.330(d)(12)(ii)); and (3) the prohibition on retaining and landing groundfish harvested from inside the non-trawl RCA with non-trawl gear (see § 660.330(d)(12)(iii)). If approved, NMFS would authorize up to five vessels to target midwater rockfish inside the non-trawl RCA off the Oregon Coast—specifically in the rocky reef habitat at depths ranging from 30 to 100 fathoms (55 to 183 m).

• *Groundfish EFP Proposal—Monterey Bay Regional EFP Chilipepper Rockfish:* Real Good Fish of Moss Landing, California submitted a renewal application to continue research that has been conducted since 2019. The purpose of the EFP project is to test a trolled hook-and-line gear configured to target underutilized, midwater chilipepper rockfish and avoid the rebuilding, bottom-dwelling yelloweye rockfish. The EFP project would require exemptions from: (1) The prohibition to fish inside the non-trawl RCA with non-trawl gear (see § 660.330(d)(12)(i)); (2) the prohibition on transiting through the non-trawl RCA without non-trawl gear stowed (see § 660.330(d)(12)(ii)); and (3) the prohibition on retaining and landing groundfish harvested from inside the non-trawl RCA with non-trawl gear (see § 660.330(d)(12)(iii)). If approved, NMFS would authorize up to 10 vessels to target midwater rockfish inside the non-trawl RCA off the California coast—specifically in areas with canyon edges and walls that have historically produced high volumes of chilipepper rockfish catch and at depths ranging from 40 to 150 fathoms (73 to 274 m).

• *Groundfish EFP Proposal—California Department of Fish and Wildlife 2021–2022 EFP:* The California Department of Fish and Wildlife (CDFW) submitted a new EFP application to collect fishery-dependent biological data for cowcod for inclusion in future stock assessments. The EFP project would require an exemption from the prohibition to retain cowcod in the California recreational fishery (see § 660.360(c)(3)). The EFP would also provide that any cowcod taken and retained would not count against the recreational bag limit for the aggregate of rockfish, cabezon, and greenlings. If approved, NMFS would authorize up to 20 vessels that participate in the California recreational fishery to retain cowcod and transfer the cowcod to CDFW groundfish staff upon landing.

• *Groundfish EFP Proposal—Washington Department of Fish Wildlife Enhanced Yelloweye Recreational Fishery Biological Sampling EFP:* The Washington Department of Fish and Wildlife (WDFW) submitted a new EFP application to collect fishery-dependent biological data for yelloweye rockfish for inclusion in future stock assessments. The EFP project would require an exemption from the prohibition to retain yelloweye rockfish in the Washington recreational fishery (see § 660.360(c)(1)(ii)). The EFP would also provide that any yelloweye rockfish taken and retained would not count against the recreational bag limit for rockfish. If approved, NMFS would authorize up to 10 vessels that participate in the Washington recreational fishery to retain yelloweye rockfish and transfer the yelloweye rockfish to WDFW staff upon landing.

During the 2-year period of EFP activities from 2021 to 2022, all vessels participating in the non-trawl RCA EFP projects (*i.e.,* the renewal applications submitted by the SFCFA, Scott Cook, and Real Good Fish) would adhere to EFP set-asides for targeted and incidental groundfish and other species, which were considered and approved by the Council at their June 2020 meeting. These EFP set-asides are off-the-top deductions from the 2021–2022 applicable ACLs, meaning any landings and discards that occur under these EFPs would be accounted for within the applicable ACLs. These vessels are also required to have 100 percent observer coverage. All cowcod mortality under the CDFW EFP project is expected to

occur in conjunction with routine recreational fishing activities and will be calculated as part of the normal recreational catch estimation process. All yelloweye rockfish taken under the WDFW EFP project would be counted against the Washington recreational harvest guideline for yelloweye rockfish. NMFS would not require 100 percent observer coverage for vessels participating in the CDFW and WDFW EFP projects because recreational vessels do not meet the minimum size requirements under Federal regulations to carry an observer.

NMFS does not expect any impacts to the environment, essential fish habitat, or protected or prohibited species from these EFPs beyond those analyzed for the groundfish fishery as a whole in applicable biological opinions [3] [4] or the draft Environmental Assessment (EA) for the Pacific Coast Groundfish Fishery 2021–2022 Harvest Specifications and Management Measures.[5]

After publication of this document in the **Federal Register**, NMFS may approve and issue permits for the proposed EFP projects for the 2021 fishing year after the close of the public comment period. All five EFP applications are available under ''Supporting and Related Materials'' (see **ADDRESSES**). NMFS will consider comments submitted in deciding whether to approve the applications as requested. NMFS may approve the applications in their entirety or may make any alterations needed to achieve the goals of the EFP projects. NMFS would not issue another **Federal Register** notice soliciting public comment on renewing these EFP projects for 2022 unless: (1) The applicants modify and resubmit their applications to NMFS; (2) changes to relevant fisheries regulations warrant a revised set of exemptions authorized under the EFP projects; or (3) NMFS' understanding of the current biological and economic impacts from EFP fishing activities substantially changes.

IV. Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the PCGFMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment. In making its final determination, NMFS will take into account the complete record, including the data, views, and comments received during the comment period.

Pursuant to Executive Order 13175, this proposed rule was developed after meaningful consultation and collaboration with tribal officials from the area covered by the PCGFMP. Under the Magnuson-Stevens Act at 16 U.S.C. 1852(b)(5), one of the voting members of the Pacific Council must be a representative of an Indian tribe with federally recognized fishing rights from the area of the Council's jurisdiction. In addition, regulations implementing the PCGFMP establish a procedure by which the tribes with treaty fishing rights in the area covered by the PCGFMP request new allocations or regulations specific to the tribes, in writing, before the first of the two meetings at which the Council considers groundfish management measures. The regulations at 50 CFR 660.324(d) further direct NMFS to develop tribal allocations and regulations in consultation with the affected tribes. The tribal management measures in this proposed rule have been developed following these procedures. The tribal representative on the Council made a motion to adopt the non-whiting tribal management measures, which was passed by the Council. Those management measures, which were developed and proposed by the tribes, are included in this proposed rule.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866. This proposed rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

NMFS prepared an integrated Analysis for this action, which addresses the statutory requirements of the Magnuson-Stevens Act, the National Environmental Policy Act, Presidential Executive Order 12866, and the Regulatory Flexibility Act. The full suite of alternatives analyzed by the Council can be found on the Council's website at *www.pcouncil.org.* This Analysis does not contain all the alternatives, because an EIS was prepared for the 2015–16 biennial harvest specifications and management measures and is available from NMFS (see **ADDRESSES**). This EIS examined the harvest specifications and management measures for 2015–16 and 10-year projections for routinely adjusted harvest specifications and management measures. The 10-year projections were produced to evaluate the impacts of the ongoing implementation of harvest specifications and management measures and to evaluate the impacts of the routine adjustments that are the main component of each biennial cycle. Therefore, the EA for the 2021–22 cycle tiers from the 2015–16 EIS and focuses on the harvest specifications and management measures that were not within the scope of the 10-year projections in the 2015–16 EIS. A copy of the EA is available from NMFS (see **ADDRESSES**). This action also announces a public comment period on the EA.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The purpose of this proposed rule is to conserve Pacific Coast groundfish stocks by preventing overfishing, while still allowing harvest opportunity among the various fishery sectors. This will be accomplished by implementing the 2021–2022 annual specifications in the U.S. exclusive economic zone off the West Coast. The harvest specifications affect large and small entities similarly, and for this biennium, many of the catch limits are proposed to increase, providing benefit to all participants. Additionally, this proposed rule contains several of new management measures that are likely to benefit vessels, specifically openings of previously closed fishing grounds. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 28, 2020.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is proposed to be amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

[3] Available at: *http://www.westcoast.fisheries.noaa.gov/publications/fishery_management/groundfish/s7-groundfish-biop-121117.pdf.*

[4] Available at: *http://www.pcouncil.org/wp-content/uploads/2017/10/F7_Att1_USFWS_2017_STALBiOp_NOV2017BB.pdf.*

[5] Draft available at: *https://www.pcouncil.org/documents/2020/05/f-1-attachment-8-pacific-coast-groundfish-fishery-2021-2022-harvest-specifications-and-management-measures-analytical-document-organized-as-a-draft-environmental-assessment-chapters-1-5-electroni.pdf/.*

■ 2. In § 660.11, amend the definition of ''North-South management area'' by revising paragraph (2)(xviii) to read as follows:

§ 660.11 General definitions.

* * * * *

North-South management area * * *

(2) * * *

(xviii) Point Arena, CA—management line—38°57.50′ N lat.

* * * * *

■ 3. In § 660.40, revise the section heading, removing paragraph (a), redesignating paragraph (b) as paragraph (a), and add a reserved paragraph (b) to read as follows:

§ 660.40 Rebuilding plans.

* * * * *

■ 4. In § 660.50, revise paragraphs (f)(2)(ii) and (f)(6) to read as follows:

§ 660.50 Pacific Coast treaty Indian fisheries.

* * * * *

(f) * * *

(2) * * *

(ii) The Tribal allocation is 689.2 mt in 2021 and 656.6 mt in 2022 per year. This allocation is, for each year, 10 percent of the Monterey through Vancouver area (North of 36° N lat.) ACL. The Tribal allocation is reduced by 1.7 percent for estimated discard mortality.

* * * * *

(6) *Petrale sole.* For petrale sole, treaty fishing vessels are restricted to a fleetwide harvest target of 350 mt each year.

* * * * *

■ 5. Amend § 660.71 as follows:

■ a. Redesignate paragraphs (o)(133) through (216) as paragraphs (o)(135) through (218); and

■ b. Add new paragraphs (o)(133) and (134).

The additions read as follows:

§ 660.71 Latitude/longitude coordinates defining the 10-fm (18-m) through 40-fm (73-m) depth contours.

* * * * *

(o) * * *

(133) 37°25.00′ N lat., 122°38.66′ W long.;

(134) 37°20.68′ N lat., 122°36.79′ W long.;

* * * * *

■ 6. Amend § 660.73 as follows:

■ a. Revise paragraphs (a)(309) through (315);

■ b. Add paragraphs (a)(316) through (321);

■ c. Revise paragraphs (b)(1) through (14);

■ d. Add paragraph (b)(15);

■ e. Revise paragraphs (c)(10) through (14);

■ f. Redesignate paragraphs (d) through (l) as paragraphs (e) through (m); and

■ g. Add new paragraph (d).

The revisions and additions read as follows:

§ 660.73 Latitude/longitude coordinates defining the 100 fm (183 m) through 150 fm (274 m) depth contours.

* * * * *

(a) * * *

(309) 33°2.81′ N lat., 117°21.17′ W long.;

(310) 33°1.76′ N lat., 117°20.51′ W long.;

(311) 32°59.90′ N lat., 117°19.38′ W long.;

(312) 32°57.29′ N lat., 117°18.94′ W long.;

(313) 32°56.15′ N lat., 117°19.54′ W long.;

(314) 32°55.30′ N lat., 117°19.38′ W long.;

(315) 32°54.27′ N lat., 117°17.17′ W long.;

(316) 32°52.94′ N lat., 117°17.11′ W long.;

(317) 32°52.66′ N lat., 117°19.67′ W long.;

(318) 32°50.95′ N lat., 117°21.17′ W long.;

(319) 32°47.11′ N lat., 117°22.98′ W long.;

(320) 32°45.60′ N lat., 117°22.64′ W long.; and

(321) 32°42.79′ N lat., 117°21.16′ W long.

(b) * * *

(1) 33°04.80′ N lat., 118°37.90′ W long.;

(2) 33°02.65′ N lat., 118°34.08′ W long.;

(3) 32°55.80′ N lat., 118°28.92′ W long.;

(4) 32°55.04′ N lat., 118°27.68′ W long.;

(5) 32°49.79′ N lat., 118°20.87′ W long.;

(6) 32°48.05′ N lat., 118°19.62′ W long.;

(7) 32°47.41′ N lat., 118°21.86′ W long.;

(8) 32°44.03′ N lat., 118°24.70′ W long.;

(9) 32°47.81′ N lat., 118°30.20′ W long.;

(10) 32°49.79′ N lat., 118°32.00′ W long.;

(11) 32°53.36′ N lat., 118°33.23′ W long.;

(12) 32°55.13′ N lat., 118°35.31′ W long.;

(13) 33°00.22′ N lat., 118°38.68′ W long.;

(14) 33°03.13′ N lat., 118°39.59′ W long.; and

(15) 33°04.80′ N lat., 118°37.90′ W long.

(c) * * *

(10) 33°18.14′ N lat., 118°27.94′ W long.;

(11) 33°19.84′ N lat., 118°32.22′ W long.;

(12) 33°20.81′ N lat., 118°32.91′ W long.;

(13) 33°21.94′ N lat., 118°32.03′ W long.;

(14) 33°23.14′ N lat., 118°30.12′ W long.;

* * * * *

(d) The 100 fm (183 m) depth contour around the northern Channel Islands off the state of California is defined by straight lines connecting all of the following points in the order stated:

(1) 34°12.89′ N lat., 120°29.31′ W long.;

(2) 34°10.96′ N lat., 120°25.19′ W long.;

(3) 34°08.74′ N lat., 120°18.00′ W long.;

(4) 34°07.02′ N lat., 120°10.45′ W long.;

(5) 34°06.75′ N lat., 120°05.09′ W long.;

(6) 34°08.15′ N lat., 119°54.96′ W long.;

(7) 34°′07.17 N lat., 119°48.54′ W long.;

(8) 34°05.66′ N lat., 119°37.58′ W long.;

(9) 34°04.76′ N lat., 119°26.28′ W long.;

(10) 34°02.93′ N lat., 119°18.06′ W long.;

(11) 34°00.97′ N lat., 119°18.78′ W long.;

(12) 33°59.38′ N lat., 119°21.71′ W long.;

(13) 33°58.62′ N lat., 119°32.05′ W long.;

(14) 33°57.69′ N lat., 119°33.38′ W long.;

(15) 33°57.40′ N lat., 119°35.84′ W long.;

(16) 33°56.07′ N lat., 119°41.10′ W long.

(17) 33°55.54′ N lat., 119°47.99′ W long.;

(18) 33°56.60′ N lat., 119°51.40′ W long.;

(19) 33°55.56′ N lat., 119°53.87′ W long.;

(20) 33°54.40′ N lat., 119°53.74′ W long.;

(21) 33°52.72′ N lat., 119°54.62′ W long.;

(22) 33°47.95′ N lat., 119°53.50′ W long.;

(23) 33°45.75′ N lat., 119°51.04′ W long.;

(24) 33°40.18′ N lat., 119°50.36′ W long.;

(25) 33°38.19′ N lat., 119°57.85′ W long.;

(26) 33°44.92′ N lat., 120°02.95′ W long.;

(27) 33°48.90′ N lat., 120°05.34′ W long.;

(28) 33°51.64′ N lat., 120°08.11′ W long.;

(29) 33°58.31′ N lat., 120°27.99′ W long.;

(30) 34°03.23′ N lat., 120°34.34′ W long.;

(31) 34°09.42′ N lat., 120°37.64′ W long.; and

(32) 34°12.89′ N lat., 120°29.31′ W long.

* * * * *

■ 7. Tables 1a through 1c to subpart C are revised to read as follows:

Table 1a to Part 660, Subpart C—2021, Specifications of OFL, ABC, ACL, ACT and Fishery HG (Weights in Metric Tons). Capitalized stocks are rebuilding.

Stocks	Area	OFL	ABC	ACL[a/]	Fishery HG[b/]
YELLOWEYE ROCKFISH[c/]	Coastwide	97	83	50	41.2
Arrowtooth Flounder[d/]	Coastwide	13,551	9,933	9,933	7,837.9
Big Skate[e/]	Coastwide	1,690	1,477	1,477	1,419.7
Black Rockfish[f/]	California (S. of 42° N. lat.)	379	348	348	345.7
Black Rockfish[g/]	Washington (N. of 46°16' N. lat.)	319	293	293	274.9
Bocaccio[h/]	S. of 40º10' N. lat.	1,887	1,748	1,748	1,700.2
Cabezon[i/]	California (S. of 42° N. lat.)	225	210	210	208.7
California Scorpionfish[j/]	S. of 34°27' N. lat.	319	291	291	287.1
Canary Rockfish[k/]	Coastwide	1,459	1,338	1,338	1,268.6
Chilipepper[l/]	S. of 40º10' N. lat.	2,571	2,358	2,358	2,260.3
Cowcod[m/]	S. of 40º10' N. lat.	114	84	84	72.8
Cowcod	(Conception)	95	72	NA	NA
Cowcod	(Monterey)	19	11	NA	NA
Darkblotched Rockfish[n/]	Coastwide	953	882	882	862.9
Dover Sole[o/]	Coastwide	93,547	84,192	50,000	48,402.8
English Sole[p/]	Coastwide	11,107	9,175	9,175	8,924.37
Lingcod[q/]	N. of 40º10' N. lat.	5,816	5,386	5,369	5,090.6
Lingcod[r/]	S. of 40º10' N. lat.	1,255	1,162	1,102	1,089
Longnose Skate[s/]	Coastwide	2,086	1,823	1,823	1,571.6
Longspine Thornyhead[t/]	N. of 34°27' N. lat.	5,097	3,466	2,634	2,580.3
Longspine Thornyhead[u/]	S. of 34°27' N. lat.			832	829.8
Pacific Cod[v/]	Coastwide	3,200	1,926	1,600	1,093.9
Pacific Ocean Perch[w/]	N. of 40°10' N lat.	4,497	3,854	3,854	3,829.3
Pacific Whiting[x/]	Coastwide	x/	x/	x/	x/
Petrale Sole[y/]	Coastwide	4,402	4,115	4,115	3,727.5
Sablefish[z/]	N. of 36° N. lat.	9,402	8,791	6,479	See Table 1c
Sablefish[aa/]	S. of 36° N. lat			2,312	1,871.6
Shortspine Thornyhead[bb/]	N. of 34°27' N. lat.	3,211	2,183	1,428	1,349.6
Shortspine Thornyhead[cc/]	S. of 34°27' N. lat.			756	749.3
Spiny Dogfish[dd/]	Coastwide	2,479	1,621	1,621	1,277
Splitnose[ee/]	S. of 40º10' N. lat.	1,868	1,666	1,666	1,647.6
Starry Flounder[ff/]	Coastwide	652	392	392	343.6
Widow Rockfish[gg/]	Coastwide	15,749	14,725	14,725	14,476.7
Yellowtail Rockfish[hh/]	N. of 40º10' N. lat.	6,534	6,050	6,050	5,012.5
Stock Complexes					
Blue/Deacon/Black Rockfish[ii/]	Oregon	676	603	603	600.7

Cabezon/Kelp Greenling[jj/]	Oregon	215	198	198	197.8
Cabezon/Kelp Greenling[kk/]	Washington	25	20	20	18.0
Nearshore Rockfish North[ll/]	N. of 40°10' N. lat.	94	79	79	75.9
Nearshore Rockfish South[mm/]	S. of 40°10' N. lat.	1,232	1,016	1,016	1,011.6
Other Fish[nn/]	Coastwide	286	223	223	201.7
Other Flatfish[oo/]	Coastwide	7,714	4,802	4,802	4,581.1
Shelf Rockfish North[pp/]	N. of 40°10' N. lat.	1,888	1,511	1,511	1,438.7
Shelf Rockfish South[qq/]	S. of 40°10' N. lat.	1,842	1,439	1,438	1,305.2
Slope Rockfish North[rr/]	N. of 40°10' N. lat.	1,862	1,595	1,595	1,529.1
Slope Rockfish South[ss/]	S. of 40°10' N. lat.	873	709	709	670.1

a/ Annual catch limits (ACLs), annual catch targets (ACTs) and harvest guidelines (HGs) are specified as total catch values.

b/ Fishery HGs means the HG or quota after subtracting Pacific Coast treaty Indian tribes allocations and projected catch, projected research catch, deductions for fishing mortality in non-groundfish fisheries, and deductions for EFPs from the ACL or ACT.

c/ Yelloweye rockfish. The 50 mt ACL is based on the current rebuilding plan with a target year to rebuild of 2029 and an SPR harvest rate of 65 percent. 8.85 mt is deducted from the ACL to accommodate the Tribal fishery (5 mt), EFP catch (0.24 mt), research (2.92 mt), and the incidental open access fishery (0.69 mt) resulting in a fishery HG of 41.2 mt. The non-trawl HG is 37.9 mt. The combined non-nearshore/nearshore HG is 7.9 mt. Recreational HGs are: 9.7 mt (Washington); 8.8 mt (Oregon); and 11.4 mt (California). In addition, the non-trawl ACT is 29.5, and the combined non-nearshore/nearshore ACT is 6.2 mt. Recreational ACTs are: 7.5 mt (Washington), 6.9 (Oregon), and 8.9 mt (California).

d/ Arrowtooth flounder. 2,095.08 mt is deducted from the ACL to accommodate the Tribal fishery (2,041 mt), EFP fishing (0.1 mt), research (12.98 mt) and incidental open access (41 mt), resulting in a fishery HG of 7,837.9 mt.

e/ Big skate. 57.31 mt is deducted from the ACL to accommodate the Tribal fishery (15 mt), EFP fishing (0.1 mt), and research catch (5.49 mt), and incidental open access (36.72 mt), resulting in a fishery HG of 1,419.7 mt.

f/ Black rockfish (California). 2.26 mt is deducted from the ACL to accommodate EFP fishing (1.0 mt), research (0.08 mt), and incidental open access (1.18 mt), resulting in a fishery HG of 345.7 mt.

g/ Black rockfish (Washington). 18.1 mt is deducted from the ACL to accommodate the Tribal fishery (18 mt) and research catch (0.1 mt), resulting in a fishery HG of 274.9 mt.

h/ Bocaccio south of 40°10' N lat. 47.82 mt is deducted from the ACL to accommodate EFP catch (40 mt), research (5.6 mt), and incidental open access (2.22 mt), resulting in a fishery HG of 1,700.2 mt. The combined non-nearshore and nearshore HG is 315.7 mt. The California recreational fishery HG is 716.2 mt.

i/ Cabezon (California). 1.28 mt is deducted from the ACL to accommodate EFP (1 mt), research (0.02 mt), and incidental open access fishery (0.26 mt), resulting in a fishery HG of 208.7 mt.

j/ California scorpionfish south of 34°27' N lat. 3.89 mt is deducted from the ACL to accommodate research (0.18 mt) and the incidental open access fishery (3.71 mt), resulting in a fishery HG of 287.1 mt.

k/ Canary rockfish. 69.39 mt is deducted from the ACL to accommodate the Tribal fishery (50 mt), EFP catch (8 mt), and research catch (10.08 mt), and the incidental open access fishery (1.31 mt), resulting in a fishery HG of 1,268.6 mt. The combined nearshore/non-nearshore HG is 126.6 mt. Recreational HGs are: 43.3 mt (Washington); 65.1 mt (Oregon); and 116.7 mt (California).

l/ Chilipepper rockfish south of 40°10' N lat. 97.7 mt is deducted from the ACL to accommodate EFP fishing (70 mt), research (14.04 mt), the incidental open access fishery (13.66 mt), resulting in a fishery HG of 2,260.3 mt.

m/ Cowcod south of 40°10' N lat. 11.17 mt is deducted from the ACL to accommodate EFP fishing (1.0 mt), research (10 mt), and incidental open access (0.17 mt), resulting in a fishery harvest guideline of 72.8 mt. A single ACT of 50 mt is being set for the Conception and Monterey areas combined.

n/ Darkblotched rockfish. 19.06 mt is deducted from the ACL to accommodate the Tribal fishery (0.2 mt), EFP catch (0.6 mt), and research catch (8.46 mt), and the incidental open access fishery (9.8 mt) resulting in a fishery HG of 862.9 mt.

o/ Dover sole. 1,597.21 mt is deducted from the ACL to accommodate the Tribal fishery (1,497 mt), EFP fishing (0.1 mt), research (50.84 mt), and incidental open access (49.27 mt), resulting in a fishery HG of 48,402.8 mt.

p/ English sole. 250.63 mt is deducted from the ACL to accommodate the Tribal fishery (200 mt), EFP fishing (0.1 mt), research (8.01 mt), and the incidental open access fishery (42.52 mt), resulting in a fishery HG of 8,924.37 mt.

q/ Lingcod north of 40°10' N lat. 278.38 mt is deducted from the ACL for the Tribal fishery (250 mt), EFP catch (0.1 mt), research (16.6 mt), and the incidental open access fishery (11.68 mt) resulting in a fishery HG of 5,090.6 mt.

r/ Lingcod south of 40°10' N lat. 13 mt is deducted from the ACL to accommodate EFP catch (1.5 mt), research (3.19 mt), and incidental open access fishery (8.31 mt), resulting in a fishery HG of 1,089 mt.

s/ Longnose skate. 251.40 mt is deducted from the ACL to accommodate the Tribal fishery (220 mt), EFP catch (0.1 mt), and research catch (12.46 mt), and incidental open access fishery (18.84 mt), resulting in a fishery HG of 1,571.6 mt.

t/ Longspine thornyhead north of 34°27′ N. lat. 53.71 mt is deducted from the ACL to accommodate the Tribal fishery (30 mt), research catch (17.49 mt), and the incidental open access fishery (6.22 mt), resulting in a fishery HG of 2,580.3 mt.

u/ Longspine thornyhead south of 34°27′ N. lat. 2.24 mt is deducted from the ACL to accommodate research catch (1.41 mt) and the incidental open access fishery (0.8 mt), resulting in a fishery HG of 829.6 mt.

v/ Pacific cod. 506.1 mt is deducted from the ACL to accommodate the Tribal fishery (500 mt), EFP fishing (0.1 mt), research catch (5.47 mt), and the incidental open access fishery (0.53 mt), resulting in a fishery HG of 1,093.9 mt.

w/ Pacific ocean perch north of 40°10' N lat. 24.73 mt is deducted from the ACL to accommodate the Tribal fishery (9.2 mt), EFP fishing (0.1 mt), research catch (5.39 mt), and the incidental open access fishery (10.04 mt), resulting in a fishery HG of 3,829.3 mt.

x/ Pacific whiting. Pacific whiting are assessed annually. The final specifications will be determined consistent with the U.S.-Canada Pacific Whiting Agreement and will be announced after the Council's April 2021 meeting.

y/ Petrale sole. 387.54 mt is deducted from the ACL to accommodate the Tribal fishery (350 mt), EFP catch (0.1 mt), research (24.14 mt), and the incidental open access fishery (13.3 mt), resulting in a fishery HG of 3,727.5 mt.

z/ Sablefish north of 36° N lat. This coastwide ACL value is not specified in regulations. The coastwide ACL value is apportioned north and south of 36° N. lat., using a rolling 5-year average estimated swept area biomass from the NMFS NWFSC trawl survey, with 78.4 percent apportioned north of 36° N. lat. and 21.6 percent apportioned south of 36° N. lat. The northern ACL is 6,479 mt and is reduced by 689.2 mt for the Tribal allocation (10 percent of the ACL north of 36° N. lat.). The 689.2 mt Tribal allocation is reduced by 1.7 percent to account for discard mortality. Detailed sablefish allocations are shown in Table 1c to this subpart.

aa/ Sablefish south of 36° N lat. The ACL for the area south of 36° N. lat. is 2,312 mt (21.5 percent of the calculated coastwide ACL value). 27.4 mt is deducted from the ACL to accommodate research (2.40 mt) and the incidental open access fishery (25 mt), resulting in a fishery HG of 1,871.6 mt.

bb/ Shortspine thornyhead north of 34°27′ N. lat. 78.4 mt is deducted from the ACL to accommodate the Tribal fishery (50 mt), EFP catch (0.1 mt), and research catch (10.48 mt), and the incidental open access fishery (17.82 mt), resulting in a fishery HG of 1,349.6 mt for the area north of 34°27′ N. lat.

dd/ Shortspine thornyhead south of 34°27′ N. lat. 6.71 mt is deducted from the ACL to accommodate research catch (0.71 mt) and the incidental open access fishery (6 mt), resulting in a fishery HG of 749.3 mt for the area south of 34°27′ N. lat.

ee/ Spiny dogfish. 344 mt is deducted from the ACL to accommodate the Tribal fishery (275 mt), EFP catch (1.1 mt), research (34.27 mt), and the incidental open access fishery (33.63 mt), resulting in a fishery HG of 1,277 mt.

ff/ Splitnose rockfish south of 40°10’ N lat. 18.42 mt is deducted from the ACL to accommodate EFP catch (1.5 mt), research (11.17 mt), and the incidental open access fishery (5.75 mt), resulting in a fishery HG of 1,647.6 mt.

gg/ Starry flounder. 48.38 mt is deducted from the ACL to accommodate the Tribal fishery (2 mt), EFP catch (0.1 mt), research (0.57 mt), and the incidental open access fishery (45.71 mt), resulting in a fishery HG of 343.6 mt.

hh/ Widow rockfish. 248.32 mt is deducted from the ACL to accommodate the Tribal fishery (200 mt), EFP catch (28 mt), research (17.27 mt), and the incidental open access fishery (3.05 mt), resulting in a fishery HG of 14,476.7 mt.

ii/ Yellowtail rockfish north of 40°10’ N lat. 1,047.55 mt is deducted from the ACL to accommodate the Tribal fishery (1,000 mt), EFP catch (10 mt), research (20.55 mt), and the incidental open access fishery (7 mt), resulting in a fishery HG of 5,012.5 mt.

jj/ Black rockfish/Blue rockfish/Deacon rockfish (Oregon). 2.32 mt is deducted from the ACL to accommodate the EFP catch (0.5 mt), research (0.08 mt), and the incidental open access fishery (1.74 mt), resulting in a fishery HG of 600.7 mt.

kk/ Cabezon/kelp greenling (Oregon). 0.21 mt is deducted from the ACL to accommodate EFP catch (0.1 mt), research (0.05 mt), and the incidental open access fishery (0.06 mt), resulting in a fishery HG of 197.8 mt.

ll/ Cabezon/kelp greenling (Washington). 2 mt is deducted from the ACL to accommodate the Tribal fishery, therefore the fishery HG is 18 mt.

mm/Nearshore Rockfish north of 40°10' N lat. 3.08 mt is deducted from the ACL to accommodate the Tribal fishery (1.5 mt), EFP catch (0.5 mt), research (0.47 mt), and the incidental open access fishery (0.61 mt), resulting in a fishery HG of 75.9 mt. State specific HGs are Washington (18.4 mt), Oregon (22.7 mt), and California (37.6 mt).

nn/ Nearshore Rockfish south of 40°10' N lat. 4.42 mt is deducted from the ACL to accommodate research catch (2.68 mt) and the incidental open access fishery (2.68 mt), resulting in a fishery HG of 1,011.6 mt.

oo/ Other Fish. The Other Fish complex is comprised of kelp greenling off California and leopard shark coastwide. 21.34 mt is deducted from the ACL to accommodate EFP catch (0.1 mt), research (6.29 mt), and the incidental open access fishery (14.95 mt), resulting in a fishery HG of 201.7 mt.

pp/ Other Flatfish. The Other Flatfish complex is comprised of flatfish species managed in the PCGFMP that are not managed with stock-specific OFLs/ABCs/ACLs. Most of the species in the Other Flatfish complex are unassessed and include: butter sole, curlfin sole, flathead sole, Pacific sanddab, rock sole, sand sole, and rex sole. 220.89 mt is deducted from the ACL to accommodate the Tribal fishery (60 mt), EFP catch (0.1 mt), research (23.63 mt), and the incidental open access fishery (137.16 mt), resulting in a fishery HG of 4,581.1 mt.

qq/ Shelf Rockfish north of 40°10' N lat. 72.44 mt is deducted from the ACL to accommodate the Tribal fishery (30 mt), EFP catch (1.5 mt), research (15.32 mt), and the incidental open access fishery (25.62 mt), resulting in a fishery HG of 1,438.66 mt.

rr/ Shelf Rockfish south of 40°10' N lat. 132.77 mt is deducted from the ACL to accommodate EFP catch (50 mt), research catch (15.1 mt), and the incidental open access fishery (67.67 mt) resulting in a fishery HG of 1,305.2 mt.

ss/ Slope Rockfish north of 40°10' N lat. 65.89 mt is deducted from the ACL to accommodate the Tribal fishery (36 mt), EFP catch (0.5 mt), and research (10.51 mt), and the incidental open access fishery (18.88 mt), resulting in a fishery HG of 1,529.1 mt.

tt/ Slope Rockfish south of 40°10' N lat. 38.94 mt is deducted from the ACL to accommodate EFP catch (1 mt), and research (18.21 mt), and the incidental open access fishery (19.73 mt), resulting in a fishery HG of 670.1 mt. Blackgill rockfish has a stock-specific HG for the entire groundfish fishery south of 40°10' N lat. set equal to the species' contribution to the ACL. Harvest of blackgill rockfish in all groundfish fisheries south of 40°10' N lat. counts against this HG of 176.5 mt.

Table 1b to Part 660, Subpart C—2021, Allocations by Species or Species Group (Weight in Metric Tons)

Stocks/Stock Complexes	Area	Fishery HG or ACT a/ b/	Trawl		Non-Trawl	
			%	Mt	%	Mt
YELLOWEYE ROCKFISH a/	Coastwide	41.2	8	3.3	92	37.9
Arrowtooth flounder	Coastwide	7,837.9	95	7,446	5	391.9
Big skate a/	Coastwide	1,419.7	95	1,348.7	5	71
Bocaccio a/	S of 40°10' N. lat.	1,700.2	39	663.8	60	1,036.4
Canary rockfish a/	Coastwide	1,268.6	72	917	28	351.6
Chilipepper rockfish	S of 40°10' N. lat.	2,260.3	75	1,695.2	25	565.1
Cowcod a/	S of 40°10' N. lat.	50	36	18	64	32
Darkblotched rockfish	Coastwide	862.9	95	819.8	5	43.1
Dover sole	Coastwide	48,402.8	95	45,982.7	5	2,420.1
English sole	Coastwide	8,924.4	95	84,78.2	5	446.2
Lingcod	N of 40'10° N. lat.	5,090.6	45	2,290.8	55	2,799.8
Lingcod a/	S of 40'10° N. lat.	1,089	40	435.6	60	653.4
Longnose skate a/	Coastwide	1,571.6	90	1,414.4	10	157.2
Longspine thornyhead	N of 34°27' N. lat.	2,580.3	95	2,451.3	5	129
Pacific cod	Coastwide	1,093.9	95	1,039.2	5	54.7
Pacific ocean perch	N of 40°10' N. lat.	3,829.3	95	3,637.8	5	191.5
Pacific whiting c/	Coastwide	TBD	100	TBD	0	0
Petrale sole a/	Coastwide	3,727.9		3,697.9		30
Sablefish	N of 36° N. lat.	NA	See Table 1c			
Sablefish	S of 36° N. lat.	1,861.6	42	782.3	58	1,080.3
Shortspine thornyhead	N of 34°27' N. lat.	1,349.6	95	1,282.1	5	67.5
Shortspine thornyhead	S of 34°27' N. lat.	749.3		50		699.3
Splitnose rockfish	S of 40°10' N. lat.	1,647.6	95	1,565.2	5	82.4
Starry flounder	Coastwide	343.6	50	171.8	50	171.8
Widow rockfish a/	Coastwide	14,476.7		14,076.7		400
Yellowtail rockfish	N of 40°10' N. lat.	5,012.5	88	4,411.0	12	601.5
Other Flatfish	Coastwide	4581.1	90	4,123	10	458.1
Shelf Rockfish a/	N of 40° 10' N. lat.	1,438.7	60.2	866.1	39.8	572.6
Shelf Rockfish a/	S of 40° 10' N. lat.	1,305.2	12.2	159.2	87.8	1,146
Slope Rockfish	N of 40° 10' N. lat.	1,529.1	81	1,238.6	19	290.5
Slope Rockfish a/	S of 40° 10' N. lat.	670.1		526.4		143.7

a/ Allocations decided through the biennial specification process.

b/ The cowcod fishery harvest guideline is further reduced to an ACT of 50 mt. The non-trawl allocation is further split 50:50 between the commercial and recreational sectors.

c/ Consistent with regulations at §660.55(i)(2), the commercial harvest guideline for Pacific whiting is allocated as follows: 34 percent for the C/P Coop Program; 24 percent for the MS Coop Program; and 42 percent for the Shorebased IFQ Program. No more than 5 percent of the Shorebased IFQ Program allocation may be taken and retained south of 42° N lat. before the start of the primary Pacific whiting season north of 42° N lat.

■ 6. Tables 2a through 2c to subpart C are revised to read as follows:

Table 1c to Part 660, Subpart C - Sablefish North of 36° N. lat. Allocations, 2021

Year	ACL	Set-asides		Recreational Estimate	EFP	Commercial HG	Limited Entry HG		Open Access HG	
		Tribal a/	Research				Percent	mt	Percent	mt b/
2021	6,479	689	30.7	6	1.1	6,165	90.6	5,586	9.4	580

Year	LE All	Limited Entry Trawl c/			Limited Entry Fixed Gear d/		
		All Trawl	At-sea Whiting	Shorebased IFQ	All FG	Primary	DTL
2021	5,586	3,240	100	3,140	2,346	1,994	352

a/ The tribal allocation is further reduced by 1.7 percent for discard mortality resulting in 677.5 mt in 2021.
b/ The open access HG is taken by the incidental OA fishery and the directed OA fishery.
c/ The trawl allocation is 58 percent of the limited entry HG.
d/ The limited entry fixed gear allocation is 42 percent of the limited entry HG.

Table 2a to Part 660, Subpart C—2022, and Beyond, Specifications of OFL, ABC, ACL, ACT and Fishery Harvest Guidelines (Weights in Metric Tons). Capitalized stocks are overfished.

Stocks	Area	OFL	ABC	ACL[a/]	Fishery HG[b/]
YELLOWEYE ROCKFISH[c/]	Coastwide	98	83	51	42.2
Arrowtooth Flounder[d/]	Coastwide	11,764	8,458	8,458	6,362.9
Big Skate[e/]	Coastwide	1,606	1,389	1,389	1,331.7
Black Rockfish[f/]	California (S. of 42° N. lat.)	373	341	341	338.7
Black Rockfish[g/]	Washington (N. of 46°16' N. lat.)	319	291	291	272.9
Bocaccio[h/]	S. of 40º10' N. lat.	1,870	1,724	1,724	1,676.2
Cabezon[i/]	California (S. of 42° N. lat.)	210	195	195	193.7
California Scorpionfish[j/]	S. of 34°27' N. lat.	303	275	275	271.1
Canary Rockfish[k/]	Coastwide	1,432	1,307	1,307	1,237.6
Chilipepper[l/]	S. of 40º10' N. lat.	2,474	2,259	2,259	2,161.3
Cowcod[m/]	S. of 40º10' N. lat.	113	82	82	70.8
Cowcod	(Conception)	94	70	NA	NA
Cowcod	(Monterey)	19	12	NA	NA
Darkblotched Rockfish[n/]	Coastwide	901	831	831	811.9
Dover Sole[o/]	Coastwide	87,540	78,436	50,000	48,402.8
English Sole[p/]	Coastwide	11,127	9,101	9,101	8,850.4
Lingcod[q/]	N. of 40º10' N. lat.	5,395	4,974	4,958	4,679.6
Lingcod[r/]	S. of 40º10' N. lat.	1,334	1,230	1,172	1,159
Longnose Skate[s/]	Coastwide	2,036	1,761	1,761	1,509.6
Longspine Thornyhead[t/]	N. of 34°27' N. lat.	4,838	3,227	2,452	2,398.3
Longspine Thornyhead[u/]	S. of 34°27' N. lat.			774	771.8
Pacific Cod[v/]	Coastwide	3,200	1,926	1,600	1,093.9
Pacific Ocean Perch[w/]	N. of 40°10' N lat.	4,371	3,711	3,711	3,686.3
Pacific Whiting[x/]	Coastwide	x/	x/	x/	x/
Petrale Sole[y/]	Coastwide	3,936	3,660	3,660	3,272.5
Sablefish[z/]	N. of 36° N. lat.	9,005	8,375	6,172	See Table 1c
Sablefish[aa/]	S. of 36° N. lat			2,203	1,781.6
Shortspine Thornyhead[bb/]	N. of 34°27' N. lat.	3,194	2,130	1,393	1,314.6
Shortspine Thornyhead[cc/]	S. of 34°27' N. lat.			737	730.3
Spiny Dogfish[dd/]	Coastwide	2,469	1,585	1,585	1,241.0
Splitnose[ee/]	S. of 40º10' N. lat.	1,837	1,630	1,630	1,611.6
Starry Flounder[ff/]	Coastwide	652	392	392	343.6
Widow Rockfish[gg/]	Coastwide	14,826	13,788	13,788	13,539.7
Yellowtail Rockfish[hh/]	N. of 40º10' N. lat.	6,324	5,831	5,831	4,793.5

Stock Complexes					
Blue/Deacon/Black Rockfish[ii/]	Oregon	672	600	600	597.7
Cabezon/Kelp Greenling[jj/]	Washington	22	17	17	15
Cabezon/Kelp Greenling[kk/]	Oregon	208	190	190	189.8
Nearshore Rockfish North[ll/]	N. of 40°10' N. lat.	93	77	77	73.9
Nearshore Rockfish South[mm/]	S. of 40°10' N. lat.	1,233	1,011	1,010	1,005.6
Other Fish[nn/]	Coastwide	286	223	223	201.7
Other Flatfish[oo/]	Coastwide	7,808	4,838	4,838	4,617.1
Shelf Rockfish North[pp/]	N. of 40°10' N. lat.	1,821	1,450	1,450	1,377.6
Shelf Rockfish South[qq/]	S. of 40°10' N. lat.	1,832	1,429	1,428	1,295.2
Slope Rockfish North[rr/]	N. of 40°10' N. lat.	1,842	1,568	1,568	1,502.1
Slope Rockfish South[ss/]	S. of 40°10' N. lat.	871	705	705	666.1

a/ Annual catch limits (ACLs), annual catch targets (ACTs) and harvest guidelines (HGs) are specified as total catch values.

b/ Fishery HGs means the HG or quota after subtracting Pacific Coast treaty Indian tribes allocations and projected catch, projected research catch, deductions for fishing mortality in non-groundfish fisheries, and deductions for EFPs from the ACL or ACT.

c/ Yelloweye rockfish. The 51 mt ACL is based on the current rebuilding plan with a target year to rebuild of 2029 and an SPR harvest rate of 65 percent. 8.85 mt is deducted from the ACL to accommodate the Tribal fishery (5 mt), EFP catch (0.24 mt), research (2.92 mt), and the incidental open access fishery (0.69 mt) resulting in a fishery HG of 42.2 mt. The non-trawl HG is 38.8 mt. The combined non-nearshore/nearshore HG is 8.1 mt. Recreational HGs are: 9.9 mt (Washington); 9 mt (Oregon); and 11.7 mt (California). In addition, the nontrawl ACT is 30.4 mt and the combined non-nearshore/nearshore ACT is 6.3 mt. Recreational ACTs are: 7.8 mt (Washington), 7.1 (Oregon), and 9.2 mt (California).

d/ Arrowtooth flounder. 2,095.08 mt is deducted from the ACL to accommodate the Tribal fishery (2,041 mt), EFP fishing (0.1 mt), research (12.98 mt) and incidental open access (41 mt), resulting in a fishery HG of 6,362.9 mt.

e/ Big skate. 57.31 mt is deducted from the ACL to accommodate the Tribal fishery (15 mt), EFP fishing (0.1 mt), and research catch (5.49 mt), and incidental open access (36.72 mt), resulting in a fishery HG of 1,331.7 mt.

f/ Black rockfish (California). 2.26 mt is deducted from the ACL to accommodate EFP fishing (1.0 mt), research (0.08 mt), and incidental open access (1.18 mt), resulting in a fishery HG of 338.7 mt.

g/ Black rockfish (Washington). 18.1 mt is deducted from the ACL to accommodate the Tribal fishery (18 mt) and research catch (0.1 mt), resulting in a fishery HG of 272.9 mt.

h/ Bocaccio south of 40°10' N lat. The stock is managed with stock-specific harvest specifications south of 40°10' N. lat. and within the Minor Shelf Rockfish complex north of 40°10' N. lat. 47.82 mt is deducted from the ACL to accommodate EFP catch (40 mt), research

(5.6 mt), and incidental open access (2.22 mt), resulting in a fishery HG of 1,676.2 mt. The California recreational fishery south of 40°10' N lat has an HG of 706.1 mt.

i/ Cabezon (California). 1.28 mt is deducted from the ACL to accommodate EFP (1 mt), research (0.02 mt), and incidental open access fishery (0.26 mt), resulting in a fishery HG of 193.7 mt.

j/ California scorpionfish south of 34°27' N lat. 3.89 mt is deducted from the ACL to accommodate research (0.18 mt) and the incidental open access fishery (3.71 mt), resulting in a fishery HG of 271.1 mt.

k/ Canary rockfish. 69.39 mt is deducted from the ACL to accommodate the Tribal fishery (50 mt), EFP catch (8 mt), and research catch (10.08 mt), and the incidental open access fishery (1.31 mt), resulting in a fishery HG of 1,237.6 mt. The combined nearshore/non-nearshore HG is 123.5 mt. Recreational HGs are: 42.2 mt (Washington); 63.5 mt (Oregon); and 113.9 mt (California).

l/ Chilipepper rockfish south of 40°10' N lat. Chilipepper are managed with stock-specific harvest specifications south of 40°10′N. lat. and within the Minor Shelf Rockfish complex north of 40°10′ N. lat. 97.7 mt is deducted from the ACL to accommodate EFP fishing (70 mt), research (14.04 mt), the incidental open access fishery (13.66 mt), resulting in a fishery HG of 2,161.3 mt.

m/ Cowcod south of 40°10' N lat. 11.17 mt is deducted from the ACL to accommodate EFP fishing (1 mt), research (10 mt), and incidental open access (0.17 mt), resulting in a fishery harvest guideline of 70.83 mt. A single ACT of 50 mt is being set for the Conception and Monterey areas combined.

n/ Darkblotched rockfish. 19.06 mt is deducted from the ACL to accommodate the Tribal fishery (0.2 mt), EFP catch (0.6 mt), and research catch (8.46 mt), and the incidental open access fishery (9.8 mt) resulting in a fishery HG of 811.9 mt.

o/ Dover sole. 1,597.21 mt is deducted from the ACL to accommodate the Tribal fishery (1,497 mt), EFP fishing (0.1 mt), research (50.84 mt), and incidental open access (49.27 mt), resulting in a fishery HG of 48,402.8 mt.

p/ English sole. 250.63 mt is deducted from the ACL to accommodate the Tribal fishery (200 mt), EFP fishing (0.1 mt), research (8 mt), and the incidental open access fishery (42.52 mt), resulting in a fishery HG of 8,850.4 mt.

q/ Lingcod north of 40°10' N lat. 278.38 mt is deducted from the ACL for the Tribal fishery (250 mt), EFP catch (0.1 mt), research (16.6 mt), and the incidental open access fishery (11.68 mt) resulting in a fishery HG of 4,679.6 mt.

r/ Lingcod south of 40°10' N lat. 13 mt is deducted from the ACL to accommodate EFP catch (1.5 mt), research (3.19 mt), and incidental open access fishery (8.31 mt), resulting in a fishery HG of 1,159 mt.

s/ Longnose skate. 251.40 mt is deducted from the ACL to accommodate the Tribal fishery (220 mt), EFP catch (0.1 mt), and research catch (12.46 mt), and incidental open access fishery (18.84 mt), resulting in a fishery HG of 1,509.6 mt.

t/ Longspine thornyhead north of 34°27′ N. lat. 53.71 mt is deducted from the ACL to accommodate the Tribal fishery (30 mt), research catch (17.49 mt), and the incidental open access fishery (6.22 mt), resulting in a fishery HG of 2,398.3 mt.

u/ Longspine thornyhead south of 34°27′ N. lat. 2.24 mt is deducted from the ACL to accommodate research catch (1.41 mt) and the incidental open access fishery (0.83 mt), resulting in a fishery HG of 77771.8mt.

v/ Pacific cod. 506.1 mt is deducted from the ACL to accommodate the Tribal fishery (500 mt), EFP fishing (0.1 mt), research catch (5.47 mt), and the incidental open access fishery (0.53 mt), resulting in a fishery HG of 1,093.9 mt.

w/ Pacific ocean perch north of 40°10' N lat. 24.73 mt is deducted from the ACL to accommodate the Tribal fishery (9.2 mt), EFP fishing (0.1 mt), research catch (5.39 mt), and the incidental open access fishery (10.04 mt), resulting in a fishery HG of 3,829.3 mt.

x/ Pacific whiting. Pacific whiting are assessed annually. The final specifications will be determined consistent with the U.S.-Canada Pacific Whiting Agreement and will be announced after the Council's April 2021 meeting.

y/ Petrale sole. 387.54 mt is deducted from the ACL to accommodate the Tribal fishery (350 mt), EFP catch (0.1 mt), research (24.14 mt), and the incidental open access fishery (13.3 mt), resulting in a fishery HG of 3,272.5 mt.

z/ Sablefish north of 36° N lat. This coastwide ACL value is not specified in regulations. The coastwide ACL value is apportioned north and south of 36° N. lat., using the a rolling 5-year average estimated swept area biomass from the NMFS NWFSC trawl survey, with 78.4 percent apportioned north of 36° N. lat. and 21.5 percent apportioned south of 36° N. lat. The northern ACL is 6,172 mt and is reduced by 656.6 mt for the Tribal allocation (10 percent of the ACL north of 36° N. lat.). The 656.6 mt Tribal allocation is reduced by 1.7 percent to account for discard mortality. Detailed sablefish allocations are shown in Table 1c of this subpart.

aa/ Sablefish south of 36° N lat. The ACL for the area south of 36° N. lat. is 2,203 mt (21.6 percent of the calculated coastwide ACL value). 27.4 mt is deducted from the ACL to accommodate research (2.40 mt) and the incidental open access fishery (25 mt), resulting in a fishery HG of 1,781.6 mt.

bb/ Shortspine thornyhead north of 34°27′ N. lat. 78.4 mt is deducted from the ACL to accommodate the Tribal fishery (50 mt), EFP catch (0.1 mt), and research catch (10.48 mt), and the incidental open access fishery (17.82 mt), resulting in a fishery HG of 1,314.6 mt for the area north of 34°27′ N. lat.

dd/ Shortspine thornyhead south of 34°27′ N. lat. 6.71 mt is deducted from the ACL to accommodate research catch (0.71 mt) and the incidental open access fishery (6 mt), resulting in a fishery HG of 730.3 mt for the area south of 34°27′ N. lat.

ee/ Spiny dogfish. 344 mt is deducted from the ACL to accommodate the Tribal fishery (275 mt), EFP catch (1.1 mt), research (34.27 mt), and the incidental open access fishery (33.63 mt), resulting in a fishery HG of 1,241 mt.

ff/ Splitnose rockfish south of 40°10' N lat. Splitnose rockfish in the north is managed in the Slope Rockfish complex and with stock-specific harvest specifications south of 40°10′ N. lat. 18.42 mt is deducted from the ACL to accommodate EFP catch (1.5 mt), research (11.17 mt), and the incidental open access fishery (5.75 mt), resulting in a fishery HG of 1,611.6 mt.

gg/ Starry flounder. 48.38 mt is deducted from the ACL to accommodate the Tribal fishery (2 mt), EFP catch (0.1 mt), research (0.57 mt), and the incidental open access fishery (45.71 mt), resulting in a fishery HG of 343.6 mt.

hh/ Widow rockfish. 248.32 mt is deducted from the ACL to accommodate the Tribal fishery (200 mt), EFP catch (28 mt), research (17.27 mt), and the incidental open access fishery (3.05 mt), resulting in a fishery HG of 13,539.7 mt.

ii/ Yellowtail rockfish north of 40°10' N lat. 1,037.55 mt is deducted from the ACL to accommodate the Tribal fishery (1,000 mt), EFP catch (10 mt), research (20.55 mt), and the incidental open access fishery (7 mt), resulting in a fishery HG of 4,793.5 mt.

jj/ Black rockfish/Blue rockfish/Deacon rockfish (Oregon). 2.32 mt is deducted from the ACL to accommodate the EFP catch (0.5 mt), research (0.08 mt), and the incidental open access fishery (1.74 mt), resulting in a fishery HG of 597.7 mt.

kk/ Cabezon/kelp greenling (Washington). 2 mt is deducted from the ACL to accommodate the Tribal fishery, therefore the fishery HG is 15 mt.

ll/ Cabezon/kelp greenling (Oregon). 0.21 mt is deducted from the ACL to accommodate EFP catch (0.1 mt), research (0.05 mt), and the incidental open access fishery (0.06 mt), resulting in a fishery HG of 189.8 mt.

mm/Nearshore Rockfish north of 40°10' N lat. 3.08 mt is deducted from the ACL to accommodate the Tribal fishery (1.5 mt), EFP catch (0.5 mt), research (0.47 mt), and the incidental open access fishery (0.61 mt), resulting in a fishery HG of 73.9 mt. Recreational HGs are 17.7 mt (Washington), 22.2 mt (Oregon), and 37.4 (California).

nn/ Nearshore Rockfish south of 40°10' N lat. 4.42 mt is deducted from the ACL to accommodate research catch (2.68 mt) and the incidental open access fishery (1.74 mt), resulting in a fishery HG of 1,005.6 mt.

oo/ Other Fish. The Other Fish complex is comprised of kelp greenling off California and leopard shark coastwide. 21.34 mt is deducted from the ACL to accommodate EFP catch (0.1 mt), research (6.29 mt), and the incidental open access fishery (14.95 mt), resulting in a fishery HG of 201.7 mt.

pp/ Other Flatfish. The Other Flatfish complex is comprised of flatfish species managed in the PCGFMP that are not managed with stock-specific OFLs/ABCs/ACLs. Most of the species in the Other Flatfish complex are unassessed and include: butter sole, curlfin sole, flathead sole, Pacific sanddab, rock sole, sand sole, and rex sole. 220.89 mt is deducted from the ACL to accommodate the Tribal fishery (60 mt), EFP catch (0.1 mt), research (23.63 mt), and the incidental open access fishery (137.16 mt), resulting in a fishery HG of 4,617.1 mt.

qq/ Shelf Rockfish north of 40°10' N lat. 72.44 mt is deducted from the ACL to accommodate the Tribal fishery (30 mt), EFP catch (1.5 mt), research (15.32 mt), and the incidental open access fishery (25.62 mt), resulting in a fishery HG of 1,377.6 mt.

rr/ Shelf Rockfish south of 40°10' N lat. 132.77 mt is deducted from the ACL to accommodate EFP catch (50 mt), research catch (15.1 mt), and the incidental open access fishery (67.67 mt) resulting in a fishery HG of 1,295.2 mt.

ss/ Slope Rockfish north of 40°10' N lat. 65.89 mt is deducted from the ACL to accommodate the Tribal fishery (36 mt), EFP catch (1.5 mt), and research (10.51 mt), and the incidental open access fishery (18.88 mt), resulting in a fishery HG of 1,502.1 mt.

tt/ Slope Rockfish south of 40°10' N lat. 38.94 mt is deducted from the ACL to accommodate EFP catch (1 mt), and research (18.21 mt), and the incidental open access fishery (19.73 mt), resulting in a fishery HG of 666.1 mt. Blackgill rockfish has a stock-specific HG for the entire groundfish fishery south of 40°10' N lat. set equal to the species' contribution to the 40-10-adjusted ACL. Harvest of blackgill rockfish in all groundfish fisheries south of 40°10' N lat. counts against this HG of 174 mt.

Table 2b to Part 660, Subpart C—2022, and Beyond, Allocations by Species or Species Group [Weight in Metric Tons]

Stocks/Stock Complexes	Area	Fishery HG or ACT a/ b/	Trawl		Non-Trawl	
			%	Mt	%	Mt
YELLOWEYE ROCKFISH [a/]	Coastwide	42.2	8	3.4	92	38.8
Arrowtooth flounder	Coastwide	6,362.9	95	6,044.8	5	318.1
Big skate [a/]	Coastwide	1,331.7	95	1,265.1	5	66.6
Bocaccio [a/]	S of 40°10' N. lat.	1,676.2	39.04	654.4	60.96	1,021.8
Canary rockfish [a/]	Coastwide	1,237.6	72.281	894.6	27.719	343.1
Chilipepper rockfish	S of 40°10' N. lat.	2,161.3	75	1,621	25	540.3
Cowcod [a/]	S of 40°10' N. lat.	50	36	18	64	32
Darkblotched rockfish	Coastwide	811.9	95	771.3	5	40.6
Dover sole	Coastwide	4,8402.8	95	45,982.7	5	2,420.1
English sole	Coastwide	8,850.4	95	8,407.8	5	442.5
Lingcod	N of 40'10° N. lat.	4,679.6	45	2,105.8	55	2,573.8
Lingcod [a/]	S of 40'10° N. lat.	1,159	40	463.6	60	695.4
Longnose skate [a/]	Coastwide	1,509.6	90	1,358.6	10	151
Longspine thornyhead	N of 34°27' N. lat.	2,398.3	95	2,278.4	5	119.9
Pacific cod	Coastwide	1,093.9	95	1,039.2	5	54.7
Pacific ocean perch	N of 40°10' N. lat.	3,686.3	95	3,502	5	184.3
Pacific whiting [c/]	Coastwide	TBD	100	TBD	0	0
Petrale sole [a/]	Coastwide	3,272.5	-	3,242.5	-	30
Sablefish	N of 36° N. lat.	NA	See Table 1c			
Sablefish	S of 36° N. lat.	1,781.6	42	748.3	58	1,033.3
Shortspine thornyhead	N of 34°27' N. lat.	1,314.6	95	1,248.9	5	65.7
Shortspine thornyhead	S of 34°27' N. lat.	730.3		50		680.3
Splitnose rockfish	S of 40°10' N. lat.	1,611.6	95	1,531	5	80.6
Starry flounder	Coastwide	343.6	50	171.8	50	171.8
Widow rockfish [a/]	Coastwide	13,539.7		13,139.7		400
Yellowtail rockfish	N of 40°10' N. lat.	4,783.5	88	4,209.5	12	574
Other Flatfish	Coastwide	4,617.1	90	4,155.4	10	461.7
Shelf Rockfish [a/]	N of 40° 10' N. lat.	1,377.6	60.2	829.3	39.8	548.3
Shelf Rockfish [a/]	S of 40° 10' N. lat.	1,295.2	12.2	158	87.8	1,137.2
Slope Rockfish	N of 40° 10' N. lat.	1,502.1	81	1,216.7	19	285.4
Slope Rockfish [a/]	S of 40° 10' N. lat.	666.1		523.9		142.2

a/ Allocations decided through the biennial specification process.

b/ The cowcod fishery harvest guideline is further reduced to an ACT of 50 mt.

c/ Consistent with regulations at §660.55(i)(2), the commercial harvest guideline for Pacific whiting is allocated as follows: 34 percent for the C/P Coop Program; 24 percent for the MS Coop Program; and 42 percent for the Shorebased IFQ Program. No more than 5 percent of the Shorebased IFQ Program allocation may be taken and retained south of 42° N lat. before the start of the primary Pacific whiting season north of 42° N lat.

Table 2c to Part 660, Subpart C - Sablefish North of 36° N. lat. Allocations, 2022 and Beyond

Year	ACL	Set-asides		Recreational Estimate	EFP	Commercial HG	Limited Entry HG		Open Access HG	
		Tribal a/	Research				Percent	mt	Percent	mt b/
2022	6,172	656.6	30.7	6	1.1	5,872	90.6	5,320	9.4	552

Year	LE All	Limited Entry Trawl c/			Limited Entry Fixed Gear d/		
		All Trawl	At-sea Whiting	Shorebased IFQ	All FG	Primary	DTL
2022	5,320	3,086	100	2,986	2,234	1,899	335

a/ The tribal allocation is further reduced by 1.7 percent for discard mortality resulting in 645.4 mt in 2022.

b/ The open access HG is taken by the incidental OA fishery and the directed OA fishery.

c/ The trawl allocation is 58 percent of the limited entry HG

d/ The limited entry fixed gear allocation is 42 percent of the limited entry HG

■ 7. In § 660.140, revise paragraphs (d)(1)(ii)(D) to read as follows:

§ 660.140 Shorebased IFQ Program.

* * * * *

(d) * * *

(1) * * *

(ii) * * *

(D) *Pacific whiting and non-whiting QP shorebased trawl allocations.* For the trawl fishery, NMFS will issue QP based on the following shorebased trawl allocations:

Table 1 to Paragraph (d)(1)(ii)(D)

IFQ species	Area	2021 Shorebased trawl allocation (mt)	2022 Shorebased trawl allocation (mt)
YELLOWEYE ROCKFISH	Coastwide	3.29	3.38
Arrowtooth flounder	Coastwide	7,376.02	5974.76
Bocaccio	South of 40°10′ N. lat.	663.75	654.39
Canary rockfish	Coastwide	880.96	858.78
Chilipepper	South of 40°10′ N. lat.	1,695.2	1,620.97
Cowcod	South of 40°10′ N. lat.	18	18
Darkblotched rockfish	Coastwide	743.4	694.9
Dover sole	Coastwide	45,972.7	45,972.66
English sole	Coastwide	8,477.9	8,408.3
Lingcod	North of 40°10′ N. lat.	2,275.8	2,090.82
Lingcod	South of 40°10′ N. lat.	435.6	463.6
Longspine thornyhead	North of 34°27′ N. lat.	2,451.3	2,278.4
Pacific cod	Coastwide	1,039.2	1,039.2
Pacific halibut (IBQ)	North of 40°10′ N. lat.	69.6	69.6
Pacific ocean perch	North of 40°10′ N. lat.	3,337.8	3,202.0
Pacific whiting	Coastwide	TBD	TBD
Petrale sole	Coastwide	3,692.9	3,237.5
Sablefish	North of 36° N;. lat.	3,139.6	2,985.4
Sablefish	South of 36° N. lat.	782.3	744.9
Shortspine thornyhead	North of 34°27′ N. lat.	1,212.12	1,178.87
Shortspine thornyhead	South of 34°27′ N. lat	50	50
Splitnose rockfish	South of 40°10′ N. lat.	1,565.22	1,531.02
Starry flounder	Coastwide	171.8	171.8
Widow rockfish	Coastwide	13,600.7	12,663.7
Yellowtail rockfish	North of 40°10′ N. lat.	4,091.13	3,889.4

Other Flatfish complex	Coastwide	4,088.00	4,120.39
Shelf Rockfish complex	North of 40°10′ N. lat.	831.04	794.56
Shelf Rockfish complex	South of 40°10′ N. lat.	159.2	158.0
Slope Rockfish complex	North of 40°10′ N. lat.	938.58	916.71
Slope Rockfish complex	South of 40°10′ N. lat.	526.4	523.9

* * * * *

■ 8. Revise Tables 1 (North) and 1 (South) to subpart D to read as follows:

Table 1 (North) to Part 660, Subpart D -- Limited Entry Trawl Rockfish Conservation Areas and Landing Allowances for non-IFQ Species and Pacific Whiting North of 40°10' N. Lat.

This table describes Rockfish Conservation Areas for vessels using groundfish trawl gear. This table describes incidental landing allowances for vessels registered to a Federal limited entry trawl permit and using groundfish trawl or groundfish non-trawl gears to harvest individual fishing quota (IFQ) species.

Other Limits and Requirements Apply – Read § 660.10 - § 660.399 before using this table 09/01/2020

TABLE 1 (North)

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:						
1	North of 45°46' N. lat.	100 fm line[1/] - 150 fm line[1/]					
2	45°46' N. lat. - 40°10' N. lat.	Block Area Closures (BACs) may be implemented, and will be announced in the Federal Register.					
	See provisions at § 660.130 for gear restrictions and requirements by area. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.140, are subject to the limited entry groundfish trawl fishery landing allowances in this table, regardless of the type of fishing gear used. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.140, are subject to the limited entry fixed gear non-trawl RCA, as described in Tables 2 (North) and 2 (South) to Part 660, Subpart E.						
	See § 660.60, § 660.130, and § 660.140 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.70-660.74 and §§ 660.76-660.79 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).						
	State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.						
3	**Minor Nearshore Rockfish, Washington Black rockfish & Oregon Black/blue/deacon rockfish**	300 lb/ month					
4	**Whiting[3/]**						
5	midwater trawl	Before the primary whiting season: CLOSED. -- During the primary season: mid-water trawl permitted in the RCA. See §660.131 for season and trip limit details. -- After the primary whiting season: CLOSED.					
6	large & small footrope gear	Before the primary whiting season: 20,000 lb/trip. -- During the primary season: 10,000 lb/trip. -- After the primary whiting season: 10,000 lb/trip.					
7	**Oregon Cabezon/Kelp Greenling complex**	50 lb/ month					
8	**Cabezon in California**	50 lb/ month					
9	**Spiny dogfish**	60,000 lb/ month					
10	**Big skate**	Unlimited					
11	**Longnose skate**	Unlimited					
12	**Other Fish [4/]**	Unlimited					

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours, and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to the RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ The "modified" fathom lines are modified to exclude certain petrale sole areas from the RCA.

3/ As specified at §660.131(d), when fishing in the Eureka Area, no more than 10,000 lb of whiting may be taken and retained, possessed, or landed by a vessel that, at any time during the fishing trip, fished in the fishery management area shoreward of 100 fm contour.

4/ "Other Fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 1 (South) to Part 660, Subpart D -- Limited Entry Trawl Rockfish Conservation Areas and Landing Allowances for non-IFQ Species and Pacific Whiting South of 40°10' N. Lat.

This table describes Rockfish Conservation Areas for vessels using groundfish trawl gear. This table describes incidental landing allowances for vessels registered to a Federal limited entry trawl permit and using groundfish trawl or groundfish non-trawl gears to harvest individual fishing quota (IFQ) species.

Other Limits and Requirements Apply – Read § 660.10 - § 660.399 before using this table 09/01/2020

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:						
1	South of 40°10' N. lat.	Block Area Closures (BACs) may be implemented, and will be announced in the Federal Register.					
	See provisions at § 660.130 for gear restrictions and requirements by area. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.140, are subject to the limited entry groundfish trawl fishery landing allowances in this table, regardless of the type of fishing gear used. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.140, are subject to the limited entry fixed gear non-trawl RCA, as described in Tables 2 (North) and 2 (South) to Part 660, Subpart E.						
	See § 660.60, § 660.130, and § 660.140 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.70-660.74 and §§ 660.76-660.79 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).						
	State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.						
2	**Longspine thornyhead**						
3	South of 34°27' N. lat.	24,000 lb/ 2 months					
4	**Minor Nearshore Rockfish, California Black rockfish, & Oregon Black/Blue/Deacon rockfish**	300 lb/ month					
5	**Whiting**						
6	midwater trawl	During the Primary whiting season: allowed seaward of the trawl RCA. Prohibited within and shoreward of the trawl RCA.					
7	large & small footrope gear	Before the primary whiting season: 20,000 lb/trip. -- During the primary season: 10,000 lb/trip. -- After the primary whiting season: 10,000 lb/trip.					
8	**Cabezon**	50 lb/ month					
9	**Spiny dogfish**	60,000 lb/ month					
10	**Big skate**	Unlimited					
11	**Longnose skate**	Unlimited					
12	**California scorpionfish**	Unlimited					
13	**Blackgill rockfish**	Unlimited					
14	**Other Fish [3/]**	Unlimited					

TABLE 1 (South)

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours, and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to the RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ South of 34°27' N. lat., the RCA is 100 fm line - 150 fm line along the mainland coast; shoreline - 150 fm line around islands.

3/ "Other Fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

■ 9. In § 660.231, revise paragraph (b)(3)(i) to read as follows:

§ 660.231 Limited entry fixed gear sablefish primary fishery.

* * * * *

(b) * * *

(3) * * *

(i) A vessel participating in the primary season will be constrained by the sablefish cumulative limit associated with each of the permits registered for use with that vessel. During the primary season, each vessel authorized to fish in that season under paragraph (a) of this section may take, retain, possess, and land sablefish, up to the cumulative limits for each of the permits registered for use with that vessel (*i.e.,* stacked permits). If multiple limited entry permits with sablefish endorsements are registered for use with a single vessel, that vessel may land up to the total of all cumulative limits announced in this paragraph for the tiers for those permits, except as limited by paragraph (b)(3)(ii) of this section. Up to 3 permits may be registered for use with a single vessel during the primary season; thus, a single vessel may not take and retain, possess or land more than 3 primary season sablefish cumulative limits in any one year. A vessel registered for use with multiple

limited entry permits is subject to per vessel limits for species other than sablefish, and to per vessel limits when participating in the daily trip limit fishery for sablefish under § 660.232. In 2021, the following annual limits are in effect: Tier 1 at 58,649 lb (26,602 kg), Tier 2 at 26,659 lb (12,092 kg), and Tier 3 at 15,234 lb (6,910 kg). In 2022 and beyond, the following annual limits are in effect: Tier 1 at 55,858 lb (25,337 kg), Tier 2 at 25,390 lb (11,517 kg), and Tier 3 at 14,509 lb (6,581 kg).

* * * * *

■ 10. Revise Tables 2 (North) and 2 (South) to subpart E to read as follows:

Table 2 (North) to Part 660, Subpart E – Non-Trawl Rockfish Conservation Areas and Trip Limits for Limited Entry Fixed Gear North of 40°10' N. lat.

Other limits and requirements apply – Read §§660.10 through 660.399 before using this table 9/1/2020

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:						
1	North of 46° 16' N. lat.	shoreline - 100 fm line[1/]					
2	46° 16' N. lat. - 40° 10' N. lat.	40 fm line[1/] - 100 fm line[1/]					
		30 fm line [1/]- 40 fm line [1/2/]					
	See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-						
	State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.						
4	**Minor Slope Rockfish[3/] & Darkblotched rockfish**	8,000 lb/ 2 month					
5	**Pacific ocean perch**	3,600 lb/ 2 months					
6	**Sablefish**	1,700 lb week, not to exceed 5,100 lbs / 2 months					
7	**Longspine thornyhead**	10,000 lb/ 2 months					
8	**Shortspine thornyhead**	2,000 lb/ 2 months			2,500 lb/ 2 months		
9 10 11	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[4/]**	10,000 lbs/ month					
12	**Whiting**	10,000 lb/ trip					
13	**Minor Shelf Rockfish[3/]**	800 lbs / month					
14	**Shortbelly Rockfish**	200 lbs / month					
15	**Widow rockfish**	4,000 lb/ 2 month					
16	**Yellowtail rockfish**	3,000 lb/ month					
17	**Canary rockfish**	3,000 lb/ 2 months					
18	**Yelloweye rockfish**	CLOSED					
19	**Minor Nearshore Rockfish, Oregon black/blue/deacon rockfish & CA black rockfish [5/]**						
20	North of 42°00' N. lat.	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish or blue/deacon					
21	42° 00' N. lat. - 40° 10' N. lat.	7,000 lb/ 2 months, no more than 2,000 lb of which may be species other than black rockfish					
22	**Lingcod[6/]**						
23	North of 42°00' N. lat.	4,000 lb/ 2 months					
24	42° 00' N. lat. - 40° 10' N. lat.	2, 000 lb/2 months					
25	**Pacific cod**	1,000 lb/ 2 months					
26	**Spiny dogfish**	200,000 lb / 2months		150,000 lb /	100,000 lb / 2months		
27	**Longnose skate**	Unlimited					
28	**Other Fish[7/]& Cabezon in California**	Unlimited					
29	**Oregon Cabezon/Kelp Greenling**	Unlimited					
30	**Big skate**	Unlimited					

TABLE 2 (North)

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ Between 46°16' N. lat. and 40°10' N. lat. and the 30 fm and 40 fm lines, fishing is only allowed with hook-and-line gear except bottom longline and dinglebar gear, as defined in §660.11

3/ Bocaccio, chilipepper and cowcod are included in the trip limits for Minor Shelf Rockfish and splitnose rockfish is included in the trip limits for Minor Slope Rockfish.

4/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

5/ For black rockfish north of Cape Alava (48°09.50' N. lat.), and between Destruction Is. (47°40' N. lat.) and Leadbetter Pnt. (46°38.17' N. lat.), there is an additional limit of 100 lb or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

6/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N. lat. and 24 inches (61 cm) total length South of 42° N. lat.

7/ "Other Fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 2 (South) to Part 660, Subpart E -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Limited Entry Fixed Gear South of 40°10' N. lat.

Other limits and requirements apply – Read §§660.10 through 660.399 before using this table 9/1/2020

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:						
1	40°10' N. lat. - 38°57.5' N. lat.	40 fm line[1/] - 125 fm line[1/]					
2	38°57.5' N. lat. -34°27' N. lat.	50 fm line[1/] - 125 fm line[1/]					
3	South of 34°27' N. lat.	100 fm line[1/] - 125 fm line[1/] (also applies around islands)					
	See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-						
	State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.						
3	**Minor Slope rockfish[2/] & Darkblotched**	40,000 lb/ 2 months, of which no more than 6,000 lb may be blackgill rockfish					
4	**Splitnose rockfish**	40,000 lb/ 2 months					
5	**Sablefish**						
6	40°10' N. lat. - 36°00' N. lat.	1,700 lb week, not to exceed 5,100 lbs / 2 months					
7	South of 36°00' N. lat.	2,000 lb/ week					
8	**Longspine thornyhead**	10,000 lb/ 2 months					
9	**Shortspine thornyhead**						
10	40°10' N. lat. - 34°27' N. lat.	2,000 lb/ 2 months			2,500 lb/ 2 months		
11	South of 34°27' N. lat.	3,000 lb/ 2 months					
12	**Dover sole, arrowtooth flounder, petrale**	10,000 lb/ month					
13	**sole, English sole, starry flounder, Other**						
14	**Flatfish[3/]**						
18	**Whiting**	10,000 lb/ trip					
	Minor Shelf Rockfish[2/]						
	40°10' N. lat. - 34°27' N. lat.	8,000 lbs. / 2 months, of which no more than 500 lbs. may be vermilion					
	South of 34°27' N. lat.	5,000 lbs. / 2 months, of which no more than 3,000lbs. may be vermilion					
	Widow						
	40°10' N. lat. - 34°27' N. lat.	10,000 lbs. / 2 months					
	South of 34°27' N. lat.	8,000 lbs. / 2 months					
21	**Chilipepper**						
	40°10' N. lat. - 34°27' N. lat.	10,000 lbs. / 2 months					
	South of 34°27' N. lat.	8,000 lbs. / 2 months					
	Shortbelly Rockfish						
	South of 40°10' N. lat.	200 lb/ month					
22	**Canary rockfish**	3,500 lbs/ 2 months					
23	**Yelloweye rockfish**	CLOSED					
24	**Cowcod**	CLOSED					
25	**Bronzespotted rockfish**	CLOSED					
26	**Bocaccio**	6,000 lbs/ 2 months					
27	**Minor Nearshore Rockfish**						
	Shallow nearshore[4/]	2,000 lbs/ 2 months					
	Deeper nearshore[5/]	2,000 lbs/ 2 months					
30	**California Scorpionfish**	3,500 lbs/ 2 months					
	Lingcod[6/]	1,200 lbs / 2 months					
32	**Pacific cod**	1,000 lb/ 2 months					
33	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2	100,000 lb/ 2 months		
34	**Longnose skate**	Unlimited					
35	**Other Fish[7/] & Cabezon in California**	Unlimited					
36	**Big Skate**	Unlimited					

TABLE 2 (South)

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ POP is included in the trip limits for Minor Slope Rockfish. Blackgill rockfish have a species specific trip sub-limit within the Minor Slope Rockfish cumulative limit. Yellowtail rockfish are included in the trip limits for Minor Shelf Rockfish. Bronzespotted rockfish have a species specific trip limit.

3/ "Other Flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ "Shallow Nearshore" are defined at § 660.11 under "Groundfish" (7)(i)(B)(*1*).

5/ "Deeper Nearshore" are defined at § 660.11 under "Groundfish" (7)(i)(B)(2).

6/ The commercial mimimum size limit for lingcod is 24 inches (61 cm) total length South of 42° N. lat.

7/ "Other Fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

■ 11. Revise Tables 3 (North) and 3 (South) to subpart F to read as follows:

Table 3 (North) to Part 660, Subpart F -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Open Access Gears North of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table 9/1/2020

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:						
1	North of 46°16' N. lat.	shoreline - 100 fm line[1/]					
2	46°16' N. lat. - 40°10' N. lat.	40 fm line[1/] - 100 fm line[1/]					
		30 fm line [1/]- 40 fm line [1/2/]					
	See §§660.60, 660.330 and 660.333 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Bank, and EFHCAs).						
	State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.						
4	**Minor Slope Rockfish[3/] & Darkblotched rockfish**	2,000 lbs / months					
5	**Pacific ocean perch**	100 lbs/ month					
6	**Sablefish**	300 lbs. daily, or 1 landing per week up to 1,400 lbs., not to exceed 2,800 lbs. bimonthly					
7	**Shortpine thornyheads**	50 lb/month					
8	**Longspine thornyheads**	50 lb/month					
9	**Dover sole, arrowtooth flounder, petrale**	5,000 lbs/ month					
10	**sole, English sole, starry flounder, Other**						
11	**Flatfish[4/]**						
12	**Whiting**	300 lbs/ month					
13	**Minor Shelf Rockfish[3/]**	800 lbs / month					
14	**Widow rockfish**	2,000 lb/ 2 months					
15	**Shortbelly Rockfish**	200 lbs / month					
16	**Yellowtail rockfish**	1,500 lbs/ month					
17	**Canary rockfish**	1,000 lbs/ 2 months					
18	**Yelloweye rockfish**	CLOSED					
19	**Minor Nearshore Rockfish, Oregon black/blue/deacon rockfish & CA black rockfish**						
20	North of 42°00' N. lat.	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish or blue/deacon rockfish[5/]					
21	42°00' N. lat. - 40°10' N. lat.	7,000 lb/ 2 months, no more than 2,000 lb of which may be species other than black rockfish					
22	**Lingcod[6/]**						
23	North of 42°00' N. lat.	2,000 lbs/ month					
24	42°00' N. lat. - 40°10' N. lat.	1,000 lbs / month					
25	**Pacific cod**	1,000 lbs/ 2 months					
26	**Spiny dogfish**	200,000 lbs/ 2 months		150,000 lbs/ 2 months	100,000 lbs/ 2 months		
27	**Longnose skate**	Unlimited					
28	**Big skate**	Unlimited					
29	**Other Fish[7/] & Cabezon in California**	Unlimited					
30	**Oregon Cabezon/Kelp Greenling**	Unlimited					

TABLE 3 (North)

1	**SALMON TROLL** *(subject to RCAs when retaining all species of groundfish, except for yellowtail rockfish and lingcod, as described below)*	
2	North	Salmon trollers may retain and land up to 500 lbs of yellowtail rockfish per month as long as salmon is on board, both within and outside of the RCA. Salmon trollers may retain and land up to 1 lingcod per 5 Chinook per trip, plus 1 lingcod per trip, up to a trip limit of 10 lingcod, on a trip where any fishing occurs within the RCA. The limit only applies during times when lingcod retention is allowed, and is not "CLOSED." The limit is within the per month limit for lingcod described in the table above, and not in addition to that limit. All groundfish species are subject to the open access limits, seasons, size limits and RCA restrictions listed in the table above, unless
3	**PINK SHRIMP NON-GROUNDFISH TRAWL** *(not subject to RCAs)*	
4	North	Effective April 1 - October 31: Groundfish: 500 lbs/day, multiplied by the number of days of the trip, not to exceed 1,500 lbs/trip. The following sublimits also apply and are counted toward the overall 500 lbs/day and 1,500 lbs/trip groundfish limits: lingcod 300 lbs/month (minimum 24 inch size limit); sablefish 2,000 lbs/month; canary, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lbs/day and 1,500 lbs/trip groundfish limits. Landings of these species count toward the per day and per trip groundfish limits and do not have species-specific limits. The amount of groundfish landed may not exceed the amount of pink shrimp landed.

TABLE 3 (North) cont'd

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ Between 46°16' N. lat. and 40°10' N. lat. and the 30 fm and 40 fm lines, fishing is only allowed with hook-and-line gear except bottom longline and dinglebar gear, as defined in §660.11

3/ Bocaccio, chilipepper and cowcod rockfishes are included in the trip limits for Minor Shelf Rockfish. Splitnose rockfish is included in the trip limits for Minor Slope Rockfish.

4/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

5/ For black rockfish north of Cape Alava (48°09.50' N. lat.), and between Destruction Is. (47°40' N. lat.) and Leadbetter Pnt. (46°38.17' N. lat.), there is an additional limit of 100 lbss or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

6/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N. lat. and 24 inches (61 cm) total length South of 42° N. lat.

7/ "Other fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 3 (South) to Part 660, Subpart F -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Open Access Gears South of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table 9/1/2020

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:						
1	40°10' N. lat. - 38°57.5' N. lat.	40 fm line[1/] - 125 fm line[1/]					
2	38°57.5' N. lat. -34°27' N. lat.	50 fm line[1/] - 125 fm line[1/]					
3	South of 34°27' N. lat.	100 fm line[1/] - 150 fm line[1/] (also applies around islands)					
	See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation						
	State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.						
4	**Minor Slope Rockfish[2/] & Darkblotched rockfish**	10,000 lbs/ 2 months, of which no more than 2,500 lbs may be blackgill rockfish					
5	**Splitnose rockfish**	200 lbs/ month					
6	**Sablefish**						
7	40°10' N. lat. - 36°00' N. lat.	300 lbs. daily, or 1 landing per week up to 1,400 lbs., not to exceed 2,800 lbs. bimonthly					
8	South of 36°00' N. lat.	1,600 lbs. per week, not to exceed 4,800 lbs bimonthly					
9	**Shortpine thornyheads**						
10	40°10' N. lat. - 34°27' N. lat.	50lb/ month					
11	**Longspine thornyheads**						
12	40°10' N. lat. - 34°27' N. lat.	50 lb/ month					
13	**Shortpine thornyheads and longspine**						
14	South of 34°27' N. lat.	50 lbs/ day, no more than 1,000 lbs/ 2 months					
15	**Dover sole, arrowtooth flounder, petrale**						
16	**sole, English sole, starry flounder, Other**	5,000 lbs/ month					
17	**Flatfish[3/]**						
18	**Whiting**	300 lbs/ month					
19	**Minor Shelf Rockfish[2/]**						
20	40°10' N. lat. - 34°27' N. lat.	4,000 lbs. / 2 months, of which no more than 400 lbs. may be vermilion					
21	South of 34°27' N. lat.	3,000 lbs. / 2 months, of which no more than 1,200lbs. may be vermilion					
22	**Widow**						
23	40°10' N. lat. - 34°27' N. lat.	6,000 lbs. / 2 months					
24	South of 34°27' N. lat.	4,000 lbs. / 2 months					
25	**Chilipepper**						
26	40°10' N. lat. - 34°27' N. lat.	6,000 lbs. / 2 months					
27	South of 34°27' N. lat.	4,000 lbs. / 2 months					
28	**Shortbelly Rockfish**						
29	South of 40°10' N. lat.	200 lb/ month					
22	**Canary rockfish**	1,500 lbs/ 2 months					
23	**Yelloweye rockfish**	CLOSED					
24	**Cowcod**	CLOSED					
25	**Bronzespotted rockfish**	CLOSED					
26	**Bocaccio**	4,000 lbs/ 2 months					
30	**Minor Nearshore Rockfish**						
31	Shallow nearshore[4/]	2,000 lbs/ 2 months					
32	Deeper nearshore[5/]	2,000 lbs/ 2 months					
33	**California Scorpionfish**	3,500 lbs/ 2 months					
34	**Lingcod[6/]**	500 lbs / months					
35	**Pacific cod**	1,000 lbs/ 2 months					
36	**Spiny dogfish**	200,000 lbs/ 2 months		150,000 lbs/ 2	100,000 lbs/ 2 months		
37	**Longnose skate**	Unlimited					
38	**Big skate**	Unlimited					
39	**Other Fish[7/] & Cabezon in California**	Unlimited					

TABLE 3 (South)

Table 3 (South) Continued

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table 9/1/2020

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:						
1	40°10' N. lat. - 38°57.5' N. lat.	40 fm line[1/] - 125 fm line[1/]					
2	38°57.5' N. lat. -34°27' N. lat.	50 fm line[1/] - 125 fm line[1/]					
3	South of 34°27' N. lat.	100 fm line[1/] - 150 fm line[1/] (also applies around islands)					
	See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation						
40	**SALMON TROLL** *(subject to RCAs when retaining all species of groundfish, except for yellowtail rockfish and lingcod, as described below)*						
41	South of 40°10' N. lat.	Salmon trollers may retain and land up to 1 lbs of yellowtail rockfish for every 2 lbs of Chinook salmon landed, with a cumulative limit of 200 lbs/month, both within and outside of the RCA. This limit is within the 4,000 lbs per 2 month limit for minor shelf rockfish between 40°10' and 24°27' N lat., and not in addition to that limit. All groundfish species are subject to the open access limits, seasons, size limits and RCA restrictions listed in the table above, unless otherwise stated here.					
42	**RIDGEBACK PRAWN AND, SOUTH OF 38°57.50' N. LAT., CA HALIBUT AND SEA CUCUMBER NON-GROUNDFISH TRAWL**						
43	**NON-GROUNDFISH TRAWL Rockfish Conservation Area (RCA) for CA Halibut, Sea Cucumber & Ridgeback Prawn:**						
44	*40°10' N. lat. - 38°00' N. lat.*	*100 fm line[1/] - 200*		*100 fm line[1/] - 150 fm line[1/]*			*100 fm line[1/] - 200*
45	*38°00' N. lat. - 34°27' N. lat.*	*100 fm line[1/] - 150 fm line[1/]*					
46	*South of 34°27' N. lat.*	*100 fm line[1/] - 150 fm line[1/] along the mainland coast; shoreline - 150 fm line[1/] around islands*					
47		Groundfish: 300 lbs/trip. Species-specific limits described in the table above also apply and are counted toward the 300 lbs groundfish					
48	**PINK SHRIMP NON-GROUNDFISH TRAWL GEAR** *(not subject to RCAs)*						
49	South	Effective April 1 - October 31: Groundfish: 500 lbs/day, multiplied by the number of days of the trip, not to exceed 1,500 lbs/trip. The					

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ POP is included in the trip limits for minor slope rockfish. Blackgill rockfish have a species specific trip sub-limit within the minor slope rockfish cumulative limits. Yellowtail rockfish is included in the trip limits for minor shelf rockfish. Bronzespotted rockfish have a species specific trip limit.

3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ "Shallow Nearshore" are defined at § 660.11 under "Groundfish" (7)(i)(B)(*1*).

5/ "Deeper Nearshore" are defined at § 660.11 under "Groundfish" (7)(i)(B)(2).

6/ The commercial mimimum size limit for lingcod is 24 inches (61 cm) total length South of 42° N. lat.

7/ "Other fish" are defined at § 660.11 and includes kelp greenling off California and leopard shark.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

■ 12. Amend § 660.360 by revising paragraphs (c)(1) introductory text, (c)(1)(i)(B), (C), and (D), (c)(2)(i)(B) and (D), (c)(3)(i)(A), and (c)(3)(ii)(B) to read as follows:

§ 660.360 Recreational fishery—management measures.

* * * * *

(c) * * *

(1) *Washington.* For each person engaged in recreational fishing off the coast of Washington, the groundfish bag limit is 9 groundfish per day, including rockfish, cabezon and lingcod. Within the groundfish bag limit, there are sub-limits for rockfish, lingcod, and cabezon

outlined in paragraph (c)(1)(i)(D) of this section. In addition to the groundfish bag limit of 9, there will be a flatfish limit of 5 fish, not to be counted towards the groundfish bag limit but in addition to it. The recreational groundfish fishery will open the second Saturday in March through the third Saturday in October for all species. In the Pacific halibut fisheries, retention of groundfish is governed in part by annual management measures for Pacific halibut fisheries, which are published in the **Federal Register**. The following seasons, closed areas, sub-limits and size limits apply:

(i) * * *

(B) *South coast recreational yelloweye rockfish conservation area.* Recreational fishing for groundfish and halibut is allowed within the South Coast Recreational YRCA. The South Coast Recreational YRCA is defined by latitude and longitude coordinates specified at § 660.70.

(C) *Westport offshore recreational yelloweye rockfish conservation area.* Recreational fishing for groundfish and halibut is allowed within the Westport Offshore Recreational YRCA. The Westport Offshore Recreational YRCA is defined by latitude and longitude coordinates specified at § 660.70.

(D) *Recreational rockfish conservation area.* Fishing for groundfish with recreational gear is prohibited within the recreational RCA unless otherwise stated. It is unlawful to take and retain, possess, or land groundfish taken with recreational gear within the recreational RCA unless otherwise stated. A vessel fishing in the recreational RCA may not be in possession of any groundfish unless otherwise stated. [For example, if a vessel participates in the recreational salmon fishery within the RCA, the vessel cannot be in possession of groundfish while in the RCA. The vessel may, however, on the same trip fish for and retain groundfish shoreward of the RCA on the return trip to port.] Coordinates approximating boundary lines at the 10- fm (18 m) through 40-fm (73-m) depth contours can be found at § 660.71. The Washington recreational fishing season structure is as follows:

Table 1 to Paragraph (c)(1)(i)(D)—Washington Recreational Fishing Season Structure

Marine Area	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
3 and 4 (North Coast)	Closed		Open		Open<20 fm June 1-July 31 [1, 2]			Open			Closed	
2 (South Coast)	Closed		Open [3, 4]			Open [4]					Closed	
1 (Columbia River)	Closed		Open [5, 6]								Closed	

[1]Retention of Pacific cod, sablefish, lingcod, bocaccio, silvergray rockfish, canary rockfish, widow rockfish, and yellowtail rockfish allowed >20 fm on days when recreational Pacific halibut is open.
[2]Retention of yellowtail and widow rockfish is allowed > 20 fm in July.
[3]From May 1 through May 31 lingcod retention prohibited > 30 fathoms except on days that the primary halibut season is open.
[4]When lingcod is open, retention is prohibited seaward of line drawn from Queets River (47°31.70' N. Lat. 124°45.00' W. Lon.) to Leadbetter Point (46° 38.17' N. Lat. 124°30.00' W. Lon.), except on days open to the primary halibut fishery and, June 1 – 15 and September 1 - 30.
[5]Retention of flatfish, sablefish, Pacific cod, yellowtail rockfish, widow rockfish, canary rockfish, redstriped rockfish, greenstriped rockfish, silvergray rockfish, chilipepper, bocaccio, and blue/deacon rockfish allowed during the all-depth Pacific halibut fishery. Lingcod retention is only allowed north of the WA-OR border with halibut on board.
[6]Retention of lingcod is prohibited seaward of a line drawn from Leadbetter Point (46° 38.17' N. Lat. 124°21.00' W. Lon.) to 46° 33.00' N. Lat. 124°21.00' W. Lon. year round except lingcod retention is allowed from June 1 - June 15 and Sept 1 - Sept 30.

* * * * *

(2) * * *

(i) * * *

(B) *Recreational rockfish conservation area (RCA).* Fishing for groundfish with recreational gear is prohibited within the recreational RCA, a type of closed area or groundfish conservation area, except with long-leader gear (as defined at § 660.351). It is unlawful to take and retain, possess, or land groundfish taken with recreational gear within the recreational RCA, except with long-leader gear (as defined at § 660.351). A vessel fishing in the recreational RCA may not be in possession of any groundfish. [For example, if a vessel fishes in the recreational salmon fishery within the RCA, the vessel cannot be in possession of groundfish while within the RCA. The vessel may, however, on the same trip fish for and retain groundfish shoreward of the RCA on the return trip to port.] Off Oregon, from January 1 through December 31, recreational fishing for groundfish is allowed in all depths. Coordinates approximating boundary lines at the 10-fm (18 m) through 40-fm (73-m) depth contours can be found at § 660.71.

* * * * *

(D) *In the Pacific halibut fisheries.* Retention of groundfish is governed in part by annual management measures for Pacific halibut fisheries, which are published in the **Federal Register**. Between the Columbia River and Humbug Mountain, during days open to the ''all-depth'' sport halibut fisheries, when Pacific halibut are onboard the vessel, no groundfish, except sablefish, Pacific cod, and other species of flatfish

(sole, flounder, sanddab), may be taken and retained, possessed or landed, except with long-leader gear (as defined at § 660.351). ''All-depth'' season days are established in the annual management measures for Pacific halibut fisheries, which are published in the **Federal Register** and are announced on the NMFS Pacific halibut hotline, 1–800–662–9825.

* * * * *

(3) * * *

(i) * * *

(A) *Recreational rockfish conservation areas.* The recreational RCAs are areas that are closed to recreational fishing for groundfish. Fishing for groundfish with recreational gear is prohibited within the recreational RCA, except that recreational fishing for species in the Other Flatfish complex, petrale sole, and starry flounder is permitted within the recreational RCA as specified in paragraph (c)(3)(iv) of this section. It is unlawful to take and retain, possess, or land groundfish taken with recreational gear within the recreational RCA, unless otherwise authorized in this section. A vessel fishing in the recreational RCA may not be in possession of any species prohibited by the restrictions that apply within the recreational RCA. For example, if a vessel fishes in the recreational salmon fishery within the RCA, the vessel cannot be in possession of rockfish while in the RCA. The vessel may, however, on the same trip fish for and retain rockfish shoreward of the RCA on the return trip to port. If the season is closed for a species or species group, fishing for that species or species group is prohibited both within the recreational RCA and shoreward of the recreational RCA, unless otherwise authorized in this section. Coordinates approximating boundary lines at the 10-fm (18 m) through 40-fm (73-m) depth contours can be found at § 660.71. The California recreational fishing season structure and RCA depth boundaries by management area and month are as follows:

Table 2 to paragraph (c)(3)(i)(A)—California Recreational Fishing Season Structure and RCA Depth Boundaries by Management Area and Month

Management Area	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Northern (42° N. lat. to 40°10' N. lat.)	CLOSED				May 1-October 31 <30 fm						All Depths	
Mendocino (40°10' N. lat. to 38°57.50' N. lat.)	CLOSED				May 1-October 31 <30 fm						All Depths	
San Francisco (38°57.50' N. lat. to 37°11' N. lat.)	CLOSED			April 1-December 31 <50 fm								
Central (37°11'N. lat. to 34°27' N. lat.)	CLOSED			April 1-December 31 <50 fm								
Southern (South of 34°27' N. lat)	CLOSED		March 1-December 31 <100 fm									

* * * * *

(ii) * * *

(B) *Bag limits, hook limits.* In times and areas when the recreational season for the RCG Complex is open, there is a limit of 2 hooks and 1 line when fishing for the RCG complex and lingcod. The bag limit is 10 RCG Complex fish per day coastwide, with a sub-bag limit of 5 fish for vermilion rockfish. This sub-bag limit counts towards the bag limit for the RCG Complex and is not in addition to that limit. Retention of yelloweye rockfish, bronzespotted rockfish, and cowcod is prohibited. Multi-day limits are authorized by a valid permit issued by California and must not exceed the daily limit multiplied by the number of days in the fishing trip.

* * * * *

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