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Proclamation 10085 of September 30, 2020

The President

National Breast Cancer Awareness Month, 2020

By the President of the United States of America

A Proclamation

During National Breast Cancer Awareness Month, we honor the incredible fortitude of breast cancer survivors and offer our heartfelt support and prayers to those currently battling this disease. As one Nation, we remember the precious lives lost to breast cancer and the families forever changed as a result. This month, we devote ourselves to fighting to eradicate breast cancer, working with conviction and compassion to develop treatments and find a cure.

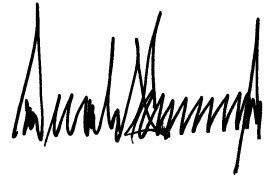
This year, an estimated 276,000 Americans will be diagnosed with breast cancer, and more than 42,000 will likely die from this terrible disease. Thankfully, through early detection and improved treatments, today there is a 90 percent five-year survival rate for women diagnosed with breast cancer. The First Lady and I strongly encourage all Americans to meet with their physicians and discuss their individual risks for breast cancer. Increased awareness, especially of family history and other common risk factors, preventive care, and regular screenings, including mammograms, can help save lives through early diagnosis and prompt treatment.

As President, I am deeply committed to ensuring that Americans have access to cutting-edge treatments and life-saving medications for conditions like breast cancer. In 2018, I signed into law historic “Right to Try” legislation, which ensures those diagnosed with a terminal illness greater autonomy in choosing their treatment path and increases their access to potentially lifesaving drugs. My Administration also has taken decisive action to lower prescription drug prices and eliminate burdensome regulations that, for too long, undercut the potential of our researchers to develop innovative treatments and medications. We are also relentlessly committed to protecting Americans with pre-existing conditions, including conditions that may put someone at a greater risk of developing breast cancer. In the fight against this disease, we will continue to use every tool at our disposal to provide Americans with the best possible treatments and medications to save lives.

This month, as we celebrate the incredible resilience of breast cancer survivors and remember those lost to this disease, we also pray for comfort and strength for those currently battling breast cancer. Together, united by compassion and resolve, we will continue in our effort to find new treatments, medications, and a cure to eradicate this disease from our Nation.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 2020 as National Breast Cancer Awareness Month. Citizens, government agencies, private businesses, nonprofit organizations, the media, and other interested groups must increase awareness of what we can do to fight breast cancer. I also invite the Governors of the States and Territories and officials of other areas subject to the jurisdiction of the United States to join me in recognizing National Breast Cancer Awareness Month.

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



Presidential Documents

Proclamation 10086 of September 30, 2020

National Cybersecurity Awareness Month, 2020

By the President of the United States of America

A Proclamation

As technology continues to progress and new kinds of threats arise around the world, cybersecurity is playing an increasingly central role in our national security and daily lives. During National Cybersecurity Awareness Month, we recommit to ensuring our Nation's cybersecurity, and we raise awareness of the responsibility all Americans have to protect their Internet-connected devices, technology, and networks from cyber threats at work, home, and school.

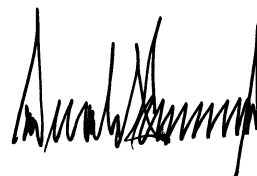
My Administration is proud of the steps we have taken to promote technological innovation and bolster cybersecurity measures. We continue to prioritize Science, Technology, Engineering, and Mathematics (STEM) education and employment opportunities, and my Pledge to America's Workers has encouraged companies to provide educational opportunities for nearly 15 million American workers, especially in areas such as artificial intelligence, quantum computing, cybersecurity, and secure 5G. I also signed the Supporting Veterans in STEM Careers Act, which encourages veterans to study and pursue careers in STEM and computer science when they leave military service. These measures are vital to advancing our defenses and ensuring that the American people have the cyber skills necessary to defend our country.

As our Nation continues to innovate, 5G technology will have a major effect on how we live our daily lives in the future. New opportunities, however, also bring new risks, which is why my Administration is leading 5G risk mitigation efforts to ensure that Americans can fully benefit from this new connectivity while keeping their devices safe and secure. In addition, in March, I signed the Secure and Trusted Communications Networks Act, which is strengthening our network defenses against threats from hostile actors. The American people and our allies deserve to know that our 5G networks will be reliable, private, and secure.

We must all work together to create a safer, more secure, and more resilient cyber world. As my Administration collaborates with private industry partners to strengthen and enhance the security of our Nation's technological infrastructure, I encourage all Americans to embrace their responsibility to protect their sensitive data and to familiarize themselves with the Cybersecurity and Infrastructure Security Agency's STOP. THINK. CONNECT. campaign. All devices are potentially vulnerable. But you can greatly enhance the safety of your personal information and that of your family, friends, and employers by adhering to the advice offered by the campaign and improving your cyber hygiene.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 2020 as National Cybersecurity Awareness Month. I call upon the people, companies, and institutions of the United States to recognize the importance of cybersecurity and to observe this month through events, training, and education to further our country's national security and resilience.

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



Presidential Documents

Proclamation 10087 of September 30, 2020

National Disability Employment Awareness Month, 2020

By the President of the United States of America

A Proclamation

During National Disability Employment Awareness Month, we recognize the immeasurable contributions that Americans with disabilities make to our workforce. Their achievements not only strengthen our economy and communities but also exemplify the power of every American to help shape the future of our country. This month, we recommit to advancing an American workforce where everyone can fully pursue their God-given potential.

Three decades ago, our Nation took a substantial step toward enabling Americans with disabilities to realize their full economic potential. With passage of the landmark Americans with Disabilities Act, these citizens obtained expanded access to employment opportunities, including government and community services. Since then, our Nation has made great strides to create a more inclusive workforce and secure a future of purpose for every American. My Administration has built on these successes by delivering unprecedented opportunities for more than 61 million Americans who have a disability. Due to these efforts, Americans with disabilities had the lowest annual unemployment rate on record last year. As we continue to restore our economy following the coronavirus pandemic, we will once again ensure historic employment opportunities for this incredible group of people.

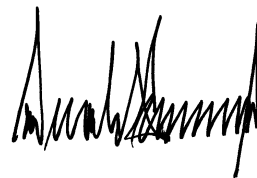
Now, more than ever, technology is at the forefront of our evolving national workforce. Accordingly, my Administration is harnessing emerging technologies that enable Americans with disabilities to work in new ways and in new environments. The Department of Labor's Partnership on Employment and Accessible Technology developed the *Emerging Technology Playbook*, which provides step-by-step guidance to ensure accessibility is being built into new technology from the start. Additionally, the Department of Health and Human Services has convened the Interagency Accessibility Forum to foster best practices in accessibility across the Federal Government. My Administration is also working with State and local policymakers through the State Exchange on Employment and Disability initiative to build a more disability-inclusive employment landscape. While there is still progress to be made, I am committed to expanding rewarding, family-sustaining careers to Americans with disabilities in each and every State.

This month, we recognize the talent and skill of Americans with disabilities. Their resolve and determination strengthen our country and inspire us all. Together, we will continue to advance and promote an inclusive workforce in which everyone can provide for themselves and their families, achieve the American Dream, and enjoy the prosperity of our great Nation.

The Congress, by Joint Resolution approved August 11, 1945, as amended (36 U.S.C. 121), has designated October of each year as "National Disability Employment Awareness Month." Most appropriately, this year's theme is "Increasing Access and Opportunity."

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, do hereby proclaim October 2020 as National Disability Employment Awareness Month. I call upon government, employers, labor organizations, and the great people of the United States to recognize the month with appropriate programs, ceremonies, and activities across our land.

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

A handwritten signature in black ink, appearing to be "Donald Trump", located in the upper right quadrant of the page.

Presidential Documents

Proclamation 10088 of September 30, 2020

National Domestic Violence Awareness Month, 2020

By the President of the United States of America

A Proclamation

All Americans deserve a life free from the threat of physical and psychological harm. Tragically, far too many Americans are deprived of this right by perpetrators of domestic violence. During National Domestic Violence Awareness Month, we offer our support to the victims and survivors of this unacceptable atrocity and reaffirm our commitment to bringing justice to their abusers and offering hope to those who currently reside in volatile and unsafe living conditions.

Domestic violence is an evil that threatens the social fabric of our Nation. It is a widespread attack on the most sacred and intimate of institutions—the American family. Domestic violence tears families apart, with devastating consequences that can last for generations. Tragically, more than 10 million Americans suffer at the hands of loved ones each year, and women are twice as likely to be targets of this heinous crime as men.

My Administration will always stand with and protect victims of domestic violence. My Fiscal Year 2020 budget allocated nearly \$500 million for the Department of Justice (DOJ) to support respectful, nonviolent relationships and reduce domestic violence. In fiscal years 2018, 2019, and 2020, we also provided the DOJ Office for Victims of Crime with \$10 billion in funding so it can provide comprehensive and effective services, including to victims of domestic violence. Thousands of domestic violence survivors have received critical assistance because of this funding. My Administration has also provided funding for domestic violence shelters throughout the country so that people affected by this crime have a safe place to go to escape from their abuser. While our work will not be done until we end domestic violence, these initiatives are helping victims hold their abusers accountable and recover from the trauma inflicted upon them.

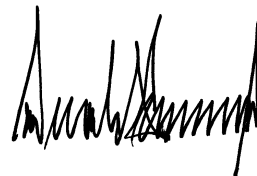
As our Nation continues to combat the coronavirus pandemic, we are forced to face the consequences of increased domestic abuse. We must protect and support those who have found themselves locked down with an abuser. Now more than ever, we must do our part to provide domestic violence survivors with the tools and resources they need to escape their abuse and secure justice for the harm inflicted upon them. The pandemic has also underscored the need for well-trained law enforcement professionals, who often respond to domestic violence calls and provide assistance in situations that very often involve physical injury, psychological trauma, or even death. As we recommit to ending this unconscionable cycle of abuse, we also commend the heroes who courageously answer the call for help time and time again.

There is no room for violence of any kind in our country. This month, we recognize that the victims and survivors of the unspeakable ordeal of domestic violence deserve our compassion, respect, and support. Let us marshal every tool at our disposal to continue the national, sustained, and coordinated campaign to end domestic violence forever.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 2020 as

National Domestic Violence Awareness Month. I call upon the people of the United States to observe this month with appropriate programs, ceremonies, and activities.

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



Presidential Documents

Proclamation 10089 of September 30, 2020

National Energy Awareness Month, 2020

By the President of the United States of America

A Proclamation

From coast to coast, our country is blessed with an abundance of natural resources that help power our homes, light our cities, and provide us transport to school and work. However, for too long, we failed to reap their full benefits, nor did we properly steward these God-given gifts. My Administration reversed that trend, and today, I am proud to proclaim that the United States is finally energy independent. During National Energy Awareness Month, we recognize the newly restored, preeminent importance of our Nation's energy industry to the comfort of our daily lives and to our national security.

Since the beginning of my Administration, I have taken action to reduce the regulatory burden on the American energy sector. The last administration had stifled this industry with one costly job-killing regulation after another. For decades, special interest groups, bureaucrats, and radical environmental activists stymied the maintenance, repair, growth, and expansion of our Nation's energy infrastructure, preventing us from achieving energy independence. My Administration has ended all that and is promoting stronger production of crude oil and other liquids and empowering the private sector to explore and drill for oil and gas. We are also eliminating regulatory obstacles to building the major energy infrastructure needed to transport our Nation's energy from the source of production to end users and exporters. We have issued timely approvals for the Keystone XL, Dakota Access and Mountain Valley Pipelines, and addressed the obstacles to exporting coal through West Coast ports. As a result of these policies, our country is a net energy exporter for the first time since 1952 and is now the number one producer of oil and natural gas in the world.

Under my Administration, we are no longer beholden to foreign powers or domestic radicals. We are powering our Nation on our own terms.

My Administration's commitment to promoting robust energy development has proven that energy production can go hand in hand with responsible stewardship of our natural environment. America's energy independence is critical to environmental stewardship. While boosting energy production, the United States still continues to be a world leader in clean air, including in the reduction of energy-related CO₂ emissions. Emissions of common air pollutants have dropped by 77 percent over the last 50 years, including a 7 percent reduction under my Administration.

By empowering our domestic energy industry and its workers, my Administration has made American innovation—rather than foreign influence—the cornerstone of our clean energy policy. Due to these efforts, we remain the world's top producer of nuclear power and recently became the second largest generator of solar power. Allowing American companies to chart their own paths to dependable renewable energy sources, rather than forcing them to adhere to top-down government programs, has enabled us to lead the world in emissions reductions.

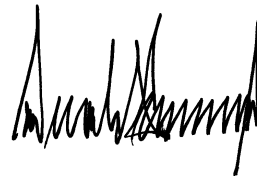
To continue our progress, I proudly signed the Great American Outdoors Act, which will direct royalties from energy production on Federal lands and waters toward conserving and repairing our national parks, forests,

refuges, public lands, and tribal schools. As a result, the energy industry will play a crucial role in our sustainability and conservation efforts going forward.

This month, we recommit to supporting our Nation's workers who produce, transport, and refine our energy. We recognize the vital role they play in creating opportunities, developing technologies, and advancing our country toward an even more prosperous future. My Administration will always support these hardworking men and women, and together, we will sustain our energy dominance and independence for years to come.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 2020 as National Energy Awareness Month.

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



Presidential Documents

Proclamation 10090 of September 30, 2020

National Substance Abuse Prevention Month, 2020

By the President of the United States of America

A Proclamation

Addiction to alcohol, illicit drugs, and prescription medications fuels havoc, heartache, and hopelessness in the lives of far too many Americans, as well as their friends and family members. During National Substance Abuse Prevention Month, we renew our unyielding commitment to breaking the grip of alcohol and drug addiction. Through our continued national effort, we will save lives and work to ensure a stronger and healthier country.

It has been my priority and promise to win the critical battle against opioid misuse, which has ravaged our Nation for too long. In total, close to 400,000 Americans have lost their lives to opioid overdoses since the turn of the century. While one life lost to drug addiction is too many, nearly half a million is unconscionable. In response, I declared a Public Health Emergency and initiated a whole-of-government approach dedicated to ending this tragedy. To bolster this effort, I signed the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act, a law that reduces access to opioids while expanding access to prevention, treatment, and recovery services. The SUPPORT Act is the single largest commitment to combatting the drug crisis in our Nation's history, and it is making a difference.

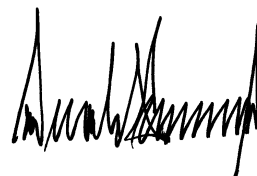
In addition to the opioids public health emergency, my Administration is also advancing several initiatives to address substance abuse more broadly. We have strengthened the Drug-Free Communities program, which provides grants that mobilize communities to prevent youth substance use at the local level. We created the *Rural Community Toolbox*, which is an online resource that connects small town leaders with funding, data, and information to combat drug addiction in rural America. And the High Intensity Drug Trafficking Area (HIDTA) Program is collaborating with community-based organizations and coalitions to fund evidence-based and evidence-informed prevention activities within the HIDTA communities. These initiatives, along with actions taken by State, local, tribal, and territorial stakeholders, including faith-based organizations, are helping families and communities save lives by engaging young people most at risk of developing a substance use disorder.

As our Nation continues its unprecedented fight against the coronavirus pandemic, we are acutely aware of how isolation affects mental health and can encourage the misuse of legal and illegal substances. Through collaborative, community-based efforts, we are strengthening the support systems that deter our Nation's young people from drug use and improve overall mental health and wellness.

This month, we pause to remember the lives lost to addiction, and recommit to protecting all Americans—particularly our Nation's young people—from the devastating effects drugs can have on them and their loved ones. We also commend the healthcare professionals, law enforcement officials, educators, family members, and community volunteers who raise awareness about the risks and dangers of alcohol and drug use, treat the afflicted, and support prevention. Together, we will build healthy families, safe neighborhoods, and thriving communities by preventing substance misuse.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 2020 as National Substance Abuse Prevention Month. I call upon the people of the United States to observe this month with appropriate programs, ceremonies, and activities.

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

A handwritten signature in black ink, appearing to be "Donald Trump", located on the right side of the page.

Rules and Regulations

Federal Register

Vol. 85, No. 194

Tuesday, October 6, 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.

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

DEPARTMENT OF HOMELAND SECURITY

6 CFR Part 5

[Docket No. DHS-2020-0032]

Privacy Act of 1974: Implementation of Exemptions; Department of Homeland Security/ALL-038 Insider Threat Program System of Records

AGENCY: Department of Homeland Security.

ACTION: Final rule.

SUMMARY: The Department of Homeland Security (DHS) is issuing a final rule to amend its regulations to exempt portions of a newly updated system of records titled, “DHS/ALL-038 Insider Threat Program System of Records” from certain provisions of the Privacy Act. Specifically, the Department exempts portions of this system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

DATES: This final rule is effective October 6, 2020.

FOR FURTHER INFORMATION CONTACT: For privacy questions, please contact: Constantina Kozanas, (202) 343-1717, Privacy@hq.dhs.gov, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528-0655.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Homeland Security (DHS) published a notice of proposed rulemaking in the **Federal Register**, 85 FR 13831, March 10, 2020, proposing to exempt portions of the system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements. In concert with that rulemaking, DHS issued a modified system of records notice, “DHS/ALL-038 Insider Threat Program

System of Records” in the **Federal Register**, 85 FR 13914, March 10, 2020, to the public (1) outlining that DHS is expanding the categories of individuals to *all* individuals who have or had access to the Department’s facilities, information, equipment, networks, or systems; (2) to clarify that the categories of records in this SORN will be modified to cover records from any DHS Component, office, program, record, or source, including records from information security, personnel security, and systems security for both internal and external security threats; and (3) to clarify and expand several previously issued routine uses.

DHS invited comments on both the System of Records Notice (SORN) and Notice of Proposed Rulemaking (NPRM).

II. Public Comments

DHS received five comments on the NPRM and one comment on the SORN.

NPRM

DHS received four comments on the published NPRM regarding the collection of information by DHS generally, and not specific to the Insider Threat Program system of records. DHS received one comment on the published NPRM regarding DHS’s proposed exemptions covered by the associated Insider Threat Program system of records. In short, the comment argues that DHS’s proposed use of these exemptions would circumvent Privacy Act safeguards and contravene legislative intent by permitting DHS to collect records that are not relevant and necessary, failing to disclose its sources of records, and preventing individuals from accessing and amending their records. DHS believes the explanations and justifications provided in the NPRM and this final rule fully support DHS’s uses of these exemptions. In summary, DHS appreciates the public comments and strives to be transparent regarding all Insider Threat collections and uses. After consideration of the public comments, DHS has determined that the exemptions should remain in place and will implement the rulemaking as proposed.

SORN

DHS received one comment on the SORN proposing to (1) minimize the scope of information collected because of the surge of federal government data

breaches and general cybersecurity weaknesses that allegedly federal agencies, including DHS, may incur as part of their systems; (2) exclude category of individuals and relevant personal associations, including those not under investigation by DHS; and (3) eliminate the use of routine uses that are incompatible with the purpose for which the data was collected, including those that relate to disclosures for: Employment, licensing, and other benefit eligibility decisions; to the news media and public for a legitimate public interest; and to foreign entities. DHS appreciates the public comment and strives to be transparent regarding all Insider Threat collections. After consideration of the public comment, DHS has determined that the SORN should remain in place.

List of Subjects in 6 CFR Part 5

Freedom of information, Privacy.

For the reasons stated in the preamble, DHS proposes to amend Chapter I of Title 6, Code of Federal Regulations, as follows:

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

■ 1. The authority citation for part 5 continues to read as follows:

Authority: 6 U.S.C. 101 *et seq.*; Pub. L. 107-296, 116 Stat. 2135; 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552a.

■ 2. In appendix C to part 5, revise paragraph “20” to read as follows:

Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

* * * * *

20. The Department of Homeland Security (DHS)/ALL-038 Insider Threat Program System of Records consists of electronic and paper records and will be used by DHS and its components. The DHS/ALL-038 Insider Threat Program System of Records is a repository of information held by DHS in connection with its several and varied missions and functions, including the enforcement of civil and criminal laws; investigations, inquiries, and proceedings there under; national security and intelligence activities; and protection of the President of the U.S. or other individuals pursuant to Section 3056 and 3056A of Title 18. The DHS/ALL-038 Insider Threat Program System of Records contains information that is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain

personally identifiable information collected by other federal, state, local, tribal, foreign, or international government agencies. The Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(j)(2), has exempted this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3), (c)(4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (e)(12); (f); and (g)(1). Additionally, the Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5), has exempted this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f). Where a record received from another system has been exempted in that source system under 5 U.S.C. 552a(j)(2), 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5), DHS will claim the same exemptions for those records that are claimed for the original primary systems of records from which they originated and claims any additional exemptions set forth here. Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) and (4) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process. When an investigation has been completed, information on disclosures made may continue to be exempted if the fact that an investigation occurred remains sensitive after completion.

(b) From subsection (d) (Access and Amendment to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an unreasonable administrative burden by requiring investigations to be continually reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of federal law, the accuracy of

information obtained or introduced occasionally may be unclear, or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject to the nature or existence of the investigation, thereby interfering with that investigation and related law enforcement activities.

(e) From subsection (e)(3) (Notice to Subjects) because providing such detailed information could impede law enforcement by compromising the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(f) From subsections (e)(4)(G), (e)(4)(H), and (e)(4)(I) (Agency Requirements) and (f) (Agency Rules), because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

(g) From subsection (e)(5) (Collection of Information) because with the collection of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Compliance with subsection (e)(5) would preclude DHS agents from using their investigative training and exercise of good judgment to both conduct and report on investigations.

(h) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with DHS's ability to obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed under seal and could result in disclosure of investigative techniques, procedures, and evidence.

(i) From subsection (e)(12) (Matching Agreements) because requiring DHS to provide notice of a new or revised matching agreement with a non-Federal agency, if one existed, would impair DHS operations by indicating which data elements and information are valuable to DHS's analytical functions, thereby providing harmful disclosure of information to individuals who would seek to circumvent or interfere with DHS's missions.

(j) From subsection (g)(1) (Civil Remedies) to the extent that the system is exempt from other specific subsections of the Privacy Act.

* * * * *

Constantina Kozanas,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2020-18857 Filed 10-5-20; 8:45 am]

BILLING CODE 9110-9B-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 54, 56, 62, 70, 90 and 91

[Doc. No. AMS-SC-18-0062; SC18-062-1 FR]

Amendments to Quality Systems Verification Programs and Conforming Changes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule revises regulations for Quality Systems Verification Programs (QSVP). The revisions clarify that all voluntary, user-fee services under this part are applicable to all commodities covered by the Agricultural Marketing Act of 1946 (Act), as amended. Further, the revisions broaden the scope of services defined in part 62 to include all current and future AMS voluntary, user-fee audit verification and accreditation programs and services. Finally, the revisions harmonize administrative procedures governing these services and make conforming changes to other agency regulations.

DATES: Effective November 5, 2020.

FOR FURTHER INFORMATION CONTACT: Jeffrey Waite, Chief, Audit Services Branch, Quality Assessment Division; Livestock and Poultry Program, Agricultural Marketing Service, U.S. Department of Agriculture; Room 3932S, STOP 0258, 1400 Independence Avenue SW; Washington, DC 20250-0258; telephone (202) 720-4411; or email to jeffrey.waite@usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Orders 12866, 13563 and 13771

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and

equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This rulemaking has been determined to be not significant for purposes of Executive Order 12866 or Executive Order 13563. Accordingly, the Office of Management and Budget (OMB) has waived the review process.

Additionally, because this final rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled "Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 titled 'Reducing Regulation and Controlling Regulatory Costs'" (February 2, 2017).

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This final rule is not intended to have retroactive effect. The Act prohibits States or political subdivisions of a State from imposing any requirement that is in addition to, or inconsistent with, any requirement of the Act. There are no civil justice implications associated with this final rule.

Executive Order 13175

This action has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.

Civil Rights Review

AMS has considered the potential civil rights implications of this rule on minorities, women and persons with disabilities to ensure that no person or group shall be discriminated against on the basis of race, color, national origin, gender, religion, age, disability, sexual orientation, marital or family status, political beliefs, parental status, or protected genetic information. This rule does not require affected entities to relocate or alter their operations in ways that could adversely affect such persons or groups. Further, this final rule does not deny any persons or groups the benefits of the program or subject any persons or groups to discrimination.

Executive Order 13132

This final rule has been reviewed under Executive Order 13132, Federalism. This Order directs agencies

to construe, in regulations and otherwise, a federal statute to preempt State law only when the statute contains an express preemption provision. There are no federalism implications associated with this final rule.

Background and Revisions

The Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627), hereinafter referred to as the "Act," directs and authorizes the Secretary of Agriculture to facilitate the efficient and competitive marketing of agricultural products. AMS programs support a strategic marketing perspective that adapts product and marketing decisions to consumer demands, changing domestic and international marketing practices, and new technology. Under this directive, AMS provides impartial verification services that ensure agricultural products meet specified requirements, such as USDA grade standards, a feeding regime, or a production system. Services also include audit verification programs, laboratory approval and accreditation programs, and audit activities based on government-to-government agreements with international trading partners regarding specific foreign market requirements. These services are voluntary, with users paying for the cost of the requested service.

Currently, AMS voluntary, user-fee audit verification and accreditation programs and services are collectively regulated by: 7 CFR Part 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION, AND STANDARDS); 7 CFR Part 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS; 7 CFR Part 56—VOLUNTARY GRADING OF SHELL EGGS; 7 CFR Part 58—GRADING AND INSPECTION, GENERAL SPECIFICATIONS FOR APPROVED PLANTS AND STANDARDS FOR GRADES OF DAIRY PRODUCTS; 7 CFR Part 62—LIVESTOCK, MEAT, AND OTHER AGRICULTURAL COMMODITIES (QUALITY SYSTEMS VERIFICATION PROGRAMS); 7 CFR Part 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS; 7 CFR Part 75—PROVISIONS FOR INSPECTION AND CERTIFICATION OF QUALITY OF AGRICULTURAL AND VEGETABLE SEEDS; and 7 CFR Chapter I, Subchapter E—COMMODITY LABORATORY TESTING PROGRAMS, parts 90 and 91. Each part of the CFR is applicable to a different group of agricultural commodities and its

products. This final rule incorporates the commodities and program services for audit verification and accreditation programs currently regulated by the aforementioned parts of the CFR into a single regulatory reference, 7 CFR Part 62.

This rule expands the definition of "product" in 7 CFR part 62, which currently references livestock, meat, seed and feedstuffs, to include all commodities covered under the Act. Additionally, this final rule clarifies the scope of existing and future voluntary, fee-for-service audit verification and accreditation programs offered by AMS and houses all such programs under one part.

With these changes, AMS maintains uniformity, transparency, and efficiency of service delivery of the QSVP and other AMS voluntary, user-fee audit verification and accreditation programs. Without these changes, AMS would be required to maintain similar or duplicate programs in each commodity area that carries out comparable functions.

This final rule implements other administrative changes. For example, the title of part 62, "LIVESTOCK, MEAT, AND OTHER AGRICULTURAL COMMODITIES (QUALITY SYSTEMS VERIFICATION PROGRAMS)", is changed to "AGRICULTURAL MARKETING SERVICE AUDIT VERIFICATION AND ACCREDITATION PROGRAMS (AVAAP)." Additional changes to the part's terminology reflect the broader scope of commodities and program services, and better coordinate administrative service provisions within AMS. Lastly, conforming changes to parts 54, 56, 70, 90 and 91 remove duplicative or conflicting language and update terminology.

Final Regulatory Flexibility Analysis

The purpose of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) is to fit regulatory actions to the scale of businesses subject to such actions so small businesses will not be unduly or disproportionately burdened. The U.S. Small Business Administration's Table of Small Business Size Standards matched to the North American Industry Classification System Codes identifies small business size by average annual receipts or by the average number of employees at a firm. This information can be found at 13 CFR parts 121.104, 121.106, and 121.201.

AMS has determined that this action will not have a significant impact on a substantial number of small entities, as defined by the RFA, because the services are voluntary, are provided on a fee-for-service basis, and are not

subject to scalability based on the business size. Nonetheless, this analysis is provided.

All applicants for audit services provide information about their companies for processing payment invoices. Information collected from an applicant includes company name, business name if different from company name, Federal Tax Identification Number, billing address, contact information of the accounts payable department, and the name of the person filing the application. The Federal Tax Identification Number is required by the Federal Debt Collection Procedure Act of 1990 (28 U.S.C. 3101 *et seq.*). All entities doing business with the Federal Government are required to provide the Federal Tax Identification Number before an account can be set up.

AMS does not collect information about the size of a business that applies for a service. However, based on working knowledge of the USDA personnel assigned to provide service to these operations, AMS estimates the following based on the number of its employees:

Livestock and Poultry Program

Approximately 950 livestock and poultry industry applicants subscribe to AMS' voluntary, fee-for-service program and will be subject to the requirements of this regulation. Roughly 25 percent of those applicants may be classified as small entities.

Dairy Program

Approximately 550 dairy industry applicants subscribe to AMS' voluntary, fee-for-service program and will be subject to the requirements of this regulation. Roughly 10 percent of those applicants may be classified as small entities.

Fruit, Vegetable and Specialty Crop Program

Approximately 4,300 fruit, vegetable, and specialty crop industry applicants subscribe to AMS' voluntary, fee-for-service audit verification and accreditation programs and will be subject to the requirements of this regulation. Roughly 33 percent of those applicants may be classified as small entities.

Laboratory Approval and Accreditation Programs

Approximately 84 agricultural laboratory applicants subscribe to AMS's voluntary, fee-for-service testing and will be subject to the requirements of this regulation. Roughly 80 percent of those applicants may be classified as small entities.

Accredited Seed Programs

Approximately 24 agricultural seed applicants subscribe to AMS' voluntary, fee-for-service program and will be subject to the requirements of this regulation. Roughly 80 percent of those applicants may be classified as small entities.

It is not anticipated that this action will impose additional costs to applicants, regardless of size. Current applicants will not be required to provide any additional information to receive service. The effects of this rule are not expected to be disproportionately greater or lesser for small applicants than for larger applicants. As described above, these programs are voluntary, fee-for-service activities.

AMS is committed to complying with the E-Government Act of 2002 (44 U.S.C. 101) to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to government information and services, and for other purposes.

USDA has not identified any relevant federal rules that duplicate, overlap, or conflict with this rulemaking.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this final rule will not change the current information collection and recordkeeping requirements previously approved but will increase the number of respondents upon completion of the rulemaking process.

USDA has considered the reporting and recordkeeping burden on applicants for the AMS services that will be impacted by this action. Currently, applicants are required to complete an application for service and submit additional documentation. Recordkeeping requirements on each applicant will remain the same, though the overall burden will increase due to an increase in applications received.

Since this action expands the scope of covered commodities, which will increase the number of respondents, the already approved OMB Control Numbers 0581-0128, 0581-0283, 0581-0125 and 0581-0251 will be revised to reflect the increase in the reporting and recordkeeping burden. Therefore, AMS has submitted a Justification for Change to OMB to reflect burden of increase in the number of respondents affected by the amendments to part 62.

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and

duplication by industry and public sector agencies. USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

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

A proposed rule concerning this action was published in the **Federal Register** on February 19, 2020, (85 FR 9399). The rule was made available through the internet by USDA and the Office of the Federal Register. A 60-day comment period ending April 20, 2020, was provided to allow interested persons to respond to the proposal. A total of four comments were received.

Two comments received questioned whether AMS would make additional changes to authorize third-party entities to conduct process verification program verifications and provide laboratory audit and accreditation services. Given that this rulemaking is limited in scope to incorporating existing and future voluntary, fee-for-service audit verification and accreditation programs offered by AMS into a single regulatory reference, 7 CFR part 62, AMS has determined that the comments fall outside the scope of this action.

A third comment questioned this rule's usage of the word "safety" as it relates to "consumption or biological levels" of concern as opposed to administrative or management aspects of a production process. In response to the comment, AMS clarifies that QSVPs are voluntary, user-fee programs designed to provide impartial verification services that ensure agricultural products meet specified requirements, such as USDA grade standards, a feeding regime, or a production system. Services also include audit verification programs, laboratory approval and accreditation programs, and audit activities based on government-to-government agreements with international trading partners regarding specific foreign market requirements. These services are focused, for the most part, on certifying that a given process adheres to a prescribed set of administrative and process management criteria.

A fourth comment was received from a person seeking home refinance assistance. This comment also falls outside the scope of this rulemaking action.

According to consideration given to all comments received as described

above, no changes will be made to the rule as proposed.

After consideration of all relevant material presented, it is hereby found that this rule will tend to effectuate the declared policy of the Act.

List of Subjects

7 CFR Part 54

Food grades and standards, Food labeling, Meat and meat products

7 CFR Part 56

Grading of shell eggs, Inspections, Marketing practices, Standards.

7 CFR Part 62

Inspections, Marketing practices, Quality Systems Verification, Standards.

7 CFR Part 70

Inspections, Marketing practices, Standards, Voluntary grading of poultry products and rabbit products.

7 CFR Part 90

Agricultural commodities, Laboratories, Reporting and recordkeeping requirements.

7 CFR Part 91

Administrative practice and procedure, Agricultural commodities, Laboratories, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR parts 54, 56, 62, 70, 90 and 91 are amended as follows:

■ 1. The authority citation for 7 CFR parts 54, 56, 62, 70, 90 and 91 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

PART 54—MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

§ 54.17 [Amended]

■ 2. Amend § 54.17 by removing and reserving paragraph (i).

PART 56—VOLUNTARY GRADING OF SHELL EGGS

§ 56.1 [Amended]

■ 3. Amend § 56.1 by removing the term “Auditing services.”

■ 4. Amend § 56.46 by:

- a. Revising paragraph (a);
- b. Revising paragraphs (b)(1)(i) through (iii); and
- c. Removing paragraph (d).

The revisions read as follows:

§ 56.46 Charges for service on an unscheduled basis.

(a) Unless otherwise provided in this part, the fees to be charged and

collected for any service performed, in accordance with this part, on an unscheduled basis shall be based on the applicable formulas specified in this section. For each calendar year or crop year, AMS will calculate the rate for grading services, per hour per program employee using the following formulas:

(1) *Regular rate.* The total AMS grading program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase, plus the benefits rate, plus the operating rate, plus the allowance for bad debt rate. If applicable, travel expenses may also be added to the cost of providing the service.

(2) *Overtime rate.* The total AMS grading program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase and then multiplied by 1.5 plus the benefits rate, plus the operating rate, plus an allowance for bad debt. If applicable, travel expenses may also be added to the cost of providing the service.

(3) *Holiday rate.* The total AMS grading program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase and then multiplied by 2, plus benefits rate, plus the operating rate, plus an allowance for bad debt. If applicable, travel expenses may also be added to the cost of providing the service.

(b)(1) * * *

(i) *Benefits rate.* The total AMS grading program direct benefits costs divided by the total hours (regular, overtime, and holiday) worked, which is then multiplied by the next calendar year's percentage cost of living increase. Some examples of direct benefits are health insurance, retirement, life insurance, and Thrift Savings Plan (TSP) retirement basic and matching contributions.

(ii) *Operating rate.* The total AMS grading program operating costs divided by total hours (regular, overtime, and holiday) worked, which is then multiplied by the percentage of inflation.

(iii) *Allowance for bad debt rate.* Total AMS grading program allowance for bad debt divided by total hours (regular, overtime, and holiday) worked.

* * * * *

■ 5. Revise part 62 to read as follows:

PART 62—AGRICULTURAL MARKETING SERVICE AUDIT VERIFICATION AND ACCREDITATION PROGRAMS (AVAAP)

Sec.

Subpart A—Definitions

62.000 Meaning of terms.

Subpart B—Administration

62.100 Administrator.

Subpart C—Audit and Accreditation Services

62.200 Services.

Subpart D—Administrative Provisions

62.201 Availability of service.

62.202 How to apply for service.

62.203 How to withdraw service.

62.204 Authority to request service.

62.205 [Reserved]

62.206 Access to program documents and activities.

62.207 Official assessment.

62.208 Publication of assessment status.

62.209 [Reserved]

62.210 Denial, suspension, cancellation or rejection of service.

62.211 Appeals.

62.212 [Reserved]

62.213 Official identification.

62.214 Voluntary participation.

Subpart E—Fees

62.300 Fees and other costs of service.

62.301 Payment of fees and other charges.

Subpart F—OMB control number

62.400 OMB control number assigned pursuant to the Paperwork Reduction Act.

Authority: 7 U.S.C. 1621–1627.

Subpart A—Definitions

§ 62.000 Meaning of terms.

Words used in this subpart in the singular form shall be deemed to impart the plural, and vice versa, as the case may demand. For the purposes of such regulations, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

Accreditation. The action or process of officially recognizing an entity as being qualified to perform a specific activity(ies).

Act. The Agricultural Marketing Act of 1946, as amended (AMA) (7 U.S.C. 1621–1627).

Administrator. The Administrator of the Agricultural Marketing Service, or any officer or employee of AMS to whom authority has heretofore been delegated or to whom authority may hereafter be delegated, to act in the Administrator's stead.

Agricultural Marketing Service. The Agricultural Marketing Service (AMS) of the U.S. Department of Agriculture.

Applicant. Any individual, commodity board, trade association, marketing order or agreement administrative body and its program signatories, or business with a financial interest in audit verification and

accreditation services who has applied for service under this part.

Assessment. A systematic review of the adequacy and implementation of a documented program or system.

Audit. A systematic, independent, and documented process for obtaining evidence and evaluating it objectively to determine the extent to which criteria are fulfilled.

Auditor. Person authorized by AMS to conduct official audits or assessments.

Conformance. The condition or fact of an applicant meeting the requirements of a standard, contract, specification, or other documented service requirements.

Export certificate. An official paper or electronic document issued as part of an export certification program, which describes and attests to attributes of consignments of commodities or food destined for international trade.

Nonconformance. The condition or fact of an applicant not meeting the requirements of a standard, contract, specification, or other documented service program requirements.

Official mark of conformance. Any form of mark or other identification used under the regulations to show the conformance of products with applicable service requirements, or to maintain the identity of products for which service is provided under the regulations.

Products. All agricultural commodities and services within the scope of Agricultural Marketing Act of 1946. This includes the processes involving the production, handling, processing, packaging, and transportation of these products, agricultural product data storage, and product traceability and identification.

Program. Any and all individual auditing or accrediting procedures, systems, or instructions developed and administered under the services authorized under § 62.200.

Service. The AMS auditing and accreditation functions authorized under the Act and the provisions of this part.

Service documentation. All requirements, guidelines, manuals, forms, and supporting documentation needed to effectuate the administration and operation of services authorized under this part.

USDA. The U.S. Department of Agriculture.

Subpart B—Administration

§ 62.100 Administrator.

The Administrator is charged with the administration of official assessments conducted according to the regulations in this part and approved program procedures.

Subpart C—Audit and Accreditation Services

§ 62.200 Services.

Services shall be based upon the authorities under the Act and applicable standards prescribed by USDA, the laws of the State where the particular product was produced, specifications of any governmental agency, voluntary audit program requirements in effect under federal marketing orders and/or agreements, written buyer and seller contract specifications, service documentation, or any written specification by an applicant. Services are administered through voluntary, fee-for-service, audit-based programs by AMS auditor(s) and other USDA officials under this part. Services authorized under this part, and programs administered under such, shall include:

(a) **Quality Systems Verification Programs.** Quality Systems Verification Programs (QSVP) assess an applicant's business (quality) management system of program documentation and program processes regarding quality of products. Such programs include, but are not limited to:

(1) **Food Safety Management Systems.** A formalized system of documents, processes, procedures, and responsibilities for preventing foodborne illnesses.

(i) **Good Agricultural Practices (GAP).** A formalized system of documents, processes, and procedures used by primary producers to minimize the risk of contamination during the production, harvesting, and handling of crops.

(ii) **Group GAP.** A quality management system approach to GAP certification undertaken by a group of producers.

(iii) **Good Manufacturing Practices.** A formalized system of documents, processes, and procedures used to ensure that products are consistently produced and controlled according to quality standards and regulatory requirements.

(2) **Export Certification Program.** A formalized system of documents, processes, and procedures used to validate that a given product meets the specific requirements of a foreign country, in addition to applicable Federal requirements.

(3) **USDA Process Verified Program (PVP).** A comprehensive quality management system verification program whereby applicants establish their own standards to describe products or processes.

(4) **USDA Quality Assessment Program.** A quality management system verification service that is designed to aid in the marketing of products that

have undergone specific processes and is limited in scope to those specific items associated with the product or process.

(i) **Export Verification Programs.** A formalized system of documents, processes and procedures used to validate specific requirements of a foreign country are being met, in addition to applicable Federal requirements.

(ii) [Reserved].

(5) **USDA Accredited Seed Program.** A specialized quality management system verification service for the seed industry that offers applicants a way to market their product using industry-recognized processes, rules, and standards.

(b) **Audit Verification Programs.** Audit verification programs assess an applicant's documentation of its business management system with regard to the production or handling of products. Such programs include, but are not limited to:

(1) **Food Defense Verification Program.** A service that evaluates operators of food establishments that maintain documented and operational food defense measures to minimize the risk of tampering or other malicious criminal actions against the food under their control.

(2) **Domestic Origin Verification.** A service that evaluates a farm's and/or a facility's ability to maintain processes, procedures, and records to demonstrate products are grown in the United States of America, its territories, or possessions.

(3) **Plant System Audit.** A service that evaluates the ability of operators of food establishments to implement a sanitation program and/or requirement outlined in good manufacturing practices regulations.

(4) **Audits performed for other government agencies.** A service that provides quality-based audit services to, and performs audits for, other government agencies, such as the Department of Defense or the U.S. Aid Agency for International Development, under the Economy Act (31 U.S.C. 1535).

(5) **Export Audit Programs.** An audit intended to ensure that information submitted for an export certificate request is complete, accurate, and in compliance with the export certification program. In some cases, these requirements may include compliance with country-specific attestations or product requirements.

(6) **Child Nutrition Labeling Program.** An audit intended to ensure manufacturers properly apply and document effective procedures to

monitor and control the production of their Child Nutrition products.

(c) *Accreditation Programs.* Accreditation programs include voluntary, user-fee accreditation services performed by a USDA evaluator or accreditation body to conduct assessments of applicant programs, services, facilities or equipment, and their ability to achieve planned results. Such programs include, but are not limited to:

(1) *USDA ISO Guide 17065 Program.* A service that assesses certification bodies to determine conformance to the International Organization for Standardization (ISO) Guide 17065. These assessments are available to U.S. and international certification bodies operating a third-party certification system that perform conformity assessment activities.

(2) *Laboratory Approval Programs.* Laboratories are approved, or accredited, to perform testing services in support of domestic and international trade. At the request of industry, other Federal Agencies, or foreign governments, USDA administers programs to verify that the analysis of food and agricultural products meets country and customer-specific requirements and that the testing of marketed products is conducted by qualified and approved laboratories.

Subpart D—Administrative Provisions

§ 62.201 Availability of service.

Services under this part are available to applicants, including international and domestic government agencies, private agricultural businesses, and any financially interested person.

§ 62.202 How to apply for service.

Applicants may apply for services authorized under this part by contacting the Administrator's office and requesting specific service or program information at USDA, AMS, 1400 Independence Avenue SW, Room 3069—S, Washington, DC 20250–0294; by fax to: (202) 720–5115, or email to: AMSAdministratorOffice@usda.gov. Applicants may also visit: <https://www.ams.usda.gov>.

§ 62.203 How to withdraw application for service.

An application for service may be withdrawn, all or in part, by the applicant at any time; *Provided*, That the applicant notifies the USDA service office in writing of its desire to withdraw the application for service and pays any expenses USDA has incurred in connection with such application.

§ 62.204 Authority to request service.

Any person requesting service may be required to prove his/her financial interest in the product or service at the discretion of USDA.

§ 62.205 [Reserved]

§ 62.206 Access to program documents and activities.

(a) The applicant shall make its products, records, and documentation available and easily accessible for assessment, with respect to the requested service. Auditors and other USDA officials responsible for maintaining uniformity and accuracy of service authorized under this part shall have access to all areas of facilities covered by approved applications for service under the regulations, during normal business hours or during periods of production, for the purpose of evaluating products or processes. This includes products in facilities which have been or are to be examined for program conformance or which bear any USDA official marks of conformance. This further includes any facilities or operations that are part of an approved program.

(b) Documentation and records relating to an applicant's program must be retained as prescribed under each service program authorized under this part.

§ 62.207 Official assessment.

Official assessment of an applicant's program shall include:

(a) *Documentation assessment.* Auditors and other USDA officials shall review the applicant's program documentation and issue the finding of the review to the applicant.

(b) *Program assessment.* Auditors and USDA officials shall conduct an onsite assessment of the applicant's program to ensure provisions of the applicant's program documentation have been implemented and conform to program procedures.

(c) *Program determination.* Applicants determined to meet or not meet program procedures or requirements shall be notified of their approval or disapproval.

(d) *Corrective and/or preventative actions.* Applicants may be required to implement corrective and/or preventative actions upon completion of an assessment. After implementation of the corrective and/or preventative actions, the applicant may request another assessment.

§ 62.208 Publication of assessment status.

Approved programs shall be posted for public reference on: <https://>

www.ams.usda.gov. Such postings shall include:

(a) Program name and contact information;

(b) Products or services covered under the scope of approval;

(c) Effective dates of approval;

(d) Control numbers of official assessments, as appropriate; and

(e) Any other information deemed necessary by the Administrator.

§ 62.209 [Reserved]

§ 62.210 Denial, suspension, cancellation or rejection of service.

(a) *Denial of services.* Services authorized under this part may be denied if an applicant fails to meet or conform to a program's requirements including, but not limited to, a failure to:

(1) Adequately address any program requirement resulting in a nonconformance for the program.

(2) Demonstrate capability to meet any program requirement, thereby resulting in a major nonconformance.

(3) Present truthful and accurate information to any auditor or other USDA official; or

(4) Allow any auditor or other USDA official access to facilities and records within the scope of the program.

(b) *Suspension of services.* Services may be suspended if the applicant fails to meet or conform to a program's requirements including, but not limited to, a failure to:

(1) Adequately address any program's requirement, thereby resulting in a major nonconformance;

(2) Demonstrate capability to meet any program requirement, thereby resulting in a major nonconformance;

(3) Follow and maintain its approved program or procedures;

(4) Provide corrections and take corrective actions as applicable in the timeframe specified;

(5) Submit significant changes to an approved program and seek approval from USDA prior to implementation of the significant changes to the program;

(6) Allow any auditor or other USDA official access to facilities and records within the scope of the approved program;

(7) Accurately represent the eligibility of agricultural products or services distributed under an approved program;

(8) Remit payment for services;

(9) Abstain from any fraudulent or deceptive practice in connection with any application or request for service; or

(10) Allow any auditor or other USDA official to perform his or her duties under the provisions of this part or program requirements established under

one of the authorized services of this part.

(c) *Cancellation of services.* Services may be cancelled, an application may be rejected, or program assessment may be terminated if the Administrator or his/her designee determines that a nonconformance has remained uncorrected beyond a reasonable amount of time.

(d) *Rejection of services.* Services may be rejected when it appears that to perform audit and accreditation services would not be in the best interests of the USDA. The applicant shall be promptly notified of the reason for such rejection.

§ 62.211 Appeals.

(a) *Appeals of adverse decisions.* Appeals of adverse decisions under this part may be made in writing to the AMS Administrator, Rm. 3069-S, 1400 Independence Avenue SW, Washington, DC 20250-0249 or to the director of the applicable service office. Appeals must be made within the timeframe specified

by each program or within 30 calendar days of receipt of an adverse decision, whichever is sooner.

(b) *Procedure for Appeals.* Actions under this subparagraph concerning appeals of adverse decisions to the Administrator shall be conducted in accordance with the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes set forth at 7 CFR 1.130 through 1.151 and the Administrative Procedures Governing Withdrawal of Inspection and Grading Services in 7 CFR part 50. The procedure for appeals is specified by each program and/or by an overarching USDA AMS administrative procedure.

§ 62.212 [Reserved]

§ 62.213 Official identification.

Some programs offered under this subpart allow for the use of official identification or marks of conformance. A program's specific documented

procedure will indicate whether official marks of conformance apply.

(a) Products or services produced under a program authorized under this part may use an official identification mark of approval for that program, such as the "USDA Process Verified" statement and the "USDA Process Verified" shield. Use of program official identification must be in accordance with program requirements.

(b) Use of a program's official identification mark must be approved in writing by USDA prior to use by an applicant.

(c) *USDA Process Verified Program shield.* Products or services produced under an approved USDA PVP may use the "USDA Process Verified" statement and the "USDA Process Verified Program" shield (Figure 1 to paragraph (c)), so long as each is used in direct association with a clear description of the process verified points approved by USDA.

Figure 1 to paragraph (c)



(1) The USDA Process Verified shield must replicate the form and design of the example in Figure 1 and must be printed legibly and conspicuously:

(i) On a white background with a gold trimmed shield, with the term "USDA" in white overlaying a blue upper third of the shield, the term "PROCESS" in black overlaying a white middle third of the shield, and term "VERIFIED" in white overlaying a red lower third of the shield; or

(ii) On a white or transparent background with a black trimmed shield, with the term "USDA" in white overlaying a black upper third of the shield, the term "PROCESS" in black overlaying a white middle third of the shield, and the term "VERIFIED" in white overlaying a black lower third of the shield.

§ 62.214 Voluntary participation.

Applying for services, or enrollment in any service program, is voluntary. Once an applicant receives a service or is accepted into a program, compliance with that service or program's terms is mandatory unless the applicant withdraws its application as provided in § 62.203 or participation is denied, suspended, cancelled, or rejected subject to the terms of § 62.210.

Subpart E—Fees

§ 62.300 Fees and other costs of service.

(a) For each calendar year, AMS will calculate the rate for services per hour per program employee using the following formulas:

(1) *Regular rate.* The total AMS service program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase, plus the

benefits rate, plus the operating rate, plus the allowance for bad debt rate. If applicable, travel expenses may also be added to the cost of providing the service.

(2) *Overtime rate.* The total AMS service program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase and then multiplied by 1.5 plus the benefits rate, plus the operating rate, plus an allowance for bad debt. If applicable, travel expenses may also be added to the cost of providing the service.

(3) *Holiday rate.* The total AMS service program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase and then multiplied by 2, plus the benefits rate, plus the operating rate, plus an allowance for bad debt. If applicable,

travel expenses may also be added to the cost of providing the service.

(b)(1) For each calendar year, based on previous fiscal year/historical actual costs, AMS will calculate the benefits rate, operating rate, and allowance for bad debt rate components of the regular, overtime, and holiday rates as follows:

(i) *Benefits rate.* The total AMS service program direct benefits costs divided by the total hours (regular, overtime, and holiday) worked, which is then multiplied by the next calendar year's percentage cost of living increase. Some examples of direct benefits are health insurance, retirement, life insurance, and Thrift Savings Plan (TSP) retirement basic and matching contributions.

(ii) *Operating rate.* The total AMS service program operating costs divided by total hours (regular, overtime, and holiday) worked, which is then multiplied by the percentage of inflation.

(iii) *Allowance for bad debt rate.* Total AMS service program allowance for bad debt divided by total hours (regular, overtime, and holiday) worked.

(2) The calendar year cost of living expenses and percentage of inflation factors used in the formulas in this section are based on OMB's most recent Presidential Economic Assumptions.

(c) Applicants are responsible for paying actual travel costs incurred to provide services, including but not limited to: Mileage charges for use of privately owned vehicles, rental vehicles and gas, parking, tolls, and public transportation costs such as airfare, train, and taxi service.

(d) The applicant is responsible for paying per diem costs incurred to provide services away from the auditor's or USDA official's official duty station(s). Per diem costs shall be calculated in accordance with existing travel regulations (41 CFR, subtitle F—Federal Travel Regulation System, chapter 301).

(e) When costs other than those costs specified in paragraphs (a) through (c) of this section are involved in providing the services, the applicant shall be responsible for these costs. The amount of these costs shall be determined administratively by AMS. However, the applicant will be notified of these costs before the service is rendered.

§ 62.301 Payment of fees and other charges.

Fees and other charges for services shall be paid in accordance with each service or program's policy(ies) and documentation. The applicant shall remit payment by the date indicated on the invoice. Payment may be made by

automated clearing house transactions; credit card, debit card, or direct debit via *Pay.gov* or PayPal; electronic funds transfer; check; or money order. Remittance must be to USDA, AMS and include the customer number (*i.e.*, account number) from the invoice. Check or money orders must be mailed to the remit address indicated on the invoice. Wire transfers are exclusive to foreign customers. Fees and charges shall be paid in advance if required by the service or program's authorized USDA official. Failure to pay fees can result in denial, suspension, or cancellation of service.

Subpart F—OMB Control Number

§ 62.400 OMB control number assigned pursuant to the Paperwork Reduction Act.

The information collection and recordkeeping requirements of this part have been approved by OMB under 44 U.S.C. Chapter 35 and have been assigned OMB Control Numbers: 0581–0125, 0581–0128, 0581–0251, and 0581–0283.

PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS

§ 70.1 [Amended]

■ 6. Amend § 70.1 by removing the definition of “Auditing services.”

§ 70.4 [Amended]

■ 7. Amend § 70.4 by removing paragraph (c).

■ 8. Revise § 70.71 to read as follows:

§ 70.71 Charges for services on an unscheduled basis.

Unless otherwise provided in this part, the fees to be charged and collected for any service performed, in accordance with this part, on an unscheduled basis shall be based on the applicable formulas specified in this section.

(a) For each calendar year, AMS will calculate the rate for grading services, per hour per program employee using the following formulas:

(1) *Regular rate.* The total AMS grading program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase, plus the benefits rate, plus the operating rate, plus the allowance for bad debt rate. If applicable, travel expenses may also be added to the cost of providing the service.

(2) *Overtime rate.* The total AMS grading program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage

of cost of living increase and then multiplied by 1.5, plus the benefits rate, plus the operating rate, plus an allowance for bad debt. If applicable, travel expenses may also be added to the cost of providing the service.

(3) *Holiday rate.* The total AMS grading program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase and then multiplied by 2, plus the benefits rate, plus the operating rate, plus an allowance for bad debt. If applicable, travel expenses may also be added to the cost of providing the service.

(b)(1) For each calendar year, based on previous fiscal year/historical actual costs, AMS will calculate the benefits rate, operating rate, and allowance for bad debt rate components of the regular, overtime and holiday rates as follows:

(i) *Benefits rate.* The total AMS grading program direct benefits costs divided by the total hours (regular, overtime, and holiday) worked, which is then multiplied by the next calendar year's percentage cost of living increase. Some examples of direct benefits are health insurance, retirement, life insurance, and Thrift Savings Plan (TSP) retirement basic and matching contributions.

(ii) *Operating rate.* AMS' grading program total operating costs divided by total hours (regular, overtime, and holiday) worked, which is then multiplied by the percentage of inflation.

(iii) *Allowance for bad debt rate.* Total AMS grading program allowance for bad debt divided by total hours (regular, overtime, and holiday) worked.

(2) The calendar year cost of living expenses and percentage of inflation factors used in the formulas in this section are based on OMB's most recent Presidential Economic Assumptions.

(c) Fees for unscheduled grading services will be based on the time required to perform the services. The hourly charges will include the time actually required to perform the grading, waiting time, travel time, and any clerical costs involved in issuing a certificate. Charges to plants are as follows:

(1) The regular hourly rate will be charged for the first 8 hours worked per grader per day for all days except observed legal holidays.

(2) The overtime rate will be charged for hours worked in excess of 8 hours per grader per day for all days except observed legal holidays.

(3) The holiday hourly rate will be charged for hours worked on observed legal holidays.

PART 90—[Removed and Reserved]

- 9. Remove and reserve part 90.

PART 91—SERVICES AND GENERAL INFORMATION

- 10. Revise § 91.1 to read as follows:

§ 91.1 General.

This part consolidates the procedural and administrative rules of the Science and Technology Program of the Agricultural Marketing Service for conducting the analytical testing and laboratory audit verification and accreditation services. It also contains the fees and charges applicable to such services.

- 11. Amend § 91.2 by revising the definition of *applicant* to read as follows:

§ 91.2 Definitions.

* * * * *

Applicant. Any individual or business requesting services provided by the Science and Technology (S&T) programs.

* * * * *

- 12. Amend § 91.4 by revising paragraph (c) to read as follows:

§ 91.4 Kinds of services.

* * * * *

(c) Agricultural Marketing Service Audit Verification and Accreditation Programs as described in 7 CFR 62.200.

* * * * *

- 13. Amend § 91.5 by:
 ■ a. Removing and reserving paragraph (a)(6); and
 ■ b. Revising paragraph (a)(8).
 The revision to read as follows:

§ 91.5 Where services are offered.

(a) * * *

(8) Laboratory Approval Service. The Laboratory Approval Service (LAS) provides technical, scientific, and quality assurance support services to Agency programs, other agencies within the USDA, and private entities. In addition, the LAS provides audit verification and approval or accreditation services, including laboratory approval and accreditation programs of Federal and State government laboratories and private/commercial laboratories in support of domestic and international trade. The programs administered by LAS verify analyses of food and agricultural

products showing that said food and products meet country or customer-specific requirements and that the testing of marketed products is conducted by qualified and approved laboratories. The LAS is located and can be reached by mail at: USDA, AMS, S&T, Laboratory Approval Service, 1400 Independence Ave. SW, South Building, Mail Stop 0272, Washington, DC 20250-0272.

* * * * *

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2020-19655 Filed 10-5-20; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE**Agricultural Marketing Service****7 CFR Part 1250**

[Document No. AMS-LP-19-0113]

Egg Research and Promotion; Reapportionment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule adjusts representation on the American Egg Board (Board), and outlines changes to geographic areas based on sustained changes in egg production in several States. The Egg Research and Promotion Order (Order) establishes a Board composed of 18 members. Currently, the 48 contiguous States are divided into six areas with three members representing each area. This final rule reduces the number of geographic areas from six to three. The number of Board members representing each geographic area changes to six. The total Board membership remains at 18.

DATES: Effective November 5, 2020.

FOR FURTHER INFORMATION CONTACT: Craig Shackelford, Research and Promotion Division, at (470) 315-4246; fax (202) 720-1125; or by email at Craig.shackelford@usda.gov.

SUPPLEMENTARY INFORMATION:**Background**

The Egg Research and Consumer Information Act of 1974 (Act) authorizes the Secretary to establish an Egg Board composed of egg producers or

representatives of egg producers appointed by the Secretary so that the representation of egg producers on the Board reflects, to the extent practicable, the proportion of eggs produced in each geographic area of the United States. 7 U.S.C. 2707(b). The Board administers the Order with oversight by the U.S. Department of Agriculture (USDA).

The Order outlines the geographic representation of the current 18-member board, composed of members from six distinct geographical areas. To ensure that representation on the Board remains representative of the industry, § 1250.328 of the Order provides for reapportionment of Board membership based on the Board's periodic review of production by geographic area. This periodic review can occur at any time based on changes in egg production in various geographical areas; however, the Order requires that the area distribution be reviewed at least every five years. Sections 1250.328(d) and (e) of the Order provide that any changes in the delineation of the geographical areas and the area distribution of the Board be determined by the percentage of total U.S. egg production.

Reapportionment

The Board and the Agricultural Marketing Service (AMS) reviewed production data to determine what, if any, changes were needed in the distribution of Board membership. The Board and AMS verified certain shifts in production trends. Section 8 of the Act (7 U.S.C. 2707) provides for a Board of not more than 20 members. Section 1250.328 of the Order provides for an 18-member Board and contemplates changes to the Board by determining the percentage of United States egg production in each area times 18 (total Board membership) and rounding to the nearest whole number. Using the calculation for the North Atlantic region results in two members while the calculation for the other five regions result in three members each, for a total 17 members, one less than the number stated in the Order. Therefore, regions were changed so that the 18-member Board can be established. Table 1 shows that reducing regions from six to three expands the number of States included in each region and suggests that the grouping of more States into fewer regions improves consistency in the proportion of small versus large farms represented on the Board.

TABLE 1—REGIONAL POULTRY FARM DISTRIBUTION—CURRENT AND NEW

Region	Small	Large	Total	States		
	<\$1,000,000	\$1,000,000+				
Current Geographical Area						
I	27,243	93%	2,172	7%	29,415	13
II	29,077	76%	9,042	24%	38,119	9
III	27,774	95%	1,575	5%	29,349	5
IV	24,652	96%	1,102	4%	25,754	10
V	7,292	96%	312	4%	7,604	3
VI	32,750	97%	1,108	3%	33,858	10
	148,788	91%	15,311	9%	164,099	50
New Geographical Area						
I	63,513	87%	9,891	13%	73,404	21
II	48,482	92%	4,299	8%	52,781	10
III	36,793	97%	1,121	3%	37,914	19
	148,788	91%	15,311	9%	164,099	50

With the inclusion of more states into fewer regions, the proportion of small versus large farms is less variable. For example, in Regions I and II in the current structure, 93 percent and 76 percent, respectively, of the farms are classified as small. In the new structure the two regions are more or less combined, and the new Region I is composed of 87 percent small firms. The table shows less variation in size between the three new regions than there is in the current structure.

Section 1250.326 of the Order establishes a Board, composed of 18 egg producers or representatives of egg producers, and 18 specific alternates, appointed by the Secretary from nominations submitted by eligible organizations, associations, or cooperatives, or by other producers pursuant to § 1250.328. The current 18-member Board is composed of three members representing each of the six regions. There were no changes to the total number of members (18 members with 18 alternates). However, regions

were reduced to three from six and each region will include more States.

Pursuant to the requirements of the Order, the Board began its most recent review of Board member apportionment in 2019. Production data from the 2018 National Agricultural Statistics Service (NASS) report was used to establish the percentage of U.S. egg production in each area. The goal of this reapportionment of Board members is to ensure representation on the Board remains consistent with the Act and Order by recognizing production shifts over time. These changes are effective with the Secretary's appointments for terms beginning in the year 2021.

The Board and AMS recognize that shifts in production have resulted in the Northeast region no longer being proportionately represented on the Board. The Board and AMS also found that industry consolidation has also contributed to a more limited number of egg producing entities in each region. The Board and AMS desire a structure that allows the full representation of all the egg producing entities. The Board

and AMS have found that it is increasingly difficult for State nominating organizations to present an appropriate number of candidates each year. By reducing the number of regions and increasing the geographic size of regions, the Board and AMS believe that more egg producing entities may be represented on the Board.

This final rule results in the proportionate representation of each geographic area and increases the number of egg-producing entities represented in each geographic area. The Board and AMS have determined that these changes will better represent the distribution of egg production and enable eligible nominating organizations to more easily identify potential nominees.

In accordance with § 1250.328(e) of the Order, the Board has recommended changes to the number and composition of geographic regions represented on the Board.

The current and new representation are indicated in the following two tables:

TABLE 2—CURRENT GEOGRAPHICAL DISTRIBUTION AND NUMBER OF MEMBERS ON THE BOARD

Geographic area	Current number of members	Represented states
I-North Atlantic	3	Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and District of Columbia.
II-South Atlantic	3	Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, and South Carolina.
III-East North Central	3	Kentucky, Michigan, Missouri, Ohio, and Tennessee.
IV-West North Central	3	Colorado, Idaho, Illinois, Indiana, Minnesota, Montana, North Dakota, South Dakota, Wisconsin, and Wyoming.
V-South Central	3	Iowa, Kansas, and Nebraska.
VI-Western	3	Arizona, California, Nevada, New Mexico, Oregon, Texas, Utah, and Washington.

TABLE 3—NEW GEOGRAPHICAL DISTRIBUTION AND NUMBER OF MEMBERS ON THE BOARD

Geographic area	Number of members	States represented
I-East	6	Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, the District of Columbia, Alabama, Georgia, Florida, Louisiana, Mississippi, North Carolina, South Carolina, and Texas.
II-Central	6	Arkansas, Oklahoma, Illinois, Indiana, Kentucky, Michigan, Missouri, Ohio, Tennessee, and Wisconsin.
III-West	6	Arizona, California, Colorado, Idaho, Iowa, Kansas, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.

Membership changes are based on production in the new geographic areas, noting that changes to Board

distribution will be accomplished by determining the percentage of reported cases of eggs produced in each of the

three new areas times 18 (total Board membership) and rounding to the nearest whole number, as follows:

TABLE 4—PROJECTED BOARD MEMBERSHIP

Geographical areas	USDA reported cases of eggs produced	% of total production	% of total production multiplied by 18 board members	Projected board membership
I-East	35,724,500,000	32.72	5.89	6
II-Central	36,942,400,000	33.83	6.09	6
III-West	36,525,200,000	33.45	6.02	6
Total U.S. Production	109,192,100,000	100	100	18

This final rule applies to the nomination process in 2020 and affects the board members appointed by the Secretary to serve on the Board beginning in 2021.

A 30-day comment period was provided to allow interested persons to respond to the proposal. All written comments received in response to this rule by the date specified were considered prior to finalizing this action.

Summary of Comments

USDA received five timely comments from individuals and industry organizations. Of those comments, two were in favor of the rule, and three did not state a position. Two of the comments were submitted by industry organizations in support of the changes. One comment expressed concerns that the larger regions reduce the representation of smaller-production areas. AMS addressed this concern in the proposed rule. Table 1 indicates the distribution of farms represented by size, and the proportion of farms that are small versus large. With the inclusion of more states into fewer regions, the proportion of small versus large farms becomes less variable. For example, in Regions I and II in the current structure, 93 percent and 76 percent, respectively, of the farms in these regions are classified as small. In the new structure the two regions are

more or less combined, and the new Region I is composed of 87 percent small farms. The table shows less variation in size between the three new regions than there is in the current structure. One comment observed that Oregon was missing in Table 3. AMS recognizes this error and has corrected it by placing Oregon in the West Region III. One comment did not address the proposal but did offer one idea related to Board membership. The required composition of the Board is set forth in the Act and Order. No changes were made in the final rule based on the comments received.

Executive Orders 12866, 13563, and 13771

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects; distributive impacts; and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This rule does not meet the definition of a significant regulatory action contained in section 3(f) of Executive Order 12866 and therefore, the Office of Management and

Budget (OMB) has waived review of this action. Additionally, because this rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled "Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs'" (February 2, 2017).

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect.

There are no administrative proceedings that must be exhausted prior to any judicial challenge to the provisions of this rule.

Executive Order 13175

This action has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation would not have substantial and direct effects on Tribal governments or significant Tribal implications.

Paperwork Reduction Act

In accordance with OMB regulations (5 CFR part 1320) that implement the Paperwork Reduction Act of 1995 (44

U.S.C. part 35), the information collection and recordkeeping requirements contained in the Order and accompanying Rules and Regulations have previously been approved by OMB and were assigned OMB control number 0581-0093. This final rule does not increase or impose any new information collection or recordkeeping requirements.

Regulatory Flexibility Act

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-622), AMS considered the economic effect of this action on small entities and determined that this final rule does not have a significant economic impact on a substantial number of small entities. The purpose of RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly burdened. The Small Business Administration (SBA) published an interim final rule that became effective on August 19, 2019, (84 FR 34261) that adjusts the monetary-based size standards for inflation. As a result of this rule, the size classification for small egg-producing firms changed from sales of \$750,000 or less to sales of \$1,000,000 or less.

According to USDA's NASS, USDA collects data for the Agriculture Census (Ag Census) using the North American Industry Classification System (NAICS). The NAICS classifies economic activities and was developed to provide a consistent framework for the collection, analysis, and dissemination of industrial statistics used by government policy analysts, academia and the business community. It is the first industry classification system developed in accordance with a single principle of aggregation that production units using similar production processes should be grouped together.

In the 2017 Ag Census, the poultry and egg production classification (classification category 1123) was comprised of establishments primarily engaged in breeding, hatching, and raising poultry for meat or egg production. The 2017 Ag Census also shows there were 164,099 reported poultry farms in the United States and 36,012 egg producers. Ag Census data includes sales category ranges for the poultry sector but does not include separate sales categories for egg producers. Instead, NASS provides data for the broader category of "Poultry and Eggs." Therefore, AMS is not able to obtain stand-alone sales data for egg-producing farms. As a result, for this RFA, AMS used the broader category of poultry producers as the closest possible

substitute as the basis for determining the size of egg producers.

Of the 164,099 poultry producers identified in the 2017 Census of Agriculture, 148,788 (91 percent) reported sales of less than \$1,000,000 and thus fall under the SBA definition of small business. Therefore, the remaining 15,311 (9 percent) producers are considered large. If the egg producer segment has the same proportional distribution across firm sizes, 91 percent, or 32,771 egg producers are classified as small businesses, and 9 percent, or 3,241 egg producers are considered large.

Sales data are also available at the state level for the overall poultry sector. Using this data, and the assumption that the proportion of large and small poultry farms similarly applies to egg producers, Table 1 shows how the changes in geographical areas shift producer representation on the Board.

The final rule imposes no new burden on the industry, as it only adjusts representation on the Board to reflect changes in egg production. The adjustments are required by the Order and do not result in a change in the overall number of Board members. Even if most egg producers are small entities, this action does not change their ability to qualify for representation on the Board or add any new burden. In conclusion, AMS believes that reducing the regions from six to three and increasing the number of States within each region will contribute to greater representation of egg producing firms on the Board.

AMS is committed to complying with the E-Government Act of 2002 to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to government information and services, and for other purposes.

AMS has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

List of Subjects in 7 CFR part 1250

Administrative practice and procedure, Advertising, Agricultural research, Eggs and Egg products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, AMS amends 7 CFR part 1250 as follows:

PART 1250—EGG PROMOTION AND RESEARCH

■ 1. The authority citation for 7 CFR part 1250 continues to read as follows:

Authority: 7 U.S.C. 2701-2718 and 7 U.S.C 7401.

■ 2. Revise § 1250.510 to read as follows:

§ 1250.510 Determination of Board Membership.

(a) Pursuant to § 1250.328 (d) and (e), the 48 contiguous States of the United States shall be grouped into three geographic areas, as follows: Area 1 (East)—Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, the District of Columbia, Alabama, Georgia, Florida, Louisiana, Mississippi, North Carolina, South Carolina, and Texas; Area 2 (Central)—Arkansas, Oklahoma, Illinois, Indiana, Kentucky, Michigan, Missouri, Ohio, Tennessee, and Wisconsin; Area 3 (West)—Arizona, California, Colorado, Idaho, Iowa, Kansas, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.

(b) Board representation among the three geographic areas is apportioned to reflect the percentages of United States egg production in each area times 18 (total Board membership). The distribution of members of the Board is: Area 1-6, Area 2-6, and Area 3-6. Each member will have an alternate appointed from the same area.

Bruce Summers,
Administrator, Agricultural Marketing Service.

[FR Doc. 2020-19431 Filed 10-5-20; 8:45 am]

BILLING CODE 3410-02-P

FARM CREDIT ADMINISTRATION

12 CFR Part 615

RIN 3052-AD35

Organization; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Investment Eligibility

AGENCY: Farm Credit Administration.
ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA, we, or our) adopts a final rule that amends its investment regulations to allow Farm Credit System (FCS or System) associations to purchase and hold the portion of certain loans that non-FCS lenders originate and sell in the secondary market, and that the United States Department of Agriculture (USDA) unconditionally guarantees or insures as to the timely payment of principal and interest.

DATES: This regulation shall become effective no earlier than 30 days after publication in the **Federal Register** during which either or both houses of Congress are in session. Pursuant to 12 U.S.C. 2252(c)(1), FCA will publish notification of the effective date in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Jeremy R. Edelstein, Associate Director, David J. Lewandrowski, Senior Policy Analyst, Finance & Capital Market Team, Office of Regulatory Policy, (703) 883-4414, TTY (703) 883-4056, or Richard A. Katz, Senior Counsel, Office of General Counsel, (703) 883-4020, TTY (703) 883-4056, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090.

SUPPLEMENTARY INFORMATION:

I. Objectives

The objectives of the final rule are to authorize FCS associations to buy as investments for risk management purposes, portions of certain loans that non-System lenders originate, and the USDA fully guarantees as to principal and interest to:

- Augment the liquidity of rural credit markets;
- Reduce the capital burden on community banks and other non-System lenders who choose to sell their USDA guaranteed portions of loans, so they may extend additional credit in rural areas; and
- Enhance the ability of associations to manage risk.

II. Background

In 1916, Congress created the System to provide permanent, stable, affordable, and reliable sources of credit and related services to American agricultural and aquatic producers. The System consists of 3 Farm Credit Banks, 1 agricultural credit bank, 67 agricultural credit associations, 1 Federal land credit association, service corporations, the Federal Farm Credit Banks Funding Corporation (Funding Corporation) and the Federal Agricultural Mortgage Corporation (Farmer Mac).¹ Farm Credit banks (which include both the Farm Credit Banks and the agricultural credit bank) issue System-wide consolidated debt obligations in the capital markets through the Funding Corporation, which enable associations to provide short-, intermediate-, and long-term credit and related services to farmers, ranchers, producers and harvesters of aquatic products, rural residents for housing, and farm-related service

businesses.² The System's enabling statute is the Farm Credit Act of 1971, as amended (Act).³

This rulemaking addresses investments that associations purchase and hold pursuant to their authority in sections 2.2(11) and 2.12(17) of the Act. In 2014, FCA proposed a new rule that would have authorized associations to purchase and hold, as investments, obligations issued or guaranteed by the United States or its agencies for risk management purposes.⁴ Under the proposed rule, no association could hold investments in an amount that exceeds 10 percent of its total outstanding loans.

FCA received more than 1,250 comment letters on this proposal. After consideration of these comments, FCA changed the term "obligations" in the proposed rule to the more narrow term "securities" in the final rule. FCA also added § 615.5140(b)(2) to the final regulation to clarify that individual loan portions purchased in the secondary market that are unconditionally guaranteed or insured by the United States (U.S.) government or its agencies as to principal and interest are not eligible risk management investments for FCS associations. The FCA delayed the effective date of the final rule until January 1, 2019.⁵

Shortly after we approved and published the final rule, several FCS associations, community banks, and a broker-dealer expressed concern that final § 615.5140(b)(1) and (b)(2) would disrupt the secondary market for the portions of loans that USDA fully and unconditionally guarantees as to both principal and interest. Representatives of the Office of the Administrator for the Rural Business Cooperative Service at USDA (USDA Administrator) contacted FCA to support these parties. More specifically, concerns were raised about the potential impact that the final rule could have on the secondary market for USDA-guaranteed portions of loans and, more broadly, on rural development. The USDA Administrator, two community banks, and the broker-dealer warned that the withdrawal of FCS associations from this market could

substantially reduce the liquidity in this market and the availability of credit in rural areas.

In response to the concerns raised by the USDA Administrator and market participants, FCA decided to review final § 615.5140(b)(1) and (b)(2) and consider their impact on the secondary market for loans that the USDA fully and unconditionally guarantees as to principal and interest. As a result of this review, FCA proposed to amend § 615.5140(b)(2) to exempt USDA-guaranteed loan portions from § 615.5140(b)(1), as well as a conforming change to § 615.5140(b)(3).⁶ More specifically, the proposed rule would amend § 615.5140(b)(2) to allow System associations to purchase in the secondary market, portions of loans that are originated by non-FCS institutions, and that the USDA fully and unconditionally guaranteed or insured as to both principal and interest.

The FCA also decided to grant temporary regulatory relief to certain System associations that had been active or expressed an interest in the secondary market for USDA-guaranteed loan portions, notwithstanding the prohibition in § 615.5140(b)(1) and (b)(2) that became effective on January 1, 2019.⁷ We believe that granting the "No Action" requests of these associations is appropriate to prevent any disruption in the secondary market for USDA-guaranteed loan portions and to maintain the pre-existing status quo while this rulemaking is pending and we consider input from the public. FCA placed strict conditions on those associations that were granted regulatory relief, and closely monitored their activity.

III. Comment Letters

The comment period expired on November 18, 2019. We received a total of 34 comment letters from a trade association representing FCS lenders, 2 Farm Credit banks, 7 FCS associations, the National Rural Lenders' Roundtable, which is a forum for lenders that use USDA guarantee programs, a commercial bank trade association, 21 community bankers, and an individual.

⁶ See 84 FR 49069 (September 18, 2019).

⁷ Several System associations asked the FCA in writing not take action against them for purchasing USDA-guaranteed loan portions. FCA granted limited "No-Action" relief to those associations that demonstrated that they have: (1) Experience in the secondary market for USDA-guaranteed loan portions, and (2) appropriate risk management controls in place to engage in this activity. In granting "No-Action" relief requests, FCA placed strong and appropriate Conditions of Approval on each association to ensure that such loan portions were purchased and managed in a safe and sound manner.

¹ The use of the terms "System" and "FCS" in this preamble and final rule does not, from this point forward, refer to Farmer Mac.

² The agricultural credit bank lends to, and provides other financial services to farmer-owned cooperatives, rural utilities (electric and telephone), and rural water and waste water disposal systems. It also finances U.S. agricultural exports and imports, and provides international banking services to cooperatives and other eligible borrowers. The agricultural credit bank operates a Farm Credit Bank subsidiary.

³ 12 U.S.C. 2001-2279cc. The Act is available at www.fca.gov under "Laws and regulations," and "Statutes."

⁴ See 79 FR 43301 (July 25, 2014).

⁵ See 83 FR 27486 (June 12, 2018).

Essentially, 24 commenters supported the proposed rule, but asked us to further revise the regulation so System associations could buy loan portions that any U.S. government agency fully and unconditionally guarantees as to principal and interest. One System commenter suggested that our regulations should grant both System banks and associations the exact same investment authorities. Nine commenters opposed the proposed rule, and asked FCA to withdraw it. Commercial bank commenters were divided with 13 supporting the proposed rule and, for the most part, seeking its expansion to all U.S. government loan-guarantee programs, while 9 bank commenters opposed it. The individual commenter expressed no opinion about whether FCA should adopt, modify, or retract the proposed rule.

Supporters claim that the proposed rule mutually benefits community banks and other non-System rural lenders, System associations, and rural communities. According to these commenters, selling USDA-guaranteed loan portions to FCS associations is advantageous to rural community banks because it increases their liquidity, which can enable them to originate more loans in rural areas. The proposed rule also strengthens the informal secondary market for USDA-guaranteed loans in rural areas, in which commercial bankers comprise the majority of buyers and sellers. As several commenters point out, System institutions have historically played a pivotal role in the secondary market for USDA-guaranteed loans.⁸ The proposed rule benefits System associations by enabling them to diversify their portfolios in a way that is consistent with their statutory mission to provide an adequate and flexible flow of stable credit into rural areas.⁹ USDA guarantees ensure that System associations generally have no credit risk¹⁰ when they purchase these loan

portions in the secondary market, which reduces risk exposure to capital and increases resilience of the balance sheet.

Most commenters who supported the proposed rule also told us that § 615.5140(b) should permit associations to purchase and hold portions of loans guaranteed by other U.S. government agencies as investments, such as the Small Business Administration (SBA),¹¹ Bureau of Indian Affairs, and the Department of Energy. According to these commenters, the logic for allowing associations to buy USDA-guaranteed loan portions also applies to all U.S. government-guarantee loan programs. More specifically, expanding this regulatory authority beyond USDA would, in the opinion of these commenters, promote a more robust secondary market for all U.S. government loan programs, which would ultimately benefit the customers of commercial banks and their local communities.

System commenters point out that the plain language of sections 2.2(11) and 2.12(17) of the Act expressly authorize associations to invest in obligations issued or insured by the U.S. and its

risks. See 84 FR 49070, footnote 4 (September 18, 2019). In addition, System associations may also be exposed to funding risk which could include basis risk, interest rate risk, and risks related to the transition away from the London Interbank Offered Rate.

¹¹ SBA administers various programs for guaranteeing loans to small businesses under the Small Business Act of 1953 and the Small Business Investment Act of 1958. Pursuant to § 5(g)(1) of the Small Business Act of 1953, 15 U.S.C. 634(g)(1) and 13 CFR 120.620, SBA guarantees the timely payment of principal and interest, which is backed by the full faith and credit of the United States, on Pool Certificates issued by authorized brokers and dealers who assemble these pools. Such Pool Certificates are eligible investments for FCS associations under § 615.5140(b)(1), and for FCS banks under § 615.5140(a)(1).

A separate program under section 7(a) of the Small Business Act of 1953, 15 U.S.C. 636(a), and 13 CFR 120.621 addresses SBA guarantees of portions of individual loans. Under the 7(a) program, loan originators obtain SBA guarantees for portions of individual loans. Each guaranteed portion of a loan is evidenced by an individual certificate. If the originator sells the guaranteed portion of the loan in the secondary market, the SBA's fiscal transfer agent will record who is the current registered holder of the loan guarantee certificate. If the registered holder does not receive timely payments of principal and interest because the borrower defaulted, or the loan originator or the fiscal transfer agent failed to perform its obligations (in accordance with 13 CFR 120.621(b)), the SBA will purchase the guaranteed portion of the loan from the registered holder for an amount equal to the unpaid principal and the accrued interest due on the date of SBA's purchase. SBA-guaranteed portions of individual loans under the section 7(a) program are not eligible investments for System banks and associations under § 615.5140. However, FCS banks and associations may purchase and hold these individual SBA-guaranteed loan portions under FCA's loan participation regulations only if the underlying borrowers are eligible System borrowers.

agencies. Most System commenters asked us to authorize associations to buy loan portions guaranteed by other U.S. government agencies *after* we enact this final rule. System commenters noted that our previous investment regulations permitted FCS banks and associations to buy and hold loan obligations that U.S. government agencies guaranteed, and they urged us to restore this regulatory framework.

One System association opined that FCA exceeded its statutory authority by repealing the regulation that authorized associations to buy any guaranteed obligation issued by any U.S. government agency. According to this commenter, existing § 615.5140(b)(1) and (b)(2) is incompatible with the “unambiguously expressed intent of Congress.” This commenter asked the FCA to authorize System associations to buy and hold any obligation guaranteed by all U.S. government agencies, either in this final rule, or by another prompt agency action.

As noted earlier, nine commercial bank commenters asked the FCA to withdraw the proposed rule and retain the current investment regulation for FCS associations. According to these commenters, Congress specifically established Farmer Mac as the System institution that would operate the secondary market for loan portions that the USDA guarantees for loan originators. Augmenting the liquidity of rural credit markets and reducing the capital burdens on loan originators is the role that these commenters believe Congress assigned to Farmer Mac, not FCS associations. Opponents of the proposed rule claim that the FCA, as the regulator of both FCS lenders and Farmer Mac, is creating “a duplicate and redundant secondary market” that will create unnecessary intra-System competition to Farmer Mac's detriment. The proposed rule's objective of enhancing the ability of associations to manage risks could, in the view of these commenters, be achieved if associations “were to use Farmer Mac as a secondary market as Congress intended, rather than trying to create their own secondary market.”

These commenters also dispute that sections 2.2(11) and 2.12(17) of the Act authorize associations to purchase interest in loans that non-System lenders originate and USDA guarantees. According to these commenters, these two statutory provisions authorize associations to buy and sell loans insured by U.S. government agencies and FCS banks, not loans originated by non-System lenders. Opponents of the proposed rule claim that FCS associations are not indispensable to the

⁸ USDA guarantees loans to borrowers who are both eligible and ineligible to borrow from the System. FCA lending regulations in Part 614 already authorize FCS banks and associations to buy the USDA-guaranteed portions of loans to eligible borrowers under their loan participation authorities. USDA loan guarantees to eligible borrowers that are purchased under the loan participation regulations are not subject to a portfolio limit, or other requirements of these investment regulations. Final § 615.5140(b)(2) only affects USDA guarantees for loans to ineligible borrowers or borrowers whose eligibility status is uncertain.

⁹ See preamble and section 1.1(a) of the Act.

¹⁰ However, these guaranteed loan portions may expose investors to premium risk, operational risk, and funding risk. The preamble to the proposed rule addressed potential premium and operational

secondary market of USDA-guaranteed loan portions and, therefore, this rule is not necessary to provide a flexible flow of affordable credit into rural areas.

IV. Final Rule

After reviewing and considering the comment letters received on the proposed rule, the FCA now finalizes the proposed rule without change. Specifically, the final rule amends § 615.5140(b)(2) to allow System associations to purchase in the secondary market, the portions of loans that non-FCS institutions originate and that the USDA fully and unconditionally guarantee¹² or insured as to both principal and interest.

The FCA proposed to amend existing § 615.5140(b)(2) so associations could purchase only USDA-guaranteed loan portions because it is specifically what the USDA Administrator, several FCS associations, community banks and a broker-dealer requested. Loan guarantee programs of other U.S. government agencies are outside the scope of this rulemaking. Most System commenters urged us to promptly finalize the proposed rule, and then subsequently consider other U.S. agency-guaranteed loan programs. For all these reasons, this final rule allows FCS associations to purchase and hold only loan portions that the USDA fully and unconditionally guarantees as to principal and interest.

One System commenter claims that sections 2.2(11) and 2.12(17) of the Act reflects Congress' "unambiguously expressed intent" to allow associations to buy and hold obligations guaranteed by any U.S. government agency as investments. Therefore, any regulation that prohibits or restricts the ability of associations to do so would, in the opinion of that commenter, exceed FCA authority. For this reason, the

commenter's position is that the final rule or another action by FCA must immediately authorize associations to buy loan obligations guaranteed under any U.S. government agency program.

FCA disagrees with the commenter's interpretation of Act. The text, structural framework, and history of the Act indicates that Congress granted FCA discretion to impose conditions and constraints by regulation on how System institutions exercise their statutory powers in various circumstances. We note that the introductory text to sections 2.2 and 2.12 of the Act, which the commenter invokes, expressly states the powers of each association are subject to regulation by FCA. Additionally, section 5.17(a)(9) of the Act authorizes FCA to "prescribe rules and regulations necessary or appropriate for carrying out this Act."

From time to time, FCA has exercised its powers under these statutory provisions to enact regulations that place limits on the statutory authorities of System banks and associations, especially in the area of investments. Reasons for limiting System's statutory authorities include, but are not limited to: (1) Preserving the System's safety and soundness; (2) implementing various legal requirements that apply to the System; and (3) ensuring that FCS activities and operations are compatible with its status as a government-sponsored enterprise that extends credit to agriculture and other eligible borrowers in rural America. For decades, FCA regulations have limited System investments by amount, type, credit quality, and purpose even though the Act is silent on these issues. For these reasons, we conclude that FCA has authority under the Act to impose by regulations restrictions on the types of obligations guaranteed by U.S. government agencies that System institutions may purchase and hold.

In this context, the final rule is within the scope of the Act and FCA's statutory authority. We have amended our association investment regulations periodically in the past as circumstances changed, and we may do so again in the future if we determine that evolving conditions require further regulatory revisions. In the meantime, the final rule strikes a balance between the needs and interests of USDA, FCS associations, a significant segment of rural community banks, and rural credit markets. We observe that USDA loan guarantee programs focus primarily on the credit needs of rural residents and their communities, whereas similar loan guarantee programs of other U.S. government agencies do not. USDA loan

guarantee programs overall are uniquely compatible with the System's mission, as a government-sponsored enterprise, to provide stable and affordable credit to agriculture and other authorized needs in rural America.

As noted earlier, one System commenter opined that FCS banks and associations should have the exact same investment authorities under our regulations. This issue is outside the scope of our current rulemaking. The preamble to the final Investment Eligibility rule that we issued in 2018 explained why the investment authorities of System banks and associations are different under these regulations.¹³

We now respond to comments from the commercial bankers who opposed the proposed rule. As discussed earlier, these commenters point out that Congress established Farmer Mac as the System's secondary market operator. These commenters also note that the Act expressly authorizes Farmer Mac, not System associations, to operate the secondary market for USDA-guaranteed loans. These commenters claim that our proposal would establish a duplicative secondary market, without statutory authority, and the resulting intra-System competition will harm Farmer Mac as well as "several hundred community banks that actively conduct business with Farmer Mac."

Farmer Mac did not submit a comment letter. As a result, Farmer Mac, on its own behalf, did not raise any of the issues that the commenters brought up.

This amendment to § 615.5140(b)(2) neither violates the Act, nor is it contrary to Congressional intent, as these commenters allege. In response to these commenters, sections 2.2(11) and 2.12(17) of the Act expressly authorize associations to buy obligations of or insured by the U.S. and its agencies, and these provisions are separate and distinct from Farmer Mac's authority under several provisions of title VIII of the Act to purchase, hold, and securitize loan portions guaranteed by USDA.¹⁴ In

¹² Lenders who originate loans that are eligible for USDA guarantees only obtain a conditional guarantee from the USDA. The guarantee is conditional on the lender complying with the origination and servicing regulatory requirements applicable to the loan, as well as other program requirements. Loan originators may sell the USDA-guaranteed portions of their loans, in the form of an assignment, to other persons, including individuals, corporate entities, and other financial institutions. See, 7 CFR 762.160, 1779.65, 3575.65, and 4279.75. Pursuant to these regulations, the seller must submit a form to the USDA that identifies the party that becomes the holder of record. *Id.* A purchaser who subsequently assigns the loan guarantee to another party must similarly comply with the same requirement. Only an assignee who is listed as the holder of record for the loan guarantee may seek payment from the USDA if the borrower defaults. The USDA provides an unconditional guarantee to a good-faith guarantee holder who purchased the guaranteed portion of the loan from the loan originator or a holder of an assignment, including such transaction made in the secondary market.

¹³ See 83 FR 27493 (June 12, 2018).

¹⁴ Titles VII and VIII of the Agricultural Credit Act of 1987 chartered Farmer Mac. See Public Law 100-233, 101 Stat. 1568, 1686 (Jan. 6, 1988). The former General Counsel of FCA issued a legal opinion concluding that System institutions did not have authority under the Act to securitize their loans and sell the resulting securities in the secondary market. This legal opinion influenced Congress to create Farmer Mac. [See 133 Cong. Rec.S. 16909 (daily ed. Dec. 2, 1987) Originally, the only loans that qualified for Farmer Mac programs were the types of agricultural and rural home mortgages that System lenders, other than banks for cooperatives, could originate. The Food, Agriculture, Conservation, and Trade Act of 1990 added portions of loans that the USDA guarantees

granting these authorities to Farmer Mac, Congress did not repeal other provisions of the Act that authorize FCS banks and associations, subject to FCA regulation, to invest in obligations of or insured by the U.S. or its agencies, including USDA fully-guaranteed loan portions.

The opponents of the proposed rule also claim that the Act does not allow FCS associations to buy USDA-guaranteed loan portions from non-System loan originators. We respond that these commenters have misinterpreted the Act. Although FCA banks and associations generally lack authority to buy most loans (and portions thereof) from the non-System lenders, the Act carves out exceptions, such as sections 2.2(11) and 2.12(17) of the Act. Since USDA-guaranteed obligations qualify as eligible investments under sections 2.2(11) and 2.12(17), System associations may buy them from any *bona fide* seller, including community banks, and other non-System lenders.

Beyond their legal arguments, these commenters also claim that allowing associations to buy USDA-guaranteed loan portions from non-System originators is detrimental to Farmers Mac and the broader secondary market. However, these commenters did not provide any data, information, or analysis that supports their claim that the proposed rule would harm Farmer Mac.¹⁵ Instead information provided by the USDA, and comment letters received from a majority of community bank commenters contradict these assertions. As noted in the preamble to the proposed rule, USDA informed FCA that the FCS in recent years has constituted as much as 40 percent of the secondary market for USDA loan guarantees. The majority of community bankers who commented on the proposed rule told us that System associations play a beneficial role in this secondary market. These commenters

also stated that System associations that buy these guaranteed loan portions enable community banks to reinvest the sale proceeds back into local communities. These comments support one of FCA's objectives in this rulemaking, which is to augment liquidity of rural credit markets. As stated above, Farmer Mac did not comment on the proposed rule.

One commenter claimed that "FCS lenders have long desired to operate their own secondary market, and FCA's proposal would lay the groundwork allowing them to do so." We disagree with this comment. As discussed in greater detail above, the Act does not authorize System banks and associations to securitize assets and then sell the resulting securities to investors. Associations buy USDA guaranteed loan portions in the secondary market from willing sellers, the majority of which are commercial banks, and then hold those investments for risk management purposes.

The proposed rule would not enable FCS lenders to "operate their own secondary market" as the commenter alleges. At most, System associations would resume their previous role as a meaningful participant in the longstanding informal secondary market. FCA proposed this rule after USDA provided data and information that substantiated its claim¹⁶ that the System's withdrawal from this secondary market actually disrupts it. Allowing System associations to return to the informal secondary market for USDA loan guarantees provides additional liquidity and funding sources to those market participants who opt to engage in these transactions.

For the reasons discussed in the preamble, the final rule amends § 615.5140(b)(2) to allow System associations to purchase in the secondary market, the portions of loans that non-FCS institutions originate and that the USDA fully and unconditionally guarantee or insured as to both principal and interest.

V. Regulatory Flexibility Act and Major Rule Conclusion

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), FCA hereby certifies that the final rule would not have a significant economic impact on a substantial number of small entities. Each of the

banks in the System, considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities. Therefore, System institutions are not "small entities" as defined in the Regulatory Flexibility Act.

Under the provisions of the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Management and Budget's Office of Information and Regulatory Affairs has determined that this final rule is not a "major rule," as the term is defined at 5 U.S.C. 804(2).

Lists of Subjects in 12 CFR Part 615

Accounting, Agriculture, Banks, banking, Government securities, Investments, Rural areas.

For the reasons stated in the preamble, part 615 of chapter VI, title 12 of the Code of Federal Regulations are amended as follows:

PART 615—FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS

■ 1. The authority citation for part 615 continues to read as follows:

Authority: Secs. 1.5, 1.7, 1.10, 1.11, 1.12, 2.2, 2.3, 2.4, 2.5, 2.12, 3.1, 3.7, 3.11, 3.25, 4.3, 4.3A, 4.9, 4.14B, 4.25, 5.9, 5.17, 6.20, 6.26, 8.0, 8.3, 8.4, 8.6, 8.7, 8.8, 8.10, 8.12 of the Farm Credit Act (12 U.S.C. 2013, 2015, 2018, 2019, 2020, 2073, 2074, 2075, 2076, 2093, 2122, 2128, 2132, 2146, 2154, 2154a, 2160, 2202b, 2211, 2243, 2252, 2278b, 2278b-6, 2279aa, 2279aa-3, 2279aa-4, 2279aa-6, 2279aa-7, 2279aa-8, 2279aa-10, 2279aa-12); sec. 301(a), Pub. L. 100-233, 101 Stat. 1568, 1608; sec. 939A, Pub. L. 111-203, 124 Stat. 1326, 1887 (15 U.S.C. 780-7 note).

§ 615.5140 [Amended]

■ 2. Amend § 615.5140 by revising paragraphs (b)(2) and (3) to read as follows:

* * * * *

(b) * * *

(2) *Secondary market Government-guaranteed loans.* In addition to investing in the securities described in paragraph (b)(1) of this section, each Farm Credit System association may also manage risk by holding those portions of loans that:

(i) Lenders, which are not Farm Credit System institutions, originate and then sell in the secondary market; and

(ii) The United States Department of Agriculture fully and unconditionally guarantees or insures as to both principal and interest.

(3) *Risk management requirements.* Each association that purchases investments pursuant to paragraphs (b)(1) and (2) of this section must

under the Consolidated Farm and Rural Development Act to the statutory definition of "qualified loan" in section 8.0(7) of the Act. See Public Law 101-624, § 1839(b), 104 Stat. 3359, 3835 (Nov 28, 1990). The Food, Conservation and Energy Act of 2008 further expanded the definition of "qualified loan" in re-designated § 8.0(7) of the Act to include loans and interest in loans for an electric or telephone facility from a cooperative lender to a borrower who is eligible for loans under the Rural Electrification Act of 1936. See Public Law 110-234, § 5406(a), 122 Stat. 923, 1158 (May 22, 2008).

¹⁵ Since Farmer Mac has been granted this authority in 1990, it has been and continues to be an active participant in this secondary market. It currently holds over \$2.2 billion in USDA's guaranteed loan portions (See Farmer Mac Reports 2019 Results, Pg. 9, <https://www.farmermac.com/wp-content/uploads/Farmer-Mac-Reports-2019-Results.pdf>).

¹⁶ In the proposed rule, we indicated that data provided by USDA shows that loan originators retain approximately 60 percent of the USDA-guaranteed portions of such loans and sell the remaining 40 percent in the secondary market, often at a premium. See 84 FR 49069 (September 18, 2019).

document how its investment activities contribute to managing risks as required by paragraph (b)(1) of this section. Such documentation must address and evidence that the association:

* * * * *

Dated: September 1, 2020.

Dale Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2020–19711 Filed 10–5–20; 8:45 am]

BILLING CODE 6705–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 119

RIN 3245–AH11

Regulatory Reform Initiative: Program for Investment in Microentrepreneurs (PRIME)

AGENCY: U.S. Small Business Administration.

ACTION: Final rule.

SUMMARY: The U.S. Small Business Administration (SBA or Agency) is revising one regulation and removing 19 regulations from the Code of Federal Regulations (CFR) related to the Program for Investment in Microentrepreneurs (PRIME) that are repetitive and unnecessary because they duplicate identical guidance and requirements already stipulated in other legal sources and/or provided to grant applicant and recipients in the annual PRIME funding opportunity announcement. The removal of these regulations assists the public by simplifying SBA's regulations in the CFR and reducing the amount of time grant applicants and recipients must spend reviewing programmatic guidance.

DATES: This rule is effective on November 5, 2020.

FOR FURTHER INFORMATION CONTACT: Daniel Upham, Chief, Microenterprise Development Division, Office of Capital Access, at 202–205–7001 or daniel.upham@sba.gov.

SUPPLEMENTARY INFORMATION:

I. Background Information

A. Part 119—Program for Investment in Microentrepreneurs (“PRIME” or “The Act”)

Under the PRIME program, SBA is authorized by 15 U.S.C. 6902 to make grants to qualified organizations for the purpose of funding: (i) Training and technical assistance to disadvantaged microentrepreneurs; (ii) training and capacity-building services for microenterprise development

organizations; (iii) research and development of the best practices in the fields of microenterprise development and technical assistance for disadvantaged microentrepreneurs; and (iv) other related activities as the Agency deems appropriate.

In this rule, SBA is modifying one regulation and removing 19 regulations from the CFR related to the Program for Investment in Microentrepreneurs (PRIME) that are no longer necessary because they duplicate identical guidance and requirements already stipulated in the enabling legislation (15 U.S.C. 6901, *et seq.*), the governmentwide grant regulations (2 CFR part 200), and/or provided to grant applicant and recipients in the PRIME funding opportunity announcements published annually by SBA at www.grants.gov. The removal of these regulations will assist the public by simplifying SBA's regulations in the CFR and reducing the amount of time grant applicants and recipients must spend reviewing programmatic guidance.

SBA proposed a rule with these amendments on February 7, 2020, and the comment period ended on April 7, 2020. 85 FR 7254. SBA received three comments on the proposed rule. None of the comments received contained any substantive comments on the content of the rule. Therefore, SBA is proceeding with publication of the final rule with no changes from the proposed rule text.

II. Section by Section Analysis

A. Section 119

This rule currently summarizes the purpose of the PRIME program. SBA retains this statement of programmatic purpose and adds further subsections addressing how qualified organizations may apply for grant awards under the PRIME program.

B. Sections 119.2 Through 119.20

These rules provided guidance to PRIME program applicants regarding the application and selection process, as well as inform grant recipients of certain restrictions and requirements related to the conduct of PRIME grant projects. They are no longer necessary because the guidance, restrictions, and requirements they reiterate are also covered in other sources that are more authoritative, informative, and/or frequently updated. As such, they are duplicative of, and of less utility, than these other sources. SBA therefore is removing these sections and instead relying upon the content contained in other Federal guidance, such as the enabling legislation (15 U.S.C. 6901 *et*

seq.), the government-wide grant regulations (2 CFR part 200), and the PRIME program annual funding opportunity announcements and award terms and conditions issued by SBA. Program information will be published annually at www.grants.gov.

III. Compliance With Executive Orders 12866, 13771, 12988, and 13132, the Paperwork Reduction Act (44 U.S.C., Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601–612)

A. Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule does not constitute a significant regulatory action for purposes of Executive Order 12866 and is not a major rule under the Congressional Review Act, 5 U.S.C. 801, *et seq.*

B. Executive Order 13771

This rule is an Executive Order 13771 deregulatory action with an annualized net savings of \$15,382 and a net present value of \$219,743 in savings, both in 2016 dollars. This rule will remove redundant information which will save grant applicants from reading the same information from multiple sources. The reduced burden assumes 130 grant applicants read the regulation per year, which is the average number of applicants per year, and that they would save 2 hours each from not reading the removed information. This time is valued at \$62.82 per hour—the wage of a community service manager based on 2018 U.S. Bureau of Labor Statistics (BLS) data—and adding 100 percent more for benefits and overhead for a total savings per year of \$16,333 in current dollars.

It is assumed that there will be no costs to this rule as it removes duplicative information. SBA received no comments on its regulatory economic analysis.

C. Executive Order 12988

This action meets applicable standards set forth in Section 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.

D. Executive Order 13132

This rule does not have federalism implications as defined in Executive Order 13132. 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, as specified in the

Executive order. As such it does not warrant the preparation of a Federalism Assessment.

E. Paperwork Reduction Act

The SBA has determined that this rule does not affect any existing collection of information.

F. Regulatory Flexibility Act

When an agency issues a proposed rule, the Regulatory Flexibility Act (RFA) requires the agency to prepare an initial regulatory flexibility analysis (IRFA), which describes whether the rule will have a significant economic impact on a substantial number of small entities. However, Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an IRFA, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

The Administrator of the SBA certified that this rule will not have a significant economic impact on a substantial number of small entities during the proposed rule stage and no comments were received on this certification.

List of Subjects in 13 CFR Part 119

Grant programs—business, Small businesses.

Accordingly, for the reasons stated in the preamble, SBA is amending 13 CFR part 119 as follows:

PART 119—PROGRAM FOR INVESTMENT IN MICROENTREPRENEURS (“PRIME”) or “The Act”)

- 1. The authority citation for part 119 is revised to read as follows:

Authority: 15 U.S.C. 634(b)(6), 6901–6910.

- 2. Revise § 119.1 to read as follows:

§ 119.1 What is the Program for Investment in Microentrepreneurs (PRIME)?

(a) The PRIME program authorizes SBA to award grants to qualified organizations to fund training and technical assistance for disadvantaged microentrepreneurs; training and capacity-building services for microenterprise development organizations; research and development of the best practices in the fields of microenterprise development and the provision of technical assistance to disadvantaged microentrepreneurs; and such other activities as the Agency deems appropriate.

(b) Dependent upon the availability of funds and continuing program authority, SBA will issue, via *Grants.gov* or any successor platform, funding announcements specifying the terms,

conditions, and evaluation criteria for each potential round of PRIME awards. These funding announcements will identify who is eligible to apply for PRIME awards; summarize the purposes for which the available funds may be used; advise potential applicants regarding the process for obtaining, completing, and submitting an application packet; and provide information regarding application deadlines and any additional limitations, special rules, procedures, and restrictions which SBA may deem advisable.

(c) SBA will evaluate applications for PRIME awards in accordance with the stated statutory goals of the program and the specific criteria described in the relevant funding announcement.

(d) In administering the PRIME program, SBA will require recipients to provide reports in accordance with the subject matter areas and schedule identified in the terms and conditions of their awards. In addition, SBA may, as it deems appropriate, make site visits to recipients' premises and review all applicable documentation and records.

§§ 119.2 through 119.20 [Removed and reserved]

- 3. Remove and reserve §§ 119.2 through 119.20.

Jovita Carranza,
Administrator.

[FR Doc. 2020–19473 Filed 10–5–20; 8:45 am]

BILLING CODE 8026–03–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21, 61, 63, 65, 91, 107, 125, and 141

[Docket No.: FAA–2020–0446; Amdt. No(s). Amendment numbers 21–104, 61–147, 63–45, 65–62, 91–360, 107–5, 125–71, and 141–23]

RIN 2120–AL66

Second Limited Extension of Relief for Certain Persons and Operations During the Coronavirus Disease 2019 (COVID–19) Public Health Emergency

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

ACTION: Final rule.

SUMMARY: This final rule further amends the regulatory relief originally provided in the Relief for Certain Persons and Operations during the Coronavirus Disease 2019 (COVID–19) final rule and the Limited Extension of Relief for

Certain Persons and Operations during the Coronavirus Disease 2019 (COVID–19) Public Health Emergency final rule. The relief in this final rule applies to a new population of airmen and does not extend the relief provided in the amended Special Federal Aviation Regulation (SFAR). The amended relief applies to new persons who may have challenges complying with certain training, recent experience, testing, and checking requirements. This relief allows operators to continue to use pilots and other crewmembers in support of essential operations during this extended period. This SFAR also provides regulatory relief to additional persons unable to meet duration and renewal requirements due to the public health emergency. Finally, this rule allows certain air carriers and operators to fly temporary overflow aircraft to a point of storage pursuant to a special flight permit with a continuing authorization.

DATES: Effective October 1, 2020, through April 30, 2021.

ADDRESSES: For information on where to obtain copies of rulemaking documents and other information related to this final rule, see “How to Obtain Additional Information” in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action for pilots, contact Craig Holmes, General Aviation and Commercial Division; Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267–1100; email 9-AVS-AFS800-COVID19-Correspondence@faa.gov. For technical questions concerning this action for mechanics and special flight permits, contact Kevin Morgan, Aircraft Maintenance Division; Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267–1675; email Kevin.Morgan@faa.gov. For technical questions concerning this action for aircraft dispatchers and flight engineers, contact Theodora Kessariss and Sheri Pippin, Air Transportation Division, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267–8166; email 9-AVS-AFS200-COVID-Exemptions@faa.gov.

SUPPLEMENTARY INFORMATION:

Good Cause for Immediate Adoption

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C.) authorizes agencies to dispense with notice and comment procedures for rules when the agency for “good

cause” finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” In addition, section 553(d) of the APA requires that agencies publish a rule not less than 30 days before its effective date, except a substantive rule that relieves a restriction or “as otherwise provided by the agency for good cause found and published with the rule.” 5 U.S.C. 553(d)(1) and (3).

The FAA finds good cause under 5 U.S.C. 553(b)(3)(B) to waive prior notice and the opportunity for public comment. The provisions in this final rule provide temporary relief to persons who have been unable to meet certain requirements during the national emergency concerning COVID-19. Without this final rule, certain individuals will not be able to continue exercising privileges in support of essential operations due to their inability to satisfy certain training, recent experience, testing, and checking requirements. In addition, other individuals may be unable to satisfy certain requirements due to a reduced availability of personnel that are able to conduct routine aviation activities. In other instances, such activities may be contrary to State and local directives that continue certain restrictions as they implement phased recovery plans.

The FAA recognizes that there are aviation operations outside of air carrier and commercial operations conducted under part 119 of title 14 of the Code of Federal Regulations (14 CFR) that are critical, including operations that support essential services and flights that support the COVID-19 public health emergency response efforts. These operations are likely to face disruption due to a decreased supply of qualified pilots resulting from the effects of the COVID-19 public health emergency including the reduced number of personnel available to administer required training, checking, and testing. Without the relief in this SFAR, beginning October 1, 2020, and with each month thereafter, a new group of pilots will become unavailable to perform critical operations due to an inability to comply with regulatory requirements. This SFAR will provide temporary relief to certain individuals whose qualifications would otherwise lapse to ensure there are a sufficient number of qualified personnel available to conduct essential aviation activities during this period. The FAA finds that this temporary action is needed to enable individuals to continue to exercise their airman certificate privileges as the impacts of the COVID-19 public health emergency continue.

This action is also needed to provide immediate notification to individuals facing impending expiration dates for certificates, endorsements, and test results.¹ With the cessation of many non-essential aviation training and testing activities during the first several months of the public health emergency, many individuals were unable to complete certain activities before encountering expiration dates.

Despite the gradual resumption of training, checking, and testing activities, the demand for completing these activities remains high because the industry has not yet been able to catch up from the backlog created during the initial closures and shutdowns. Affording flexibility in this final rule to the next group of affected individuals is necessary to manage the demand and account for a reduced number of personnel available to complete the activities. This final rule provides immediate relief from certain duration and renewal requirements to reduce unnecessary risk of exposure and to assure persons that they will not endure economic burdens due to non-compliance with certain regulations.

Accordingly, the FAA finds that providing notice and an opportunity to comment is contrary to the public interest, because any delay in implementation of this final rule could result in disruption to critical aviation operations and could increase the incidence of exposure during this public health emergency and into the period of recovery. Furthermore, the continually evolving public health situation as a result of, and State and local responses to, the COVID-19 public health emergency significantly limits how far in advance the FAA can usefully assess the need for the flexibilities provided for in this regulation.

In addition, for the same reasons stated above, the FAA finds good cause to waive the 30-day delay in effective date of this final rule under 5 U.S.C. 553(d)(3) for the SFAR provisions that address the training and qualification requirements. Because the APA also allows a substantive rule that relieves a restriction to become effective in less than 30 days after publication, the FAA finds that the SFAR provisions that provide relief by extending duration and renewal requirements may also be immediately effective. 5 U.S.C. 553(d)(1).

¹ Certain FAA regulations require a person to act within a particular timeframe in order to avoid an expiration. For example, a knowledge test result is generally valid for 24 months. A person must take the practical test before the knowledge test result expires or he or she must retake the knowledge test at additional cost.

Authority for This Rulemaking

The FAA’s authority to issue rules on aviation safety is found in Title 49 of the United States Code (49 U.S.C.). 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 49 U.S.C. 106(f), which establishes the authority of the Administrator to promulgate regulations and rules; 49 U.S.C. 44701(a)(5), which requires the Administrator to promulgate regulations and minimum standards for other practices, methods, and procedures necessary for safety in air commerce and national security; and 49 U.S.C. 44703(a), which requires the Administrator to prescribe regulations for the issuance of airman certificates when the Administrator finds, after investigation, that an individual is qualified for, and physically able to perform the duties related to, the position authorized by the certificate. This rulemaking provides airmen relief from certain training, recency, testing, and checking requirements, and establishes qualification requirements for airmen seeking to conduct essential operations during the COVID-19 public health emergency. For these reasons, this rulemaking is within the scope of the FAA’s authority.

List of Abbreviations and Acronyms Frequently Used in This Document

AME—Aviation Medical Examiner
ATP—Airline Transport Pilot
COVID-19—Coronavirus Disease 2019
IFR—Instrument Flight Rules
PIC—Pilot in Command
SIC—Second in Command
UAS—Unmanned Aircraft Systems

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I. Overview of Final Rule

The FAA's regulations contain several training, recent experience, testing, and checking requirements that persons must comply with prior to exercising their airman or crewmember privileges. The FAA's regulations also contain duration requirements, such as those pertaining to medical certificates, the validity of knowledge tests, and general procedures for completing a practical test. Persons continue to have difficulty complying with several of the FAA's requirements because of the ongoing

effects of the COVID-19 public health emergency, including the continuation of social distancing guidelines to prevent transmission of the virus. For example, the FAA finds that there are increases in flight operations and improvements in the availability of facilities and personnel to provide training, testing, and checking; yet, reduced class sizes and disinfection protocols at facilities continue to present challenges in scheduling and completing required events. The FAA also finds that the availability of designees to complete practical tests and aviation medical exams has improved, but there are still challenges in some locations with an increase in the number of people competing to schedule events necessary to comply with regulatory requirements.

As a result, "lapses" in qualifications, which occur on the last day of each month, will affect an additional cohort of regulated parties at the end of each month even as State and local directives for phased recovery and routine activities resume. The regulatory relief provided in this final rule will amend the Limited Extension of Relief for Certain Persons and Operations during the Coronavirus Disease 2019 (COVID-19) Public Health Emergency final rule (SFAR 118-1) (85 FR 38763) issued by the FAA on June 25, 2020. This amendment will enable the continuity of aviation operations that are critical during the COVID-19 public health emergency and the recovery, including operations that support essential

services and flights that support response efforts. In addition, the SFAR contains regulatory relief for persons who are unable to satisfy certain requirements to prevent those persons from enduring unnecessary economic burdens due to circumstances related to the public health emergency that are outside of their control. Finally, this amendment will extend relief to air carriers and operators allowing them to fly temporary overflow aircraft to a point of storage with a continuing authorization.

The FAA notes that no extension of relief has been granted to airmen who were eligible for relief in SFAR 118-1. The FAA also notes that, in this final rule, it is not expanding every area of relief provided in SFAR 118-1. Because the industry is seeing improvements in the availability of facilities for training, testing, and examinations and the number of persons available to conduct those activities is increasing, the extent of the relief in this final rule is reduced in many areas. The FAA expects that, with continued improvement over the next several months, no further relief will be necessary. Although this amended SFAR will remain effective through April 30, 2021, that date does not reflect the duration for every provision. As a result, airman, operators, and air agencies should review the eligibility, conditions, and duration of the SFAR carefully to ensure compliance.

The table below summarizes SFAR 118 and the amendments to it.

14 CFR	Area of relief	Original SFAR 118 relief	Amended SFAR 118-1 relief	Amended SFAR 118-2 relief
61.55	Second-in-Command Pilot Qualifications.	Due March–June 2020 has 3 grace months to complete training.	Added pilots due July–Sept 2020.	Added pilots due Oct 2020–Jan 2021, but only 2 total grace months to complete training.
61.56	Pilot Flight Review	Due March–June 2020 has 3 grace months to complete a flight review.	Added pilots due July–Sept 2020.	Added pilots due Oct 2020–Jan 2021, but only 2 total grace months to complete a flight review.
61.57	Pilot Instrument Currency	9-month currency look-back period (instead of 6 months) for flights April 30–June 30, 2020.	Added look-back period for flights in July–Sept 2020.	No further relief.
61.58	Pilot-in-Command Proficiency Check.	Due March–June 2020 has 3 grace months to complete the check.	Added pilots due in July–Sept 2020.	Added pilots due Oct 2020–Jan 2021, but only 2 total grace months to complete the check.
Part 91, Subpart K.	Crewmember Requirements	Due March–June 2020 has 3 grace months to complete training, recency, and checking.	Added crewmembers due in July–Sept 2020.	Added crewmembers due Oct 2020–Jan 2021, but only 2 total grace months to complete training, recency, and checking.
Part 91, Subpart N.	Mitsubishi MU-2B Series Special Training, Experience, and Operating Requirements.	Due March–June 2020 has 3 grace months to complete the training and flight review.	Added pilots due in July–Sept 2020.	Added pilots due Oct 2020–Jan 2021, but only 2 total grace months to complete the training and flight review.

14 CFR	Area of relief	Original SFAR 118 relief	Amended SFAR 118–1 relief	Amended SFAR 118–2 relief
107.65	Remote Pilot Aeronautical Knowledge Recency.	Due March–June 2020; privileges are renewed for 6 months following completion of online training.	Added remote pilots whose privileges are due to expire July–Sept 2020.	No further relief.
Part 125	Flight Crewmember Requirements.	Due March–June 2020 has 3 grace months to complete training, recency, and checking ² .	Added crewmembers due in July–Sept 2020.	Added crewmembers due Oct 2020–Jan 2021, but only 2 total grace months to complete training, recency, and checking. ³
SFAR 73	Robinson R–22/R–44 Special Training and Experience Requirements.	Due March–June 2020 has 3 grace months to complete a flight review.	Added pilots due in July–Sept 2020.	Added pilots due Oct 2020–Jan 2021, but only 2 total grace months to complete a flight review.
61.23 (All Pilots) ..	Pilot Medical Certificate Duration.	Validity of March–May 2020 medicals extended to June 30, 2020.	Extend medical validity period by 3 calendar months from expiration for pilots whose medicals expire March–Sept 2020.	Extend medical validity period by 2 calendar months from expiration for pilots whose medicals expire Oct 2020–Jan 2021.
61.23 (Alaska Pilots).	Pilot Medical Certificate Duration —.	Nothing Alaska-specific—covered under 61.23 (All Pilots).	Nothing Alaska-specific—covered under 61.23 (All Pilots).	Extend medical validity period by 3 calendar months from expiration for pilots that reside in or serve as a pilot of an aircraft in Alaska whose medicals expire Oct 2020–Jan 2021.
61.39	Pilot Knowledge Test Validity Period.	Test results expiring March–June 2020 extended 3 calendar months.	Knowledge tests expiring in July–Sept 2020 added.	Knowledge tests expiring Oct 2020–Jan 2021 extended 2 calendar months.
61.197	Flight Instructor Renewal	Certificate expiration March–May 2020 have until June 30, 2020 to renew.	No further relief	No further relief.
SFAR 100–2	Relief for U.S. Military and Civilian Personnel Who are Assigned Outside the U.S. in Support of U.S. Armed Forces Operations.	Eligible persons that returned from overseas October 2019–March 2020 received an extension of 3 calendar months.	No further relief	No further relief.
63.3 (All Flight Engineers).	Flight Engineer Medical Certificate Duration.	Validity of March–May 2020 medicals extended to June 30, 2020.	Extend medical validity period by 3 calendar months from expiration flight engineers whose medicals expire March–Sept 2020.	Extend medical validity period by 2 calendar months from expiration for flight engineers whose medicals expire Oct 2020–Jan 2021.
63.3 (Alaska Flight Engineers).	Flight Engineer Medical Certificate Duration.	Nothing Alaska-specific—covered under 63.3 (All Flight Engineers).	Nothing Alaska-specific—covered under 63.3 (All Flight Engineers).	Extend medical validity period by 3 calendar months from expiration for flight engineers who reside in or serve as a flight engineer of an aircraft in Alaska whose medicals expire Oct 2020–Jan 2021.
63.35	Flight Engineer Written Test Validity Period.	Test results expiring March–June 2020 extended 3 calendar months.	Written tests expiring in July–Sept 2020 added.	Written tests expiring in Oct 2020–Jan 2021 extended 2 calendar months.
65.55	Dispatcher Knowledge Test Validity Period.	Test results expiring March–June 2020 extended 3 calendar months.	Knowledge tests expiring in July–Sept 2020 added.	Knowledge tests expiring in Oct 2020–Jan 2021 extended 2 calendar months.
65.71	Mechanic Applicant Testing Period.	Testing period expiring March–June 2020 extended 3 months.	Testing period expiring in July–Sept 2020 added.	Testing period expiring in Oct 2020–Jan 2021 extended 2 calendar months.
65.93	Mechanic with Inspection Authorization Renewal.	3 additional months (April–June 2020) to meet year one renewal requirements.	No further relief	No further relief.
65.117	Military Riggers	Eligible military parachute riggers who were released March–June 2019 have 3 additional months to make application.	No further relief	No further relief.
141.5	Pilot School Certificate Requirements.	Provisional certificate expires April–June 2020 extended to Dec 31, 2020 to apply for a pilot school certificate.	No further relief	No further relief.
141.27	Pilot School Certificate Renewal Requirements.	Certificate expires April–June 2020 extended to Dec 31, 2020 to renew.	No further relief	No further relief.

14 CFR	Area of relief	Original SFAR 118 relief	Amended SFAR 118–1 relief	Amended SFAR 118–2 relief
21.197	Special Flight Permit—Move Aircraft to Storage.	April 30–Dec 31, 2020	No change	Extend relief period to March 31, 2021.

II. Background

In March 2020, the FAA received several letters from industry associations petitioning the FAA for relief and extensions from certain requirements during the COVID–19 public health emergency.⁴ The content of the letters and the relief and flexibility sought were described in the Relief for Certain Persons and Operations during the Coronavirus Disease 2019 (COVID–19) final rule (SFAR 118) (85 FR 26326). On May 29, 2020, the FAA received an additional letter signed by seven industry associations seeking to extend by a month the relief granted to those individuals eligible for relief in SFAR 118.⁵ The letter also requested the FAA expand the eligibility of the relief to additional groups of pilots, operators, and certificate holders who face expiring experience, testing, checking, duration, medical, and renewal requirements in July through September 2020. The content of this letter and the rationale behind the need for additional relief was described in the Limited Extension of Relief for Certain Persons and Operations during the Coronavirus Disease 2019 (COVID–19) Public Health Emergency final rule (SFAR 118–1) (85 FR 38763). This final rule also detailed the petition for exemption submitted by Airlines for America (A4A) to provide medical relief for pilots and flight engineers.

On September 3, 2020, the FAA received a letter signed by the same seven industry associations as the previous May 2020 letter, seeking to expand the eligibility of the relief to additional groups of pilots, operators, and certificate holders who face expiring experience, testing, checking, duration, medical, and renewal requirements in October through December 2020.⁶ As in the prior letter,

the industry associations supported their position by acknowledging that while restrictions are easing in some areas, they continue to see burdens and restrictions that will continue to have a negative impact on the aviation community into the foreseeable future. The letter cited guidance from the Centers for Disease Control and Prevention (CDC), which continues to recommend limited contact with persons outside of one's household, and added that State and local governments are enforcing social distancing requirements. As a result, many aviation stakeholders seek to minimize their risk of exposure.⁷

Although the letter acknowledged that most aviation medical examiners (AMEs) are now scheduling appointments, it noted that additional flexibility would continue to be a benefit because there are still backlogs. The letter further stated that pilots who hold special issuance medical certificates or are required to supply the FAA with information regarding a medical condition may have difficulty obtaining the information in time due to the limited availability of treating specialists (e.g., cardiologists, pulmonologists). They also added that the additional flexibility will allow airmen and examiners to abide by CDC and individual State recommendations while stimulating the economy and moving medical and emergency supplies when needed. The industry associations assert that the safety mitigations in SFAR 118–1 will continue to ensure an equivalent level of safety during the extensions.⁸

⁷ The industry associations referenced FAA data, which indicates that “more than 57% of [designated pilot examiners] are over the age of 60, a demographic at higher risk of severe effects” from COVID–19 disease.

⁸ In the letter, the industry associations requested the FAA reinstate relief for flight instructor certificate renewals that was provided in the original SFAR, but was not included in the first extension. The FAA has determined that the circumstances for granting relief no longer exist. There are online renewal options available; and, for those instructors that renew based on activity, the FAA has options available that do not require an in-person visit to an FAA office to complete the renewal application process. Industry also requested relief for night landing currency requirements when carrying passengers in § 61.57(e)(4). The FAA has determined that further relief to an exception that is already written into the rule for night landing currency is not appropriate; therefore, the FAA did not include relief in this final rule. The exception already permits a pilot of a turbine-powered airplane that requires more than

In addition, on May 19, 2020, the President issued Executive Order 13924, Regulatory Relief to Support Economic Recovery, setting forth “the policy of the United States to combat the economic consequences of COVID–19 with the same vigor and resourcefulness with which the fight against COVID–19 itself has been waged.” Among other things, the Executive order directed executive branch agencies to “address this economic emergency by rescinding, modifying, waiving, or providing exemptions from regulations and other requirements that may inhibit economic recovery consistent with applicable law and with protection of the public health and safety. . . .” This final rule is consistent with this Executive order.

III. Discussion of Final Rule

Without the expanded relief provided in this SFAR, certain persons are at risk of ceasing operations due to their inability to satisfy training and qualification requirements due to disruptions caused by the COVID–19 public health emergency. Aviation activity continues to increase, and industry is beginning to address the backlog of required events. However, many of the challenges that existed when the FAA first issued SFAR 118 remain today.

Airmen continue to have trouble complying with certain training, recency, checking, testing, duration, and renewal requirements. The Nation continues to transition to various phases of reopening throughout the country and authorities continue to promote social distancing and limiting exposure to slow the spread of the virus. To comply with many of the FAA's training, recency, checking, testing, duration, and renewal requirements, an airman is required to be in close proximity to another individual, often in a small, confined space such as the flight deck of an aircraft or inside a simulator. In such an environment, there is an increased risk of transmission of the virus.

As eligible airmen exercise the relief in SFAR 118–1 and reschedule training

one pilot a couple of alternatives for meeting night landing currency requirements. The additional time allowed under the exception is partially based upon recency of flight experience in the 90 days prior to flight. Any further relief from the minimum threshold of 15 hours of flight time in the past 90 days to trigger the exception in § 61.57(e)(4) would not provide for an equivalent level of safety.

² An additional 60 days to meet the landing currency is also provided.

³ An additional 30 days to meet the landing currency is also provided.

⁴ These letters are available in the rulemaking docket.

⁵ The letter was from the Aircraft Owners and Pilots Association (AOPA), Air Medical Operators Association (AMOA), Experimental Aircraft Association (EAA), Helicopter Association International (HAI), National Agricultural Aviation Association (NAAA), National Air Transportation Association (NATA), and National Business Aviation Association (NBAA).

⁶ AOPA, AMOA, EAA, HAI, NAAA, NATA, and NBAA.

and qualification activities, there continues to be a strain on the training ecosystem for those airmen who are due for events in the upcoming months. In addition, the FAA workforce and its designees have not fully returned to normal activity. As a result, airman qualifications could lapse because persons cannot access training or testing facilities or schedule events in a timely fashion or because FAA inspectors or designees are unavailable to conduct required tests, checks, or observations. To enable the continuity of aviation operations that are critical to the Nation, the FAA finds it necessary to provide short-term relief from certain training, qualification, duration, and renewal requirements to a new cohort of airmen.

Because this SFAR addresses multiple regulations from several parts of the Federal Aviation Regulations, the FAA has provided the necessary background information in the relevant sections of the Discussion of the Final Rule. The FAA emphasizes that, apart from the limited relief granted in this SFAR, individuals must continue to comply with all applicable FAA regulations.⁹

Each of the following sections explains the relief being granted and the persons, airmen, or certificate holders eligible for the relief.¹⁰ For those provisions that are being extended in this final rule, the mitigations the FAA found necessary to ensure aviation safety remain unchanged from SFAR 118; therefore, they are not fully explained in the preamble of this amendment.¹¹

⁹ The FAA notes, in particular, that § 61.51(a) requires an individual to log training and aeronautical experience used to meet the requirements for a certificate, rating, or flight review and aeronautical experience required for meeting the recent flight experience requirements of part 61. Likewise, § 61.51(i) requires a person to present their pilot certificate, medical certificate, logbook, or any other record required by part 61 for inspection upon a reasonable request by (i) the Administrator; (ii) an authorized representative from the National Transportation Safety Board; or (iii) any Federal, State, or local law enforcement officer.

¹⁰ As explained further in Section IV.F of this SFAR (International Compatibility), certain relief provided in this SFAR does not conform with the International Civil Aviation Organization (ICAO) Standards and Recommended Practices (SARPs). Apart from this SFAR's application within the United States, certificate holders or operators may dispatch or release flights and pilots and other crewmembers may operate outside of the United States under this SFAR, unless otherwise prohibited by a foreign country. For international operations where pilots and other crewmembers will exercise the relief identified in this SFAR, anyone exercising this relief must have access to the SFAR when outside the United States and present a copy of this SFAR for inspection upon request by a foreign civil aviation authority.

¹¹ The FAA's mitigation discussion can be found in the Relief for Certain Persons and Operations during the Coronavirus Disease 2019 (COVID-19) final rule (SFAR 118) (85 FR 26326).

While the FAA is expanding the relief in SFAR 118-1 to a new group of airmen, it has not extended the period of relief provided to the group of airmen due in the months March through September 2020. The FAA maintains that limited extensions, not to exceed 3 calendar months (grace months), for training, checking, and currency requirements are acceptable in these extraordinary circumstances. Further extending the scope of the relief provided to the airmen covered by SFAR 118-1, however, presents an added risk to the system that the FAA does not broadly support. The grace months provided by the SFAR were to offer flexibility in scheduling the necessary events given the disruption caused by the COVID-19 public health emergency. The FAA further notes that, with aviation activity continuing to increase and the increased availability of personnel to complete training and checking activities, the FAA might not extend relief to additional groups of persons, airmen, and operators after this final rule provided this improvement continues. All certificate holders who are facing lapses in qualifications should seek to schedule the necessary events as soon as it is practical and safe to do so given individual circumstances.

A. Relief From Certain Training, Recency, Testing, and Checking Requirements

As noted in the letters from industry, general aviation operators and crewmembers can be a key part of the U.S. infrastructure. The support that general aviation provides is particularly critical as the Nation continues to recover from the public health emergency. Because some phased recovery measures continue to recommend that people limit exposure through social distancing, and with the enhanced cleaning requirements for aircraft and facilities and facility capacity restrictions in some locations, some airmen will continue to have difficulty completing certain regulatory requirements in the short-term because the capacity for completing these events may be reduced. As aviation activity resumes, the capacity for training, testing, and checking is still not at pre-COVID-19 levels and the demand for these events exceeds the availability of qualified instructors, check airmen, and examiners in some locations. Therefore, the FAA finds temporary relief from some requirements is still necessary to maintain critical operations, increase flexibility in scheduling, and reduce burdens on airmen; however, the FAA is reducing the amount of additional time and flexibility in many of the relief

areas as the industry is improving in its ability to absorb the demand. This reduction in additional time will also help facilitate the transition back to the regulatory training and checking intervals without further relief. To ensure compliance by the end of the grace periods, the FAA encourages airmen not to delay scheduling until the last possible moment.

Relief granted in this section to certain eligible pilots and crewmembers applies only to persons conducting specific operations for which the FAA has determined relief is appropriate. The overarching eligibility for relief in Section A remains unchanged from the original issuance of SFAR 118 and the first amendment; however, it is reiterated here for clarity. No individuals who obtained relief under SFAR 118-1 will receive an extension of that relief. Specific changes in the relief granted for individual sections will be discussed in those sections.

The relief applies to any operation that requires the pilot to hold at least a commercial pilot certificate. This provision will support the continuity of essential commercial operations, which include aerial observation of critical infrastructure, aerial applications (e.g., crops), and private carriage of medical supplies and equipment, which are conducted under part 91, subpart K, and parts 125, 133, and 137.¹²

In addition, this relief applies to some operations conducted by pilots exercising private pilot privileges, provided the pilot has at least 500 hours of total time as a pilot of which 400 hours is as PIC and 50 of the PIC hours were accrued in the last 12 calendar months. The kinds of operations permitted are those that are:

- Incidental to business or employment,
- In support of family medical needs or to transport essential goods for personal use,
- Necessary to fly an aircraft to a location in order to meet a requirement of this chapter, or
- A flight to transport essential goods and/or medical supplies to support public health needs.

This SFAR also extends to pilots conducting charitable medical flights for a volunteer pilot organization pursuant to an exemption issued under part 11, provided the pilots continue to comply with the conditions and limitations of the exemption. For flights conducted by private pilots under this relief, no one may be carried on the aircraft unless

¹² In accordance with § 137.19, a private operator pilot that holds a private pilot certificate is also eligible for relief.

that person is essential to the purpose of the flight, such as when transporting doctors for the purpose of providing medical care. This relief does not permit private pilots to conduct these operations for compensation or hire unless permitted under the exceptions in § 61.113(b), (d), (e), or (h) or by exemption.¹³

This relief also extends to flight attendant crewmembers, check pilots, and flight instructors under part 91, subpart K, and part 125. Finally, this relief applies to operations conducted under part 107 of this chapter by a person who holds a remote pilot certificate issued under part 107.¹⁴ Pilots exercising commercial pilot privileges have at least 190 hours of flight time as a pilot and have been tested to a higher standard than private pilots. The eligibility requirements for private pilots are consistent with additional conditions and limitations imposed on private pilots conducting charitable flights under a part 11 exemption.

This amendment to SFAR 118–1 addresses crewmember qualifications that may lapse in the next few months, provided the crewmember is eligible for the relief and satisfies the safety mitigations before exercising the privileges. The eligibility requirements and mitigations are discussed more fully in each subsection.

1. Part 61

Part 61 prescribes the requirements for pilot, flight instructor, and ground instructor certification, which include training, recency, testing, and checking requirements. The FAA is providing relief for second-in-command (SIC) qualifications, pilot flight reviews, and the PIC proficiency check for pilots that operate aircraft that require more than one pilot flight crewmember or are turbojet-powered.¹⁵ The specific relief is

described in paragraphs A.1.a. through A.1.c.

a. Second-in-Command Qualifications (§ 61.55)

Section 61.55(b) states that no person may serve as SIC of an aircraft certificated for more than one required pilot flight crewmember or in operations requiring an SIC unless that person has, within the previous 12 calendar months, become familiar with certain information specific to the type of aircraft and performed and logged pilot time in the type of aircraft or in a flight simulator that represents the type of aircraft.¹⁶ Although paragraph (c) provides SICs a grace month¹⁷ for accomplishing this recency requirement, the effects of the COVID–19 public health emergency continue to create challenges for compliance even within that additional timeframe.

As a result, the FAA finds, under the extraordinary circumstances of the COVID–19 public health emergency, that allowing eligible SICs two additional grace months for completing the requirements of § 61.55(b) would not present additional risk to aviation safety that cannot be mitigated.¹⁸ The additional grace months under this extension of the SFAR are available to pilots whose base month falls in October 2020 through January 2021. The “base month” is the month in which training is due. This new cohort of pilots will have a total of two grace months after the base month to accomplish the requirements of § 61.55(b).¹⁹ If eligible pilots complete these requirements during the grace period, they will be considered to have completed them during the base month. To attain the two additional grace months, eligible pilots must complete the requirements prescribed in SFAR 118–2 prior to serving as an SIC.

The FAA reiterates that no additional relief has been provided to pilots who obtained relief under the original SFAR

and the first extension. The following table outlines the expiration of relief pertinent to § 61.55 for all groups of pilots covered under the terms of the SFAR.

Base month	§ 61.55 SFAR Relief
March through May 2020	Expired.
June 2020	Expires September 30, 2020.
July 2020	Expires October 31, 2020.
August 2020	Expires November 30, 2020.
September 2020	Expires December 31, 2020.
October 2020	Expires December 31, 2020.
November 2020	Expires January 31, 2021.
December 2020	Expires February 28, 2021.
January 2021	Expires March 31, 2021.

b. Flight Review (§ 61.56)

Section 61.56(c) states that no person may act as PIC of an aircraft, unless since the beginning of the 24th calendar month before the month in which that person acts as PIC, that person has accomplished a flight review in an aircraft for which that person is rated and the person’s logbook has been endorsed for that review by an authorized instructor certifying the review was satisfactorily completed.²⁰

The FAA finds, under the extraordinary circumstances of the COVID–19 public health emergency, that extending the 24-calendar month requirement of § 61.56(c) is necessary. However, with increased aviation activity and growing availability of instructors, the FAA has determined that pilots whose flight review is due from October 2020 through January 2021 require at most two additional calendar months to complete their flight reviews instead of the three calendar months previously granted. This change acknowledges that some flexibility still is needed for scheduling these events, but the circumstances of the public health emergency no longer require an extension of three calendar months. The FAA also notes that the industry organizations requested a two-month extension for this next group of pilots whose flight reviews are coming due.

This extension will not adversely affect safety, provided the relief applies to active pilots and certain risk mitigations are met.²¹ The two-calendar month extension applies only to pilots who were current to act as PIC of an aircraft in March 2020, and whose flight review is due in October 2020 through January 2021. Eligible pilots must

¹³ The FAA has consistently construed compensation under § 61.113(a) broadly. Compensation does not require a profit, profit motive, or the actual payment of funds. Rather, compensation is the receipt of anything of value, including the reimbursement of expenses. For additional discussion, the FAA has issued legal interpretations with respect to what constitutes compensation. Furthermore, nothing in this SFAR relieves a person from the requirement to hold a part 119 certificate if applicable FAA regulations require a part 119 certificate. See generally FAA Advisory Circular 120–12A (Apr. 24, 1986) and FAA Advisory Circular 61–142 (Feb. 25, 2020).

¹⁴ No additional relief has been provided for remote pilots under part 107 in this final rule. However, some remote pilots who obtained relief under SFAR 118–1 remain eligible for relief.

¹⁵ This final rule does not extend the relief previously granted for specific recent flight experience requirements in § 61.57.

¹⁶ Section 61.55(b)(1)(i) specifies SICs must become familiar with operational procedures applicable to the powerplant, equipment, and systems; performance specifications and limitations; normal, abnormal, and emergency operating procedures; flight manual; and placards and markings. As prescribed in paragraph (b)(2), the SIC must also log pilot time and perform at least three takeoffs and three landings to a full stop as the sole manipulator of the flight controls; engine-out procedures and maneuvering with an engine out while executing the duties of pilot in command; and receive crew resource management training.

¹⁷ The “grace month” is the month after the month in which training is due during which the pilot is still eligible to maintain recency.

¹⁸ 85 FR 26330.

¹⁹ The three grace months consist of the grace month provided in § 61.55(c) and the two additional grace months provided by this SFAR.

²⁰ Section 61.56(a) requires the flight review to consist of a minimum of 1 hour of flight training and 1 hour of ground training.

²¹ 85 FR 26330–1.

complete the requirements prescribed in SFAR 118–2 prior to serving as a PIC.

The FAA reiterates that no additional relief has been provided to pilots who obtained relief under the original SFAR and the first extension. The following table outlines the expiration of relief pertinent to § 61.56 for all groups of pilots covered under the terms of the SFAR.

Base month	§ 61.56 SFAR Relief
March through May 2020.	Expired.
June 2020	Expires September 30, 2020.
July 2020	Expires October 31, 2020.
August 2020	Expires November 30, 2020.
September 2020	Expires December 31, 2020.
October 2020	Expires December 31, 2020.
November 2020	Expires January 31, 2021.
December 2020	Expires February 28, 2021.
January 2021	Expires March 31, 2021.

c. Pilot-in-Command Proficiency Check: Operation of an Aircraft That Requires More Than One Pilot Flight Crewmember or Is Turbojet-Powered (§ 61.58)

Section 61.58 requires a PIC proficiency check for those pilots that fly an aircraft that requires more than one pilot or is turbojet-powered. Paragraph (a)(1) requires a pilot to complete a PIC proficiency check within the preceding twelve calendar months in an aircraft that is type certificated for more than one required pilot or is turbojet-powered. In addition, paragraph (a)(2) requires a pilot to accomplish, within the preceding 24 calendar months, a PIC proficiency check in the particular type of aircraft in which that person will serve as PIC that is type-certificated for more than one required pilot flight crewmember or is turbojet-powered.²² Paragraph (i) establishes a grace month for completing the PIC proficiency check. Specifically, it allows the check to be completed in the month prior to or the month after the month in which the check is due.

The FAA finds, under the extraordinary circumstances of the COVID–19 public health emergency, that allowing two additional grace months for completing the PIC proficiency checks required by § 61.58(a)(1) and (2) does not present a risk to aviation safety that cannot be

mitigated, as explained in SFAR 118.²³ Eligible pilots under this extension are those pilots who are required to complete a proficiency check in accordance with § 61.58(a)(1) and whose base month falls within the time period of October 2020 through January 2021. In accordance with § 61.58(a)(2), pilots who have not completed a proficiency check in the aircraft they intend to fly within the preceding 24 calendar months and whose base month falls between October 2020 and January 2021 are also included in the relief in this SFAR. Pilots will have a total of two grace months after the base month to accomplish the PIC proficiency check required by § 61.58(a)(1) and (2).²⁴ A PIC proficiency check completed during the extended grace period will be considered to have been completed in the base month.

The FAA reiterates that no additional relief has been provided to pilots who obtained relief under the original SFAR and the first extension. The following table outlines the expiration of relief pertinent to § 61.58 for all groups of pilots covered under the terms of the SFAR.

Base month	§ 61.58 SFAR Relief
March through May 2020.	Expired.
June 2020	Expires September 30, 2020.
July 2020	Expires October 31, 2020.
August 2020	Expires November 30, 2020.
September 2020	Expires December 31, 2020.
October 2020	Expires December 31, 2020.
November 2020	Expires January 31, 2021.
December 2020	Expires February 28, 2021.
January 2021	Expires March 31, 2021.

2. Part 91, Subpart K Flight Crewmember Requirements (§§ 91.1065, 91.1067, 91.1069, 91.1071, 91.1073, 91.1089, 91.1091, 91.1093, 91.1095, 91.1099, 91.1107)

Part 91, subpart K, prescribes the additional rules that apply to private, general aviation fractional ownership programs. There are currently nine fractional ownership programs operating under part 91, subpart K. They range in size from managers with two aircraft to managers with over 500 airplanes and helicopters.

The crewmember testing and checking requirements are established in §§ 91.1065, 91.1067, 91.1069, and 91.1071. Recurrent training

requirements for crewmembers are specified in §§ 91.1073, 91.1099, and 91.1107. These requirements cover the following activities and timelines for completion:

- Section 91.1065—pilot knowledge testing and competency checking requirements (completed within the previous twelve months before the pilot serves as a required crewmember);
- Section 91.1067—flight attendant crewmember testing requirements (completed within the previous twelve months before serving as a flight attendant crewmember);
- Section 91.1069(a) and (b)—instrument proficiency checking requirements for PICs (completed within the previous six months) and SICs (completed in previous twelve months);
- Section 91.1099—initial or recurrent training (completed within the previous twelve months before serving as a crewmember);
- Section 91.1107—crewmember recurrent training (completed within the previous twelve months before serving as a crewmember);
- Section 91.1069(c)—instrument approach procedure recency (demonstrated that type of approach within previous six months);
- Section 91.1071(a)—creates a grace month that allows a crewmember test or flight check required by subpart K to be completed in the month before or after the month it is required; and
- Section 91.1073(b)—creates a grace month that allows crewmember recurrent training required by subpart K to be completed in the month before or after the month it is required.

Subpart K of part 91 also contains instructor and check pilot qualifications in §§ 91.1089 through 91.1095. Sections 91.1089 and 91.1091 require check pilots and flight instructors qualified in simulators to fly at least two flight segments as a required crewmember for the type, class, or category of aircraft involved within the previous twelve-month period or complete an approved line-observation program within the period prescribed by that program. Paragraph (g) in both sections provides a grace month stating that the flight segments or line observations are considered complete if completed in the month before or the month after in which they are due. Sections 91.1093 and 91.1095 require that a person who conducts checking or instruction have satisfactorily completed an observation check within the preceding 24 months. Paragraph (b) in both sections also provides a grace month for the checks to be completed.

²² In accordance with § 61.58(b), this section does not apply to persons conducting operations under subpart K of part 91, or part 121, 125, 133, 135, or 137. In accordance with § 61.57(c), the PIC proficiency check given in accordance with subpart K of part 91, parts 121, 125, or 135 may be used to satisfy the requirements of this section.

²³ 85 FR 26331–2.

²⁴ This two-month grace period includes the grace month that is already provided by § 61.58(i) and the one additional grace months provided by this SFAR.

The FAA finds, under the extraordinary circumstances of the COVID-19 public health emergency, that extending the relief to a new group of individuals does not present a risk to aviation safety that cannot be mitigated under the conditions of SFAR 118.²⁵ As such, the final rule allows a total of two grace months after the base month for completing the covered training, testing, and checking requirements for crewmembers, check pilots, and flight instructors whose base month is in October 2020 through January 2021—many of which already permit one grace month. If a management specification holder seeks the relief provided in this amendment, the risk mitigation plan must include reference to crewmembers whose base month is October 2020 through January 2021, as appropriate. This may require an amendment to a previously submitted mitigation plan under the conditions of SFAR 118; however, persons whose base month was March through September 2020 receive no further relief under this portion of the final rule.

The following table outlines the expiration of relief pertinent to part 91, subpart K for all crewmembers covered under the terms of the SFAR.

Base month	Part 91, Subpart K SFAR Relief
March through May 2020.	Expired.
June 2020	Expires September 30, 2020.
July 2020	Expires October 31, 2020.
August 2020	Expires November 30, 2020.
September 2020	Expires December 31, 2020.
October 2020	Expires December 31, 2020.
November 2020	Expires January 31, 2021.
December 2020	Expires February 28, 2021.
January 2021	Expires March 31, 2021.

3. Mitsubishi MU-2B Series Special Training, Experience, and Operating Requirements (§§ 91.1703, 91.1705, 91.1715)

Subpart N of part 91 contains training, experience, and operating requirements specific to the Mitsubishi MU-2B series airplane. Except as specified in § 91.1703(b),²⁶ a person may not manipulate the controls, act as PIC, or act as SIC of a MU-2B series airplane for the purpose of flight unless that person

satisfies certain ground and flight training requirements,²⁷ including recurrent training requirements, in an FAA-approved MU-2B training program that meets the standards of subpart N of part 91. This requirement is contained in § 91.1705(a)(1).²⁸

In addition, § 91.1705(b)(1) states that, except as specified in § 91.1703(b), a person may not manipulate the controls, act as PIC, or act as SIC, of a MU-2B series airplane for the purpose of flight unless that person satisfactorily completes, if applicable, recurrent pilot training on the special emphasis items and all items listed in the Training Course Final Phase Check in accordance with an FAA-approved MU-2B training program that meets the standards of subpart N of part 91.²⁹

Section 91.1703(e) requires a person to complete recurrent training within the preceding twelve months without the option of a grace month.³⁰ Under § 91.1705(e), however, a person has one grace month to comply with the training requirements of § 91.1705(a) or (b). Therefore, § 91.1705(e) allows a person to accomplish the recurrent training one month after the month it is due.

Section 91.1715(c) stipulates that completion of a flight review to satisfy the requirements of § 61.56 is valid for operation of a Mitsubishi MU-2B series airplane only if that flight review is conducted in a Mitsubishi MU-2B series airplane, or an MU-2B simulator approved for landings with an approved course conducted under part 142.

Under the extraordinary circumstances of the COVID-19 public health emergency, the FAA supports extending the relief previously granted for certain experienced pilots flying MU-2B series airplanes to a new group of pilots. This relief is not applicable to pilots that are required to complete initial/transition or requalification training in an MU-2B series airplane³¹ because these pilots could not meet the qualification requirements.

With this final rule, a person may obtain one additional grace month to complete the recurrent training

²⁷ The requirements for ground and flight training are on initial/transition, requalification, recurrent, and differences training. 14 CFR 91.1705(a)(1).

²⁸ Section 91.1705(a)(2) requires the person's logbook to have been endorsed in accordance with § 91.1705(f).

²⁹ Section 91.1705(b)(2) also requires the person's logbook to have been endorsed in accordance with § 91.1705(f).

³⁰ Successful completion of initial/transition training or requalification training within the preceding twelve months satisfies the requirement of recurrent training. A person must successfully complete initial/transition training or requalification training before being eligible to receive recurrent training. 14 CFR 91.1703(e).

³¹ See § 91.1703(c) or (d).

requirements.³² To be eligible for this relief, pilots must be qualified under subpart N of part 91 and their base month for completing the recurrent training must fall in October 2020 through January 2021. If a pilot completes the recurrent training requirements within the grace period provided by this SFAR, the requirements will be considered to have been completed in the base month. In addition, to ensure there is no adverse impact to safety, the FAA has determined it is necessary to impose certain qualification requirements on pilots seeking to exercise this relief. The qualification requirements are intended to serve as risk mitigations and are described in the final rule for the original SFAR 118.³³

The FAA reiterates that no additional relief has been provided to pilots who obtained relief under the original SFAR and the first extension. The following table outlines the expiration of relief pertinent to part 91, subpart N for all groups of pilots covered under the terms of the SFAR.

Base month	Part 91, Subpart N SFAR Relief
March through May 2020.	Expired.
June 2020	Expires September 30, 2020.
July 2020	Expires October 31, 2020.
August 2020	Expires November 30, 2020.
September 2020	Expires December 31, 2020.
October 2020	Expires December 31, 2020.
November 2020	Expires January 31, 2021.
December 2020	Expires February 28, 2021.
January 2021	Expires March 31, 2021.

4. Part 125 Flight Crewmember Requirements (§§ 125.285, 125.287, 125.289, 125.291, 125.293)

Part 125 certificated operators conduct non-common carriage operations. The FAA issues a Letter of Deviation Authority (LODA) for various kinds of operations to include airplane ferry, sales demonstrations, or training.³⁴ These LODA-holders conduct operations under part 91 and may hold an operating certificate and have operations specifications

³² This means a person will have a total of two grace months after the due month, because § 91.1705(e) already provides one grace month. The "grace months" are months after the month in which training is due, during which the pilot is still eligible to meet the recurrent training requirements.

³³ 85 FR 26333.

³⁴ These are A510, A511, or A512 LODA holders, respectively.

²⁵ 85 FR 26332–3.

²⁶ Section 91.1703(b) states that a person who does not meet the requirements of subpart N of part 91 may manipulate the controls of a Mitsubishi MU-2B series airplane if a PIC who meets the requirements of subpart N of part 91 is occupying a pilot station, no passengers or cargo are carried on board the airplane, and the flight is being conducted for one of the reasons specified in § 91.1703(b)(1) through (3).

(OpSpecs).³⁵ The FAA also issues a LODA to an operator that conducts only non-commercial operations (*i.e.*, private use only)—specifically an A125 LODA. Holders of an A125 LODA do not hold an operating certificate or have OpSpecs. Instead, they are issued a letter of authorization (LOA) because the flightcrew members operating under an A125 LODA must comply with the recency, recurrent testing, and proficiency checking requirements of part 125.

Section 125.287 requires a pilot of a part 125 operation to have passed a written or oral test given by the Administrator or a check airman every 12 calendar months and pass a competency check in the type of airplane flown in part 125 operations every 12 calendar months.³⁶ Section 125.289 requires a flight attendant to complete recurrent testing every 12 calendar months. Section 125.293(a) provides for a grace month for crewmembers to complete testing or checking.³⁷ Section 125.291(a) requires that since the beginning of the sixth calendar month before service, the PIC of an airplane in a part 125 operation under IFR must have passed an instrument proficiency check and the Administrator or an authorized check airman has so certified in a letter of competency.³⁸ Finally, § 125.285(a) requires that pilot flight crewmembers complete three takeoffs and landings within the preceding 90 days in the type airplane in which that person is to serve.

The FAA finds, under the extraordinary circumstances of the COVID-19 public health emergency, that extending the relief to a new group of pilots by allowing one additional grace month for completing the recurrent testing, checking, and training requirements does not present a risk to aviation safety that cannot be mitigated. However, in a change from SFAR 118-1, the FAA is granting only an additional thirty days for completing the three required takeoffs and landings.

³⁵ Pilots of these LODA-holders comply with the recency, training, and checking requirements of part 61.

³⁶ This section also requires the certificate holder to use a pilot who has passed the written or oral test and competency check within the preceding 12 calendar months.

³⁷ If a crewmember who is required to take a test or check under part 125, if he or she completes the test or check in the calendar month before or after the calendar month in which it is required, that crewmember is considered to have completed the test or check in the calendar month in which it is required.

³⁸ The certificate holder is also required to use a PIC in an airplane of a part 125 IFR operation who has completed the instrument proficiency check within the preceding six calendar months.

With aviation activity increasing, there are increased opportunities to gain the required takeoffs and landings when compared to the circumstances the industry faced in the original SFAR, and a sixty-day extension is no longer warranted. The requirements of this SFAR ensure that certificate holders and A125 LODA holders demonstrate a plan to mitigate any potential risk introduced by extending flight crewmember qualifications.³⁹

The relief in this final rule applies to requirements for currently qualified flight crewmembers only, whose base month is October 2020 through January 2021. It does not apply to requirements for the training and qualification of new personnel. To utilize the relief provided by this SFAR, the certificate holder or A125 LODA holder must provide an acceptable risk mitigation plan as described in SFAR 118.⁴⁰ If a certificate holder or A125 LODA holder seeks the relief provided in this amendment, the mitigation plan must include reference to crewmembers whose base month is October 2020 through January 2021, as appropriate. This may require an amendment to a previously submitted mitigation plan under the conditions of SFAR 118. However, persons whose base month was March through September 2020 receive no further relief under this portion of the final rule.

The following table outlines the expiration of relief pertinent to part 125 for all crewmembers covered under the terms of the SFAR.

Base month	Part 125 SFAR Relief
March through May 2020	Expired.
June 2020	Expires September 30, 2020.
July 2020	Expires October 31, 2020.
August 2020	Expires November 30, 2020.
September 2020	Expires December 31, 2020.
October 2020	Expires December 31, 2020.
November 2020	Expires January 31, 2021.
December 2020	Expires February 28, 2021.
January 2021	Expires March 31, 2021.

5. Robinson R-22/R-44 Special Training and Experience Requirements (SFAR 73)

SFAR 73 established special training and experience requirements for pilots operating the Robinson model R-22 or R-44 helicopters to maintain safe operation of these helicopters.

To act as PIC of a Robinson R-22 or R-44 helicopter, SFAR 73 requires the

person to complete the flight review required under § 61.56 in an R-22 or R-44 helicopter, as appropriate to the PIC privileges sought, if the person has at least 200 flight hours in helicopters of which at least 50 flight hours are in the applicable Robinson model helicopter for which the person has PIC privileges.⁴¹ Otherwise, it requires the person to comply with the endorsement requirements of SFAR 73.⁴²

Under the extraordinary circumstances of the COVID-19 public health emergency, the FAA has determined that the PIC of an R-22 or R-44 is compliant with SFAR 73 if the person meets the recency requirements of § 61.56 established in this SFAR in an R-22 or R-44, or both, as appropriate.⁴³ This relief is limited to Robinson pilots that have at least 200 hours in helicopters of which at least 50 hours are in the applicable Robinson model helicopter for which the person has PIC privileges. Low-time Robinson pilots that are required to complete a flight review every twelve calendar months in accordance with SFAR 73 must continue to comply with that SFAR.

For the relief in this SFAR, the flight review must include SFAR 73 awareness training subjects in paragraph 2(a)(3) and the flight training subjects in paragraph 2(b). R-22 or R-44 pilots whose flight review is due in October 2020 through January 2021 may extend an additional two calendar months, provided the pilots meet the requirements prescribed in SFAR 118.

The FAA reiterates that no additional relief has been provided to pilots who obtained relief under the original SFAR and the first extension. The following table outlines the expiration of relief pertinent to SFAR 73 for all groups of pilots covered under the terms of the SFAR.

Base month	SFAR 73 Relief in SFAR 118-2
March through May 2020	Expired.
June 2020	Expires September 30, 2020.
July 2020	Expires October 31, 2020.
August 2020	Expires November 30, 2020.
September 2020	Expires December 31, 2020.
October 2020	Expires December 31, 2020.
November 2020	Expires January 31, 2021.
December 2020	Expires February 28, 2021.
January 2021	Expires March 31, 2021.

⁴¹ An R-44 PIC may credit up to 25 hours of R-22 PIC time towards the 50 hours of PIC time required in the R-44.

⁴² See 14 CFR part 61, SFAR 73, section 2, paragraph (b)(1) or (2) Aeronautical Experience.

⁴³ 85 FR 26335.

³⁹ Pilots of other LODA-holders would comply with the applicable relief to part 61 training, recency, testing, and checking requirements.

⁴⁰ 85 FR 26334.

B. Relief From Certain Duration and Renewal Requirements

Maintaining the continuity of operations through the relief in section A of this document is important to ensure the stability of essential functions of the U.S. transportation system. The FAA also finds that it is appropriate to provide relief for additional persons for certain duration and renewal requirements because the COVID-19 public health emergency has continued to make compliance difficult. Without extending this short-term relief, some certificate holders will not have the flexibility necessary to schedule testing events or medical exams due to the backlog of required events and the availability of FAA examiners and designees.

The relief discussed more fully in the following sections responds to continued disruptions that have prevented certificate holders from seeking timely renewals of certificates or from completing certain testing activity before expiration dates have passed. Because disruptions have continued as activities resume, the FAA is providing the relief for periods of time deemed necessary to alleviate the burden. The FAA notes that, because of the increased activity and availability of personnel to conduct the exams or testing events, the length of the relief available is reduced in most cases. The FAA has determined, under the extraordinary circumstances of the COVID-19 public health emergency, that this relief will not adversely affect safety because it is narrowly focused on a small segment of the regulated community, it will be in effect for a short duration, and the regulations will provide safeguards to ensure an appropriate level of safety is maintained.

1. Part 61

The FAA is granting temporary regulatory relief from the validity dates for medical certificates. This relief is further described in B.1.a and B.2.a. The FAA also recognizes that the inability to complete a practical test at this time may still be outside the applicant's control due to the available capacity of FAA inspectors or designees who can conduct the practical tests. As a result, the FAA is providing relief to extend the knowledge test validity period as described in B.1.b. As explained in the following sections, however, the FAA has decreased the period of relief in most instances due to improved capacity available, relative to earlier in the COVID-19 public health emergency,

for persons to complete medical examinations and airman testing activities throughout the country.

a. Pilot Medical Certificates: Requirement and Duration (§§ 61.2, 61.23)

Section 61.2(a)(5) states that no person may exercise privileges of a medical certificate issued under 14 CFR part 67 if the medical certificate is expired according to the duration standards set forth in § 61.23(d). Section 61.23(d) states that the duration of a medical certificate depends on the age of the person on the date of the medical examination, the duty position in which the person is serving, the type of operation the person is conducting, and the class of certificate.

With the original SFAR 118, the FAA provided relief from medical certificate duration requirements to all pilots to encompass all operations subject to §§ 61.2, 61.23, and 63.3. In the first amendment to the SFAR, the FAA noted that, although some routine activity was resuming and AMEs were beginning to see patients, additional relief was necessary to address the large volume of pilots that needed medical examinations and to give flexibility in scheduling.

Since June, the FAA has seen a continued increase in the availability of its AMEs such that more than 90 percent are currently seeing patients for aviation medical examinations. The September letter from the industry, while noting this improvement, stated that there are still some backlogs and additional relief for the next group of pilots is warranted. The industry letter explained that pilots who hold a special issuance medical certificate, or otherwise are required to supply the FAA with updates on certain medical conditions, may benefit from an extended validity period due to the additional time it may take to see specialists for those conditions and to supply the FAA with that information.

The FAA acknowledges there are some localized backlogs and has identified a few locations that still do not have an available AME. As a result, some pilots may be required to find a new AME to conduct the medical exam and possibly even travel a greater distance from their home to access an available AME. The FAA further notes that its processing of special issuance medicals is taking slightly longer in some cases due to COVID-19 as its workforce continues to address the increased volume of medical records under review. For these reasons, and to afford pilots the flexibility necessary to

get the medical visits scheduled, the FAA is extending the validity of medical certificates due to expire in each of the months from October 2020 through January 2021. However, for persons living and serving as pilots in operations outside of Alaska, this extension is for a period of only two calendar months.

In the FAA's assessment of available AMEs, it notes that Alaska continues to have lapses in AME coverage that will require some pilots to travel a significant distance to obtain a medical examination. Locations without an AME include Juneau, Skagway, Homer, and Kenai. Given the many unique areas in Alaska, some pilots will be required to travel by air to another location within the state to get to an AME. Because of the unique circumstances of the COVID-19 public health emergency and the lack of available AMEs in Alaska, the FAA is extending for up to three calendar months the validity of medical certificates due to expire in each of the months from October 2020 through January 2021 for pilots that reside in Alaska or serve as a pilot of an aircraft in Alaska.

The FAA notes that the provisions of this SFAR do not extend to the requirements of § 61.53 regarding prohibition on operations during medical deficiency. These prohibitions remain critical for all pilots to observe, especially given the policy of emergency accommodation announced here and the health threat of COVID-19. Accordingly, the FAA emphasizes that under § 61.53, no person who holds a medical certificate issued under 14 CFR part 67 may act as a required pilot flight crewmember while that person:

(1) Knows or has reason to know of any medical condition that would make the person unable to meet the requirements for the medical certificate necessary for the pilot operation; or

(2) Is taking medication or receiving other treatment for a medical condition that results in the person being unable to meet the requirements for the medical certificate necessary for the pilot operation.

The FAA reiterates that no additional relief has been provided to pilots who obtained relief under the original SFAR and the first extension. The following table outlines the expiration of relief pertinent to § 61.23 for all groups of pilots covered under the terms of the SFAR.

Base month	§ 61.23 SFAR Relief (all pilots)	§ 61.23 SFAR Relief (Alaska pilots)
March through May 2020	Expired	Expired.
June 2020	Expires September 30, 2020	Expires September 30, 2020.
July 2020	Expires October 31, 2020	Expires October 31, 2020.
August 2020	Expires November 30, 2020	Expires November 30, 2020.
September 2020	Expires December 31, 2020	Expires December 31, 2020.
October 2020	Expires December 31, 2020	Expires January 31, 2021.
November 2020	Expires January 31, 2021	Expires February 28, 2021.
December 2020	Expires February 28, 2021	Expires March 31, 2021.
January 2021	Expires March 31, 2021	Expires April 30, 2021.

b. Pilot Prerequisites for Practical Tests (§ 61.39)

Section 61.39 establishes the eligibility requirements for an applicant seeking to take a practical test for a certificate or rating issued under part 61. Among these requirements, an applicant must have passed the required FAA knowledge test within a specified period. Except for the multiengine airplane airline transport pilot (ATP) certificate, FAA knowledge tests are valid for 24 calendar months.⁴⁴ The multiengine airplane ATP knowledge test is valid for 60 calendar months.⁴⁵

Because of the COVID-19 public health emergency, an applicant may not have been able to complete a practical test, as planned, prior to the expiration of his or her knowledge test. If an applicant's knowledge test expires before he or she can complete the practical test, that applicant is required to pass another knowledge test prior to completing the practical test. It costs a person \$96–\$160 per test,⁴⁶ depending upon the testing location, to take an FAA knowledge test. Therefore, requiring a person whose knowledge test result expired during the COVID-19 public health emergency to take another knowledge test would result in an additional economic burden on the applicant.

Although the FAA is seeing increased activity in practical testing activities by its examiners and designees such that activity is approaching pre-COVID-19 levels, the initial disruptions created a backlog that still exists as applicants continue to have trouble scheduling practical tests in some cases. As a result,

the FAA has determined, under the extraordinary circumstances of the COVID-19 public health emergency, that it is necessary to amend the regulatory relief originally provided in SFAR 118-1 to extend the validity period of knowledge tests for an additional group of individuals. However, because of the increased activity and improved availability of personnel to conduct practical tests, the FAA is limiting the relief available. Individuals who have knowledge tests expiring between October 2020 and January 2021 will have two additional calendar months to complete their practical test. Therefore, this final rule will allow an individual who has a knowledge test expiring between October 2020 and January 2021 to present the expired knowledge test to show eligibility under § 61.39(a)(1) to take a practical test for a certificate or rating issued under part 61 for an additional two calendar months.⁴⁷

In addition to passing a knowledge test, the eligibility requirements for taking a practical test require an applicant to satisfactorily accomplish the required training and obtain the aeronautical experience required for the certificate or rating sought.⁴⁸ The regulations also require the applicant to have received flight training from an authorized instructor in preparation for the practical test within the two months preceding the month of the test.⁴⁹ The authorized instructor must endorse the applicant's logbook or training record certifying that the applicant has received and logged this training and is prepared for the required practical test.⁵⁰ While this amended SFAR will allow certain individuals to use an expired knowledge test, the other requirements in part 61 will ensure the

individual is prepared for the practical test, and the evaluator administering the practical test will have the opportunity to determine whether the person is qualified to hold the certificate.⁵¹ Under the extraordinary circumstances of the COVID-19 public health emergency, and because the relief applies to a specific group of individuals and is limited in duration, the FAA has determined that these regulatory requirements will provide sufficient assurance that there will be no adverse impact to safety.

The FAA reiterates that no additional relief has been provided to applicants who obtained relief under the original SFAR and the first extension. The following table outlines the expiration of relief pertinent to § 61.39 for all applicants covered under the terms of the SFAR.

Expiration month	§ 61.39 SFAR Relief
March through May 2020.	Expired.
June 2020	Expires September 30, 2020.
July 2020	Expires October 31, 2020.
August 2020	Expires November 30, 2020.
September 2020	Expires December 31, 2020.
October 2020	Expires December 31, 2020.
November 2020	Expires January 31, 2021.
December 2020	Expires February 28, 2021.
January 2021	Expires March 31, 2021.

2. Part 63

As previously described, the FAA is amending the temporary relief from the expiration of medical certificates to provide additional time for airmen to accomplish medical examinations and obtain new medical certificates. Similarly, medical relief for flight engineers is necessary as described in B.2.a. Extending knowledge test passing results for flight engineers is also necessary and explained in B.2.b.

⁵¹ The regulations require the applicant to pass the practical test on the areas of operation required for the certificate or rating sought. 14 CFR 61.96(b)(7), 61.103(h), 61.123(g), 61.153(h), 61.165(e)(4) and (f)(5), 61.183(h), 61.307(b), 61.405(b)(2).

⁴⁴ Section 61.39(a)(1)(i) requires the applicant to have passed the required knowledge test within the 24-calendar month period preceding the month the applicant completes the practical test, if a knowledge test is required.

⁴⁵ Section 61.39(a)(1)(ii) requires the applicant to pass the required knowledge test within the sixty-calendar month period preceding the month the applicant completes the practical test for those applicants who complete the ATP certification training program in § 61.156 and pass the knowledge test for an ATP certificate with a multiengine class rating after July 31, 2014.

⁴⁶ FAA Regulatory Support Division provided knowledge test cost information on April 14, 2020.

⁴⁷ Except for a multiengine ATP knowledge test, a knowledge test taken for a pilot certificate or rating in October 2018 would expire in October 2020. With the relief in this SFAR, the passing knowledge test results are valid until December 2020.

⁴⁸ 14 CFR 61.39(a)(3).

⁴⁹ 14 CFR 61.39(a)(6)(i), 61.99, 61.109, 61.129, 61.313.

⁵⁰ 14 CFR 61.39(a)(6).

a. Flight Engineer Medical Certificates (§ 63.3)

Section 63.3(b) states that a person may act as a flight engineer of an aircraft only if that person holds a current second-class medical certificate issued to that person under part 67. For the reason previously stated in section B.1.a and subject to the same conditions and limitations, the FAA has determined that flight engineers may operate with a medical certificate that has had its validity period extended for a period not to exceed two calendar months without creating a risk to aviation safety that is unacceptable under the extraordinary circumstances surrounding the COVID-19 public health emergency. Accordingly, the FAA is amending SFAR 118-1 and extending the validity period for medical certificates that expire in each month from October 2020 through

January 2021 by two calendar months for flight engineers that do not live in Alaska or serve as a flight engineer in Alaska.

Consistent with the relief to pilots that reside in Alaska or serve as a flight engineer of an aircraft in Alaska explained in section B.1.a, flight engineers who reside in Alaska or serve as a flight engineer in an aircraft in Alaska will be granted additional relief not to exceed an extension of three calendar months. In this unique circumstance, those flight engineers who hold medical certificates that expire in each month from October 2020 through January 2021 will have up to three calendar months to obtain a medical certificate.

The FAA notes that the provisions of this SFAR do not extend to the requirements of § 63.19 regarding prohibition on operations during

physical deficiency. These prohibitions remain critical for all flight engineers to observe, especially given the policy of emergency accommodation announced here and the health threat of COVID-19. Accordingly, the FAA emphasizes that under § 63.19, no person who holds a medical certificate issued under 14 CFR part 67 may serve as a flight engineer during a period of known physical deficiency, or increase in physical deficiency, that would make him or her unable to meet the physical requirements for his or her current medical certificate.

The FAA reiterates that no additional relief has been provided to flight engineers who obtained relief under the original SFAR and the first extension. The following table outlines the expiration of relief pertinent to § 63.3 for all groups of flight engineers covered under the terms of the SFAR.

Base month	§ 63.3 SFAR Relief (all flight engineers)	§ 63.3 SFAR Relief (Alaska flight engineers)
March through May 2020	Expired	Expired.
June 2020	Expires September 30, 2020	Expires September 30, 2020.
July 2020	Expires October 31, 2020	Expires October 31, 2020.
August 2020	Expires November 30, 2020	Expires November 30, 2020.
September 2020	Expires December 31, 2020	Expires December 31, 2020.
October 2020	Expires December 31, 2020	Expires January 31, 2021.
November 2020	Expires January 31, 2021	Expires February 28, 2021.
December 2020	Expires February 28, 2021	Expires March 31, 2021.
January 2021	Expires March 31, 2021	Expires April 30, 2021.

b. Flight Engineer Knowledge Requirements (§ 63.35)

Section 63.35 establishes the knowledge requirements for a person seeking a flight engineer certificate. Paragraph (d) states the applicant for a flight engineer certificate or rating must have passed the written tests required by paragraphs (a) and (b) since the beginning of the 24th calendar month before the month in which the flight is taken.⁵²

For the reasons discussed in section B.1.b of this preamble and subject to the same condition and limitations, the FAA is also amending the relief in SFAR 118-1 to expand it to include persons seeking a flight engineer certificate under part 63 who have written tests expiring between October 2020 and January 2021. Consistent with the relief provided to pilot applicants under part 61, the FAA is extending the validity of written tests under part 63

for a duration of two calendar months.⁵³ The FAA finds, under the extraordinary circumstances of the COVID-19 public health emergency, that this relief will not adversely affect safety because it is narrowly focused on a small segment of the regulated community, it will be in effect for a short period of time, and the regulations will provide adequate safeguards to ensure an appropriate level of safety is maintained.

The FAA reiterates that no additional relief has been provided to applicants who obtained relief under the original SFAR and the first extension. The following table outlines the expiration of relief pertinent to § 63.35 for all applicants covered under the terms of the SFAR.

Expiration month	§ 63.35 SFAR Relief
March through May 2020	Expired.
June 2020	Expires September 30, 2020.
July 2020	Expires October 31, 2020.
August 2020	Expires November 30, 2020.

⁵² Exceptions to the 24-calendar month limitation are prescribed in paragraphs (d)(1) for applicants employed as a flight crewmember or mechanic by an air carrier; or (d)(2) for applicants that participated in a military flight engineer or maintenance program.

⁵³ A written test taken for a flight engineer certificate in October 2018 would expire in October 2020. With the relief in this SFAR, the passing written test results are valid until December 2020.

Expiration month	§ 63.35 SFAR Relief
September 2020	Expires December 31, 2020.
October 2020	Expires December 31, 2020.
November 2020	Expires January 31, 2021.
December 2020	Expires February 28, 2021.
January 2021	Expires March 31, 2021.

3. Part 65

As described for pilots and flight engineers, extending knowledge test and written test results for aircraft dispatchers and mechanics, respectively, is also warranted and further described in B.3.a. and B.3.b. The FAA finds, under the extraordinary circumstances of the COVID-19 public health emergency, that the relief provided to part 65 airmen will not adversely affect safety because it is narrowly focused on a small segment of the regulated community, it will be in effect for a short period of time, and the existing regulations will provide adequate safeguards to ensure an appropriate level of safety is maintained.

a. Aircraft Dispatcher Knowledge Requirements (§ 65.55)

Section 65.55 establishes the knowledge requirements for a person seeking an aircraft dispatcher certificate. Paragraph (b) requires the applicant for an aircraft dispatcher certificate to present passing knowledge test results within the preceding 24 calendar months.

For the reasons discussed in section B.1.b and subject to the same conditions and limitations, the FAA, under the extraordinary circumstances of the COVID-19 public health emergency, is also amending the relief in SFAR 118 to extend it to persons seeking an aircraft dispatcher certificate under part 65 who have knowledge tests expiring between October 2020 and January 2021. Therefore, consistent with the relief provided to pilot applicants under part 61 and flight engineer applicants under part 63, the FAA is extending the validity of knowledge tests under § 65.55 for a duration of two calendar months. Accordingly, an individual who has a knowledge test expiring between October 2020 and January 2021 may present the expired knowledge test to show eligibility under § 65.55 to take a practical test for an aircraft dispatcher certificate for a period of two calendar months.⁵⁴

The FAA reiterates that no additional relief has been provided to applicants who obtained relief under the original SFAR and the first extension. The following table outlines the expiration of relief pertinent to § 65.55 for all applicants covered under the terms of the SFAR.

Expiration month	§ 65.55 SFAR Relief
March through May 2020.	Expired.
June 2020	Expires September 30, 2020.
July 2020	Expires October 31, 2020.
August 2020	Expires November 30, 2020.
September 2020	Expires December 31, 2020.
October 2020	Expires December 31, 2020.
November 2020	Expires January 31, 2021.
December 2020	Expires February 28, 2021.
January 2021	Expires March 31, 2021.

b. Mechanic Certificate Eligibility Requirements (§ 65.71)

Section 65.71 establishes the eligibility requirements for a mechanic certificate and associated ratings. Paragraph (a)(3) requires an applicant to

have passed all the prescribed tests within a period of 24 months from the initiation of testing. Testing for a FAA mechanic certificate includes three tests, which are the written, oral, and practical.⁵⁵ Section 65.75 establishes the knowledge requirements, including the requirement to pass a written test. Section 65.79 contains the skill requirements, including the requirement to pass an oral and practical test. In addition, § 65.71(b) requires a certificated mechanic who applies for an additional rating to meet the experience requirements of § 65.77 and, within a period of 24 months, pass the written test required by § 65.75 and the oral and practical tests required by § 65.79 for the additional rating sought.

For the reasons discussed in section B.1.b of this preamble, the FAA, under the extraordinary circumstances of the COVID-19 public health emergency, is also amending SFAR 118 and extending the relief to persons seeking a mechanic certificate or rating issued under part 65 who have testing periods expiring between October 2020 and January 2021. Therefore, consistent with the relief provided under parts 61 and 63, the FAA is extending the validity of the testing period under § 65.71 for a duration of two months. Accordingly, an individual who has a testing period expiring in October through January 2021 may show eligibility under § 65.71 to take a practical test for a mechanic certificate or rating provided the testing period does not exceed 26 months.⁵⁶

The FAA reiterates that no additional relief has been provided to applicants who obtained relief under the original SFAR and the first extension. The following table generally outlines the expiration of relief pertinent to § 65.71 for all applicants covered under the terms of the SFAR. Because mechanic testing periods do not use a calendar month, the exact date when the period started will determine the exact date of expiration of SFAR relief.

Expiration month	§ 65.71 SFAR Relief
March through May 2020.	Expired.
June 2020	Expires September 2020.
July 2020	Expires October 2020.
August 2020	Expires November 2020.
September 2020	Expires December 2020.
October 2020	Expires December 2020.
November 2020	Expires January 2021.
December 2020	Expires February 2021.
January 2021	Expires March 2021.

⁵⁵ Under part 65, subpart D, the FAA may issue an airframe or powerplant rating. 14 CFR 65.73.

⁵⁶ If a testing period was to expire on October 31, 2020, this SFAR extends the testing period to December 31, 2020.

C. Other Relief for Special Flight Permits (§ 21.197)

Section 21.197(c) provides that a special flight permit with a continuing authorization may be issued for aircraft that may not meet applicable airworthiness requirements, but are capable of safe flight, for the purpose of flying aircraft to a base where maintenance or alterations are performed. In the original SFAR, the FAA provided relief through December 31, 2020 to certificate holders and operators authorized to conduct operations under part 119 or under subpart K of part 91 for ferrying aircraft that may not meet all airworthiness requirements, but are capable of safe flight, to a point of storage.⁵⁷ Due to the COVID-19 public health emergency, airlines had significantly reduced operations in the National Airspace System. Domestic airlines sought space to park their fleets and airport operators worked to find locations to support the temporary overflow aircraft.

Although airline and fractional ownership operations have increased since March, they still remain well below the typical volume of flights on a daily basis, resulting in a continued need for aircraft storage. As the public health emergency continues to impact those sectors of the aviation industry, locations selected for temporary storage may not be adequate for this longer period (e.g., because of the seasonal climate at the temporary storage location) and additional movements of those aircraft to different storage locations is likely. This would continue to place a significant burden on certificate holders and operators. It could also impose burdens on the responsible FAA Flight Standards offices that oversee these operators if individual ferry permits need to be processed for every aircraft that needs to be moved to a point of storage. As a result, the FAA has decided to extend relief for § 21.197(c) to March 31, 2021.

IV. Regulatory Notices and Analyses

Changes to Federal regulations must undergo several analyses. First,

⁵⁷ SFAR 118 provided relief pertaining to special flight permits through December 31, 2020. In the first extension of the SFAR, the FAA stated that it was making no change to the duration of the relief for special flight permits, but in that extension (SFAR 118-1) the December 31, 2020 termination date for this relief was inadvertently removed from paragraph 4 of the rule text. As a result, although the FAA had intended no change in SFAR 118-1, the rule text resulted in the relief for special flight permits terminating on March 31, 2021, which was the stated expiration date for SFAR 118-1 as a whole. SFAR 118-2 thus intentionally and unambiguously provides the relief through March 31, 2021 that SFAR 118-1 inadvertently provided.

⁵⁴ A knowledge test taken for an aircraft dispatcher certificate in October 2018 would expire in October 2020. With the relief in this SFAR, the passing knowledge test results are valid until December 2020.

Executive Orders 12866 and 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. In addition, DOT rulemaking procedures in 49 CFR part 5 instruct DOT agencies to issue a regulation upon a reasoned determination that benefits exceed costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), as codified in 5 U.S.C. 603 *et seq.*, requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act of 1979 (Pub. L. 96–39), as codified in 19 U.S.C. Chapter 13, prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Agreements Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), as codified in 2 U.S.C. Chapter 25, requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation with base year of 1995). The FAA also analyzes this regulation under the Paperwork Reduction Act. This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule.

In conducting these analyses, the FAA has determined this rule is not a significant regulatory action, as defined in section 3(f) of Executive Order 12866 and under DOT rulemaking procedures. As notice and comment under 5 U.S.C. 553 are not required for this final rule, the regulatory flexibility analyses described in 5 U.S.C. 603 and 604 regarding impacts on small entities are not required. This rule will not create unnecessary obstacles to the foreign commerce of the United States. This rule will not impose an unfunded mandate on State, local, or tribal governments, or on the private sector, by exceeding the threshold identified previously. To take advantage of the relief from this SFAR, this rule will result in a one-time collection of information for affected operators and pilot schools to submit plans to mitigate safety risks and ensure proficiencies.

A. Regulatory Evaluation

i. Safety and Regulatory Relief Benefits

The provisions in this final rule amend the regulatory relief provided in SFAR 118–1. The amended relief applies to new persons who may have challenges complying with certain training, recent experience, testing, and checking requirements. Without the relief in this SFAR, beginning October 1, 2020, and with each month thereafter, a new group of pilots will become unavailable to perform critical operations due to an inability to comply with regulatory requirements. This relief allows affected operators to continue to use pilots and other crewmembers in support of essential operations during this extended period. In addition, this rule provides regulatory relief to persons unable to meet duration and renewal requirements due to the public health emergency.

The regulatory relief in this amendment will enable the continuity of aviation operations that are critical during the COVID–19 public health emergency and recovery, including operations that support essential services and flights that support response efforts. In addition, this rule contains regulatory relief for persons who are unable to satisfy certain requirements, to prevent those persons from enduring unnecessary economic burdens due to circumstances related to the public health emergency that are outside of their control. This rule also provides additional flexibility for scheduling training and qualification activities as the U.S. continues its various phases of reopening.

In addition, this relief applies to some operations conducted by pilots exercising private pilot privileges, provided the pilot has at least 500 hours of total time as a pilot of which 400 hours is as PIC with 50 of the PIC hours accrued in the last twelve calendar months. As previously discussed, the kinds of operations permitted include, but are not limited to, flights to transport essential goods and/or medical supplies to support public health needs. This rule also extends to pilots conducting charitable medical flights for a volunteer pilot organization pursuant to an exemption issued under part 11, provided the pilots continue to comply with the conditions and limitations of the exemption.

In addition to pilots, this rule provides temporary relief to other persons such as flight attendant crewmembers, aircraft dispatchers, flight engineers, mechanics, and instructors. This relief extends to flight attendant crewmembers, check pilots,

and flight instructors under subpart K of part 91, and part 125.

ii. Costs To Utilize Relief

This rule will result in small costs for affected operators to notify the FAA and submit plans to mitigate safety risks and ensure proficiencies. To take advantage of the extended relief provided by this rule, an affected certificate holder or A125 LODA holder will be required to submit a new or revised mitigation plan to its assigned FAA principal operations inspector. The plan will contain a safety analysis and corresponding risk mitigations and methods to ensure that each crewmember remains adequately tested and currently proficient for each aircraft, duty position, and type of operation in which the person serves. Similarly, part 91 management specifications holders must also conduct a safety analysis and provide appropriate mitigations in a plan to their FAA principal inspector that addresses potential risks introduced by extending crewmember, check pilot, and flight instructor qualifications, training, and checking. The plan must ensure crewmembers remain adequately trained and currently proficient for each aircraft, crewmember position, and type of operation in which the crewmember serves.

The FAA expects these plans to contain existing information maintained by affected operators. The FAA does not expect these plans to be burdensome.

Therefore, the FAA expects the benefits of this action exceed the costs since it provides additional relief to enable operators to continue to use pilots and other crewmembers in support of essential operations. As a result, this rule will reduce disruption to the continuity of essential services in response to the COVID–19 public health emergency. This rule also provides extended relief from certain duration and renewal requirements to reduce unnecessary risk of exposure and to assure persons that they will not endure economic burdens due to non-compliance with certain regulations.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), in 5 U.S.C. 603, requires an agency to prepare an initial regulatory flexibility analysis describing impacts on small entities whenever an agency is required by 5 U.S.C. 553, or any other law, to publish a general notice of proposed rulemaking for any proposed rule. Similarly, 5 U.S.C. 604 requires an agency to prepare a final regulatory flexibility analysis when an agency issues a final rule under 5 U.S.C. 553, after being required by that section or

any other law to publish a general notice of proposed rulemaking. The FAA found good cause to forgo notice and comment and any delay in the effective date for this rule. As notice and comment under 5 U.S.C. 553 are not required in this situation, the regulatory flexibility analyses described in 5 U.S.C. 603 and 604 are not required.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39) prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to this Act, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

The FAA has assessed the potential effect of this final rule and determined that its purpose has a legitimate domestic objective to promote the continuity and safety of U.S. civil aviation from risks of the COVID–19 public health emergency while supporting essential services necessary to fight the public health emergency. Therefore, the FAA has determined this final rule complies with the Trade Agreements Act of 1979.

D. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) 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 result in an expenditure of \$100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a “significant regulatory action.” The FAA currently uses an inflation-adjusted value of \$155 million in lieu of \$100 million.

This final rule does not contain such a mandate. Therefore, the requirements of Title II of the Act do not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public.

As previously discussed, to utilize the temporary relief provided by this SFAR amendment, an affected certificate holder or a part 125 LODA holder must provide a plan to its assigned FAA principal operations inspector. The plan is to contain a safety analysis and corresponding risk mitigations and methods to ensure that each crewmember remains adequately tested and currently proficient for each aircraft, duty position, and type of operation in which the person serves.

While SFAR 118–1 provided relief in the form of a grace period for those entities whose base month for completing the recurrent testing, checking, and training requirements was March through September 2020, this final rule extends the grace period to those whose base month falls in October 2020 through January 2021. A part 125 certificate holder or A125 LODA holder will, therefore, be required to submit a new or revised mitigation plan to take advantage of the relief provided in this amendment.

In SFAR 118–1, the FAA estimated that of the 69 part 125 certificate holders and A125 LODA holders, all would avail themselves of the relief provided by SFAR 118–1, and therefore would be required to provide mitigation plans to their assigned principal operations inspector. This action was in addition to the plans submitted for the original SFAR 118 by all 69 part 125 certificate holders and A125 LODA holders. For this final rule, the FAA estimates that those same 69 part 125 certificate holders and A125 LODA holders will avail themselves of the extended grace period for those entities whose base month falls in October 2020 through January 2021 and will submit new or revised mitigation plans. The FAA continues to estimate that each respondent would spend two hours preparing and submitting its plan, for a total of 138 hours. The FAA believes the additional paperwork burden would be borne by the director of operations. At \$51 per hour multiplied by 138 total hours, the FAA estimates the total burden to part 125 certificate holders and A125 LODA holders for this amendment to be \$7,038.⁵⁸ Therefore, the total burden of this collection is estimated to be \$21,114.⁵⁹

⁵⁸ The FAA is using the BLS wage rate for commercial pilots of \$39.54 per hour (<https://www.bls.gov/ooh/transportation-and-material-moving/airline-and-commercial-pilots.htm>) (\$82,240/2080 hours = \$39.54) multiplied by a fringe benefit multiplier of 29.9 percent (<https://www.bls.gov/news.release/eccec.nr0.htm>) which results in an hourly wage of \$51.

⁵⁹ The burden for the original plan submission from SFAR 118 and the revised plan submission

The FAA estimates that it would require an Aviation Safety Inspector (ASI) one hour to review and analyze a plan submitted by a part 125 certificate holder or A125 LODA holder. With 69 part 125 certificate holders or A125 LODA holders estimated to have submitted a plan to take advantage of the relief in SFAR 118, and the same 69 part 125 certificate holders and A125 LODA holders estimated to have submitted a new or revised plan for SFAR 118–1, and the same 69 part 125 certificate holders and A125 LODA holders are expected to submit a new or revised plan for this amendment, the total number of plans for review by an ASI is 207. The total number of plans to review multiplied by the hourly wage of a GS–13 FAA ASI results in an estimated burden to the FAA of \$20,580 (207 responses × 1 hour × \$99.42 = \$20,580).⁶⁰

As provided under 5 CFR 1320.13, Emergency Processing, and the Paperwork Reduction Act and its implementing regulations, DOT requested emergency processing to amend the temporary collection of information previously approved under emergency processing with the original SFAR (OMB 2120–0788). DOT could not reasonably comply with normal clearance procedures because the information is necessary to provide temporary relief to persons who have been unable to meet certain requirements during the COVID–19 public health emergency. Without this information, certain individuals will not be able to continue exercising privileges in support of essential operations due to their inability to satisfy certain training, recent experience, testing, and checking requirements. The use of normal clearance procedures would have resulted in increased economic burden, disruption to critical aviation operations, and increased risk of exposure during this public health emergency. Due to the pressing considerations associated with the

from SFAR 118–1 was \$14,076. That is added to the amendment burden for new or revised plan submissions of \$7,038 for a total of \$21,114.

⁶⁰ The FAA assumes a mid-grade GS–13 salary, Rest of USA locality. Annual salary is \$103,396 (<https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/RUS.pdf>) divided by 2,080 hours for an hourly rate of \$49.70. The FAA uses a fringe benefits and overhead cost, for FAA employees, of 100%, which results in a fully loaded wage of \$99.42 per hour. The U.S. Department of Health and Human Services, “Guidelines for Regulatory Impact Analysis” (2016), on page 30, HHS states, “As an interim default, while HHS conducts more research, analysts should assume overhead costs (including benefits) are equal to 100 percent of pretax wages . . .” (https://aspe.hhs.gov/system/files/pdf/242926/HHS_RIAGuidance.pdf).

COVID-19 public health emergency, it was not practicable to afford ninety days of public comment on this collection of information. Therefore, the FAA requested OMB approval of this temporary collection of information. OMB approved the FAA's emergency clearance request through March 31, 2021.

F. International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices (SARPs) to the maximum extent practicable. On April 3, 2020, ICAO issued a State Letter (AN 11/55-20/50) to address operational measures States are taking to ensure safe operations during the COVID-19 public health emergency. ICAO recognized the varying needs of the States to provide relief and encouraged States to be flexible in their approaches for relief while also adhering to their obligations under the Convention on International Civil Aviation. During this period of relief, ICAO is paying particular attention to the SARPs related to certificates and licenses. ICAO has established a process for States to file temporary differences through a COVID-19 Contingency-Related Differences (CCRDs) sub-system, which is accessible through ICAO's Continuous Monitoring Approach (CMA) Online Framework of Electronic Filing of Differences (EFOD) dashboard that States use normally to file differences related to the Annexes. When States are submitting their differences, ICAO is requiring the State also to indicate whether it will recognize the differences of other States. FAA has already filed temporary differences with some of the relief it has given through exemptions under 14 CFR part 11 and has indicated it will recognize other States' differences unless the FAA deems safety is being compromised. ICAO tentatively plans to maintain the CCRD sub-system through March 31, 2021.

The FAA has reviewed the corresponding ICAO SARPs and has identified the following differences with these proposed regulations. In Annex 1, section 1.2.4.4.1, a medical assessment can be extended at the FAA's discretion up to 45 days. With this final rule, the FAA is extending the validity by two calendar months for pilots with expiring medicals between October 2020 and January 2021, with the exception of pilots and flight engineers who reside in Alaska or serve as a pilot or flight engineer in an aircraft in Alaska (for

whom the FAA is extending the validity by three months). As a result, the FAA will update the temporary difference filed with ICAO.

In Annex 6, Part 2, Section 3.9.4.2, a PIC is required to have made three takeoffs and landings within the preceding ninety days on the same type of airplane or in a flight simulator prior to serving as a PIC in that airplane. With this final rule, the FAA is extending the look-back period by 30 days for PICs conducting operations under part 125. As a result, the FAA will update the temporary difference filed with ICAO.

In Annex 6, Part 2, Section 3.9.4.3, an SIC is required to have made three takeoffs and landings within the preceding ninety days on the same type of airplane or in a flight simulator prior to serving as a SIC in that airplane. With this final rule, the FAA is extending the look-back period by 30 days for SICs conducting operations under part 125. As a result, the FAA will update the temporary difference filed with ICAO.

Apart from this SFAR's application within the United States, certificate holders or operators may dispatch or release flights, and pilots and crewmembers may operate outside of the United States under this SFAR, unless otherwise prohibited by a foreign country. For international operations where pilots and crewmembers will exercise the relief identified here, they must have access to this SFAR when outside the United States. In accordance with the Convention on International Civil Aviation (Chicago Convention), and its Annexes, pilots and crewmembers must present a copy of this SFAR for inspection upon request by a foreign civil aviation authority.

V. Executive Order Determinations

A. Executive Order 12114, Environmental Effects Abroad of Major Federal Actions

The FAA has analyzed this action under Executive Order 12114, Environmental Effects Abroad of Major Federal Actions (44 FR 1957, January 4, 1979), and DOT Order 5610.1C, Paragraph 16. Executive Order 12114 requires the FAA to be informed of environmental considerations and take those considerations into account when making decisions on major Federal actions that could have environmental impacts anywhere beyond the borders of the United States. Like SFAR 118, the FAA has determined that this action is exempt pursuant to Section 2-5(a)(i) of Executive Order 12114 because it does not have the potential for a significant effect on the environment outside the United States.

In accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 8-6(c), the FAA has prepared a memorandum for the record stating the reason(s) for this determination and has placed it in the docket for SFAR 118 (the same docket for this rulemaking). The FAA reviewed the memorandum it added to the docket to support SFAR 118 and finds the determination applies to this rule unchanged.

B. Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. The agency determined that this action will not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have federalism implications.

C. Executive Order 13211, Regulations that Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it is not a "significant energy action" under the Executive order and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

D. Executive Order 13609, Promoting International Regulatory Cooperation

Executive Order 13609, Promoting International Regulatory Cooperation, promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. As described in Section IV. F., International Compatibility, the FAA is working with ICAO and other foreign Civil Aviation Authorities (CAAs) on the kind of relief provided by this SFAR. The FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609, and has determined that this action would have no effect on international regulatory cooperation. The provisions in this final rule provide temporary relief to persons who are unable to meet certain requirements during the COVID-19 public health emergency and prevents persons from encountering situations that would unnecessarily increase the risk of

transmission of the virus through personal contact.

F. Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs

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

VI. How To Obtain Additional Information

A. Availability of Rulemaking Documents

An electronic copy of a rulemaking document may be obtained by using the internet—

1. Search the Federal eRulemaking Portal (<https://www.regulations.gov/>);
2. Visit the FAA's Regulations and Policies web page at https://www.faa.gov/regulations_policies/ or
3. Access the Government Printing Office's web page at <https://www.gpo.gov/>.

Copies may also be obtained by sending a request (identified by notice, amendment, or docket number of this rulemaking) to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267-9677.

B. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document, may contact its local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA, visit https://www.faa.gov/regulations_policies/rulemaking/sbre_act/.

List of Subjects

14 CFR Part 21

Aircraft, Aviation safety, Exports, Imports, Reporting and recordkeeping requirements.

14 CFR Part 61

Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements, Security measures, Teachers.

14 CFR Part 63

Aircraft, Airman, Aviation safety, Navigation (air), Reporting and recordkeeping requirements, Security measures.

14 CFR Part 65

Air traffic controllers, Aircraft, Airmen, Airports, Aviation safety, Reporting and recordkeeping requirements, Security measures.

14 CFR Part 91

Air carrier, Air taxis, Air traffic control, Aircraft, Airmen, Airports, Aviation safety, Charter flights, Freight, Reporting and recordkeeping requirements, Transportation.

14 CFR Part 107

Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements, Security measures, Signs and symbols.

14 CFR Part 125

Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 141

Airmen, Educational facilities, Reporting and recordkeeping requirements, Schools.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends chapter I of title 14, Code of Federal Regulations, as follows:

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND ARTICLES

- 1. The authority citation for part 21 continues to read as follows:

Authority: 42 U.S.C. 7572; 49 U.S.C. 106(f), 106(g), 40105, 40113, 44701–44702, 44704, 44707, 44709, 44711, 44713, 44715, 45303.

- 2. Remove Special Federal Aviation Regulation (SFAR) No. 118–1 from part 21 and add, in its place, SFAR No. 118–2 to part 21 to read as follows:

Special Federal Aviation Regulation No. 118–2—Relief for Certain Persons During the National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Public Health Emergency

For the text of SFAR No. 118–2, see part 61 of this chapter.

PART 61—CERTIFICATION: PILOTS, FLIGHT INSTRUCTORS, AND GROUND INSTRUCTORS

- 3. The authority citation for part 61 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701–44703, 44707, 44709–44711, 44729, 44903, 45102–45103, 45301–45302; Sec. 2307 Pub. L. 114–190, 130 Stat. 615 (49 U.S.C. 44703 note).

- 4. Remove Special Federal Aviation Regulation (SFAR) No. 118–1 from part 61 and add, in its place, SFAR No. 118–2 to part 61 to read as follows:

Special Federal Aviation Regulation No. 118–2—Relief for Certain Persons During the National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Public Health Emergency

1. *Applicability.* This Special Federal Aviation Regulation (SFAR) applies to—
(a) Certain persons who are unable to meet the following requirements during some period between March 1, 2020 and January 31, 2021—

(1) Training, recency, testing and checking requirements specified in parts 61, 91, 107, and 125 of this chapter, and SFAR No. 73 of this part; and

(2) Duration and renewal requirements specified in parts 61, 63, 65, and 141 of this chapter, and SFAR No. 100–2 of this part; and

(b) Certain air carriers and operators who are unable to obtain special flight permits with a continuing authorization under part 21 of this chapter for the purpose of flying the aircraft to a point of storage.

2. *Training, recency, testing, and checking requirements.*

(a) *Applicability.* The relief provided by paragraph 2 of this SFAR applies to—

(1) Operations conducted for compensation or hire under parts 91, 125, 133, and 137 of this chapter by persons who are exercising the privileges of at least a commercial pilot certificate issued under this part;

(2) Operations conducted by persons who are exercising the privileges of a private pilot certificate issued under this part, provided the person meets one of the following paragraphs—

(i) The person is conducting a charitable medical flight for a volunteer pilot organization pursuant to an exemption issued under part 11 of this chapter, and the flight involves only the carriage of persons considered essential for the flight;

(ii) The person is conducting an agricultural aircraft operation under a private agricultural aircraft operating certificate issued in accordance with § 137.19 of this chapter;

(iii) The person has at least 500 hours of total time as a pilot, that includes at least 400 hours as a pilot in command and at least 50 hours that were accrued within the preceding 12 calendar months, and the person is conducting one of the following operations consistent with the compensation or hire exceptions specified in § 61.113:

(A) A flight incidental to that person's business or employment;

(B) A flight in support of family medical needs or to transport essential goods for personal use;

(C) A flight necessary to fly an aircraft to a location in order to meet a requirement of this chapter; or

(D) A flight to transport essential goods and medical supplies to support public health needs;

(3) For operations conducted under part 91, subpart K, and part 125 of this chapter, persons who are serving as flight attendant crewmembers, check pilots, and flight instructors; and

(4) Operations conducted under part 107 of this chapter by a person who holds a remote pilot certificate issued under part 107 of this chapter.

(b) *This Part.*

(1) *Second-in-command qualifications of § 61.55.* (i) *Airmen requirements.* (A) Notwithstanding the period specified in § 61.55(c), a person who is required to complete the second-in-command familiarization and currency requirements under § 61.55(b)(1) and (2) between March 1, 2020 and September 30, 2020 for purposes of maintaining second-in-command privileges may complete the requirements of § 61.55(b)(1) and (2) in the month before or three months after the month in which they are required, provided the pilot meets the requirements of paragraph 2.(b)(1)(ii) of this SFAR.

(B) Notwithstanding the period specified in § 61.55(c), a person who is required to complete the second-in-command familiarization and currency requirements under § 61.55(b)(1) and (2) between October 1, 2020 and January 31, 2021 for purposes of maintaining second-in-command privileges may complete the requirements of § 61.55(b)(1) and (2) in the month before or two months after the month in which they are required, provided the pilot meets the requirements of paragraph 2.(b)(1)(ii) of this SFAR.

(C) A pilot who meets the requirements of § 61.55(b)(1) and (2) in accordance with paragraph 2.(b)(1)(i)(A) or paragraph 2.(b)(1)(i)(B) of this SFAR will be considered to have completed the requirements in the month in which they were due.

(ii) *Qualification requirements.* To complete the requirements of § 61.55(b)(1) or (2) within the period specified in paragraph 2.(b)(1)(i)(A) or paragraph 2.(b)(1)(i)(B) of this SFAR, the person—

(A) Must review and become familiar with the following information for the specific type of aircraft for which

second-in-command privileges are sought—

(1) Operational procedures applicable to the powerplant, equipment, and systems;

(2) Performance specifications and limitations;

(3) Normal, abnormal, and emergency operating procedures;

(4) Flight manual; and

(5) Placards and markings; and

(B) Prior to serving as second-in-command, must have logged at least three takeoffs and landings to a full stop as the sole manipulator of the flight controls within the 180 days preceding the date of the flight.

(2) *Flight review requirements of § 61.56.* A person who has not completed a flight review within the previous 24 calendar months in accordance with § 61.56 may continue to act as pilot in command of an aircraft, provided the following requirements are met—

(i) *Airmen requirements.* The person was current to act as pilot in command of an aircraft in March 2020 and, to maintain currency, is required to complete a flight review under § 61.56 between March 1, 2020 and January 31, 2021.

(ii) *Qualification requirements.* To act as pilot in command of an aircraft during the period specified in paragraph 2.(b)(2)(iii)(A) or paragraph 2.(b)(2)(iii)(B) of this SFAR, the person must have—

(A) Within the 12 calendar months preceding the month in which the flight review is due, logged at least 10 hours of flight time as pilot in command in an aircraft for which that pilot is rated; and

(B) Since January 1, 2020 and preceding the date of flight, completed online Wings courses for pilots from the FAA Safety Team website, available at www.faaafety.gov. The online training courses must total at least 3 Wings credits.

(iii) *Grace period.* (A) A person who is required to complete a flight review under § 61.56 between March 1, 2020 and September 30, 2020 may act as pilot in command of an aircraft for a duration of three calendar months from the month in which the flight review was due. Before acting as pilot in command of an aircraft in the fourth month after the month in which the flight review was due, the person must satisfactorily complete a flight review in accordance with § 61.56.

(B) A person who is required to complete a flight review under § 61.56 between October 1, 2020 and January 31, 2021 may act as pilot in command of an aircraft for a duration of two calendar months from the month in

which the flight review was due. Before acting as pilot in command of an aircraft in the third month after the month in which the flight review was due, the person must satisfactorily complete a flight review in accordance with § 61.56.

(3) *Instrument experience requirements of § 61.57.* A person who has not performed and logged the tasks required by § 61.57(c)(1) within the 6 calendar months preceding the month of the flight may continue to act as pilot in command under IFR or in weather conditions less than the minimums prescribed for VFR, provided the following requirements are met—

(i) *Qualification requirements.* The person has—

(A) Within the 6 calendar months preceding the month of the flight, performed and logged at least three instrument approaches in actual weather conditions, or under simulated conditions using a view-limiting device; and

(B) Within the 9 calendar months preceding the month of the flight, performed and logged the tasks required by § 61.57(c)(1).

(ii) *Grace period.* Between April 30, 2020 and September 30, 2020, a person who meets the qualification requirements of paragraph 2.(b)(3)(i) of this SFAR may act as pilot in command under IFR or in weather conditions less than the minimums prescribed for VFR.

(iii) *Instrument currency after September 30, 2020.* Before acting as pilot in command under IFR or in weather conditions less than the minimums prescribed for VFR after September 30, 2020, the person must comply with § 61.57(c).

(4) *Pilot in command proficiency check requirements of § 61.58.* (i)

Airmen requirements. (A) Notwithstanding the period specified in § 61.58(i), a pilot who is required to take a pilot in command proficiency check under § 61.58(a)(1) or (2) between March 1, 2020 and September 30, 2020 for purposes of maintaining pilot in command privileges may complete the check in the month before or three months after the month in which it is required, provided the pilot meets the requirements of paragraph 2.(b)(4)(ii) of this SFAR.

(B) Notwithstanding the period specified in § 61.58(i), a pilot who is required to take a pilot in command proficiency check under § 61.58(a)(1) or (2) between October 1, 2020 and January 31, 2021 for purposes of maintaining pilot in command privileges may complete the check in the month before or two months after the month in which it is required, provided the pilot meets

the requirements of paragraph 2.(b)(4)(ii) of this SFAR.

(C) A pilot who completes the proficiency check within the period prescribed by this paragraph 2.(b)(4)(i)(A) or paragraph 2.(b)(4)(i)(B) of this SFAR will be considered to have completed the check in the month in which it was required.

(ii) *Qualification requirements.* To complete the pilot in command proficiency check required by § 61.58(a)(1) or (2) within the period specified in paragraph 2.(b)(4)(i)(A) or paragraph 2.(b)(4)(i)(B) of this SFAR, the person—

(A) Must meet the flight experience requirements of § 61.57 that are applicable to the operation to be conducted; and

(B) Within the 3 calendar months preceding the month of the flight, must have reviewed the following information for the specific type of aircraft for which pilot in command privileges are sought—

(1) Operational procedures applicable to the powerplant, equipment, and systems;

(2) Performance specifications and limitations;

(3) Normal, abnormal, and emergency operating procedures;

(4) Flight manual; and

(5) Placards and markings.

(5) *Flight Crewmember Requirements of Part 91, Subpart K, of this Chapter.*

(i) *Testing and checking*

Requirements. (A) Notwithstanding the period specified in § 91.1071(a) of this chapter, a crewmember who is required to take a test or a flight check under § 91.1065(a), § 91.1065(b), § 91.1067, § 91.1069(a), or § 91.1069(b) of this chapter between March 1, 2020 and September 30, 2020 for purposes of maintaining qualification may complete the test or check in the month before or three months after the month it is required, provided the requirements of paragraph 2.(b)(5)(vi) of this SFAR are met.

(B) Notwithstanding the period specified in § 91.1071(a) of this chapter, a crewmember who is required to take a test or a flight check under § 91.1065(a), § 91.1065(b), § 91.1067, § 91.1069(a), or § 91.1069(b) of this chapter between October 1, 2020 and January 31, 2021 for purposes of maintaining qualification may complete the test or check in the month before or two months after the month it is required, provided the requirements of paragraph 2.(b)(5)(vi) of this SFAR are met.

(C) A crewmember who completes a test or check in accordance with paragraph 2.(b)(5)(i)(A) or paragraph

2.(b)(5)(i)(B) of this SFAR will be considered to have completed the test or check in the month in which it was required.

(ii) *Recurrent training requirements.*

(A) Notwithstanding the period specified in § 91.1073(b) of this chapter, a crewmember who is required to complete recurrent training under § 91.1099 or § 91.1107(c) of this chapter between March 1, 2020 and September 30, 2020 for purposes of maintaining qualification may complete that training in the month before or three months after the month in which it is required, provided the requirements of paragraph 2.(b)(5)(vi) of this SFAR are met.

(B) Notwithstanding the period specified in § 91.1073(b) of this chapter, a crewmember who is required to complete recurrent training under § 91.1099 or § 91.1107(c) of this chapter between October 1, 2020 and January 31, 2021 for purposes of maintaining qualification may complete that training in the month before or two months after the month in which it is required, provided the requirements of paragraph 2.(b)(5)(vi) of this SFAR are met.

(C) A crewmember who completes recurrent training in accordance with this paragraph 2.(b)(5)(ii)(A) or paragraph 2.(b)(5)(ii)(B) will be considered to have completed the training in the month in which it was required.

(iii) *Instrument experience.*

(A) *Precision instrument approaches.*

A pilot who has not satisfactorily demonstrated the type of precision instrument approach procedure to be used within the previous six months in accordance with § 91.1069(c) of this chapter may continue to use that type of approach procedure, provided the following requirements are met—

(1) *Airmen requirements.* The person was current under § 91.1069(c) of this chapter to use that type of precision instrument approach procedure in March 2020, and is required to demonstrate that type of precision instrument approach procedure between March 1, 2020 and January 31, 2021.

(2) *Grace period.* (i) For a person who is required to demonstrate that type of precision instrument approach procedure between March 1, 2020 and September 30, 2020, the person satisfactorily demonstrates that type of precision instrument approach procedure within three months after the month in which it was required.

(ii) For a person who is required to demonstrate that type of precision instrument approach procedure between October 1, 2020 and January 31, 2021, the person satisfactorily demonstrates that type of precision instrument

approach procedure within two months after the month in which it was required.

(3) *Safety mitigations.* The management specification holder satisfies paragraph 2.(b)(5)(vi) of this SFAR.

(B) *Non-precision instrument approaches.* A pilot who has not satisfactorily demonstrated either the type of non-precision instrument approach procedure to be used, or any other two different types of non-precision approach procedures, within the previous six months in accordance with § 91.1069(c) of this chapter may continue to use that type of non-precision instrument approach procedure, provided the following requirements are met—

(1) *Airmen requirements.* The person was current under § 91.1069(c) of this chapter to use that type of non-precision instrument approach procedure in March 2020, and is required to demonstrate that type of non-precision instrument approach procedure, or any other two different types of non-precision instrument approach procedures, between March 1, 2020 and January 31, 2021.

(2) *Grace period.* (i) For a person who is required to demonstrate that type of non-precision instrument approach procedure between March 1, 2020 and September 30, 2020, the person satisfactorily demonstrates that type of non-precision instrument approach procedure within three months after the month in which it was required.

(ii) For a person who is required to demonstrate that type of non-precision instrument approach procedure between October 1, 2020 and January 31, 2021, the person satisfactorily demonstrates that type of non-precision instrument approach procedure within two months after the month in which it was required.

(3) *Safety mitigations.* The management specification holder satisfies paragraph 2.(b)(5)(vi) of this SFAR.

(iv) *Check pilot (simulator) and flight instructor (simulator) requirements.* (A) Notwithstanding the period specified in §§ 91.1089(g) and 91.1091(g) of this chapter, a check pilot (simulator) or flight instructor (simulator) who is required to complete the flight segments or line-observation program under § 91.1089(f) or § 91.1091(f) of this chapter between March 1, 2020 and September 30, 2020 for purposes of maintaining qualification may complete the flight segments or line-observation program requirements in the month before or three months after the month they are required, provided the

requirements of paragraph 2.(b)(5)(vi) of this SFAR are met.

(B) Notwithstanding the period specified in §§ 91.1089(g) and 91.1091(g) of this chapter, a check pilot (simulator) or flight instructor (simulator) who is required to complete the flight segments or line-observation program under § 91.1089(f) or § 91.1091(f) of this chapter between October 1, 2020 and January 31, 2021 for purposes of maintaining qualification may complete the flight segments or line-observation program requirements in the month before or two months after the month they are required, provided the requirements of paragraph 2.(b)(5)(vi) of this SFAR are met.

(C) A check pilot (simulator) or flight instructor (simulator) who completes the flight segments or line-observation program requirements in accordance with this paragraph 2.(b)(5)(iv) will be considered to have completed the requirements in the month in which they were due.

(v) *Check pilot and flight instructor observation check requirements.* (A) Notwithstanding the period specified in §§ 91.1093(b) and 91.1095(b) of this chapter, a check pilot or flight instructor who is required to complete an observation check under § 91.1093(a)(2) or § 91.1095(a)(2) of this chapter between March 1, 2020 and September 30, 2020 for purposes of maintaining qualification may complete the observation check in the month before or three months after the month it is required, provided the requirements of paragraph 2.(b)(5)(vi) of this SFAR are met.

(B) Notwithstanding the period specified in §§ 91.1093(b) and 91.1095(b) of this chapter, a check pilot or flight instructor who is required to complete an observation check under § 91.1093(a)(2) or § 91.1095(a)(2) of this chapter between October 1, 2020 and January 31, 2021 for purposes of maintaining qualification may complete the observation check in the month before or two months after the month it is required, provided the requirements of paragraph 2.(b)(5)(vi) of this SFAR are met.

(C) A check pilot or flight instructor who completes an observation check in accordance with this paragraph 2.(b)(5)(v) will be considered to have completed the check in the month it which it was due.

(vi) *Safety mitigations.* The management specification holder must provide an acceptable plan to the responsible Flight Standards office that contains the following information—

(A) A safety analysis and corresponding risk mitigations to be implemented by the management specification holder; and

(B) The method the management specification holder will use to ensure that each crewmember complying with paragraph 2.(b)(5) of this SFAR remains adequately tested and currently proficient for each aircraft, duty position, and type of operation in which the person serves.

(6) *Mitsubishi MU-2B Series Special Training, Experience, and Operating Requirements of Part 91, Subpart N, of this Chapter.*

(i) *Recurrent training.* (A) Notwithstanding the period specified in § 91.1705(e) of this chapter, a person who is required to complete recurrent training under § 91.1703(e) of this chapter between March 1, 2020 and September 30, 2020 for purposes of complying with § 91.1705(a) and (b) may complete the recurrent training in the month before or three months after the month the recurrent training is required, provided the requirements of paragraph 2.(b)(6)(iii) of this SFAR are met.

(B) Notwithstanding the period specified in § 91.1705(e) of this chapter, a person who is required to complete recurrent training under § 91.1703(e) of this chapter between October 1, 2020 and January 31, 2021 for purposes of complying with § 91.1705(a) and (b) may complete the recurrent training in the month before or two months after the month the recurrent training is required, provided the requirements of paragraph 2.(b)(6)(iii) of this SFAR are met.

(C) A person who completes the recurrent training in accordance with this paragraph 2.(b)(6)(i) will be considered to have completed the training in the month it was required.

(ii) *Flight review.* A person who has not completed a flight review in accordance with §§ 61.56 and 91.1715(c) of this chapter in a Mitsubishi MU-2B series airplane or an MU-2B Simulator approved for landings with an approved course conducted under part 142 of this chapter may continue to act as pilot in command of a Mitsubishi MU-2B series airplane, providing the following requirements are met—

(A) *Airmen requirements.* The person was—

(1) Current to act as pilot in command of a Mitsubishi MU-2B series airplane in March 2020 and, to maintain currency, is required to complete a flight review in a Mitsubishi MU-2B series airplane between March 1, 2020 and January 31, 2021; and

(2) The requirements of paragraph 2.(b)(6)(iii) of this SFAR are met.

(B) *Grace period.* (1) A person who is required to complete a flight review in a Mitsubishi MU-2B series airplane between March 1, 2020 and September 30, 2020 may act as pilot in command of a Mitsubishi MU-2B series airplane for a duration for three calendar months from the month in which the flight review was due. Before acting as pilot in command of an aircraft in the fourth month after the month in which the flight review was due, the person must satisfactorily complete a flight review in accordance with §§ 61.56 and 91.1715(c) of this chapter in a Mitsubishi MU-2B series airplane or an MU-2B Simulator approved for landings with an approved course conducted under part 142 of this chapter.

(2) A person who is required to complete a flight review in a Mitsubishi MU-2B series airplane between October 1, 2020 and January 31, 2021 may act as pilot in command of a Mitsubishi MU-2B series airplane for a duration for two calendar months from the month in which the flight review was due. Before acting as pilot in command of an aircraft in the third month after the month in which the flight review was due, the person must satisfactorily complete a flight review in accordance with §§ 61.56 and 91.1715(c) of this chapter in a Mitsubishi MU-2B series airplane or an MU-2B Simulator approved for landings with an approved course conducted under part 142 of this chapter.

(iii) *Qualification requirements.* To complete the recurrent training during the period provided under paragraph 2.(b)(6)(i)(A) or paragraph 2.(b)(6)(i)(B) of this SFAR or to complete the flight review during the period provided under paragraph 2.(b)(6)(ii)(A) or paragraph 2.(b)(6)(ii)(B) of this SFAR, the person must—

(A) Within the 12 calendar months preceding the month the recurrent training or flight review is due, logged at least 10 hours of flight time in an MU-2B series airplane that includes at least 3 hours of flight time in the 3 calendar months preceding the month in which the recurrent training or flight review is due;

(B) Since January 1, 2020, completed online Wings courses for pilots from FAA Safety Team website, available at www.faasafety.gov. The online training courses must total at least 3 Wings credits; and

(C) Prior to manipulating the controls of an MU-2B series airplane, completed three hours of self-study, since January 1, 2020 and preceding the date of the flight, on the following subjects—

(1) The ground training curriculum required by § 91.1705(h)(1) of this chapter;

(2) The *Special Emphasis Items* listed in the approved MU-2B training program that the pilot last completed;

(3) The limitations, procedures, aircraft performance, and MU-2B Cockpit Checklist procedures applicable to the MU-2B model to be flown, which are contained in the flight training curriculum required by § 91.1705(h)(2) of this chapter; and

(4) The current general operating and flight rules of part 91 of this chapter.

(7) *Aeronautical Knowledge Recency Requirements of § 107.65 of this Chapter.* A person who has not satisfied the aeronautical knowledge recency requirements of § 107.65(a) or (b) of this chapter within the previous 24 calendar months may operate a small unmanned aircraft system under part 107 of this chapter, provided that person meets the following requirements—

(i) *Airmen requirements.* The person was current to exercise the privileges of a remote pilot certificate in March 2020 and, to maintain aeronautical currency, is required to meet the aeronautical recency requirements in § 107.65(a) or (b) of this chapter between April 1, 2020 and September 30, 2020.

(ii) *Qualification requirements.* The person must have completed an FAA-developed initial or recurrent online training course, available at www.faasafety.gov, covering the areas of knowledge specified in § 107.74(a) or (b) of this chapter. Each person is eligible to take an online training course specified in this paragraph 2.(b)(7)(ii) one time for the purpose of obtaining the six calendar month period specified in paragraph 2.(b)(7)(iii) of this SFAR;

(iii) *Grace period.* The person may operate a small unmanned aircraft system under part 107 of this chapter for a duration of six calendar months from the month in which the person completed the online training course specified in paragraph 2.(b)(7)(ii) of this SFAR. Before operating a small unmanned aircraft system under part 107 in the seventh month after the month in which the person completed the online training course, the person must satisfy § 107.65 of this chapter.

(8) *Flight Crewmember Requirements of Part 125 of this Chapter.*

(i) *Recent experience requirements.* A person who has not satisfied the recent experience requirements of § 125.285(a) of this chapter may be used by a certificate holder (or holder of an A125 letter of deviation authority), and may serve as a required pilot flight crewmember, in operations conducted

under part 125 of this chapter, provided the following requirements are met—

(A) *Grace period.* (1) For flights between March 1, 2020 and September 30, 2020, the person has made at least three takeoffs and landings, within the preceding 150 days, in the type of airplane in which that person is to serve.

(2) For flights between October 1, 2020 and January 31, 2021, the person has made at least three takeoffs and landings, within the preceding 120 days, in the type of airplane in which that person is to serve.

(B) *Safety Mitigations.* The certificate holder complies with paragraph 2.(b)(8)(iii) of this SFAR.

(ii) *Testing and checking requirements.* (A) Notwithstanding the period specified in § 125.293(a) of this chapter, a crewmember who is required to take a test or check under § 125.287(a), § 125.287(b), § 125.289, or § 125.291(a) of this chapter between March 1, 2020 and September 30, 2020 for purposes of maintaining qualifications may complete the test or check in the month before or three months after the month it is required, provided the requirements of paragraph 2.(b)(8)(iii) of this SFAR are met.

(B) Notwithstanding the period specified in § 125.293(a) of this chapter, a crewmember who is required to take a test or check under § 125.287(a), § 125.287(b), § 125.289, or § 125.291(a) of this chapter between October 1, 2020 and January 31, 2021 for purposes of maintaining qualifications may complete the test or check in the month before or two months after the month it is required, provided the requirements of paragraph 2.(b)(8)(iii) of this SFAR are met.

(C) A crewmember who completes the test or check in accordance with this paragraph 2.(b)(8)(ii) will be considered to have completed the test or check in the month in which it was required.

(iii) *Safety mitigations.* The certificate holder (or holder of an A125 letter of deviation authority) must provide an acceptable plan to its assigned principal operations inspector that contains the following information—

(A) A safety analysis and corresponding risk mitigations to be implemented by the certificate holder (or holder of an A125 letter of deviation authority); and

(B) The method the certificate holder (or holder of an A125 letter of deviation authority) will use to ensure that each crewmember complying with paragraph 2.(b)(8) of this SFAR remains adequately tested and currently proficient for each aircraft, duty position, and type of operation in which the person serves.

(9) *Robinson R-22/R-44 Special Training and Experience Requirements of SFAR No. 73 of this Part.* A person who has not completed a flight review in a Robinson model R-22 or R-44 helicopter, as appropriate, within the preceding 24 calendar months in accordance with paragraph 2(c) of SFAR No. 73 and § 61.56, may continue to act as pilot in command of a Robinson model R-22 or R-44 helicopter, as appropriate, providing the following requirements are met—

(i) *Airmen requirements.* The person was current to act as pilot in command of a Robinson model R-22 or R-44 helicopter, as appropriate, in March 2020 and, to maintain currency, is required to complete a flight review in a Robinson model R-22 or R-44 helicopter, as appropriate, between March 1, 2020 and January 31, 2021.

(ii) *Qualification requirements.* The person must—

(A) Satisfy the qualification requirements specified in paragraph 2.(b)(2)(ii) of this SFAR, except

(1) The 10 hours of flight time as pilot in command must be obtained in a Robinson model R-22 or R-44 helicopter, as appropriate to the privileges sought;

(2) At least 3 hours of flight time must be obtained within the 3 calendar months preceding the month in which the flight review is due; and

(3) The courses required by paragraphs 2.(b)(9)(ii)(C) and (D) of this SFAR may count towards the 3 Wings credits.

(B) Complete three hours of self-study, since January 1, 2020 and preceding the date of flight, on the following subjects—

(1) The awareness training subject areas specified in paragraphs 2.(a)(3)(i) through (v) of SFAR No. 73 of this part;

(2) The current general operating and flight rules of part 91 of this chapter;

(3) Robinson R-22 or R-44 Maneuvers Guide, as applicable to the model(s) in which the airmen holds pilot in command privileges;

(C) Complete Course ALC-103: Helicopter Weight and Balance, Performance at www.faasafety.gov; and

(D) Complete Course ALC-104: Helicopter—General and Flight Aerodynamics at www.faasafety.gov.

(iii) *Grace period.* (A) A person who is required to complete a flight review under § 61.56 between March 1, 2020 and September 30, 2020 may act as a pilot in command of a Robinson model R-22 or R-44 helicopter, as appropriate, for a duration of three calendar months from the month in which the flight review was due. Before acting as pilot in command of an aircraft in the fourth

month after the month in which the flight review was due, the person must satisfactorily complete a flight review in a Robinson model R-22 or R-44 helicopter, as appropriate to the privileges sought, in accordance with paragraph 2(c) of SFAR No. 73 of this part and § 61.56.

(B) A person who is required to complete a flight review under § 61.56 between October 1, 2020 and January 31, 2021 may act as a pilot in command of a Robinson model R-22 or R-44 helicopter, as appropriate, for a duration of two calendar months from the month in which the flight review was due. Before acting as pilot in command of an aircraft in the third month after the month in which the flight review was due, the person must satisfactorily complete a flight review in a Robinson model R-22 or R-44 helicopter, as appropriate to the privileges sought, in accordance with paragraph 2(c) of SFAR No. 73 of this part and § 61.56.

3. Duration and renewal requirements.

(a) This Part.

(1) *Extension of medical certificate duration requirements.* (i) The expiration date of a first-, second-, or third-class medical certificate that expires between March 31, 2020 and January 31, 2021 is extended three calendar months from the duration established in § 61.23(d) of this part as follows:

(A) For first-, second-, and third-class medical certificates that expire between March 31, 2020 and September 30, 2020, the expiration date is extended for three calendar months;

(B) Except as provided in paragraph 3.(a)(1)(i)(C) of this SFAR, for first-, second-, and third-class medical certificates that expire between October 31, 2020 and January 31, 2021, the expiration date is extended for two calendar months; and

(C) For first-, second-, and third-class medical certificates that expire between October 31, 2020 and January 31, 2021, the expiration date is extended for three calendar months if the holder of the medical certificate resides in or serves as a pilot of an aircraft in the State of Alaska.

(ii) A certificate extended under this paragraph 3.(a)(1) is considered valid under § 61.2(a)(5).

(iii) Unless otherwise prohibited by a foreign country, a person may operate outside of the United States under this paragraph 3.(a)(1) if the person—

(A) Has access to this SFAR when outside the United States; and

(B) Presents a copy of this SFAR for inspection upon request by a foreign Civil Aviation Authority in accordance

with the Convention on International Civil Aviation (Chicago Convention), and its Annexes.

(2) *Extension of knowledge test duration requirements in § 61.39.* An applicant for a certificate or rating issued under part 61 of this chapter may satisfy the eligibility requirement in § 61.39(a)(1) by passing the required knowledge test:

(i) Within the 27-calendar month period preceding the month the applicant completes the practical test, if a knowledge test is required, provided the knowledge test was passed between March 1, 2018 and September 30, 2018;

(ii) Within the 63-calendar month period preceding the month the applicant completes the practical test for those applicants who complete the airline transport pilot certification training program in § 61.156 and pass the knowledge test for an airline transport pilot certificate with a multiengine class rating, provided the knowledge test was passed between March 1, 2015 and September 30, 2015;

(iii) Within the 26-calendar month period preceding the month the applicant completes the practical test, if a knowledge test is required, provided the knowledge test was passed between October 1, 2018 and January 31, 2019; or

(iv) Within the 62-calendar month period preceding the month the applicant completes the practical test for those applicants who complete the airline transport pilot certification training program in § 61.156 and pass the knowledge test for an airline transport pilot certificate with a multiengine class rating, provided the knowledge test was passed between October 1, 2015 and January 31, 2016.

(3) *Extension of renewal requirements for flight instructor certification.* The holder of a flight instructor certificate that expires between March 31, 2020 and May 31, 2020 may renew his or her flight instructor certificate by submitting a completed and signed application to the FAA and satisfactorily completing one of the renewal requirements specified in § 61.197(a)(2)(i) through (iv) before June 30, 2020.

(b) Part 63 of this Chapter.

(1) *Extension of medical certificate duration requirements.* (i) For a person acting as a flight engineer of an aircraft, the expiration date of a second-class (or higher) medical certificate that expires between March 31, 2020 and September 30, 2020 is extended 3 calendar months from the original expiration date.

(ii) Except as provided in paragraph 3.(b)(1)(iii) of this SFAR, for a person acting as a flight engineer of an aircraft, the expiration date of a second-class (or

higher) medical certificate that expires between October 31, 2020 and January 31, 2021 is extended 2 calendar months from the original expiration date.

(iii) For a person acting as a flight engineer of an aircraft, the expiration date of a second-class (or higher) medical certificate that expires between October 31, 2020 and January 31, 2021 is extended 3 calendar months from the original expiration date if the flight engineer resides in or serves as a flight engineer in an aircraft in the State of Alaska.

(iv) Unless otherwise prohibited by a foreign country, a person may operate outside of the United States under this paragraph 3.(b)(1) if the person:

(A) Has access to this SFAR when outside the United States; and

(B) Presents a copy of this SFAR for inspection upon request by a foreign Civil Aviation Authority in accordance with the Convention on International Civil Aviation (Chicago Convention), and its Annexes.

(2) Extension of written test duration requirements in § 63.35 of this chapter.

(i) An applicant for a flight engineer certificate or rating may satisfy the knowledge requirement in § 63.35(d) of this chapter by passing the required written test within the 27-calendar month period preceding the month the applicant completes the practical test, provided the written test was passed between March 1, 2018 and September 30, 2018.

(ii) An applicant for a flight engineer certificate or rating may satisfy the knowledge requirement in § 63.35(d) of this chapter by passing the required written test within the 26-calendar month period preceding the month the applicant completes the practical test, provided the written test was passed between October 1, 2018 and January 31, 2019.

(c) Part 65 of this Chapter.

(1) *Extension of knowledge test duration requirements in § 65.55 of this chapter.* (i) An applicant for an aircraft dispatcher certificate may satisfy the knowledge requirement in § 65.55(b) of this chapter by presenting satisfactory evidence that the applicant passed the knowledge test within the 27-calendar month period preceding the month the applicant completes the practical test, provided the knowledge test was passed between March 1, 2018 and September 30, 2018.

(ii) An applicant for an aircraft dispatcher certificate may satisfy the knowledge requirement in § 65.55(b) of this chapter by presenting satisfactory evidence that the applicant passed the knowledge test within the 26-calendar month period preceding the month the

applicant completes the practical test, provided the knowledge test was passed between October 1, 2018 and January 31, 2019.

(2) *Extension of testing period in § 65.71 of this chapter.* (i) A person may show eligibility for a mechanic certificate or rating under § 65.71 of this chapter by passing all the prescribed tests of part 65, subpart D, of this chapter within a period of 27 months, provided the testing period began between March 1, 2018 and September 30, 2018.

(ii) A person may show eligibility for a mechanic certificate or rating under § 65.71 of this chapter by passing all the prescribed tests of part 65, subpart D, of this chapter within a period of 26 months, provided the testing period began between October 1, 2018 and January 31, 2019.

(3) *Renewal of inspection authorizations in § 65.93 of this chapter.*

(i) *Grace period for meeting renewal requirements.* Notwithstanding the requirement in § 65.93(c) of this chapter, an inspection authorization holder who did not complete one of the activities in § 65.93(a)(1) through (5) of this chapter by March 31, 2020 of the first year may still be eligible for renewal of an inspection authorization for a 2-year period in March 2021. To be eligible for renewal, the inspection authorization holder must show completion of one of the five activities in § 65.93(a)(1) through (5) of this chapter by June 30, 2020, and completion of the one of the five activities in § 65.93(a)(1) through (5) of this chapter during the second year of the 2-year period. A person who completes one of the five activities by June 30, 2020 will be considered to have completed the activity by March 31, 2020 of the first year for purposes of determining eligibility under § 65.93 of this chapter.

(ii) *Inspection authorization privileges after June 2020.* If the inspection authorization holder does not complete one of the five activities in § 65.93(a)(1) through (5) of this chapter by June 30, 2020, the inspection authorization holder may not exercise inspection authorization privileges after June 30, 2020. The inspection authorization holder may resume exercising inspection authorization privileges only after passing an oral test from an FAA inspector in accordance with § 65.93(c) of this chapter.

(4) *Military riggers or former military riggers: Special certification rule of § 65.117 of this chapter.* A person may satisfy the requirements of § 65.117(a) and (b) of this chapter for a senior parachute rigger certificate by presenting satisfactory documentary

evidence that the person was honorably discharged or released from any status covered by § 65.117(a) of this chapter between March 2019 and June 2019, and has served as a parachute rigger for an Armed Force within the 15 months before the date of application.

(d) *Relief for U.S. Military and Civilian Personnel Who are Assigned Outside the United States in Support of U.S. Armed Forces Operations.*

Notwithstanding the six calendar month period specified in paragraph 2 of SFAR No. 100–2 of this part, a person may exercise the relief specified in paragraph 1 of SFAR No. 100–2 for a duration of nine calendar months after returning to the United States, provided the person—

(i) Is eligible in accordance with paragraph 2 of SFAR No. 100–2 of this part;

(ii) Complies with the documentation requirements specified in paragraph 3 of SFAR No. 100–2 of this part; and

(iii) Returned to the United States from deployment between October 2019 and March 2020.

(e) *Part 141 of this Chapter.*

(1) *Pilot school certificate requirements of § 141.5 of this chapter.*

(i) *Provisional pilot school.*

Notwithstanding the period specified in § 141.5 of this chapter, a provisional pilot school may apply for, and the FAA may issue, a pilot school certificate with the appropriate ratings if the following requirements are met—

(A) The provisional pilot school must satisfy the requirements of § 141.5(a) through (e) of this chapter before December 31, 2020;

(B) The provisional pilot school certificate must expire between April 2020 and June 2020; and

(C) The provisional pilot school meets the requirements of paragraph 3.(e)(1)(ii) of this SFAR.

(ii) *Safety mitigations.*

(A) The provisional pilot school must notify its responsible Flight Standards office that it is applying for a pilot school certificate in accordance with this SFAR.

(B) Each provisional pilot school must include in its notification an acceptable plan that explains the method to meet the requirements of § 141.5(d) and (e) of this chapter, including—

(1) Ensuring each instructor used for ground or flight training is current and proficient; and

(2) Evaluating students to determine if they are assigned to the proper stage of the training course and if additional training is necessary.

(2) *Renewal of certificates and ratings in § 141.27 of this Chapter.*

(i) *Pilot school.* A pilot school may apply for renewal of its pilot school

certificate and ratings after the expiration of its pilot schools certificate, provided the school applies for renewal before December 31, 2020 and the following requirements are met—

(A) The pilot school must meet § 141.27(a)(2) of this chapter before December 31, 2020;

(B) The pilot school certificate must expire between April 2020 and June 2020; and

(C) The pilot school meets the requirements of paragraph 3.(e)(2)(ii) of this SFAR.

(ii) *Safety mitigations.*

(A) Each pilot school must submit to the responsible Flight Standards office notification that it will renew its pilot school certificate in accordance with this SFAR.

(B) Each pilot school must include in its notification an acceptable plan that explains the method to regain currency, including—

(1) Ensuring each instructor used for ground or flight training is current and proficient; and

(2) Evaluating students to determine if they are assigned to the proper stage of the training course and if additional training is necessary.

4. *Other relief for special flight permits issued under § 21.197(c) of this chapter.* In addition to the purposes specified in § 21.197(c) of this chapter, notwithstanding §§ 119.5(l) and 91.1015(a) of this chapter, a special flight permit with a continuing authorization may be issued under § 21.197(c) of this chapter through March 31, 2021, for aircraft that may not meet applicable airworthiness requirements, but are capable of safe flight for the purpose of flying the aircraft to a point of storage, provided the following requirements are met—

(a) The air carrier or operator must hold a special flight permit with continuing authorization to conduct a ferry flight program issued under § 21.197(c) of this chapter; and

(b) The certificate holder or management specification holder must notify the responsible Flight Standards office each time the special flight permit is used for the purpose of flying the aircraft to a point of storage.

5. *Expiration date.* This SFAR is effective until April 30, 2021. The FAA may amend, rescind, or extend the SFAR as necessary.

6. *Office of Management and Budget (OMB) control number.* The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) requires the FAA to get approval from OMB for our information collection activities. The OMB control number assigned to the FAA's

information collection associated with this SFAR is 2120-0788.

PART 63—CERTIFICATION: FLIGHT CREWMEMBERS OTHER THAN PILOTS

- 5. The authority citation for part 63 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701-44703, 44707, 44709-44711, 45102-45103, 45301-45302.

- 6. Remove Special Federal Aviation Regulation (SFAR) No. 118-1 from part 63 and add, in its place, SFAR No. 118-2 to part 63 to read as follows:

Special Federal Aviation Regulation No. 118-2—Relief for Certain Persons During the National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Public Health Emergency

For the text of SFAR No. 118-2, see part 61 of this chapter.

PART 65—CERTIFICATION: FLIGHT CREWMEMBERS OTHER THAN PILOTS

- 7. The authority citation for part 65 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701-44703, 44707, 44709-44711, 45102-45103, 45301-45302.

- 8. Remove Special Federal Aviation Regulation (SFAR) No. 118-1 from part 65 and add, in its place, SFAR No. 118-2 to part 65 to read as follows:

Special Federal Aviation Regulation No. 118-2—Relief for Certain Persons During the National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Public Health Emergency

For the text of SFAR No. 118-2, see part 61 of this chapter.

PART 91—GENERAL OPERATING AND FLIGHT RULES

- 9. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40101, 40103, 40105, 40113, 40120, 44101, 44111, 44701, 44704, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506-46507, 47122, 47508, 47528-47531, 47534, Pub. L. 114-190, 130 Stat. 615 (49 U.S.C. 44703 note); articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180), (126 Stat. 11).

- 10. Remove Special Federal Aviation Regulation (SFAR) No. 118-1 from part 91 and add, in its place, SFAR No. 118-2 to part 91 to read as follows:

Special Federal Aviation Regulation No. 118-2—Relief for Certain Persons During the National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Public Health Emergency

For the text of SFAR No. 118-2, see part 61 of this chapter.

PART 107—SMALL UNMANNED AIRCRAFT SYSTEMS

- 11. The authority citation for part 107 continues to read as follows:

Authority: 49 U.S.C. 106(f), 40101 note, 40103(b), 44701(a)(5); Sec. 333 of Pub. L. 112-95, 126 Stat. 75.

- 12. Remove Special Federal Aviation Regulation (SFAR) No. 118-1 from part 107 and add, in its place, SFAR No. 118-2 to part 107 to read as follows:

Special Federal Aviation Regulation No. 118-2—Relief for Certain Persons During the National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Public Health Emergency

For the text of SFAR No. 118-2, see part 61 of this chapter.

PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE; AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

- 13. The authority citation for part 125 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701-44702, 44705, 44710-44711, 44713, 44716-44717, 44722.

- 14. Remove Special Federal Aviation Regulation (SFAR) No. 118-1 from part 125 and add, in its place, SFAR No. 118-2 to part 125 to read as follows:

Special Federal Aviation Regulation No. 118-2—Relief for Certain Persons During the National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Public Health Emergency

For the text of SFAR No. 118-2, see part 61 of this chapter.

PART 141—PILOT SCHOOLS

- 15. The authority citation for part 141 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701-44703, 44707, 44709, 44711, 45102-45103, 45301-45302.

- 16. Remove Special Federal Aviation Regulation (SFAR) No. 118-1 from part

141 and add, in its place, SFAR No. 118-2 to part 141 to read as follows:

Special Federal Aviation Regulation No. 118-2—Relief for Certain Persons During the National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Public Health Emergency

For the text of SFAR No. 118-2, see part 61 of this chapter.

Issued under authority provided by 49 U.S.C. 106(f), 44701(a), and 44703 in Washington, DC.

Steve Dickson,
Administrator, Federal Aviation Administration.

[FR Doc. 2020-22004 Filed 10-1-20; 4:15 pm]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2020-0293; Project Identifier MCAI-2019-00122-E; Amendment 39-21263; AD 2020-20-07]

RIN 2120-AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG (Type Certificate Previously Held by Rolls-Royce plc) Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Rolls-Royce Deutschland Ltd & Co KG (RRD) Trent 1000-AE3, Trent 1000-CE3, Trent 1000-D3, Trent 1000-G3, Trent 1000-H3, Trent 1000-J3, Trent 1000-K3, Trent 1000-L3, Trent 1000-M3, Trent 1000-N3, Trent 1000-P3, Trent 1000-Q3, Trent 1000-R3, Trent 7000-72, and Trent 7000-72C model turbofan engines. This AD was prompted by a report of crack findings in the front air seal on the intermediate-pressure compressor (IPC) shaft assembly during the stripping of a flight test engine. This AD requires initial and repetitive borescope inspections (BSIs) or visual inspections of the IPC shaft assembly and, depending on the results of the inspection, replacement of the IPC shaft assembly with a part eligible for installation. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 10, 2020.

The Director of the Federal Register approved the incorporation by reference

of a certain publication listed in this AD as of November 10, 2020.

ADDRESSES: For service information identified in this final rule, contact Rolls-Royce Deutschland Ltd & Co KG, Eschenweg 11, 15827 Blankenfelde-Mahlow, Germany; phone: +49 (0) 33 708 6 0; website: <https://www.rolls-royce.com/contact-us.aspx>. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781-238-7759. It is also available on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-0293.

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-2020-0293; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Stephen Elwin, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781-238-7236; fax: 781-238-7199; email: stephen.l.elwin@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to RRD Trent 1000-AE3, Trent 1000-CE3, Trent 1000-D3, Trent 1000-G3, Trent 1000-H3, Trent 1000-J3, Trent 1000-K3, Trent 1000-L3, Trent 1000-M3, Trent 1000-N3, Trent 1000-P3, Trent 1000-Q3, Trent 1000-R3, Trent 7000-72, and Trent 7000-72C model turbofan engines. The NPRM published in the **Federal Register** on April 2, 2020 (85 FR 18478). The NPRM was prompted by a report of crack findings in the front air seal on the IPC shaft assembly during the stripping of a flight test engine. The NPRM proposed to require initial and repetitive BSIs of the IPC shaft assembly and, depending on the results of the inspection, replacement of the IPC shaft assembly

with a part eligible for installation. The FAA is issuing this AD to address the unsafe condition on these products.

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2019-0282, dated November 20, 2019 (referred to after this as “the MCAI”), to address the unsafe condition on these products. The MCAI states:

An occurrence was reported of finding cracks in the front air seal of the IPC shaft assembly during stripping of a flight test engine. Follow-up inspections of other in-shop engines revealed two more cracked front air seals of IPC shaft assemblies.

This condition, if not detected and corrected, could lead to IPC shaft failure, possibly resulting in engine in-flight shutdown and consequent reduced control of the aeroplane.

To address this potential unsafe condition, Rolls-Royce developed an inspection method and issued the NMSB, providing those inspection instructions.

For the reason described above, this [EASA] AD requires repetitive on-wing inspections of the front air seal of the affected part at a specific area between the fourth (rearmost) seal fin of the IPC shaft assembly front air seal and the IPC Stage 1 disc and, depending on findings, removal from service of the engine for corrective action(s).

You may obtain further information by examining the MCAI in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-0293.

Comments

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

Request To Update Methods To Gain Access to the IPC Shaft Assembly

Delta Air Lines (DAL) requested that paragraph (g)(1), Required Actions, of this AD be updated to specify that gaining access to the front air seal of the IPC shaft assembly to perform the BSI can be accomplished through the engine inlet and low-pressure compressor (LPC) fan blades or through the outlet guide vanes (OGVs) regardless of whether the BSI of the front air seal is performed concurrently with any other inspections.

DAL cited paragraph 3.B.(2)(b) of Rolls-Royce Trent 1000 Alert Non-Modification Service Bulletin (NMSB) 72-AK451, Initial Issue, dated November 14, 2019 (“the NMSB”), that states that accessing the front air seal may be made through the OGVs “if

performed concurrently with IP Compressor Stage 1 blade inspections.” As a result, inspectors may have less difficulty accessing the inspection area through the OGVs. Further, DAL reasoned that tooling for entry through the OGVs might be more readily available in certain stations where the affected aircraft operate.

The FAA agrees that access to the front air seal of the IPC shaft assembly can be accomplished through the engine inlet and LPC fan blades or through the OGVs regardless of any other inspections occurring at the time. The FAA, however, disagrees with updating paragraph (g)(1) of this AD because this AD does not require a certain method to access the front air seal of the IPC shaft assembly.

Request To Remove Engine To Allow for Verification of Cracks

DAL requested that the FAA update paragraph (g)(3), Required Actions, of this AD to require removal of the engine before further flight and to allow verification of any cracks prior to mandating replacement of the IPC shaft assembly. DAL added that the EASA AD, which states to remove of the engine from service if any crack is detected and to contact RRD for approved corrective actions, allows for the possibility that an engine can be removed from the aircraft and then subsequently cleared for continued service after cleaning and reassessment of a suspected indication.

The FAA disagrees with updating paragraph (g)(3) of this AD to require removal of the engine. While the engine can be removed from the aircraft and subsequently cleared for continued service after cleaning and reassessment, the engine does not need to be removed from the aircraft to verify a crack. According to the Accomplishment Instructions, paragraph 3.B.(2)(e), of the NMSB, if a crack is found, it is permissible to clean the suspected area and then repeat the BSI or visual inspection of the IPC shaft assembly. Therefore, no change to this AD is required.

Request To Allow Visual Inspections of the IPC Shaft Assembly During a Shop Visit

DAL requested that the FAA update paragraph (g)(2), Required Actions, of this AD to allow credit for an IPC shaft assembly that received the BSI using the NMSB or a general visual inspection during an engine shop visit. DAL reasoned that when the IPC shaft assembly is exposed during an engine shop visit, the inspection area can be accessed without a borescope.

The FAA agrees that visual inspections using standard shop procedures would provide an equivalent level of safety as an on-wing BSI if the front air seal of the IPC shaft assembly is exposed. The FAA updated paragraph (g)(2) of this AD to allow a visual inspection using FAA-approved maintenance procedures if the part is exposed.

Request To Revise Definition of Part Eligible for Installation

DAL requested that the FAA update the definition of a “part eligible for installation” be revised to also include a part that has been inspected per standard shop procedures. DAL reasoned that paragraph (h) of the NPRM only defined a part eligible for installation to include a new IPC shaft assembly or an IPC shaft assembly that, before installation, passed an inspection in accordance with referenced service information, which only includes an on-wing BSI and does not allow for inspection during an engine shop visit. Therefore, paragraph (h) of the NPRM, as written, allows only for the reinstallation of the IPC shaft assembly that had been previously inspected on-wing before removal from an engine. Additionally, DAL noted that both the RRD Trent 1000 and Trent 7000 Cleaning, Inspection, and Repair Manuals, Section 72–32–31, provide standard manual procedures for identifying cracks on the IPC shaft assembly.

The FAA agrees and updated the definition of a “part eligible for

installation” in paragraph (h)(2) of this AD to include an in-shop BSI and visual inspection using FAA-approved maintenance procedures.

Request To Remove Reference to Table of Inspection Intervals

DAL requested that the FAA update paragraph (g)(2), Required Actions, of this AD to remove the reference to Table 1 to paragraph (g)(1) for inspection intervals. DAL suggested that the FAA mirror the language of the MCAI that states that in-shop inspections “may be substituted for any on-wing BSI as required by paragraph (1) of this [EASA] AD, provided the compliance time is not exceeded.” DAL reasoned that Table 1 to paragraph (g)(1) of the NPRM includes only the initial inspection intervals, and therefore could be interpreted to exclude substitution for repetitive inspections.

The FAA agrees that Table 1 to paragraph (g)(1) of this AD provides the compliance time for the initial inspection, whereas paragraph (g)(1) of this AD requires repetitive inspections at stated intervals. The FAA updated paragraph (g)(2) of this AD from “may be substituted for any on-wing BSI, provided the compliance time specified in Table 1 to paragraph (g)(1) of this AD is not exceeded” to “may be substituted for any on-wing BSI, provided the compliance time specified in paragraph (g)(1) of this AD is not exceeded.”

Support for the AD

The Boeing Company expressed support for the AD as written.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Rolls-Royce Trent 1000 Alert NMSB 72–AK451, Initial Issue, dated November 14, 2019. The Alert NMSB describes procedures for initial and repetitive BSIs of the IPC shaft assembly. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

Costs of Compliance

The FAA estimates that this AD affects 14 engines installed on airplanes of U.S. registry.

The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
BSI or visual inspection of IPC shaft assembly.	3.5 work-hours × \$85 per hour = \$297.50	\$0	\$297.50	\$4,165

The FAA estimates the following costs to do any necessary replacement that are required based on the results of

the mandated inspection. The FAA has no way of determining the number of

engines that might need this replacement:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace IPC shaft assembly	1,080 work-hours × \$85 per hour = \$91,800	\$1,365,219	\$1,457,019

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA’s authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII:

Aviation Programs, describes in more detail the scope of the Agency’s authority.

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

44701: “General requirements.” Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds

necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2020–20–07 Rolls-Royce Deutschland Ltd & Co KG (Type Certificate previously held by Rolls-Royce plc): Amendment 39–21263; Docket No. FAA–2020–0293; Project Identifier MCAI–2019–00122–E.

(a) Effective Date

This AD is effective November 10, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all:

(1) Rolls-Royce Deutschland Ltd & Co KG (RRD) (Type Certificate previously held by Rolls-Royce plc) Trent 1000–AE3, Trent 1000–CE3, Trent 1000–D3, Trent 1000–G3, Trent 1000–H3, Trent 1000–J3, Trent 1000–K3, Trent 1000–L3, Trent 1000–M3, Trent

1000–N3, Trent 1000–P3, Trent 1000–Q3, and Trent 1000–R3 model turbofan engines.

(2) RRD Trent 7000–72 and Trent 7000–72C model turbofan engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7230, Turbine Engine Compressor Section.

(e) Unsafe Condition

This AD was prompted by a report of crack findings in the front air seal on the intermediate-pressure compressor (IPC) shaft assembly during the stripping of a flight test engine. The FAA is proposing this AD to prevent failure of the IPC shaft assembly. The unsafe condition, if not addressed, could result in loss of thrust control and reduced control of the airplane.

(f) Compliance

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

(g) Required Actions

(1) Within the compliance times specified in Table 1 to paragraph (g)(1) of this AD, and thereafter, at intervals not to exceed 200 flight cycles (FCs), perform a borescope inspection (BSI) of the IPC shaft assembly, part number KH18436, using the Accomplishment Instructions, paragraph 3.B., of Rolls-Royce (RR) Trent 1000 Alert Non-Modification Service Bulletin (NMSB) 72–AK451, Initial Issue, dated November 14, 2019.

Table 1 to Paragraph (g)(1) – Initial Inspection of Affected Part

FCs Accumulated (since new)	Compliance Time
700 FCs or less.	Before exceeding 500 FCs, or within 100 FCs after the effective date of this AD, whichever occurs later
More than 700 FCs up to 1,000 FCs (inclusive).	Within 50 FCs after the effective date of this AD
1,001 FCs or greater.	Within 25 FCs or 30 calendar days, whichever occurs first after the effective date of this AD

(2) An in-shop BSI of the IPC shaft assembly using the Accomplishment Instructions, paragraph 3.A., of RR Trent 1000 Alert NMSB 72–AK451, Initial Issue, dated November 14, 2019, or visual inspection of the IPC shaft assembly using FAA-approved maintenance procedures if the part is exposed, may be substituted for any on-wing BSI, provided the compliance time specified in paragraph (g)(1) of this AD is not exceeded.

(3) If, during any initial or repetitive BSI or visual inspection of the IPC shaft assembly

required by paragraph (g)(1) or (2) of this AD, any crack is detected, before further flight, remove the IPC shaft assembly and replace it with a part eligible for installation.

(h) Definitions

For the purpose of this AD, a “part eligible for installation” is:

(1) An IPC shaft assembly that is new (not previously installed on an engine);

(2) An IPC shaft assembly that, before (re)installation, has passed a BSI (no crack detected) using the Accomplishment

Instructions, paragraph 3.A. or B., of RR Trent 1000 Alert NMSB 72–AK451, Initial Issue, dated November 14, 2019.

(3) An IPC shaft assembly that, before (re)installation, has passed a visual inspection of the exposed part (no crack detected) using FAA-approved maintenance procedures.

(i) No Reporting Requirement

The reporting requirements in the Accomplishment Instructions, paragraphs 3.A. and 3.B., of RR Trent 1000 Alert NMSB

72-AK451, Initial Issue, dated November 14, 2019, are not required by this AD.

(j) Credit for Previous Actions

You may take credit for the initial BSI of the IPC shaft assembly that is required by paragraph (g)(1) of this AD if you performed the BSI before the effective date of this AD using RR Trent 1000 NMSB 72-K452, Initial Issue, dated October 21, 2019.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ECO Branch, send it to the attention of the person identified in paragraph (l)(1) of this AD. You may email your request to: ANE-AD-AMOC@faa.gov.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(l) Related Information

(1) For more information about this AD, contact Stephen Elwin, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781-238-7236; fax: 781-238-7199; email: stephen.l.elwin@faa.gov.

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2019-0282, dated November 20, 2019, for more information. You may examine the EASA AD in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-0293.

(m) Material Incorporated by Reference

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

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

(i) Rolls-Royce (RR) Trent 1000 Alert Non-Modification Service Bulletin 72-AK451, Initial Issue, dated November 14, 2019.

(ii) [Reserved]

(3) For RR service information identified in this AD, contact Rolls-Royce Deutschland Ltd & Co KG, Eschenweg 11, 15827 Blankenfelde-Mahlow, Germany; phone: +49 (0) 33 708 6 0; website: <https://www.rolls-royce.com/contact-us.aspx>.

(4) You may view this service information at FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781-238-7759.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: fedreg.legal@nara.gov, or go to:

<https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued on September 22, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020-22011 Filed 10-5-20; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2015-3941; Product Identifier 2015-SW-052-AD; Amendment 39-21232; AD 2020-18-11]

RIN 2120-AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH Helicopters

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Airbus Helicopters Deutschland GmbH (Airbus Helicopters) Model MBB-BK 117 A-3, MBB-BK 117 A-4, MBB-BK 117 B-1, MBB-BK 117 B-2, and MBB-BK 117 C-1 helicopters. This AD was prompted by reports that the adhesive seal prevented the doors from jettisoning properly. This AD requires removing certain seals, replacing certain seals with newly certified seals and revising the existing Rotorcraft Flight Manual (RFM) for your helicopter. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 10, 2020.

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

ADDRESSES: For service information identified in this final rule, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone 972-641-0000 or 800-232-0323; fax 972-641-3775; or at <https://www.airbus.com/helicopters/services/technical-support.html>. You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N-321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817-222-5110.

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-2015-3941; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD, any service information that is incorporated by reference, any comments received, and other information. The street address for Docket Operations is listed above.

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

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 by adding an AD that would apply to Airbus Helicopters Model MBB-BK 117 A-3, MBB-BK 117 A-4, MBB-BK 117 B-1, MBB-BK 117 B-2, and MBB-BK 117 C-1 helicopters. The SNPRM published in the **Federal Register** on April 28, 2020 (85 FR 23492) ("the SNPRM"). The FAA preceded the SNPRM with a notice of proposed rulemaking (NPRM) that published in the **Federal Register** on May 5, 2016 (81 FR 27057) ("the NPRM"). The NPRM was prompted by reports that the adhesive seal prevented the doors from jettisoning properly. The NPRM proposed to require removing adhesive seal part number (P/N) 117-800201.01 from the exterior and interior of each sliding door. The NPRM also proposed to prohibit the installation of this part-numbered adhesive seal on any helicopter sliding door. The SNPRM proposed to expand the applicability. The SNPRM also proposed to add requirements to replace certain seals with newly certified seals and revise the existing RFM for your helicopter. The FAA is issuing this AD to address the presence of sealant on a sliding door, which could result in the door failing to jettison and preventing helicopter occupants from exiting the helicopter during an emergency.

EASA, which is the aviation authority for the Member States of the European Union, issued EASA AD 2015-0163R1, dated April 27, 2016 ("EASA AD 2015-0163R1") (referred to after this as the Mandatory Continuing Airworthiness

Information, or “the MCAI”), to correct an unsafe condition for Airbus Helicopters Model MBB-BK 117 A-3, MBB-BK 117 A-4, MBB-BK 117 B-1, MBB-BK 117 B-2, and MBB-BK 117 C-1 helicopters. EASA advised that difficulties were reported regarding the jettisoning of doors. The malfunction was caused by the adhesive seal, which hampered the free movement of the inner handle. According to EASA, a subsequent investigation showed that the adhesive seal has mechanical and physical properties that do not meet relevant certification requirements. EASA stated that this condition, if not detected and corrected, could lead to a malfunction of the door’s jettisoning mechanism, reducing or preventing the evacuation of the helicopter during an emergency, possibly resulting in injury to occupants. To address this condition, EASA AD 2015-0163R1 required inspecting the exterior and interior door jettisoning system on the left and right sliding doors for adhesive seal P/N 117-800201.01 and removing those adhesive seals.

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-2015-3941.

Comments

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

Conclusion

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

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

Related Service Information Under 14 CFR Part 51

The FAA reviewed Airbus Helicopters Alert Service Bulletin MBB-BK11720A-114, Revision 2, dated March 30, 2016, for Model MBB-BK 117 A-3, MBB-BK 117 A-4, MBB-BK 117 B-1, MBB-BK 117 B-2, and MBB-BK 117 C-1 helicopters. This service information describes procedures for cleaning and degreasing the seal installation areas and installing adhesive seal P/N 117-800201.02. This service information also specifies flight manual revisions with

preflight check information for this new seal.

The FAA also reviewed Section 4—Normal Procedures, of MBB Helicopters Flight Manual MBB-BK117 A-3, Revision 17.1, MBB Helicopters Flight Manual MBB-BK117 A-4, Revision 16.1, MBB Helicopters Flight Manual MBB-BK117 B-1, Revision 20.1, Eurocopter Flight Manual BK117 B-2, Revision 21.2, and Eurocopter Flight Manual BK117 C-1, Revision 30.1, each dated March 25, 2015. This revision of the service information adds preflight check procedures for “Jettisonable sliding door installed, after ASB-BK117-20A-114” in Section 4—Normal Procedures, Preflight Exterior Check, under both “Fuselage—right side” and “Fuselage—left side” of the existing RFM for your helicopter.

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

Differences Between This AD and the EASA AD

The EASA AD does not mandate the installation of the new adhesive seals, whereas this AD does. Model MBB-BK 117 B-2 serial number 7203 is affected by the EASA AD but is not affected by this AD because it is ineligible for U.S. registration.

Costs of Compliance

The FAA estimates that this AD affects 45 helicopters of U.S. registry. Labor costs are estimated at \$85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this AD.

If installed, removing adhesive seals P/N 117-800201.01 would take about 0.5 work-hour for an estimated cost of about \$43 per helicopter. Installing new seals and revising the existing RFM for your helicopter would take about 1 work-hour and a set of new seals (4 units) would cost about \$5 for an estimated cost of \$90 per helicopter and \$4,050 for the U.S. fleet.

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA

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

Regulatory Findings

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

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

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2020-18-11 Airbus Helicopters

Deutschland GmbH: Amendment 39-21232; Docket No. FAA-2015-3941; Product Identifier 2015-SW-052-AD.

(a) Effective Date

This AD is effective November 10, 2020.

(b) Applicability

This AD applies to Airbus Helicopters Deutschland GmbH Model MBB-BK 117 A-3, MBB-BK 117 A-4, MBB-BK 117 B-1, MBB-BK 117 B-2, and MBB-BK 117 C-1 helicopters, certificated in any category.

(c) Unsafe Condition

This AD defines the unsafe condition as the presence of sealant on a sliding door (door). This condition could result in the door failing to jettison, preventing helicopter occupants from exiting the helicopter during an emergency.

(d) Compliance

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

(e) Required Actions

(1) Within 25 hours time-in-service after the effective date of this AD:

(i) For helicopters with adhesive seal part number (P/N) 117-800201.01 installed on an exterior or interior door, remove adhesive seal P/N 117-800201.01 from the interior and exterior of each door, remove any adhesive using solvent (CM 202 or equivalent) and remove any grease using methyl ethyl ketone

(CM 217 or equivalent), and install adhesive seal P/N 117-800201.02. Refer to Figures 1 through 4 of Airbus Helicopters Alert Service Bulletin MBB-BK117-20A-114, Revision 2, dated March 30, 2016 (ASB MBB-BK117-20A-114) for a depiction of the seal installation areas.

(ii) For helicopters without adhesive seal P/N 117-800201.01 installed, clean the seal installation areas using solvent (CM 202 or equivalent), remove any grease using methyl ethyl ketone (CM 217 or equivalent), and install adhesive seal P/N 117-800201.02. Refer to Figures 1 through 4 of ASB MBB-BK117-20A-114 for a depiction of the seal installation areas.

(iii) Revise the Normal Procedures section, Preflight Exterior Check, under both "Fuselage—right side" and "Fuselage—left side" of the existing Rotorcraft Flight Manual for your helicopter by adding the information in Figure 1 to paragraph (e)(1)(iii) of this AD or by adding the information for "Jettisonable sliding door installed, after ASB-BK117-

20A-114" of the following as applicable for your helicopter: MBB Helicopters Flight Manual MBB-BK117 A-3, Revision 17.1, MBB Helicopters Flight Manual MBB-BK117 A-4, Revision 16.1, MBB Helicopters Flight Manual MBB-BK117 B-1, Revision 20.1, Eurocopter Flight Manual BK117 B-2, Revision 21.2, or Eurocopter Flight Manual BK117 C-1, Revision 30.1, each dated March 25, 2015. Using a different document with information identical to the information for the "Jettisonable sliding door installed, after ASB-BK117-20A-114" procedures in the Flight Manual revision specified in this paragraph for your helicopter is acceptable for compliance with the requirements of this paragraph. This action may be performed by the owner/operator (pilot) holding at least a private pilot certificate and must be entered into the aircraft records showing compliance with this AD in accordance with § 43.9(a)(1) through (4) and § 91.417(a)(2)(v). The record must be maintained as required by § 91.417, § 121.380, or § 135.439.

If jettisonable sliding door is installed per ASB-BK117-20A-114, check the condition of the stretch seal strips on exterior and interior jettisoning handles.

Figure 1 to Paragraph (e)(1)(iii)

(2) After the effective date of this AD, do not install adhesive seal P/N 117-800201.01 on any helicopter door.

(f) Alternative Methods of Compliance (AMOCs)

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

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

(g) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD 2015-0163R1, dated April 27, 2016. You may view the EASA AD on the internet at <https://www.regulations.gov> in Docket No. FAA-2015-3941.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 5220, Emergency Exits.

(i) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference

(IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

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

(i) Airbus Helicopters Alert Service Bulletin MBB-BK117-20A-114, Revision 2, dated March 30, 2016.

(ii) Section 4—Normal Procedures, of MBB Helicopters Flight Manual MBB-BK117 A-3, Revision 17.1, dated March 25, 2015.

(iii) Section 4—Normal Procedures, of MBB Helicopters Flight Manual MBB-BK117 A-4, Revision 16.1, dated March 25, 2015.

(iv) Section 4—Normal Procedures, of MBB Helicopters Flight Manual MBB-BK117 B-1, Revision 20.1, dated March 25, 2015.

(v) Section 4—Normal Procedures, of Eurocopter Flight Manual BK117 B-2, Revision 21.2, dated March 25, 2015.

(vi) Section 4—Normal Procedures, of Eurocopter Flight Manual BK117 C-1, Revision 30.1, dated March 25, 2015.

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

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

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

the availability of this material at NARA, email fedreg.legal@nara.gov, or go to: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued on August 26, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020-21998 Filed 10-5-20; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2016-6145; Product Identifier 2015-NM-056-AD; Amendment 39-21223; AD 2020-18-02]

RIN 2120-AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain The Boeing Company Model 747-400, 747-400D, and 747-400F series airplanes. This AD was prompted by the FAA's analysis of the Model 747 fuel system reviews conducted by the manufacturer. This AD requires

modifying the fuel quantity indicating system (FQIS) to prevent development of an ignition source inside the center fuel tank due to electrical fault conditions. This AD also provides alternative actions for cargo airplanes. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 10, 2020.

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

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110-SK57, Seal Beach, CA 90740-5600; telephone 562-797-1717; internet <https://www.myboeingfleet.com>. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2016-6145.

Examining the AD Docket

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2016-6145; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Jon Regimbal, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3557; email: Jon.Regimbal@faa.gov.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 747-400, 747-400D, and 747-400F series airplanes. The NPRM published in the **Federal Register** on May 3, 2016 (81 FR 26490). The NPRM was prompted by the FAA's analysis of the Model 747 fuel system reviews

conducted by the manufacturer. The NPRM proposed to require modifying the FQIS to prevent development of an ignition source inside the center fuel tank due to electrical fault conditions. The proposed AD also proposed to provide alternative actions for cargo airplanes.

The FAA is issuing this AD to address ignition sources inside the center fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

Comments

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

Support for the NPRM

The Air Line Pilots Association, International (ALPA) and National Air Traffic Controllers Association (NATCA) supported the intent of the NPRM. Additional comments from NATCA are addressed below.

Request To Withdraw NPRM: Unjustified by Risk

Airlines for America and the Cargo Airline Association, in consolidated comments (A4A/CAA), United Parcel Service (UPS) and KLM Royal Dutch Airlines (KLM) requested that the FAA withdraw the NPRM. A4A/CAA and UPS cited comments submitted by Boeing to Docket No. FAA-2012-0187 in which Boeing stated that the risk is "less than extremely improbable." A4A/CAA added that Boeing does not believe that an unsafe condition exists. UPS stated the Boeing's comments demonstrate an unsafe condition does not exist. A4A/CAA and UPS noted that they consider the Boeing comments to be applicable to the airplane models in the NPRM. KLM added that it understands that Boeing is not able to explain or substantiate the rationale behind the NPRM.

KLM and Martinair stated that the NPRM does not clarify the necessity of additional actions beyond the currently mandated Special Federal Aviation Regulation (SFAR) No. 88 (in 14 CFR part 21), related service bulletins, airworthiness limitations, and critical design configuration control limitations. UPS stated that an agency is required to consider all relevant factors and articulate a satisfactory explanation for its action. UPS noted that the FAA is apparently basing its decision to issue the AD on historical SFAR 88 design reviews that have been superseded by

the more recent Boeing analysis and favorable operational experience in the years since the SFAR 88 reviews were completed.

The FAA disagrees with the commenters' request. The FAA notes that Boeing's comments were addressed in the supplemental NPRM (SNPRM) for Docket No. FAA-2012-0187 (80 FR 9400, February 23, 2015) in the comment response for "Request To Withdraw NPRM (77 FR 12506, March 1, 2012): Unjustified by Risk." As explained in that comment response, in addition to examining average risk and total fleet risk, the FAA examines the individual flight risk on the worst reasonably anticipated flights. In general, the FAA issues ADs in cases where reasonably anticipated flights with preexisting failures (either due to latent failure conditions or allowable dispatch configurations) are vulnerable to a catastrophic event due to an additional foreseeable single failure condition. This is because the FAA considers operation of flights vulnerable to a potentially catastrophic single failure condition to be an excessive safety risk to the passengers on those flights. The FAA has determined that the currently mandated SFAR 88 service bulletins, airworthiness limitations, and critical design configuration control limitations do not adequately address the unsafe condition identified in this AD and therefore it is necessary to issue this final rule. The FAA has not changed this AD regarding this issue.

Request To Withdraw NPRM: No Unsafe Condition

Boeing requested that the FAA withdraw the NPRM. Boeing suggested that, by requiring center fuel tank FQIS wire separation for passenger airplanes that have not incorporated a nitrogen generating system (NGS), the NPRM specifically addresses airplanes regulated by the European Union Aviation Safety Agency (EASA) and other civil aviation authorities and the lack of a flammability reduction means (FRM) rule. Boeing stated that because it considered the use of FRM (NGS) to address unknown ignition sources as the final corrective action, Boeing has not developed center tank FQIS wire separation service instructions for passenger aircraft. Boeing stated that it believes no unsafe condition exists and does not feel that the lack of FRM rule harmonization should cause additional work and expense for airlines.

The FAA disagrees with the commenter's request. The FAA determined that an unsafe condition exists using the criteria in FAA Policy Memorandum ANM100-2003-112-15,

“SFAR 88—Mandatory Action Decision Criteria,” dated February 25, 2003.¹ That policy was used to evaluate the noncompliant design areas identified in the manufacturer’s fuel system reviews and to determine which noncompliance issues were unsafe conditions that required corrective action under 14 CFR part 39. The FAA’s unsafe condition determination was not based on an assessment of average risk or total fleet risk, but rather was driven by the qualitative identification of an unacceptable level of individual risk that exists on flights that are anticipated to occur with a preexisting latent in-tank failure condition and with a flammable center fuel tank. For these reasons, and based on further detailed responses to similar comments in the SNPRM for Docket No. FAA–2012–0187, and in the subsequently issued final rule, AD 2016–07–07, Amendment 39–18452 (81 FR 19472, April 5, 2016) (“AD 2016–07–07”), which addressed the same unsafe condition for Boeing Model 757 airplanes, the FAA has determined that it is necessary to issue this final rule.

Request To Withdraw NPRM: Probability Analysis Inconsistent With Regulatory Requirements

A4A/CAA and UPS requested that the FAA withdraw the NPRM. The commenters stated that the assumption of a single failure regardless of probability is inconsistent with 14 CFR part 25 regulatory requirements. The commenters referred to the phrase “regardless of probability” associated with single failures. A4A/CAA and UPS acknowledged that the term is used with single failures in FAA Advisory Circular (AC) 25.981–1C,² “Fuel Tank Ignition Source Prevention Guidelines,” but since that term does not appear in 14 CFR 25.981(a)(3), the commenters considered its use arbitrary, possibly introducing additional requirements not included in that section. A4A/CAA and UPS stated that the “worst reasonably anticipated flight” is a flight with a latent FQIS failure and a high-flammability tank, and this “latent plus one” failure—regardless of probability of a single failure—is not consistent with 14 CFR 25.981(a)(3).

The FAA disagrees with the commenters’ request. The FAA notes that the commenters’ assertion about the intent of 14 CFR 25.981(a)(3) is incorrect based on both the language of the rule and on the published rulemaking

documents. The absence of a probabilistic qualifier in both the “from each single failure” clause and in the “from each single failure in combination with each latent failure not shown to be extremely remote” clause in 14 CFR 25.981(a)(3) in fact means just that—there is no probabilistic qualifier intended by the regulation. The intent for single failures in these two scenarios to be considered regardless of probability of the single failure was explicitly stated in the NPRM for 14 CFR 25.981, as amended by amendment 25–102 (66 FR 23085, May 7, 2001) (“amendment 25–102”). That NPRM stated, in pertinent part, that it would also add a new paragraph (a)(3) to require that a safety analysis be performed to demonstrate that the presence of an ignition source in the fuel tank system could not result from “any single failure, from any single failure in combination with any latent failure condition not shown to be extremely remote, or from any combination of failures not shown to be extremely improbable.” These new requirements would define three scenarios that must be addressed in order to show compliance with the proposed paragraph (a)(3). “The first scenario is that any single failure, regardless of the probability of occurrence of the failure, must not cause an ignition source. The second scenario is that any single failure, regardless of the probability of occurrence, in combination with any latent failure condition not shown to be at least extremely remote (*i.e.*, not shown to be extremely remote or extremely improbable), must not cause an ignition source. The third scenario is that any combination of failures not shown to be extremely improbable must not cause an ignition source.”

The preamble to the final rule for amendment 25–102 made a nearly identical statement, including the same uses of the phrase “regardless of probability.” The FAA has determined that it is necessary to proceed with issuance of this final rule as proposed. Further details and a description of the FAA’s risk assessment can be found in responses to similar comments in a related SNPRM that addressed the same unsafe condition for Model 757 airplanes, in Docket No. FAA–2012–0187, and in the subsequently issued final rule, AD 2016–07–07, amendment 39–18452 (81 FR 19472, April 5, 2016) (“AD 2016–07–07”). No change to this AD was made in response to these comments.

Request To Withdraw NPRM: No New Data Since Fuel Tank Flammability Reduction (FTFR) Rulemaking

A4A/CAA and UPS requested that the FAA withdraw the NPRM based on a lack of new data since the issuance of the FTFR rule (73 FR 42444, July 21, 2008). The commenters referred to the FTFR rule and decision to not require FRM for all-cargo airplanes, and the FAA’s intent to gather additional data and consideration of further rulemaking if flammability of these airplanes is excessive. UPS stated that since the FTFR rule, no additional data has been publicly introduced that would support or justify the applicability of this rulemaking to all-cargo aircraft. The commenters also referred to the FAA’s response to comments in the preamble to the SNPRM for Docket No. FAA–2012–0187, which documented the FAA’s decision on applicability of FRM and cost estimates. The commenters stated that the FAA response was misleading and not factual since manufacturers did not begin detailed designs to address the proposed unsafe condition until after the FTFR rule was published. The commenters added that the FAA did not discuss other changes to the FQIS system in the FTFR rule.

The FAA disagrees with the commenters’ request. The FAA notes that the FTFR rule and FQIS ADs are two different issues with separate FAA actions. The intent of the FTFR rule was to provide an order of magnitude reduction in the rate of fuel tank explosions for the airplanes affected by that rule through adding a new airworthiness standard for the flammability of fuel tanks. The FAA notes that the FTFR rule was never intended to be a replacement for the issuance of ADs to address identified unsafe conditions. An unsafe condition due to the identified FQIS latent-plus-single failure issue in high-flammability fuel tanks was determined to exist during the SFAR 88 AD Board held by the FAA in 2003 using the guidance in FAA Policy Memorandum ANM100–2003–112–15 for high-flammability fuel tanks, including the center fuel tank on Model 747–400 airplanes. That same issue was not considered to be an unsafe condition in low-flammability wing fuel tanks based on that same policy memorandum. The FAA has not changed this AD regarding this issue.

Request To Withdraw NPRM: Arbitrary and Inconsistent Wire Separation Standards

A4A/CAA and UPS requested that the FAA withdraw the NPRM based on a lack of consistent design standards for

¹ [https://rgl.faa.gov/Regulatory_and_Guidance_Library/rgPolicy.nsf/0/dc94c3a46396950386256d5e006aed11/\\$FILE/Feb2503.pdf](https://rgl.faa.gov/Regulatory_and_Guidance_Library/rgPolicy.nsf/0/dc94c3a46396950386256d5e006aed11/$FILE/Feb2503.pdf).

² https://www.faa.gov/documentLibrary/media/Advisory_Circular/AC_25.981-1C.pdf.

FQIS wire separation. The commenters assumed that the approved standard for the retrofit is a 2-inch wire separation minimum, which the commenters considered arbitrary and inconsistently applied. The commenters reported that the amount of wiring capable of meeting that separation standard varies widely among airplane models. A4A/CAA and UPS also acknowledged that other separation methods were used in areas not meeting the 2-inch wire separation requirement.

The FAA does not agree with the commenters' request. The degree of physical isolation of FQIS wiring from other wiring, whether provided by physical distance or barrier methods, that is necessary to eliminate the potential for hot shorts due to wiring faults is dependent on the materials used, the wire securing methods, and the possible types of wiring faults. The FAA relied on the manufacturer to assess the details of the design and to propose the appropriate isolation measures. While 2 inches of physical separation may appear to be an arbitrary number, it was the distance proposed by the manufacturer as appropriate for their design based on analysis of the design details. The FAA has not changed this AD regarding this issue.

Request To Withdraw NPRM: NPRM Arbitrary and Inconsistently Applied

A4A/CAA and UPS requested that the FAA withdraw the NPRM. The commenters noted that airplanes with FRM are not included in the applicability, and the NPRM would therefore not fully address the unsafe condition. The commenters added that the distinction between high- and low-flammability exposure time fuel tanks as used in the NPRM is arbitrary. The commenters stated that an arbitrary differentiation of high- versus low-flammability as decisional criteria for the need for corrective action does not take into account the actual probability of the impact of the difference in flammability on the potential of catastrophic failure. The commenters also stated that allowing the proposed alternative actions for cargo airplanes does not fully address the unsafe condition in the NPRM. The commenters referenced the FAA's response to comments in AD 2016-07-07 regarding this issue. The commenters summarized numerical analysis showing no significant difference in risk between high- and low-flammability fuel tanks. The commenters concluded that the FAA's risk analysis is arbitrary and an unsafe condition does not exist.

The FAA disagrees with the assertion that the NPRM is arbitrary and

inconsistent. The NPRM follows defined policy in FAA Policy Memorandum ANM100-2003-112-15, and consistently applies the policy to several airplane models with similar unsafe conditions, similar to AD 2016-07-07. The FAA defined the difference between low- and high-flammability exposure time fuel tanks based on recommendations from the Aviation Rulemaking Advisory Committee Fuel Tank Harmonization Working Group (FTHWG). The preamble to the final rule for amendment 25-102, which amended 14 CFR 25.981, defined this difference as based upon comparison of "the safety record of center wing fuel tanks that, in certain airplanes, are heated by equipment located under the tank, and unheated fuel tanks located in the wing." The FTHWG concluded that the safety record of fuel tanks located in the wings was adequate and that if the same level could be achieved in center wing fuel tanks, the overall safety objective would be achieved.

In the response to comments in the preamble to the final rule for AD 2016-07-07 referenced by the commenters, the FAA described why FRM or alternative actions for cargo airplanes provide an acceptable level of safety, even if they do not completely eliminate the non-compliance with 14 CFR 25.981(a)(3).

The fuel tank explosion history for turbojet/turbofan powered transport airplanes fueled with kerosene type fuels, outside of maintenance activity, has consisted of explosions of tanks that (1) are not conventional aluminum wing tanks and (2) spend a considerable amount of their operating time empty. The service history of conventional aluminum wing tanks has been acceptable. The intent of the difference in decision criteria in FAA Policy Memorandum ANM100-2003-112-15 was to give credit for this satisfactory service experience, and to differentiate between tanks with a level of flammability similar to that of a conventional wing tank and those with a significantly higher level of flammability.

The numerical analysis provided by the commenters is inconsistent with the fuel tank explosion service history. There are at least three identifiable physics-based reasons for that inconsistency. First, low-flammability tanks on most types of airplanes are main tanks that are the last tanks used. During a large portion of their operating time, the systems and structural features that have the potential to be ignition sources in the event of a failure condition are covered with liquid fuel, and an ignition source, if it occurs, is

likely to be submerged. When a potential ignition source in a main tank is uncovered, it is likely to be later in the flight when the tank is cool and no longer flammable. The commenters' analysis does not account for this significant effect. Second, the numerical analysis used by the commenters assumes that any given ignition source has a random occurrence in time at the estimated probability, and that, in order for an explosion to occur, that random occurrence of an ignition source needs to coincide with the tank being in a flammable state. In fact, many of the identified ignition threats do not simply occur briefly and then go away. Instead, a fault occurs that, until it is discovered and corrected, repeatedly creates an ignition source, and repeatedly tests whether flammable conditions exist.

Third, the flammability of low-flammability fuel tanks is typically dependent on weather, and a low-flammability fuel tank may operate for months without ever becoming flammable. This is not true of most high-flammability fuel tanks, which typically have significant on-airplane heat sources driving their temperature. This factor can mean that, on some airplanes, an in-tank latent failure can occur and, after some period of time, be detected and corrected without the low-flammability tank ever having flammable conditions. The numerical analysis provided by the commenters does not account for these significant factors. The difference in likelihood of a failure that results in repeated ignition source events causing a tank explosion is not simply proportional to difference in the fleet average flammability of the tank for the reasons stated above. The FAA has not changed this AD regarding this issue.

Request To Withdraw NPRM: Inadequate Fleet Exposure and Cost Estimates

Boeing requested that the FAA withdraw the NPRM. Boeing stated that the fleet exposure for the affected fleet continues to decrease due to aging airplanes and production stopping on Model 747-400 airplanes. Boeing added that the estimated costs in the NPRM do not take into account the costs of compliance for passenger airplanes without FRM installed.

The FAA disagrees with the commenter's request. The FAA did not base its unsafe condition determination on fleet risk but instead on individual risk. This is discussed in detail in the response to comments in the SNPRM for Docket No. FAA-2012-0187, under the heading "Request To Withdraw NPRM (77 FR 12506, March 1, 2012):

Unjustified by Risk.” Therefore, the age of the airplane and its current production stoppage do not affect the determination that an unsafe condition still exists on an individual airplane.

The NPRM for this proposed rule did contain a cost estimate for passenger airplanes that was based on the estimate provided by Boeing for the Model 757 and Model 767 airplanes, which have an FQIS of similar design. The FAA notes that Boeing asserted that the cost to operators of modifying an airplane’s FQIS to be fully compliant with the airworthiness standards would be similar to the cost of installing Boeing’s NGS flammability reduction system. Based on that, Boeing requested that the FAA agree to not require Boeing to develop service information for a fully compliant FQIS modification. However, the FAA used Boeing’s estimate of the cost to modify the Model 757 and Model 767 FQIS to a fully part-25-compliant configuration to provide the estimated costs in the NPRM, based on an assumption that the cost for Model 747 airplanes would be similar. At the time, Boeing concurred with this estimate. This is discussed in detail in the response to comments in the SNPRM for Docket No. FAA–2012–0187. Therefore, the FAA has not changed this AD regarding this issue.

Request To Withdraw NPRM: Insufficient Justification for AD

Based on an assertion that the FAA did not sufficiently explain how the unsafe condition justifies AD rulemaking, UPS requested that the FAA withdraw the NPRM. UPS stated that the FTFR rule did not suggest that any future modifications of FQIS systems had been considered. UPS contended that all-cargo operators were surprised and prejudiced by costly proposed FQIS modifications that are unsupported by both an updated risk assessment and full cost/benefit analysis that consider the pertinent facts. UPS alleged that the FAA did not fully explain or justify its decision making for the NPRM, and concluded that the NPRM is arbitrary and does not reflect properly reasoned agency action.

The FAA disagrees with the commenter’s request. A review of the rulemaking record shows that the commenter’s first assertion is not correct. The FAA notes that Section III.K.5. of the preamble of the FTFR rule states that “the findings from the analysis required by SFAR 88 showed that most transport category airplanes with high-flammability fuel tanks needed transient suppression units (TSUs) to prevent electrical energy from airplane wiring from entering the fuel

tanks in the event of a latent failure in combination with a single failure.” In addition, the NPRM for the FTFR rule (70 FR 70922, November 23, 2005) states: “As part of the safety reviews of SFAR 88, we have identified other models that likewise would need a transient suppression device.” These statements indicate that the FAA expects to take AD action on multiple airplane models to address FQIS issues identified through the SFAR 88 analyses. The preamble of the FTFR rule also states that the proposed FRM has the potential to reduce the industry cost associated with those expected ADs because the installation of an FRM likely would eliminate the need to further address the FQIS issue through AD actions.

The purpose of those statements was to note that there would be some cost savings to industry resulting from the elimination of other actions required to address an unsafe condition for the airplanes affected by the proposed rules, and to point out that the FAA did not take credit for those potential cost reductions in assessing the cost of the FTFR rule because the costs were not well understood at the time. That statement was not a commitment by the FAA to forego issuing ADs if necessary to address an identified unsafe condition on the airplanes but rather to not require the affected airplanes to incorporate FRM. As noted previously, the NPRM for the FTFR rule and the FTFR rule both made statements indicating that the FAA expects to issue AD actions on multiple airplane models to address FQIS issues identified through the SFAR 88 analyses. The FAA explained the unsafe condition and the risk on anticipated flights with a pre-existing latent failure condition in the NPRM to this final rule. The FAA also provided an estimate of the costs associated with the proposed AD in accordance with FAA rulemaking policy and the Administrative Procedures Act. The FAA has not changed this AD regarding this issue.

Request To Require Cargo Airplane Option for All Airplanes

Boeing requested that the NPRM be revised to make the alternative actions for cargo airplanes specified in paragraph (h) of the proposed AD applicable to all airplanes, including passenger airplanes with FRM not installed due to differences in foreign regulations. In addition, Boeing requested that the actions specified in paragraph (h) of the proposed AD become the primary means of compliance for all airplanes, not an alternative method of compliance for

some airplanes. In addition, KLM proposed that the FAA review if the “Alternative Actions for Cargo Airplanes” as described in paragraph (h) of the proposed AD is a possible acceptable means of compliance for passenger airplanes.

The FAA disagrees with the commenters’ requests. As discussed in the comment response in the SNPRM for Docket No. FAA–2012–0187, under the heading “Requests To Withdraw NPRM (77 FR 12506, March 1, 2012) Based on Applicability” the FAA does not consider the alternative action for cargo airplanes allowed by this AD to provide an adequate level of safety for passenger airplanes. The FAA is willing to accept a higher level of individual flight risk exposure for cargo flights that are not fail-safe due to the absence of passengers and the resulting significant reduction in occupant exposure on a cargo airplane versus a passenger airplane, and due to relatively low estimated individual flight risk that would exist on a cargo airplane after the corrective actions are taken. The FAA has not changed this AD regarding this issue.

Request To Record Only Certain Codes

Boeing requested that paragraph (h)(1) of the proposed AD be revised to only require corrective actions if a nondispatchable fault code pertaining to the center wing tank is recorded (as opposed to any nondispatchable fault code being recorded). Boeing stated that all FQIS wire separation changes in the proposed AD are limited to the center wing tank, therefore only built-in test equipment (BITE) check messages pertaining to the center wing tank are applicable to the proposed AD.

The FAA agrees that the unsafe condition addressed by this AD is limited to the center wing tank. However, the FAA does not agree that the AD should be changed as proposed by Boeing. It is not clear to the FAA whether there may be FQIS BITE fault codes that are not clearly identified as related to the center wing tank but that may impact center tank circuits. Therefore, the FAA has determined that all nondispatchable fault codes recorded prior to the BITE check or as a result of the BITE check required by paragraph (h)(1) of this AD must be addressed. Operators or Boeing may request an alternative method of compliance (AMOC) under the provisions of paragraph (i) of this AD if they can provide sufficient data that a particular fault code does not pertain to the unsafe condition addressed by this AD.

Regarding the requirement to record and address fault codes read

immediately prior to running the BITE check procedure, the FAA notes that the normal Boeing procedure for performing an FQIS BITE check is to first erase all of the existing fault codes, then perform the BITE check and troubleshoot any resulting new fault codes. For this AD, the FAA did not want any already stored fault codes to be potentially ignored due to erasure at the first step because some of the failures of concern can be intermittent. This AD therefore requires operators to record the existing codes before doing the BITE check, then do the BITE check and record the new codes that result from that BITE check, and then do the appropriate troubleshooting and corrective action for both sets of codes per the manufacturer's guidance. The FAA has not changed this AD regarding this issue.

Request To Exclude Certain Airplanes

Delta Airlines (DAL) requested that the FAA revise the proposed AD to exclude airplanes that are affected by 14 CFR 121.1117. DAL and United Airlines (UAL) noted that the FRM required by 14 CFR 121.1117 will have been installed on all affected airplanes in passenger configuration by December 26, 2018. DAL suggested modifying paragraph (c) of the proposed AD to clarify that the proposed AD is only applicable to aircraft that are not affected by 14 CFR 121.1117. UAL also suggested that the FAA either delete paragraph (g) of the proposed AD or make paragraph (g) of the proposed AD applicable only to airplanes in a cargo configuration that do not have an FRM installed and non-U.S.-registered airplanes that do not have to comply with FRM requirements.

The FAA disagrees with the commenters' requests. There are other passenger-carrying airplanes operated under 14 CFR part 91 that are not required to install FRM. (The requirement to install FRM on all passenger-carrying airplanes operated by air carriers is in 14 CFR 121.1117.) The FAA notes that foreign air carriers may not have to comply with that requirement or similar requirements of their own civil aviation authority. EASA, for example, has chosen not to require FRM to be retrofitted to in-service airplanes. This AD is intended to require any Model 747-400 series passenger airplane that does not have FRM, regardless of the rules under which it is operated, to address the FQIS latent-plus-one unsafe condition with a corrective action that fully complies with the FAA airworthiness standards. This requirement fulfills the FAA's International Civil Aviation

Organization (ICAO) obligation to address unsafe conditions on all of the aircraft manufactured by the state of design, not just those aircraft whose operation is under the jurisdiction of the state of design. The FAA has not changed this AD regarding this issue.

Request To Change Compliance Time

A4A/CAA requested that the FAA extend the compliance time for the modifications specified in paragraphs (g) and (h)(2) of the proposed AD to 72 months. The commenter stated that the compliance time should match that of AD 2016-07-07 because the unsafe condition and corrective actions are similar. A4A/CAA stated that although service information was not yet available, the compliance time should align with major maintenance schedules, but should be not less than 72 months after service information is available.

Conversely, NATCA recommended that the FAA reject requests for a compliance time longer than 5 years as proposed in the NPRM. Assuming final rule issuance in 2016, NATCA estimated that a 5-year compliance time would result in required compliance by 2021-25 years after the TWA Flight 800 fuel tank explosion that led to the requirements in SFAR 88, and 20 years after issuance of SFAR 88.

The FAA agrees with A4A/CAA's requests to extend the compliance time, and disagrees with NATCA's request. The FAA received similar requests to extend the compliance time from several commenters regarding the NPRMs for the FQIS modification on other airplanes. The FAA disagrees with establishing a compliance time based on issuance of the service information that is not yet approved or available. The FAA has determined that a 72-month compliance time is appropriate and will provide operators adequate time to prepare for and perform the required modifications without excessive disruption of operations. The FAA has determined that the requested moderate increase in compliance time will continue to provide an acceptable level of safety. The FAA has changed paragraphs (g) and (h)(2) of this AD accordingly.

Request To Exclude Airplanes To Be Retired

Virgin Atlantic Airways (VAA) and British Airways (BA) requested that the proposed AD be revised to provide dispensation for aircraft to be retired. VAA specifically asked for dispensation for aircraft to be retired before 2022, noting that a costly retrofit is a real concern and a penalty to continued

operation of aircraft that are scheduled for retirement in the coming years.

The FAA disagrees with the commenters' request. As previously mentioned, the FAA has revised this AD to provide 72 months from the effective date of this AD for incorporation of the required modification. This compliance time extends several years beyond the 2022 date requested by VAA, and appears to be beyond the 747-400 fleet retirement time planned by BA based on media reports. Therefore, the FAA has determined that special dispensation for aircraft to be retired is not needed. The FAA has not changed this AD regarding this issue.

Request To Extend Repetitive BITE Check Interval

Boeing, KLM, and Martinair requested that paragraph (h)(1) of the proposed AD be revised to extend the repetitive check interval for the BITE checks. Boeing requested that the repetitive interval be extended to 750 flight hours to match the repetitive intervals specified in Boeing Service Bulletin 747-28-2340, dated June 6, 2014. KLM and Martinair requested that the repetitive check interval be extended to 1,000 flight hours to match A-check intervals.

The FAA agrees to extend the repetitive check interval to 750 flight hours to match the repetitive intervals specified in Boeing Service Bulletin 747-28-2340, dated June 6, 2014. The FAA intended to propose a 750 flight hour interval, but inadvertently specified 650 flight hour intervals in the proposed AD. The FAA disagrees with extending the repetitive check interval to 1,000 flight hours because the 750 flight hours was agreed to during discussion of the risk assessment and service information for the cargo airplane option with Boeing. The FAA has revised paragraph (h)(1) of this AD to specify repetitive intervals of 750 flight hours.

Request To Add an Optional Method of Compliance

Boeing requested that paragraph (h) or (i) of the proposed AD be revised to add Boeing Service Bulletin 747-28-2344, dated October 12, 2018, as an optional method of compliance. Boeing noted that the proposed AD does not specify any authority for how to perform the required modification. Boeing noted that Boeing Service Bulletin 747-28-2344, dated October 12, 2018, provides a certified design and procedure for accomplishing the wire separation modification and will ensure the modification is performed to specified requirements.

The FAA agrees with the commenter's request. The FAA has revised paragraph (h)(2) of this AD to specify that Boeing Service Bulletin 747–28–2344, dated October 12, 2018, is an acceptable method of compliance. This revision includes adding paragraphs (h)(2)(i) and (ii) of this AD. The FAA has also revised the Estimated Costs for Alternative Actions table in this final rule to include the estimated costs for the inspections and wire separation modification specified in Boeing Service Bulletin 747–28–2344, dated October 12, 2018, if operators choose to comply using that method.

The FAA notes that this cost estimate is based on data provided in Boeing Service Bulletin 747–28–2344, dated October 12, 2018, while the cost estimate provided for a modification using methods approved in accordance with the procedures specified in paragraph (h)(2)(i) of this AD (paragraph (h)(2) of the proposed AD) is based on data provided by the manufacturer for Model 757 and 767 airplanes. The FAA had previously determined, as specified in the NPRM, that the work involved for the cargo airplane wire separation modification would take 230 work-hours. Boeing has since provided an updated estimate of 74 work-hours for the alternative modification for cargo airplanes. The FAA has revised the cost estimate for the modification accordingly in this final rule.

Request To Address Unsafe Condition on All Fuel Tanks

NATCA recommended that the FAA require design changes that eliminate unsafe FQIS failure conditions on all fuel tanks on the affected models, regardless of fuel tank location or the percentage of time the fuel tank is flammable. NATCA referred to four fuel tank explosions in low-flammability exposure time fuel tanks identified by the FAA during FTFR rulemaking. NATCA stated that neither FRM nor alternative actions for cargo airplanes (e.g., BITE checks (checks of built-in test equipment) followed by applicable repairs before further flight and modification of the center fuel tank FQIS wiring within 60 months) would bring the airplane into full regulatory compliance. NATCA added that the combination of failures described in the NPRM meets the criteria for “known combinations” of failures that require corrective action in FAA Policy Memorandum ANM100–2003–112–15.

The FAA disagrees with the commenter's request. The FAA has determined that according to Policy Memorandum ANM100–2003–112–15, the failure condition for the airplanes

affected by this AD should not be classified as a “known combination.” While the FQIS design architecture is similar to that of the early Boeing Model 747 configuration that is suspected of contributing to the TWA Flight 800 fuel tank explosion, significant differences exist in the design of FQIS components and wire installations between the affected The Boeing Company models and the early Model 747 airplanes such that the intent of the “known combinations” provision for low-flammability fuel tanks in the policy memorandum is not applicable. Therefore, this AD affects only the identified Boeing airplanes with high-flammability exposure time fuel tanks, as specified in paragraph (c) of this AD. The FAA provided a detailed response to similar comments in the preamble of the final rule for AD 2016–07–07. The FAA has not changed this final rule regarding this issue.

Request To Clarify Certification Basis for Modification Requirements

NATCA recommended that the FAA revise paragraph (g) of the proposed AD to clearly state that the required FQIS design changes must comply with the fail-safe requirements of 14 CFR 25.901(c), as amended by amendment 25–46 (43 FR 50597, October 30, 1978); and 14 CFR 25.981(a) and (b), as amended by amendment 25–102; NATCA added that these provisions are required by SFAR 88.

The FAA does not agree to change paragraph (g) of this AD. While the FAA agrees that modifications to comply with paragraph (g) of this AD should be required to comply with the referenced regulations, that requirement already exists in 14 CFR part 21. No change to this AD is necessary.

Request To Require Modification on All Production Airplanes

NATCA recommended that the FAA require designs that comply with 14 CFR 25.901(c) and 25.981(a)(3) on all newly produced transport airplanes. NATCA stated that continuing to grant exemptions to 14 CFR 25.901(c), as amended by amendment 25–40 (42 FR 15042, March 17, 1977); and 14 CFR 25.981(a)(3), as amended by amendment 25–102; has allowed continued production of thousands of airplanes with this known unsafe condition.

The FAA disagrees with the commenter's request. The recommendation to require production airplanes to fully comply with 14 CFR 25.901(c) and 14 CFR 25.981(a)(3) is outside the scope of this rulemaking. This AD applies only to Model 747–400, 747–400D, and 747–400F series

airplanes, which are no longer in production. In addition, the FAA has implemented requirements for all large transport airplanes produced after September 2010 to include flammability reduction methods for tanks that would otherwise be high-flammability fuel tanks. Boeing incorporated this change into the Model 747 series airplanes that are still in production and the FAA has excluded those models from the applicability of this AD. The FAA has not changed this final rule regarding this issue.

Request To State That an Exemption Is Required

Boeing requested that paragraph (h) of the proposed AD be revised to state that an exemption is required to accomplish the specified actions. Boeing stated that the FAA has identified that the BITE procedure and wire separation design changes specified in the proposed AD are not sufficient for compliance to 14 CFR 25.981(a) at the FQIS level. Boeing stated that an exemption is therefore needed prior to approval of the related design change.

The FAA agrees to clarify. The BITE check is not a type design change or alteration, so no exemption from the airworthiness standards is required for that action. The design data approval of any partial wire separation modification would require an exemption. That exemption would be obtained by the party seeking approval of the alteration data, and no further exemption would be required for the party using that data to alter an aircraft. Obtaining such an exemption would be part of the certification process for such a change, so the FAA does not find it necessary to include such information in paragraph (h) of this AD. In addition, some parties may choose to comply with the AD using a design change that fully complies with the airworthiness standards. The FAA also notes that the commenter appears to misunderstand why an exemption is needed for the required modification. The exemption is needed because, even with the modification, the FQIS does not comply with 14 CFR 25.901(c) and 14 CFR 25.981(a). The exemption does not authorize evaluation of a partial system for compliance with the system level requirement. The FAA has not changed this AD regarding this issue.

Request To Provide Cost-Effective Method of Compliance

Korean Air Lines (KAL), VAA, KLM, and BA requested that the FAA encourage Boeing to provide a cost-effective method of compliance for passenger airplanes. KAL noted that the

proposed AD does not provide a clear means of compliance for the modification, such as a Boeing service bulletin. KAL and VAA noted that the majority of non-FAA operators are not required to retrofit the NGS system. The commenters requested that the FAA encourage Boeing to develop an acceptable cost-effective method of compliance that does not require installation of an NGS. KLM and Martinair also noted that EASA only adopted the FAA operational requirement to equip an FRM on newly delivered airplanes.

The FAA agrees that the lack of service information for FQIS modifications makes it difficult to assess the required work to modify the FQIS, and acknowledges the high cost of NGS. However, the FAA disagrees with the commenters' request. For passenger-carrying airplanes, the cost per airplane of providing a modification of the FQIS that fully complies with the airworthiness standards was estimated by Boeing and their FQIS vendor (Goodrich) prior to the issuance of the NPRM to be comparable to the cost of installing NGS. Based on that cost estimate, Boeing proposed that they not be required to develop a fully compliant FQIS modification for passenger airplanes because it would not provide significant savings to operators and NGS would provide a greater safety benefit. The FAA agreed.

The FAA's understanding is that Boeing's current position is the same, and that they do not plan to develop a fully compliant FQIS modification for passenger airplanes to address paragraph (g) of this AD. However, if service information is developed, approved, and available in the future, operators may request approval under the provisions of paragraph (i) of this AD to use approved service instructions as an AMOC for the requirements of this AD, or the FAA may approve the service information as a global AMOC for this AD. In addition, as noted previously, Boeing has issued Service Bulletin 747–28–2344, dated October 12, 2018, for all-cargo airplanes, and the FAA has revised paragraph (h)(2)(ii) of this AD to specify that Boeing Service Bulletin

747–28–2344, dated October 12, 2018, is an acceptable method of compliance.

Request To Require Design Changes From Manufacturers

NATCA recommended that the FAA follow the agency's compliance and enforcement policy to require manufacturers to develop the necessary design changes soon enough to support operators' ability to comply with the proposed requirements. NATCA noted that SFAR 88 required manufacturers to develop all design changes for unsafe conditions identified by their SFAR 88 design reviews by December 2002, or within an additional 18 months if the FAA granted an extension.

The FAA acknowledges the commenter's concerns. However, any enforcement action is outside the scope of this rulemaking. The FAA has not changed this final rule regarding this issue.

Clarification of BITE Check Compliance Time

The FAA has revised paragraph (h)(1) of this AD to clarify the compliance time for the BITE check relative to the requirement to record the fault codes. The FAA recognized that operators might interpret the proposed requirements for alternative actions for cargo airplanes as allowing additional flights prior to performing the BITE check after first recording the fault codes. The FAA intended for operators to perform the BITE check immediately after recording the fault codes to address both the fault codes that exist prior to performing the BITE check and any new codes that are identified during the BITE check.

Clarification of Applicability

The FAA has revised paragraph (c) of this AD to clarify that airplanes equipped with an ignition mitigation means (IMM) approved by the FAA as compliant with certain regulations are excluded from this AD. This revision includes adding paragraphs (c)(1) and (2) of this AD. The FAA intended for airplanes with compliant IMM to be excluded from the actions required by this AD. The FAA has determined that

the installation of an approved IMM provides a level of risk reduction at least as great as that provided by FRM and adequately addresses the unsafe condition.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Service Bulletin 747–28–2340, dated June 6, 2014. This service information describes procedures for a BITE check (check of built-in test equipment) of the FQIS.

The FAA also reviewed Boeing Service Bulletin 747–28–2344, dated October 12, 2018. This service information describes procedures for a general visual inspection for any damage to the FQIS wire bundle, repair of damaged FQIS wire bundles, and modification of the airplane by separating FQIS wiring that runs between the FQIS processor and the center tank wing spar penetrations from other airplane wiring.

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

Costs of Compliance

The FAA estimates that this AD affects 71 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modification	1,200 work-hours × \$85 per hour = \$102,000	\$200,000	\$302,000	\$21,442,000

ESTIMATED COSTS FOR ALTERNATIVE ACTIONS

Action	Labor cost	Parts cost	Cost per product
BITE check	1 work-hours × \$85 per hour = \$85 per check.	\$0	\$340 per year (4 checks per year).
Inspection and wire separation (using service information).	Up to 41 work-hours × \$85 per hour = Up to \$3,845.	4,220	Up to \$8,065.
Wire separation	74 work hours × \$85 per hour = \$6,290	10,000	\$16,290.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2020–18–02 The Boeing Company:

Amendment 39–21223; Docket No. FAA–2016–6145; Product Identifier 2015–NM–056–AD.

(a) Effective Date

This AD is effective November 10, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 747–400, –400D, and –400F series airplanes, certificated in any category, excluding the airplanes identified in paragraphs (c)(1) and (2) of this AD.

(1) Airplanes equipped with a flammability reduction means (FRM) approved by the FAA as compliant with the fuel tank flammability reduction (FTFR) requirements of 14 CFR 25.981(b) or 26.33(c)(1).

(2) Airplanes equipped with an ignition mitigation means (IMM) approved by the FAA as compliant with the FTFR requirements of 14 CFR 25.981(c) or 26.33(c)(2).

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Unsafe Condition

This AD was prompted by the FAA's analysis of the Model 747 fuel system reviews conducted by the manufacturer. The FAA is issuing this AD to prevent ignition sources inside the center fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

(f) Compliance

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

(g) Modification

Within 72 months after the effective date of this AD, modify the fuel quantity indicating system (FQIS) to prevent development of an ignition source inside the center fuel tank due to electrical fault conditions, using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

(h) Alternative Actions for Cargo Airplanes

For airplanes used exclusively for cargo operations: As an alternative to the requirements of paragraph (g) of this AD, do the actions specified in paragraphs (h)(1) and (2) of this AD. To exercise this alternative, operators must perform the first inspection required under paragraph (h)(1) of this AD within 6 months after the effective date of this AD. To exercise this alternative for airplanes returned to service after conversion of the airplane from a passenger configuration to an all-cargo configuration more than 6 months after the effective date of this AD, operators must perform the first inspection required under paragraph (h)(1) of this AD prior to further flight after the conversion.

(1) Within 6 months after the effective date of this AD, record the existing fault codes stored in the FQIS processor and before further flight thereafter do a BITE check (check of built-in test equipment) of the FQIS, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–28–2340, dated June 6, 2014. If any nondispatchable fault code is recorded prior to the BITE check or as a result of the BITE check, before further flight, do all applicable repairs and repeat the BITE check until a successful test is performed with no nondispatchable faults found, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–28–2340, dated June 6, 2014. Repeat these actions thereafter at intervals not to exceed 750 flight hours. Modification as specified in paragraph (h)(2) of this AD does not terminate the repetitive BITE check requirement of this paragraph.

(2) Within 72 months after the effective date of this AD, do the actions specified in paragraph (h)(2)(i) or (ii) of this AD.

(i) Modify the airplane by separating FQIS wiring that runs between the FQIS processor and the center tank wing spar penetrations, including any circuits that might pass through a main fuel tank, from other airplane wiring that is not intrinsically safe using methods approved in accordance with the procedures specified in paragraph (i) of this AD.

(ii) Do a general visual inspection for any damage to the FQIS wire bundle and all

applicable repairs; and modify the airplane by separating FQIS wiring that runs between the FQIS processor and the center tank wing spar penetrations, including any circuits that might pass through a main fuel tank, from other airplane wiring that is not intrinsically safe; in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747-28-2344, dated October 12, 2018. Do all applicable repairs before further flight.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j)(1) of this AD. Information may be emailed to: 9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (i)(4)(i) and (ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. If a step or substep is labeled "RC Exempt," then the RC requirement is removed from that step or substep. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(j) Related Information

(1) For more information about this AD, contact Jon Regimbal, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3557; email: Jon.Regimbal@faa.gov.

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (k)(3) and (4) of this AD.

(k) Material Incorporated by Reference

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

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

(i) Boeing Service Bulletin 747-28-2340, dated June 6, 2014.

(ii) Boeing Service Bulletin 747-28-2344, dated October 12, 2018.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110 SK57, Seal Beach, CA 90740-5600; telephone 562-797-1717; internet <https://www.myboeingfleet.com>.

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

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

Issued on August 19, 2020.

Gaetano A. Sciortino,

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

[FR Doc. 2020-21996 Filed 10-5-20; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2020-0852; Project Identifier MCAI-2020-01179-T; Amendment 39-21257; AD 2020-20-01]

RIN 2120-AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Dassault Aviation Model FALCON 7X, FALCON 900EX, and FALCON 2000EX airplanes. This AD was prompted by reports of primary display unit (PDU) data flickering on airplanes equipped with EASy software. This AD requires amending the applicable Dassault airplane flight manual (AFM) to

incorporate the applicable AFM change project (CP), as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective October 21, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 21, 2020.

The FAA must receive comments on this AD by November 20, 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:** U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; internet www.easa.europa.eu. You may find this IBR material on the EASA website at <https://ad.easa.europa.eu>. You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-0852.

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-2020-0852; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, 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: Tom Rodriguez, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3226; email tom.rodriguez@faa.gov.

SUPPLEMENTARY INFORMATION:

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020-0181, dated August 13, 2020 (“EASA AD 2020-0181”) (also referred to as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for certain Dassault Aviation Model FALCON 7X, FALCON 900EX, and FALCON 2000EX airplanes. This AD was prompted by reports of PDU data flickering on airplanes equipped with EASy software and the possibility of losing information on all flightdeck PDUs. Data flickering or loss of all flightdeck PDUs could lead to total loss of control of the airplane due to erroneous information or lack of information presented to the pilot. The FAA is issuing this AD to address PDU data flickering and the possibility of total loss of information on all flightdeck PDUs, which could result in excessive workload for pilots and the inability of the pilot to perform communications and navigation of the airplane, leading to loss of control of the airplane. See the MCAI for additional background information.

Related IBR Material Under 1 CFR Part 51

EASA AD 2020-0181 describes procedures for amending the AFM with the applicable CP emergency and abnormal procedures to address PDU failure and flickering.

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

FAA’s Determination

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

Requirements of This AD

This AD requires accomplishing the actions specified in the service information described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA’s ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2020-0181 is incorporated by reference in this final rule. This AD, therefore, requires compliance with EASA AD 2020-0181 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to “all required actions and compliance times,” compliance with this AD requirement is not limited to the section titled “Required Action(s) and Compliance Time(s)” in the EASA AD. Service information specified in AD 2020-0181 that is required for compliance with EASA AD 2020-0181 is available on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-0852.

FAA’s Justification and Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies foregoing notice and comment prior to adoption of this rule because PDU primary flight data flickering may lead to erroneous information on other PDUs with the possibility of total loss of information on all flightdeck PDUs, which could result in pilot’s excessive workload and the inability of the pilot to perform communications and navigation of the airplane, leading to loss of control of the airplane. In addition, the compliance time for the required action is shorter than the time necessary for the public to comment and for publication of the final

rule. Therefore, the FAA finds good cause that notice and opportunity for prior public comment are impracticable. In addition, for the reasons stated above, the FAA finds that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and the FAA did not precede it by notice and opportunity for public comment. The FAA invites you to send any written relevant data, views, or arguments about this final rule. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA-2020-0852; and Project Identifier MCAI-2020-01179-T” at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, 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 final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Tom Rodriguez, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206 231 3226; email tom.rodriguez@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.

Regulatory Flexibility Act (RFA)

The requirements of the RFA do not apply when an agency finds good cause

pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 409 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
1 work-hour × \$85 per hour = \$85	\$0	\$85	\$34,765

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2020–20–01 Dassault Aviation:

Amendment 39–21257; Docket No. FAA–2020–0852; Project Identifier MCAI–2020–01179–T.

(a) Effective Date

This AD becomes effective October 21, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Dassault Aviation Model FALCON 7X, FALCON 900EX, and FALCON 2000EX airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2020–0181, dated August 13, 2020 ("EASA AD 2020–0181").

(d) Subject

Air Transport Association (ATA) of America Code 31, Instruments.

(e) Reason

This AD was prompted by reports of primary display unit (PDU) data flickering on airplanes equipped with EASy software and the possibility of losing information on all flightdeck PDUs. Data flickering or loss of all flightdeck PDUs could lead to total loss of control of the airplane due to erroneous information or lack of information presented to the pilot. The FAA is issuing this AD to address PDU data flickering and the possibility of total loss of information on all flightdeck PDUs, which could result in excessive workload for pilots and the inability of the pilot to perform communications and navigation of the airplane, leading to loss of control of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2020–0181.

(h) Exceptions to EASA AD 2020–0181

(1) Where EASA AD 2020–0181 refers to its effective date, this AD requires using the effective date of this AD.

(2) The "Remarks" section of EASA AD 2020–0181 does not apply to this AD.

(3) Paragraph (1) of EASA AD 2020–0181 specifies amending "the applicable AFM [airplane flight manual]," but this AD requires amending "the applicable AFM and applicable corresponding operational procedures."

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(j) Related Information

For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226; email tom.rodriguez@faa.gov.

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2020-0181, dated August 13, 2020.

(ii) [Reserved]

(3) For information about EASA AD 2020-0181, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADS@easa.europa.eu; internet www.easa.europa.eu. You may find this EASA AD on the EASA website at <https://ad.easa.europa.eu>.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. This material may be found in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-0852.

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

Issued on September 18, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020-21993 Filed 10-5-20; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2016-6141; Product Identifier 2015-NM-048-AD; Amendment 39-21237; AD 2020-18-16]

RIN 2120-AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain The Boeing Company Model 767-200, -300, -300F, and -400ER series airplanes. This AD was prompted by the FAA's analysis of the Model 767 fuel system reviews conducted by the manufacturer. This AD requires modifying the fuel quantity indicating system (FQIS) to prevent development

of an ignition source inside the center fuel tank due to electrical fault conditions. This AD also provides optional actions for cargo airplanes. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 10, 2020.

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

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110 SK57, Seal Beach, CA 90740-5600; telephone 562-797-1717; internet <https://www.myboeingfleet.com>. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2016-6141.

Examining the AD Docket

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2016-6141; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Jon Regimbal, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3557; email: Jon.Regimbal@faa.gov.

SUPPLEMENTARY INFORMATION:**Discussion**

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 767-200, -300, -300F, and -400ER series airplanes. The NPRM published in the **Federal Register** on May 4, 2016 (81 FR 26747). The NPRM was prompted by the FAA's analysis of the Model 767 fuel system reviews conducted by the manufacturer. The NPRM proposed to require modifying

the FQIS to prevent development of an ignition source inside the center fuel tank due to electrical fault conditions. The NPRM also proposed to provide optional actions for cargo airplanes. The FAA is issuing this AD to address ignition sources inside the center fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

Comments

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

Support for the NPRM

The Air Line Pilots Association, International (ALPA) and National Air Traffic Controllers Association (NATCA) supported the intent of the NPRM. Additional comments from NATCA are addressed below.

Request To Withdraw NPRM: No Unsafe Condition

Boeing requested that the FAA withdraw the NPRM. Boeing suggested that, by requiring center fuel tank FQIS wire separation for passenger airplanes that have not incorporated a nitrogen generating system (NGS), the NPRM specifically addresses airplanes regulated by the European Union Aviation Safety Agency (EASA) and other civil aviation authorities and the lack of a flammability reduction means (FRM) rule. Boeing stated that because it considered the use of FRM (NGS) to address unknown ignition sources as the final corrective action, Boeing has not developed center tank FQIS wire separation service instructions for passenger aircraft. Boeing stated that it believes no unsafe condition exists and does not feel that the lack of FRM rule harmonization should cause additional work and expense for airlines.

The FAA disagrees with the commenter's request. The FAA determined that an unsafe condition exists using the criteria in FAA Policy Memorandum ANM100-2003-112-15, "SFAR 88—Mandatory Action Decision Criteria," dated February 25, 2003.¹ That policy was used to evaluate the noncompliant design areas identified in the manufacturer's fuel system reviews and to determine which noncompliance issues were unsafe conditions that required corrective action under 14 CFR

¹ [http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgPolicy.nsf/0/dc94c3a46396950386256d5e006aed11/\\$FILE/Feb2503.pdf](http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgPolicy.nsf/0/dc94c3a46396950386256d5e006aed11/$FILE/Feb2503.pdf).

part 39. The FAA's unsafe condition determination was not based on an assessment of average risk or total fleet risk, but rather was driven by the qualitative identification of an unacceptable level of individual risk that exists on flights that are anticipated to occur with a preexisting latent in-tank failure condition and with a flammable center fuel tank. For these reasons, and based on further detailed responses to similar comments in the supplemental NPRM (SNPRM) for Docket No. FAA-2012-0187 (80 FR 9400, February 23, 2015), and in the subsequently issued final rule, AD 2016-07-07, Amendment 39-18452 (81 FR 19472, April 5, 2016) ("AD 2016-07-07"), which addressed the same unsafe condition for Boeing Model 757 airplanes, the FAA has determined that it is necessary to issue this final rule.

Request To Withdraw NPRM: Unjustified by Risk

Airlines for America and the Cargo Airline Association, in consolidated comments (A4A/CAA), United Parcel Service (UPS) and FedEx requested that the FAA withdraw the NPRM. A4A/CAA and UPS cited comments submitted by Boeing to Docket No. FAA-2012-0187 in which Boeing stated that the risk is "less than extremely improbable." A4A/CAA added that Boeing does not believe that an unsafe condition exists. UPS stated that Boeing's comments demonstrate an unsafe condition does not exist. A4A/CAA and UPS noted that they consider the Boeing comments to be applicable to the airplane models in the NPRM. FedEx stated that the proposed rule is not supported with a safety risk assessment and it is therefore difficult to understand the validity and justification of the proposed rule.

UPS stated that an agency is required to consider all relevant factors and articulate a satisfactory explanation for its action. UPS noted that the FAA is apparently basing its decision to issue the AD on historical Special Federal Aviation Regulation (SFAR) No. 88 design reviews that have been superseded by the more recent Boeing analysis and favorable operational experience in the years since the SFAR 88 reviews were completed.

The FAA disagrees with the commenters' requests. The FAA notes that Boeing's comments were addressed in the SNPRM for Docket No. FAA-2012-0187 in the comment response for "Request To Withdraw NPRM (77 FR 12506, March 1, 2012): Unjustified by Risk." As explained in that comment response, in addition to examining average risk and total fleet risk, the FAA

examines the individual flight risk on the worst reasonably anticipated flights. In general, the FAA issues ADs in cases where reasonably anticipated flights with preexisting failures (either due to latent failure conditions or allowable dispatch configurations) are vulnerable to a catastrophic event due to an additional foreseeable single failure condition. This is because the FAA considers operation of flights vulnerable to a potentially catastrophic single failure condition to be an excessive safety risk to the passengers on those flights. The FAA has determined that the currently mandated SFAR 88 service bulletins, airworthiness limitations, and critical design configuration control limitations do not adequately address the unsafe condition identified in this AD and therefore it is necessary to issue this final rule. The FAA has not changed this AD regarding this issue.

Request To Withdraw NPRM: No Safety Risk Assessment

FedEx requested that the FAA withdraw the NPRM, stating that a safety risk assessment was not included with the proposed rule. FedEx quoted the NPRM to the fuel tank flammability reduction (FTFR) rule (70 FR 70922, November 23, 2005), which noted that the FAA had not evaluated the risk to all-cargo airplanes because they are derivatives of passenger airplanes. FedEx noted that the NPRM to the FTFR rule also stated that the risk may be lower for all-cargo operations due to fewer miles flown and more nighttime operations when temperatures are lower. FedEx stated that its fleet utilization is only about 5 flight hours per day, which would further lower the risk of accidents. FedEx requested that the FAA provide a safety risk assessment for the Model 767 FQIS that justifies the proposed rule.

The FAA does not agree to withdraw the NPRM. The FAA's determination that an unsafe condition exists was not based on a calculation of the total risk of an accident occurring in the life of the fleet. Instead, the FAA's determination was based on an analysis showing that numerous Model 767 all-cargo airplane flights will occur with a latent FQIS in-tank failure, and that such flights will not provide the minimum acceptable level of safety for transport airplanes defined in FAA regulations and policy because they will not be fail-safe for one additional electrical wiring fault. This was discussed in detail in the SNPRM for Docket No. FAA-2012-0187, which addresses the same issue for Model 757 airplanes, in the comment response for "Request To Withdraw NPRM (77 FR

12506, March 1, 2012): Unjustified by Risk." That comment response is applicable to this AD. The FAA has not changed this AD regarding this issue.

Request To Withdraw NPRM: Probability Analysis Inconsistent With Regulatory Requirements

A4A/CAA and UPS requested that the FAA withdraw the NPRM. The commenters stated that the assumption of a single failure regardless of probability is inconsistent with 14 CFR part 25 regulatory requirements. The commenters referred to the phrase "regardless of probability" associated with single failures. A4A/CAA and UPS acknowledged that the term is used with single failures in FAA Advisory Circular (AC) 25.981-1C,² "Fuel Tank Ignition Source Prevention Guidelines," but since that term does not appear in 14 CFR 25.981(a)(3), the commenters considered its use arbitrary, possibly introducing additional requirements not included in that section. A4A/CAA and UPS stated that the "worst reasonably anticipated flight" is a flight with a latent FQIS failure and a high-flammability tank, and this "latent plus one" failure—regardless of probability of a single failure—is not consistent with 14 CFR 25.981(a)(3).

The FAA disagrees with the commenters' request. The FAA notes that the commenters' assertion about the intent of 14 CFR 25.981(a)(3) is incorrect based on both the language of the rule and on the published rulemaking documents. The absence of a probabilistic qualifier in both the "from each single failure" clause and in the "from each single failure in combination with each latent failure not shown to be extremely remote" clause in 14 CFR 25.981(a)(3) in fact means just that—there is no probabilistic qualifier intended by the regulation. The intent for single failures in these two scenarios to be considered regardless of probability of the single failure was explicitly stated in the NPRM for 14 CFR 25.981, as amended by amendment 25-102 (66 FR 23085, May 7, 2001). That NPRM stated, in pertinent part, that it would also add a new paragraph (a)(3) to require that a safety analysis be performed to demonstrate that the presence of an ignition source in the fuel tank system could not result from "any single failure, from any single failure in combination with any latent failure condition not shown to be extremely remote, or from any combination of failures not shown to be extremely improbable." These new

² https://www.faa.gov/documentLibrary/media/Advisory_Circular/AC_25.981-1C.pdf

requirements would define three scenarios that must be addressed in order to show compliance with the proposed paragraph (a)(3). “The first scenario is that any single failure, regardless of the probability of occurrence of the failure, must not cause an ignition source. The second scenario is that any single failure, regardless of the probability of occurrence, in combination with any latent failure condition not shown to be at least extremely remote (*i.e.*, not shown to be extremely remote or extremely improbable), must not cause an ignition source. The third scenario is that any combination of failures not shown to be extremely improbable must not cause an ignition source.”

The preamble to the final rule for amendment 25–102 made a nearly identical statement, including the same uses of the phrase “regardless of probability.” The FAA has determined that it is necessary to proceed with issuance of this final rule as proposed. Further details and a description of the FAA’s risk assessment can be found in responses to similar comments in a related SNPRM that addressed the same unsafe condition for Model 757 airplanes, in Docket No. FAA–2012–0187, and in the subsequently issued final rule, AD 2016–07–07, amendment 39–18452 (81 FR 19472, April 5, 2016) (“AD 2016–07–07”). No change to this AD was made in response to these comments.

Request To Withdraw NPRM: No Technical Justification

FedEx requested that the FAA withdraw the NPRM, stating that the proposed requirement has not been technically justified. FedEx stated that 14 CFR 25.981, as amended by amendment 25–102; and SFAR 88 (in 14 CFR part 21); required the aircraft original equipment manufacturer (OEM) to evaluate the Model 767 fuel system and components for compliance with the new requirements. FedEx added that it understands that Boeing and Goodrich Aerospace determined that the only FQIS component that did not meet those requirements was the center tank’s densitometer. FedEx noted that AD 2010–06–10, Amendment 39–16234 (75 FR 15322, March 29, 2010) (“AD 2010–06–10”), was issued to install support hardware, modify the wiring of the center wing tank FQIS densitometer, and replace the hot short protector for the center tank. FedEx added that Boeing and Goodrich did not determine a need for additional barrier devices on the Model 767 FQIS.

The FAA does not agree to withdraw the rule. The FAA notes that FedEx’s

understanding of the results of Boeing’s Model 767 FQIS SFAR 88 analysis is not correct. Boeing’s analysis also identified the FQIS latent-plus-one condition as non-compliant with 14 CFR 25.981(a)(3). Consequently, the FAA has determined modifying the FQIS is necessary to prevent development of an ignition source inside the center fuel tank due to electrical fault conditions. The FAA has not changed this AD regarding this issue.

Request To Withdraw NPRM: No New Data Since FTFR Rulemaking

A4A/CAA and UPS requested that the FAA withdraw the NPRM based on a lack of new data since the issuance of the FTFR rule (73 FR 42444, July 21, 2008). The commenters referred to the FTFR rule and decision to not require FRM for all-cargo airplanes, and the FAA’s intent to gather additional data and consideration of further rulemaking if flammability of these airplanes is excessive. UPS stated that since the FTFR rule, no additional data has been publicly introduced that would support or justify the applicability of this rulemaking to all-cargo aircraft. The commenters also referred to the FAA’s response to comments in the preamble to the SNPRM for Docket No. FAA–2012–0187, which documented the FAA’s decision on applicability of FRM and cost estimates. The commenters stated that the FAA response was misleading and not factual since manufacturers did not begin detailed designs to address the proposed unsafe condition until after the FTFR rule was published. The commenters added that the FAA did not discuss other changes to the FQIS system in the FTFR rule.

The FAA disagrees with the commenters’ request. The FAA notes that the FTFR rule and FQIS ADs are two different issues with separate FAA actions. The intent of the FTFR rule was to provide an order of magnitude reduction in the rate of fuel tank explosions for the airplanes affected by that rule through adding a new airworthiness standard for the flammability of fuel tanks. The FAA notes that the FTFR rule was never intended to be a replacement for the issuance of ADs to address identified unsafe conditions. An unsafe condition due to the identified FQIS latent-plus-single failure issue in high-flammability fuel tanks was determined to exist during the SFAR 88 AD Board held by the FAA in 2003 using the guidance in FAA Policy Memorandum ANM100–2003–112–15 for high-flammability fuel tanks, including the center fuel tank on Model 767–200, –300, –300F, and –400ER series airplanes. That same

issue was not considered to be an unsafe condition in low-flammability wing fuel tanks based on that same policy memorandum. The FAA has not changed this AD regarding this issue.

Request To Withdraw NPRM: Insufficient Justification for AD

Based on an assertion that the FAA did not sufficiently explain how the unsafe condition justifies AD rulemaking, UPS requested that the FAA withdraw the NPRM. UPS stated that the FTFR rule did not suggest that any future modifications of FQIS systems had been considered. UPS contended that all-cargo operators were surprised and prejudiced by costly proposed FQIS modifications that are unsupported by both an updated risk assessment and full cost/benefit analysis that consider the pertinent facts. UPS alleged that the FAA did not fully explain or justify its decision making for the NPRM, and concluded that the NPRM is arbitrary and does not reflect properly reasoned agency action.

The FAA disagrees with the commenter’s request. A review of the rulemaking record shows that the commenter’s first assertion is not correct. The FAA notes that Section III.K.5. of the preamble of the FTFR rule states that “the findings from the analysis required by SFAR 88 showed that most transport category airplanes with high-flammability fuel tanks needed transient suppression units (TSUs) to prevent electrical energy from airplane wiring from entering the fuel tanks in the event of a latent failure in combination with a single failure.” In addition, the NPRM for the FTFR rule states: “As part of the safety reviews of SFAR 88, we have identified other models that likewise would need a transient suppression device.” These statements indicate that the FAA expects to take AD action on multiple airplane models to address FQIS issues identified through the SFAR 88 analyses. The preamble of the FTFR rule also states that the proposed FRM has the potential to reduce the industry cost associated with those expected ADs because the installation of an FRM likely would eliminate the need to further address the FQIS issue through AD actions.

The purpose of those statements was to note that there would be some cost savings to industry resulting from the elimination of other actions required to address an unsafe condition for the airplanes affected by the proposed rules, and to point out that the FAA did not take credit for those potential cost reductions in assessing the cost of the FTFR rule because the costs were not

well understood at the time. That statement was not a commitment by the FAA to forego issuing ADs if necessary to address an identified unsafe condition on the airplanes but rather to not require the affected airplanes to incorporate FRM. As noted previously, the NPRM for the FTFR rule and the FTFR rule both made statements indicating that the FAA expects to issue AD actions on multiple airplane models to address FQIS issues identified through the SFAR 88 analyses. The FAA explained the unsafe condition and the risk on anticipated flights with a pre-existing latent failure condition in the NPRM to this final rule. The FAA also provided an estimate of the costs associated with the proposed AD in accordance with FAA rulemaking policy and the Administrative Procedures Act. The FAA has not changed this AD regarding this issue.

Request To Withdraw NPRM: NPRM Arbitrary and Inconsistently Applied

A4A/CAA and UPS requested that the FAA withdraw the NPRM. The commenters noted that airplanes with FRM are not included in the applicability, and the NPRM would therefore not fully address the unsafe condition. The commenters added that the distinction between high- and low-flammability exposure time fuel tanks as used in the NPRM is arbitrary. The commenters stated that an arbitrary differentiation of high- versus low-flammability as decisional criteria for the need for corrective action does not take into account the actual probability of the impact of the difference in flammability on the potential of catastrophic failure. The commenters also stated that allowing the proposed alternative actions for cargo airplanes does not fully address the unsafe condition in the NPRM. The commenters referenced the FAA's response to comments in AD 2016–07–07 regarding this issue. The commenters summarized numerical analysis showing no significant difference in risk between high- and low-flammability fuel tanks. The commenters concluded that the FAA's risk analysis is arbitrary and an unsafe condition does not exist.

The FAA disagrees with the assertion that the NPRM is arbitrary and inconsistent. The NPRM follows defined policy in FAA Policy Memorandum ANM100–2003–112–15, and consistently applies the policy to several airplane models with similar unsafe conditions, similar to AD 2016–07–07. The FAA defined the difference between low- and high-flammability exposure time fuel tanks based on recommendations from the Aviation

Rulemaking Advisory Committee Fuel Tank Harmonization Working Group (FTHWG). The preamble to the final rule for amendment 25–102, which amended 14 CFR 25.981, defined this difference as based upon comparison of “the safety record of center wing fuel tanks that, in certain airplanes, are heated by equipment located under the tank, and unheated fuel tanks located in the wing.” The FTHWG concluded that the safety record of fuel tanks located in the wings was adequate and that if the same level could be achieved in center wing fuel tanks, the overall safety objective would be achieved.

In the response to comments in the preamble to the final rule for AD 2016–07–07 referenced by the commenters, the FAA described why FRM or alternative actions for cargo airplanes provide an acceptable level of safety, even if they do not completely eliminate the non-compliance with 14 CFR 25.981(a)(3).

The fuel tank explosion history for turbojet/turbofan powered transport airplanes fueled with kerosene type fuel, outside of maintenance activity, has consisted of explosions of tanks that (1) are not conventional aluminum wing tanks and (2) spend a considerable amount of their operating time empty. The service history of conventional aluminum wing tanks has been acceptable. The intent of the difference in decision criteria in FAA Policy Memorandum ANM100–2003–112–15 was intended to give credit for this satisfactory service experience, and to differentiate between tanks with a level of flammability similar to that of a conventional wing tank and those with a significantly higher level of flammability.

The numerical analysis provided by the commenters is inconsistent with the fuel tank explosion service history. There are at least three identifiable physics-based reasons for that inconsistency. First, low-flammability tanks on most types of airplanes are main tanks that are the last tanks used. During a large portion of their operating time, the systems and structural features that have the potential to be ignition sources in the event of a failure condition are covered with liquid fuel, and an ignition source, if it occurs, is likely to be submerged. When a potential ignition source in a main tank is uncovered, it is likely to be later in the flight when the tank is cool and no longer flammable. The commenters' analysis does not account for this significant effect. Second, the numerical analysis used by the commenters assumes that any given ignition source has a random occurrence in time at the

estimated probability, and that, in order for an explosion to occur, that random occurrence of an ignition source needs to coincide with the tank being in a flammable state. In fact, many of the identified ignition threats do not simply occur briefly and then go away. Instead, a fault occurs that, until it is discovered and corrected, repeatedly creates an ignition source, and repeatedly tests whether flammable conditions exist.

Third, the flammability of low-flammability fuel tanks is typically dependent on weather, and a low-flammability fuel tank may operate for months without ever becoming flammable. This is not true of most high-flammability fuel tanks, which typically have significant on-airplane heat sources driving their temperature. This factor can mean that, on some airplanes, an in-tank latent failure can occur and, after some period of time, be detected and corrected without the low flammability tank ever having flammable conditions. The numerical analysis provided by the commenters does not account for these significant factors. The difference in likelihood of a failure that results in repeated ignition source events causing a tank explosion is not simply proportional to difference in the fleet average flammability of the tank for the reasons stated above. The FAA has not changed this AD regarding this issue.

Request To Withdraw NPRM: Arbitrary and Inconsistent Wire Separation Standards

A4A/CAA and UPS requested that the FAA withdraw the NPRM based on a lack of consistent design standards for FQIS wire separation. The commenters assumed that the approved standard for the retrofit is a 2-inch wire separation minimum, which the commenters considered arbitrary and inconsistently applied. The commenters reported that the amount of wiring capable of meeting that separation standard varies widely among airplane models. A4A/CAA and UPS also acknowledged that other separation methods were used in areas not meeting the 2-inch wire separation requirement.

The FAA does not agree with the commenters' request. The degree of physical isolation of FQIS wiring from other wiring, whether provided by physical distance or barrier methods, that is necessary to eliminate the potential for hot shorts due to wiring faults is dependent on the materials used, the wire securing methods, and the possible types of wiring faults. The FAA relied on the manufacturer to assess the details of the design and to propose the appropriate isolation

measures. While 2 inches of physical separation may appear to be an arbitrary number, it was the distance proposed by the manufacturer as appropriate for their design based on analysis of the design details. The FAA has not changed this AD regarding this issue.

Request To Withdraw NPRM: Not Justified Based on Cost-Benefit Analysis

FedEx noted that the proposed AD does not include a cost-benefit analysis. FedEx added that in the NPRM for the FTFR rule, the FAA stated that proposal would not extend to airplanes used in all-cargo operations because the cost did not appear justified by the associated benefits. FedEx acknowledged that the FAA's statement was meant for the installation of the NGS. However, FedEx stated that it believes the current proposed rule would provide cost-benefit results that are less justifiable than the FTFR rule. FedEx stated that while the costs may be comparable, the benefits associated with the FQIS modification will be less. The FAA infers that FedEx is requesting that the proposed rule be withdrawn because it cannot be shown to be cost beneficial.

The FAA does not agree that the proposed AD should be withdrawn or that a full cost-benefit analysis is required to justify AD action to address the identified unsafe condition. In the NPRM to this AD, the FAA provided the cost analysis that is required by FAA policy and the Administrative Procedures Act. In the NPRM, the FAA described the basis for the unsafe condition determination, noting that a significant number of flights are anticipated to occur in a non-fail-safe condition. Such flights would not meet the minimum level of safety expectations for transport airplanes. The cost of the requirement in the airworthiness standards to provide fail-safe design was justified at the time of rulemaking for the associated regulatory standards. The fact that a design is later discovered not to have met the regulatory standard and is very expensive to correct should not and does not prevent the FAA from requiring appropriate corrective action to restore a design to the minimum acceptable level of safety defined in the airworthiness standards for that product. The FAA has not changed this AD regarding this issue.

Request To Withdraw NPRM: Inadequate Fleet Exposure and Cost Estimates

Boeing requested that the FAA withdraw the NPRM. Boeing stated that the fleet exposure for the affected fleet continues to decrease due to aging

airplanes and adequate wire separation design on Model 767 airplanes. Boeing added that the estimated costs in the NPRM do not take into account the costs of compliance for passenger airplanes without FRM installed.

The FAA disagrees with the commenter's request. The FAA did not base its unsafe condition determination on fleet risk but instead on individual risk. This is discussed in detail in the response to comments in the SNPRM for Docket No. FAA-2012-0187, under the heading "Request To Withdraw NPRM (77 FR 12506, March 1, 2012): Unjustified by Risk." Therefore, the age of the airplane and its current production stoppage do not affect the determination that an unsafe condition still exists on an individual airplane.

The NPRM for this proposed rule did contain a cost estimate for passenger airplanes that was based on the estimate provided by Boeing for the Model 757 and Model 767 airplanes, which have an FQIS of similar design. The FAA notes that Boeing asserted that the cost to operators of modifying an airplane's FQIS to be fully compliant with the airworthiness standards would be similar to the cost of installing Boeing's NGS flammability reduction system. Based on that, Boeing requested that the FAA agree to not require Boeing to develop service information for a fully compliant FQIS modification. However, the FAA used Boeing's estimate of the cost to modify the Model 757 and Model 767 FQIS to a fully part-25-compliant configuration to provide the estimated costs in the NPRM, based on an assumption that the cost for Model 747 airplanes would be similar. At the time, Boeing concurred with this estimate. This is discussed in detail in the response to comments in the SNPRM for Docket No. FAA-2012-0187. The FAA has not changed this AD regarding this issue.

Request To Withdraw NPRM: Underestimated Parts Cost

FedEx stated that the proposed rule underestimates costs for the required actions. Specifically, FedEx noted that Boeing estimates the part kit cost for installing NGS to be \$440,000, not \$200,000 as stated in the proposed AD. FedEx stated that the NGS is a very expensive system, which adds undue burden on operators. FedEx claimed that the proposed rule is therefore unjustified.

The FAA agrees to clarify. The FAA's cost estimate in the NPRM was not for installation of NGS, but rather was for an FQIS modification to bring the FQIS into compliance with the applicable regulations. The estimated parts cost

and work hours used were those supplied by Boeing and Goodrich Aerospace for such a modification. However, if an operator chooses to install an NGS in lieu of accomplishing the modification, the FAA acknowledges the parts cost would likely be higher for that operator. The FAA has not changed this AD regarding this issue.

Request To Require Cargo Airplane Option for All Airplanes

Boeing requested that the NPRM be revised to make the alternative actions for cargo airplanes specified in paragraph (h) of the proposed AD applicable to all airplanes, including passenger airplanes with FRM not installed due to differences in foreign regulations. In addition, Boeing requested that the actions specified in paragraph (h) of the proposed AD become the primary means of compliance for all airplanes, not an alternative method of compliance for some airplanes.

The FAA disagrees with the commenter's request. As discussed in the comment response in the SNPRM for Docket No. FAA-2012-0187, under the heading "Requests To Withdraw NPRM (77 FR 12506, March 1, 2012) Based on Applicability" the FAA does not consider the alternative action for cargo airplanes allowed by this AD to provide an adequate level of safety for passenger airplanes. The FAA is willing to accept a higher level of individual flight risk exposure for cargo flights that are not fail-safe due to the absence of passengers and the resulting significant reduction in occupant exposure on a cargo airplane versus a passenger airplane, and due to relatively low estimated individual flight risk that would exist on a cargo airplane after the corrective actions are taken. The FAA has not changed this AD regarding this issue.

Request To Change Compliance Time

A4A/CAA, FedEx, Japan Airlines (JAL), and Air Transport International requested that the FAA extend the compliance time for the modifications specified in paragraphs (g) and (h)(2) of the proposed AD to 72 months. A4A/CAA stated that the compliance time should match that of AD 2016-07-07 because the unsafe condition and corrective actions are similar. Air Transport International noted the longer compliance time would provide additional time for passenger-to-freighter conversions to incorporate a currently unreleased service bulletin into any supplemental type certificate (STC). A4A/CAA stated that although

service information was not yet available, the compliance time should align with major maintenance schedules, but should be not less than 72 months after service information is available.

Conversely, NATCA recommended that the FAA reject requests for a compliance time longer than 5 years as proposed in the NPRM. Assuming final rule issuance in 2016, NATCA estimated that a 5-year compliance time would result in required compliance by 2021—25 years after the TWA Flight 800 fuel tank explosion that led to the requirements in SFAR 88, and 20 years after issuance of SFAR 88.

The FAA agrees with the commenters' requests to extend the compliance time, and disagrees with NATCA's request. The FAA received similar requests to extend the compliance time from several commenters regarding the NPRMs for the FQIS modification on other airplanes. The FAA disagrees with establishing a compliance time based on issuance of the service information that is not yet approved or available. The FAA has determined that a 72-month compliance time is appropriate and will provide operators adequate time to prepare for and perform the required modifications without excessive disruption of operations. The FAA has determined that the requested moderate increase in compliance time will continue to provide an acceptable level of safety. The FAA has changed paragraphs (g) and (h)(2) of this AD accordingly.

Request To Extend Repetitive BITE Check Interval

Air Transport International and All Nippon Airways (ANA) requested that paragraph (h)(1) of the proposed AD be revised to extend the repetitive check interval for the BITE checks. Air Transport International requested that the repetitive interval be extended to 750 flight hours to match the repetitive interval specified in AD 2016-07-07. ANA noted that an interval of 750 flight hours will allow the check to be done during A-check intervals.

The FAA agrees to extend the repetitive check interval to 750 flight hours. The FAA intended to propose a 750 flight hour interval, but inadvertently specified 650 flight hour intervals in the proposed AD. The FAA has revised paragraph (h)(1) of this AD to specify repetitive intervals of 750 flight hours.

Request To Clarify Actions in Paragraph (h)(1) of the Proposed AD

ANA requested that the FAA clarify the actions specified in paragraph (h)(1)

of the proposed AD. ANA noted there are two actions (record the existing fault code stored in the FQIS processor prior to doing the BITE check of the FQIS and do a BITE check of the FQIS) that must be done using Boeing Service Bulletin 767-28-0118, dated July 15, 2014. ANA stated Boeing Service Bulletin 767-28-0118, dated July 15, 2014, does not contain specific instructions to record existing fault codes. ANA noted that recording existing fault codes can be done using existing maintenance tasks. ANA asked if recording the existing fault codes must be done using Boeing Service Bulletin 767-28-0118, dated July 15, 2014, and if so, requested that Boeing Service Bulletin 767-28-0118, dated July 15, 2014, be revised to address the AD action.

The FAA agrees to clarify. Boeing Service Bulletin 767-28-0118, dated July 15, 2014, contains notes in Parts 4 and 5 of the Accomplishment Instructions stating that operators should record the existing faults prior to initiating the BITE check of the processor. However, those notes don't include specific procedures. Operators may use accepted procedures, including existing maintenance tasks, to comply with the requirements to record existing fault codes. No change to this AD is necessary.

Request To Clarify Whether Certain Actions Can Be Done Without Obtaining an Alternative Method of Compliance (AMOC)

ABX AIR requested that the FAA clarify whether it can perform the repetitive checks specified in paragraph (h)(1) of the proposed AD. ABX AIR noted that it operates airplanes converted to a cargo configuration using an STC, so its airplanes are not included in the effectivity of Boeing Service Bulletin 767-28-0118, dated July 15, 2014. ABX AIR asked if it could still do the repetitive checks in accordance with Boeing Service Bulletin 767-28-0118, dated July 15, 2014, without obtaining an AMOC.

The FAA agrees to clarify. The FAA determined that the BITE check procedures in the service bulletin are applicable to all Boeing 767 airplanes. Therefore, it is acceptable to use the procedures specified in the service information even on airplanes that are not listed in the effectivity of Boeing Service Bulletin 767-28-0118, dated July 15, 2014.

Request To Provide Dispensation for Airplanes To Be Retired

British Airways (BA) requested that the proposed AD be revised to provide dispensation for aircraft to be retired,

which would not be prohibitive for operators. BA stated that the only Boeing solution available to comply with the proposed AD is to install an NGS. BA further stated that NGS is not mandatory for operators outside of the U.S. and is a high cost, high work-hour modification.

The FAA infers that the commenter is requesting an extension of the compliance time for airplanes that will be retired by a certain date or for the AD to exclude those airplanes. The FAA notes that the commenter did not propose a specific period of additional time for operation without addressing the unsafe condition, and did not propose any specific alternative corrective actions. The FAA's understanding is that British Airways no longer operates Model 767 airplanes. The FAA also notes that this AD does not require installing an NGS; this AD requires an FQIS modification. If the commenter or another operator wishes to make a specific proposal, they can submit that proposal using the AMOC process specified in paragraph (j) of this AD. The FAA has not changed this AD regarding this issue.

Request To State That an Exemption Is Required

Boeing requested that paragraph (h) of the proposed AD be revised to state that an exemption is required to accomplish the specified actions. Boeing stated that the FAA has identified that the BITE procedure and wire separation design changes specified in the proposed AD are not sufficient for compliance to 14 CFR 25.981(a) at the FQIS level. Boeing stated that an exemption is therefore needed prior to approval of the related design change.

The FAA agrees to clarify. The BITE check is not a type design change or alteration, so no exemption from the airworthiness standards is required for that action. The FAA design data approval of any partial wire separation modification would require an exemption. That exemption would be obtained by the party seeking approval of the alteration data, and no further exemption would be required for the party using that data to alter an aircraft. Obtaining such an exemption would be part of the certification process for such a change, so the FAA does not find it necessary to include such information in paragraph (h) of this AD. In addition, some parties may choose to comply with the AD using a design change that fully complies with the airworthiness standards. The FAA also notes that the commenter appears to misunderstand why an exemption is needed for the required modification. The exemption is

needed because, even with the modification, the FQIS does not comply with 14 CFR 25.901(c) and 14 CFR 25.981(a). The exemption does not authorize evaluation of a partial system for compliance with the system level requirement. The FAA has not changed this AD regarding this issue.

Request To Clarify Certification Basis for Modification Requirements

NATCA recommended that the FAA revise paragraph (g) of the proposed AD to clearly state that the required FQIS design changes must comply with the fail-safe requirements of 14 CFR 25.901(c), as amended by amendment 25–46 (43 FR 50597, October 30, 1978); and 14 CFR 25.981(a) and (b), as amended by amendment 25–102; NATCA added that these provisions are required by SFAR 88.

The FAA does not agree to change paragraph (g) of this AD. While the FAA agrees that modifications to comply with paragraph (g) should be required to comply with the referenced regulations, that requirement already exists in 14 CFR part 21. No change to this AD is necessary.

Request To Require Modification on All Production Airplanes

NATCA recommended that the FAA require designs that comply with 14 CFR 25.901(c) and 25.981(a)(3) on all newly produced transport airplanes. NATCA stated that continuing to grant exemptions to 14 CFR 25.901(c), as amended by amendment 25–40 (42 FR 15042, March 17, 1977); and 14 CFR 25.981(a)(3), as amended by amendment 25–102; has allowed continued production of thousands of airplanes with this known unsafe condition.

The FAA disagrees with the commenter's request. The recommendation to require production airplanes to fully comply with 14 CFR 25.901(c) and 14 CFR 25.981(a)(3) is outside the scope of this rulemaking. The FAA has implemented requirements for all large transport airplanes produced after September 2010 to include flammability reduction methods for tanks that would otherwise be high-flammability fuel tanks. Boeing incorporated this change into the Model 767 series airplanes that are still in production and the FAA has excluded those airplanes from the applicability of this AD. The FAA has not changed this final rule regarding this issue.

Request To Exclude Certain Airplanes

United Airlines (UAL) requested that the FAA revise the proposed AD to exclude airplanes that are affected by 14 CFR 121.1117. UAL noted that the FRM

required by 14 CFR 121.1117 will have been installed on all affected airplanes in passenger configuration by December 26, 2018. UAL suggested that the FAA either delete paragraph (g) of the proposed AD or make paragraph (g) of the proposed AD applicable only to airplanes in a cargo configuration that do not have an FRM installed and non-U.S.-registered airplanes that do not have to comply with FRM requirements.

The FAA disagrees with the commenter's request. There are other passenger-carrying airplanes operated under 14 CFR part 91 that are not required to install FRM. (The requirement to install FRM on all passenger-carrying airplanes operated by air carriers is in 14 CFR 121.1117.) The FAA notes that foreign air carriers may not have to comply with that requirement or similar requirements of their own civil aviation authority. EASA, for example, has chosen not to require FRM to be retrofitted to in-service airplanes. The proposed AD is intended to require any Model 767 series passenger airplane that does not have FRM, regardless of the rules under which it is operated, to address the FQIS latent-plus-one unsafe condition with a corrective action that fully complies with the FAA airworthiness standards. This requirement fulfills the FAA's International Civil Aviation Organization (ICAO) obligation to address unsafe conditions on all of the aircraft manufactured by the state of design, not just those aircraft whose operation is under the jurisdiction of the state of design. The FAA has not changed this AD regarding this issue.

Request To Provide Cost-Effective Method of Compliance

BA and JAL requested that the FAA encourage Boeing to provide a cost-effective method of compliance for passenger airplanes. JAL noted that Boeing expects the NGS installation to be an AMOC for the proposed AD. However, JAL and BA noted that the majority of non-FAA operators are not required to retrofit the NGS system. The commenters requested that the FAA encourage Boeing to develop an acceptable cost-effective method of compliance that does not require installation of an NGS.

The FAA agrees that the lack of service information for FQIS modifications makes it difficult to assess the required work to modify the FQIS, and acknowledges the high cost of NGS. However, the FAA disagrees with the commenters' request. For passenger-carrying airplanes, the cost per airplane of providing a modification of the FQIS that fully complies with the

airworthiness standards was estimated by Boeing and their FQIS vendor (Goodrich) prior to the issuance of the NPRM to be comparable to the cost of installing NGS. Based on that cost estimate, Boeing proposed that they not be required to develop a fully compliant FQIS modification for passenger airplanes because it would not provide significant savings to operators and NGS would provide a greater safety benefit. The FAA agreed. The FAA's understanding is that Boeing's current position is the same, and that they do not plan to develop a fully compliant FQIS modification for passenger airplanes to address paragraph (g) of this AD. However, if service information is developed, approved, and available in the future, operators may request approval under the provisions of paragraph (j) of this AD to use approved service instructions as an AMOC for the requirements of this AD, or the FAA may approve the service information as a global AMOC for this AD. In addition, Boeing has issued Service Bulletin 767–28–0122, Revision 1, dated February 26, 2020, for all-cargo airplanes, and the FAA has revised paragraph (h)(2) of this AD to specify that Boeing Service Bulletin 767–28–0122, Revision 1, dated February 26, 2020, is an acceptable method of compliance. This revision includes adding paragraphs (h)(2)(i) and (ii) of this AD. The FAA has also added paragraph (i) of this AD to provide credit for Boeing Service Bulletin 767–28–0122, dated October 11, 2016, and redesignated subsequent paragraphs accordingly. The FAA has also revised the Estimated Costs for Alternative Actions table in this final rule to include the estimated costs for the wire separation modification specified in Boeing Service Bulletin 767–28–0122, Revision 1, dated February 26, 2020, if operators choose to comply using that method.

The FAA notes that this cost estimate is based on data provided in Boeing Service Bulletin 767–28–0122, dated October 11, 2016, while the cost estimate provided for a modification using methods approved in accordance with the procedures specified in paragraph (h)(2)(i) of this AD (paragraph (h)(2) of the proposed AD) is based on data provided by the manufacturer for Model 757 and 767 airplanes. The FAA had previously determined, as specified in the NPRM, that the work involved for the cargo airplane wire separation modification would take 230 work-hours. Boeing has since provided an updated estimate of 74 work-hours for the alternative modification for cargo airplanes. The FAA has revised the cost

estimate for the modification accordingly in this final rule.

Request To Require Design Changes From Manufacturers

NATCA recommended that the FAA follow the agency’s compliance and enforcement policy to require manufacturers to develop the necessary design changes soon enough to support operators’ ability to comply with the proposed requirements. NATCA noted that SFAR 88 required manufacturers to develop all design changes for unsafe conditions identified by their SFAR 88 design reviews by December 2002, or within an additional 18 months if the FAA granted an extension.

The FAA acknowledges the commenter’s concerns. However, any enforcement action is outside the scope of this rulemaking. The FAA has not changed this final rule regarding this issue.

Request To Address Unsafe Condition on All Fuel Tanks

NATCA recommended that the FAA require design changes that eliminate unsafe FQIS failure conditions on all fuel tanks on the affected models, regardless of fuel tank location or the percentage of time the fuel tank is flammable. NATCA referred to four fuel tank explosions in low-flammability exposure time fuel tanks identified by the FAA during FTFR rulemaking. NATCA stated that neither FRM nor alternative actions for cargo airplanes (e.g., BITE checks (checks of built-in test equipment) followed by applicable repairs before further flight and modification of the center fuel tank FQIS wiring within 60 months) would bring the airplane into full regulatory compliance. NATCA added that the combination of failures described in the NPRM meets the criteria for “known combinations” of failures that require corrective action in FAA Policy Memorandum ANM100–2003–112–15.

The FAA disagrees with the commenter’s request. The FAA has determined that according to Policy Memorandum ANM100–2003–112–15, the failure condition for the airplanes affected by this AD should not be

classified as a “known combination.” While the FQIS design architecture is similar to that of the early Boeing Model 747 configuration that is suspected of contributing to the TWA Flight 800 fuel tank explosion, significant differences exist in the design of FQIS components and wire installations between the affected The Boeing Company models and the early Model 747 airplanes such that the intent of the “known combinations” provision for low-flammability fuel tanks in the policy memorandum is not applicable. Therefore, this AD affects only the identified Boeing airplanes with high-flammability exposure time fuel tanks, as specified in paragraph (c) of this AD. The FAA provided a detailed response to similar comments in the preamble of the final rule for AD 2016–07–07. The FAA has not changed this final rule regarding this issue.

Clarification of Applicability

The FAA has added paragraph (c)(3) to this AD to clarify that airplanes equipped with an ignition mitigation means (IMM) approved by the FAA as compliant with certain regulations are excluded from this AD. The FAA intended for airplanes with compliant IMM to be excluded from the actions required by this AD. The FAA has determined that the installation of an approved IMM provides a level of risk reduction at least as great as that provided by FRM and adequately addresses the unsafe condition.

Clarification of BITE Check Compliance Time

The FAA has revised paragraph (h)(1) of this AD to clarify the compliance time for the BITE check relative to the requirement to record the fault codes. The FAA recognized that operators might interpret the proposed requirements for alternative actions for cargo airplanes as allowing additional flights prior to performing the BITE check after first recording the fault codes. The FAA intended for operators to perform the BITE check immediately after recording the fault codes to address both the fault codes that exist prior to performing the BITE check and any new

codes that are identified during the BITE check.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Service Bulletin 767–28–0118, dated July 15, 2014. This service information describes procedures for a BITE check of the FQIS.

The FAA also reviewed Boeing Service Bulletin 767–28–0122, Revision 1, dated February 26, 2020. This service information describes procedures for modifying the airplane by separating FQIS wiring that runs between the FQIS processor and the center tank wing spar penetrations from other airplane wiring and applicable corrective actions (including correcting loop resistance and electrical bonding resistance).

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

Costs of Compliance

The FAA estimates that this AD affects 261 airplanes of U.S. registry. This estimate includes 255 cargo airplanes; 4 private, business/corporate/executive, or government airplanes; and 2 experimental airplanes. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS: REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modification	1,200 work-hours × \$85 per hour = \$102,000	\$200,000	\$302,000	\$78,822,000

ESTIMATED COSTS: ALTERNATIVE ACTIONS

Action	Labor cost	Parts cost	Cost per product
BITE check	18 work-hours × \$85 per hour = \$1,530 per check.	\$0	\$1,530 per check.
Wire separation (using service information).	Up to 289 work-hours × \$85 per hour = Up to \$24,565	Up to \$51,970	Up to \$76,535.
Wire separation	74 work-hours × \$85 per hour = \$6,290	\$10,000	\$16,290.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2020–18–16 The Boeing Company:
Amendment 39–21237; Docket No. FAA–2016–6141; Product Identifier 2015–NM–048–AD.

(a) Effective Date

This AD is effective November 10, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 767–200, –300, –300F, and –400ER series airplanes, certificated in any category, excluding airplanes identified in paragraphs (c)(1) through (3) of this AD.

(1) Airplanes on which the center auxiliary tank consists only of the spaces between the side of body rib 0 and rib 3 of the left and right wings (*i.e.*, the wing center structural box is a dry bay and is not part of the fuel tank).

(2) Airplanes equipped with a flammability reduction means (FRM) approved by the FAA as compliant with the fuel tank flammability reduction (FTFR) requirements of 14 CFR 25.981(b) or 26.33(c)(1).

(3) Airplanes equipped with an ignition mitigation means (IMM) approved by the FAA as compliant with the FTFR requirements of 14 CFR 25.981(c) or 26.33(c)(2).

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Unsafe Condition

This AD was prompted by the FAA's analysis of the Model 767 fuel system reviews conducted by the manufacturer. The FAA is issuing this AD to prevent ignition sources inside the center fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

(f) Compliance

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

(g) Modification

Within 72 months after the effective date of this AD, modify the fuel quantity indicating system (FQIS) to prevent development of an ignition source inside the center fuel tank due to electrical fault conditions, using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(h) Alternative Actions for Cargo Airplanes

For airplanes used exclusively for cargo operations: As an alternative to the requirements of paragraph (g) of this AD, do the actions specified in paragraphs (h)(1) and (2) of this AD. To exercise this option, operators must perform the first inspection required under paragraph (h)(1) of this AD within 6 months after the effective date of this AD. To exercise this option for airplanes returned to service after conversion of the airplane from a passenger configuration to an all-cargo configuration more than 6 months after the effective date of this AD, operators must perform the first inspection required under paragraph (h)(1) of this AD prior to further flight after the conversion.

(1) Within 6 months after the effective date of this AD, record the existing fault codes stored in the FQIS processor and before further flight thereafter do a BITE check (check of built-in test equipment) of the FQIS, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 767–28–0118, dated July 15, 2014. If any nondispatchable fault code is recorded prior to the BITE check or as a result of the BITE check, before further flight, do all applicable repairs and repeat the BITE check until a successful test is performed with no nondispatchable faults found, in accordance with Boeing Service Bulletin 767–28–0118, dated July 15, 2014. Repeat these actions thereafter at intervals not to exceed 750 flight hours. Modification as specified in paragraph (h)(2) of this AD does not terminate the repetitive BITE check requirement of this paragraph.

(2) Within 72 months after the effective date of this AD, do the actions specified in paragraph (h)(2)(i) or (ii) of this AD.

(i) Modify the airplane by separating FQIS wiring that runs between the FQIS processor and the center tank wing spar penetrations, including any circuits that might pass through a main fuel tank, from other airplane wiring that is not intrinsically safe using methods approved in accordance with the procedures specified in paragraph (j) of this AD.

(ii) Modify the airplane by separating FQIS wiring that runs between the FQIS processor and the center tank wing spar penetrations,

including any circuits that might pass through a main fuel tank, from other airplane wiring that is not intrinsically safe, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 767–28–0122, Revision 1, dated February 26, 2020. Do all applicable corrective actions before further flight.

(i) Credit for Previous Actions

This paragraph provides credit for the actions specified in paragraph (h)(2)(ii) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 767–28–0122, dated October 11, 2016.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (k)(1) of this AD. Information may be emailed to: 9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (j)(4)(i) and (ii) apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(k) Related Information

(1) For more information about this AD, contact Jon Regimbal, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3557; email: Jon.Regimbal@faa.gov.

(2) Service information identified in this AD that is not incorporated by reference is

available at the addresses specified in paragraphs (l)(3) and (4) of this AD.

(l) Material Incorporated by Reference

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

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

(i) Boeing Service Bulletin 767–28–0118, dated July 15, 2014.

(ii) Boeing Service Bulletin 767–28–0122, Revision 1, dated February 26, 2020.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet <https://www.myboeingfleet.com>.

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

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

Issued on August 26, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–21997 Filed 10–5–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0094; Product Identifier 2019–NM–188–AD; Amendment 39–21266; AD 2020–20–10]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2018–06–07, which applied to certain The Boeing Company Model 757–200, –200CB, and –300 series airplanes. AD 2018–06–07 required inspecting the fuselage frame at a certain station for existing repairs, repetitive inspections, and applicable repairs. This AD requires the actions in AD 2018–06–07, with an expanded

inspection area, additional inspections, a modified inspection type, and applicable repairs. This AD was prompted by a report of fatigue cracking found in the fuselage frame at a certain station, which severed the inner chord and web. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 10, 2020.

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

ADDRESSES: For Boeing service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110 SK57, Seal Beach, CA 90740–5600; phone: 562–797–1717; internet: <https://www.myboeingfleet.com>. For Aviation Partners Boeing service information identified in this final rule, contact Aviation Partners Boeing, 2811 S. 102nd Street, Suite 200, Seattle, WA 98168; phone: 206–830–7699; internet: <https://www.aviationpartnersboeing.com>. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2020–0094.

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–2020–0094; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Peter Jarzomb, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5234; fax: 562–627–5210; email: peter.jarzomb@faa.gov.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR

part 39 to supersede AD 2018–06–07, Amendment 39–19227 (83 FR 13398, March 29, 2018) (“AD 2018–06–07”). AD 2018–06–07 applied to all The Boeing Company Model 757–200, –200CB, and –300 series airplanes. The NPRM published in the **Federal Register** on February 18, 2020 (85 FR 8773). The NPRM was prompted by a report of fatigue cracking found in the fuselage frame at station (STA) 1640, which severed the inner chord and web. The NPRM proposed to continue to require the actions in AD 2018–06–07. The NPRM also proposed to require an expanded inspection area, additional inspections, a modified inspection type, and applicable repairs. The FAA is issuing this AD to address cracking of the fuselage frame at STA 1640, which could result in reduced structural integrity of the airplane.

Comments

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

Support for the NPRM

United Airlines stated concurrence with the proposed actions in the NPRM. FedEx Express expressed support for the NPRM.

Request To Clarify Repetitive Intervals as a Function of Configuration and Most Recent Inspections Accomplished

Boeing requested that the “Proposed AD Requirements” paragraph of the NPRM be revised to specify that the repetitive intervals are a function of both the configuration and the most recent inspection option accomplished. Boeing pointed out that the repeat intervals in tables 2 through 11 of Boeing Alert Service Bulletin 757–53A0108, Revision 1, dated July 17, 2019, each provide two options for repeat inspections, depending on whether certain other inspections were last accomplished. Boeing requested that the following wording be used: “. . . depending on the configuration, and the most recent inspection option accomplished.”

The FAA agrees that the requested change would be an accurate clarification. However, the “Proposed AD Requirements” section is included in an NPRM as background information on the proposed requirements to provide adequate information for the public on which to comment. The “Proposed AD Requirements” section is not included in the final rule. The FAA has not changed this AD in this regard.

Request To Clarify Estimated Costs for Required Actions

Boeing requested that the FAA clarify the estimated costs for the required actions specified in the NPRM. Boeing pointed out that the most significant amount of time for the inspections is open and close access, which would be required for each inspection, unless the inspections are combined. Boeing mentioned that the estimated costs in the NPRM only include these hours for the repetitive high frequency eddy current (HFEC) and low frequency eddy current (LFEC) inspections, and suggested separating the costs for open and close access from the inspections. Boeing also mentioned that the detailed inspection is listed as taking 1 work-hour, whereas the service information specifies 0.20 hours per side of each airplane. Boeing went on to point out that the costs for the repetitive HFEC and LFEC inspections in the NPRM appear to include possible combinations of inspections, and to include inspections that are not repetitive. Additionally, Boeing specified that the service information contained some mathematical errors in the manpower estimates.

The FAA agrees to clarify the estimated costs. The work hours required for open and close access are provided under the line item costs for the repetitive HFEC and LFEC inspections, as these are on-going inspections required by this AD. The work-hour estimates in this AD are based on the service information provided to the FAA by the manufacturer; however, it is FAA policy in ADs to round work-hour estimates up to the next full hour. The FAA is unable to predict whether operators will choose to do Option 1 or Option 2 inspections, thus the FAA estimates the highest costs to do the required actions using the best industry data available at the time of publication. The cost estimates in this final rule have been revised to indicate that the costs could be “up to” the highest number of work hours needed for the specified actions.

Request for Matching Compliance Times

American Airlines (AAL) requested that the FAA revise the proposed compliance times for the general visual inspection and the detailed visual inspection to match. AAL stated that the compliance times for the two separate actions should be the same to align with CONDITION 2, specified in Aviation Partners Boeing Service Bulletin AP757–53–001, Revision 2, dated

October 22, 2019. AAL did not provide further reasoning.

The FAA disagrees with the request for matching compliance times. The compliance times do not need to match to align with CONDITION 2, specified in Aviation Partners Boeing Service Bulletin AP757–53–001, Revision 2, dated October 22, 2019. The general visual inspection for repairs was included in Aviation Partners Boeing Alert Service Bulletin AP757–53–001, Revision 1, dated June 21, 2017, and mandated by AD 2018–06–07, and is carried over from the requirements of AD 2018–06–07. Aviation Partners Boeing Service Bulletin AP757–53–001, Revision 2, dated October 22, 2019, introduced a new detailed visual inspection for any crack, nick, or gouge, which specifies a new grace period. Both the general visual and detailed visual inspections must be performed. The FAA expects that most operators will choose to do both the general visual and detailed visual inspections at the earlier compliance time, because the inspections are in the same area and the access requirements are the same; however, from a safety perspective, the inspections do not need to be performed at the same time, and can be performed at their respective compliance times. This AD has not been changed in this regard.

Request To Use Alternative Service Information for Certain Modified Airplanes

VT Mobile Aerospace Engineering Inc. (VT MAE) requested that the FAA allow inspection of certain passenger airplanes converted to a specific freighter configuration (VT MAE Supplemental Type Certificate (STC) ST04242AT, Passenger to 15-Pallet Configuration) using VT MAE 15-Pallet Maintenance Planning Data (MPD) Supplement 757SF–MPD–01. VT MAE pointed out that the STA 1640 frame is completely modified (the existing passenger frame is removed and new frame section is installed). VT MAE also pointed out that the 11866470 FRAME INSTL–STA 1640 drawing is used for the analysis, and that Boeing has performed analysis of the modified airplane, which also includes the Fatigue and Damage Tolerance Analysis of modified aft fuselage structures from STA 1640 to STA 1720 to accommodate 15 full-size pallets. VT MAE then specified that the new STA 1640 frame is inspected as part of the VT MAE MPD Supplement 757SF–MPD–01, which specifies inspections for all of the affected frames and also requires inspection of this new STA 1640 frame (left-hand and right-hand) at the frame

inner chord and the frame web between stringer (S) 16 and S-17. VT MAE also mentioned its plan to submit a request for approval of an alternative method of compliance (AMOC) for airplanes modified using VT MAE STC ST04242AT.

The FAA acknowledges that airplanes modified using VT MAE STC ST04242AT are no longer configured as passenger airplanes. However, the FAA disagrees with the request to include inspections using VT MAE MPD Supplement 757SF-MPD-01 as an appropriate source of service information because sufficient data was not submitted to substantiate that the inspections specified in VT MAE MPD Supplement 757SF-MPD-01 would provide an acceptable level of safety. Under the provisions of paragraph (i) of this AD, the FAA will consider requests for approval of alternative actions and compliance times if sufficient data are submitted to substantiate that the change would provide an acceptable level of safety. The FAA has not changed this AD in this regard.

Request To Refer to Airplanes Modified Using Different STCs

VT MAE requested that the FAA revise paragraphs (g)(3) and (4) of the proposed AD to include reference to airplanes modified using VT MAE STC ST03952AT (Combi to 14-Pallet Configuration). VT MAE explained that the modification to the STA 1640 frame is identical to that of Boeing Model 757-200 special freighter airplanes identified as Group 2 and Group 5 in Boeing Alert Service Bulletin 757-53A0108, Revision 1, dated July 17, 2019. VT MAE pointed out that the modification instructions for the STA 1640 frame is contained in Drawing 657N3160—Frame Instl—Modified, Aft Pallet Mod. VT MAE also proposed utilizing all of the inspections, methods, and compliance times specified in Boeing Alert Service Bulletin 757-53A0108, Revision 1, dated July 17, 2019, for those airplanes.

The FAA agrees for the reasons provided and has revised paragraphs (g)(3) and (4) of this AD to include reference to airplanes modified using VT MAE STC ST03952AT.

Request for Clarification of Interaction of Certain Airplane Configurations

Aviation Partners Boeing (APB) requested that the FAA clarify the interaction of the configurations specified in paragraphs (g)(2) and (3) of the proposed AD (airplanes that have been converted from passenger to freighter configuration using VT MAE STC ST03562AT, and on which APB blended or scimitar blended winglets

are installed using STC ST01518SE). APB stated that it is not clear whether the freighter configuration compliance times or the winglet configuration compliance times take precedence. APB pointed out that STC ST01518SE was not certified for a freighter configuration (factory or STC). APB noted that other STC holders have obtained FAA approval for freighter conversion STCs that include a statement of compatibility with STC ST01518SE (e.g., ST03562AT, ST04242AT, and ST01529SE). APB also mentioned that Aviation Partners Boeing Alert Service Bulletin AP757-53-001, Revision 2, dated October 22, 2019, reduces the compliance times for airplanes identified as Group 1 or Group 3 in Boeing Alert Service Bulletin 757-53A0108, Revision 1, dated July 17, 2019. APB explained that the compliance time reduction is based solely on the interaction of STC ST01518SE with the Boeing type certificated configuration, and does not include effects from any other STCs. APB also stated that Group 4 airplanes are not eligible to install STC ST01518SE, and therefore, there is no conflict for Group 4 airplanes. APB requested that the FAA modify paragraph (g)(2) of the proposed AD to exclude airplanes identified in paragraph (g)(3) of the proposed AD.

The FAA agrees that it is possible for both STC ST03562AT and STC ST01518SE to be incorporated on the same airplane. However, the FAA does not agree that revising paragraph (g)(2) of this AD as requested by the commenter is appropriate. The FAA acknowledges that the compliance times for airplanes with APB winglets installed were developed based solely on the interaction of STC ST01518SE with the Boeing type certificated configuration. However, the FAA also acknowledges that the effects of installing APB winglets on Model 757-200 passenger airplanes converted to freighter configuration in accordance with VT MAE STC ST03562AT have not been evaluated, and that sufficient data was not submitted to substantiate any positive or negative effects on the unsafe condition. The FAA has therefore added paragraph (g)(5) to this AD to specifically address airplanes with both STCs installed.

Request To Allow Certain AMOCs

FedEx Express requested that the FAA allow certain AMOCs approved for AD 2018-06-07, including local frame replacements. FedEx Express stated that it defines a local frame replacement as a frame repair splice between stringers S-9 and S-20 along the STA 1640 fuselage frame, and explained that the

local frame replacement replaces the entire inspection area and does not interfere with the inspections specified in the NPRM. FedEx Express pointed out that its fleet has several local frame replacements along the STA 1640 fuselage frame that have AMOC approval for AD 2018-06-07. FedEx Express also pointed out that it would be required to request new AMOCs for the existing repairs, possibly extending ground time for its fleet.

The FAA agrees for the reasons provided and has included paragraph (i)(5) of this AD to specifically allow AMOCs approved in FAA Letters 790-18-8737, 790-18-9637, 790-18-10097, 790-18-10177, and 790-20-10108, as AMOCs for certain actions required by this AD. The FAA has also included paragraph (g)(6) of this AD to provide inspection instructions for Group 1 airplanes that have been converted from passenger to freighter configuration using VT MAE STC ST03562AT or STC ST03952AT and that have local frame replacements that do not include a reinforcement repair or repair splice member between stringers S-11 and S-16 as specified in FAA AMOC approval Letters 790-18-8737, 790-18-9637, 790-18-10097, 790-18-10177, and 790-20-10108.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Alert Service Bulletin 757-53A0108, Revision 1, dated July 17, 2019. This service information describes procedures for an inspection of the STA 1640 fuselage frame between S-11 and S-16 for existing frame repairs or replacements, a detailed inspection for any crack, nick, or gouge, and repetitive HFEC and LFEC inspections for cracking and repair.

The FAA also reviewed Aviation Partners Boeing Alert Service Bulletin AP757-53-001, Revision 2, dated

October 22, 2019. This service information provides compliance times for accomplishing the procedures identified in Boeing Alert Service Bulletin 757–53A0108, Revision 1, dated July 17, 2019, for airplanes on

which APB blended or scimitar blended winglets are installed.

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

Costs of Compliance

The FAA estimates that this AD affects 606 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection for existing frame repairs or replacements.	1 work-hour × \$85 per hour = \$85.	\$0	\$85	\$51,510.
Detailed inspection	1 work-hour × \$85 per hour	0	\$85	\$51,510.
Repetitive high and low frequency inspections for Groups 1 through 3 airplanes (598 airplanes).	Up to 54 work-hours × \$85 per hour = Up to \$4,590 per inspection cycle.	0	Up to \$4,590 per inspection cycle.	Up to \$2,744,820 per inspection cycle.
Repetitive high and low frequency inspections for Groups 4 and 5 airplanes (8 airplanes).	Up to 48 work-hours × \$85 per hour = Up to \$4,080 per inspection cycle.	0	Up to \$4,080 per inspection cycle.	Up to \$32,640 per inspection cycle.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2018–06–07, Amendment 39–19227 (83 FR 13398, March 29, 2018), and adding the following new AD:

2020–20–10 The Boeing Company:

Amendment 39–21266; Docket No. FAA–2020–0094; Product Identifier 2019–NM–188–AD.

(a) Effective Date

This AD is effective November 10, 2020.

(b) Affected ADs

This AD replaces AD 2018–06–07, Amendment 39–19227 (83 FR 13398, March 29, 2018) ("AD 2018–06–07").

(c) Applicability

This AD applies to all The Boeing Company Model 757–200, –200CB, and –300 series airplanes, certificated in any category.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report of fatigue cracking found in the fuselage frame at station (STA) 1640, which severed the inner chord and web. The FAA is issuing this AD to address cracking of the fuselage frame at STA 1640, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Actions Required for Compliance

(1) For all airplanes except those identified in paragraphs (g)(2) through (6) of this AD: Except as specified by paragraph (h) of this AD, at the applicable times specified in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 757–53A0108, Revision 1, dated July 17, 2019, do all applicable actions identified as "RC" (required for compliance) in, and in accordance with, the Accomplishment Instructions of Boeing Alert Service Bulletin 757–53A0108, Revision 1, dated July 17, 2019.

(2) For airplanes on which Aviation Partners Boeing (APB) blended or scimitar blended winglets are installed using Supplemental Type Certificate (STC) ST01518SE: Except as specified by paragraph (h) of this AD, at the applicable times specified in paragraph 1.E., "Compliance," of Aviation Partners Boeing Alert Service Bulletin AP757–53–001, Revision 2, dated October 22, 2019, do all applicable actions identified as "RC" in, and in accordance with, the Accomplishment Instructions of Aviation Partners Boeing Alert Service Bulletin AP757–53–001, Revision 2, dated October 22, 2019.

(3) For Group 1 airplanes that have been converted from passenger to freighter configuration using VT Mobile Aerospace Engineering Inc. (VT MAE) STC ST03562AT

or STC ST03952AT: Except as specified by paragraph (h) of this AD, at the applicable times specified for Group 2 airplanes in the "Compliance" paragraph of Boeing Alert Service Bulletin 757-53A0108, Revision 1, dated July 17, 2019, do all applicable Group 2 actions, as identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Service Bulletin 757-53A0108, Revision 1, dated July 17, 2019.

(4) For Group 4 airplanes that have been converted from a passenger to freighter configuration using VT MAE STC ST03562AT or VT MAE STC ST03952AT: Except as specified by paragraph (h) of this AD, at the applicable times specified for Group 5 airplanes in the "Compliance" paragraph of Boeing Alert Service Bulletin 757-53A0108, Revision 1, dated July 17, 2019, do all applicable Group 5 actions as identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Service Bulletin 757-53A0108, Revision 1, dated July 17, 2019.

(5) For Group 1 airplanes that have been converted from passenger to freighter configuration using VT MAE STC ST03562AT, and on which APB blended or scimitar blended winglets were installed using STC ST01518SE: Except as specified by paragraph (h) of this AD, before further flight, do all applicable actions using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

(6) For Group 1 airplanes that have been converted from passenger to freighter configuration using VT MAE STC ST03562AT and that have local frame replacements that do not include a reinforcement repair or repair splice member between stringers S-11 and S-16 as specified in FAA AMOC approval Letters 790-18-8737, 790-18-9637, 790-18-10097, 790-18-10177, and 790-20-10108: Do the actions required by paragraph (g)(3) of this AD; except where paragraph (g)(3) requires to do the applicable actions for Group 2, Configuration 2, CONDITION 3, specified in Boeing Alert Service Bulletin 757-53A0108, Revision 1, dated July 17, 2019, do the actions for Group 2, Configuration 2, CONDITION 4, and follow-on actions instead.

(h) Exceptions to Service Information Specifications

(1) Where Boeing Alert Service Bulletin 757-53A0108, Revision 1, dated July 17, 2019, specifies contacting Boeing for repair instructions or for alternative inspections: This AD requires doing the repair, or doing the alternative inspections and applicable on-condition actions using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

(2) Where Boeing Alert Service Bulletin 757-53A0108, Revision 1, dated July 17, 2019, uses the phrase "the original issue date of this service bulletin," this AD requires using "May 3, 2018 (the effective date of AD 2018-06-07)," except where Boeing Alert Service Bulletin 757-53A0108, Revision 1, dated July 17, 2019, uses the phrase "the original issue date of this service bulletin" in a note or flag note.

(3) Where Boeing Alert Service Bulletin 757-53A0108, Revision 1, dated July 17,

2019, uses the phrase "the revision 1 date of this service bulletin," this AD requires using "the effective date of this AD."

(4) Where Aviation Partners Boeing Alert Service Bulletin AP757-53-001, Revision 2, dated October 22, 2019, specifies contacting Boeing for repair instructions or for alternative inspections: This AD requires doing the repair, or doing the alternative inspections and applicable on-condition actions, using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

(5) Where Aviation Partners Boeing Alert Service Bulletin AP757-53-001, Revision 2, dated October 22, 2019, uses the phrase "the revision 1 issue date of this service bulletin," this AD requires using "May 3, 2018 (the effective date of AD 2018-06-07)," except where Aviation Partners Boeing Alert Service Bulletin AP757-53-001, Revision 2, dated October 22, 2019, uses the phrase "the revision 1 issue date of this service bulletin" in a note or flag note.

(6) Where Aviation Partners Boeing Alert Service Bulletin AP757-53-001, Revision 2, dated October 22, 2019, uses the phrase "the revision 2 issue date of this service bulletin," this AD requires using "the effective date of this AD."

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: 9-ANM-LAACO-AMOC-Requests@faa.gov.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Los Angeles ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) Except as specified in paragraph (i)(5) of this AD, AMOCs approved previously for AD 2018-06-07 are not approved as AMOCs for the corresponding provisions of this AD.

(5) AMOCs approved in FAA Letters 790-18-8737, 790-18-9637, 790-18-10097, 790-18-10177, and 790-20-10108, are approved as AMOCs for this AD.

(6) Except as specified by paragraph (h) of this AD: For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (i)(6)(i) and (ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures

identified in an RC step, must be done to comply with the AD. If a step or substep is labeled "RC Exempt," then the RC requirement is removed from that step or substep. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(j) Related Information

For more information about this AD, contact Peter Jarzomb, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712-4137; phone: 562-627-5234; fax: 562-627-5210; email: peter.jarzomb@faa.gov.

(k) Material Incorporated by Reference

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

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

(i) Aviation Partners Boeing Alert Service Bulletin AP757-53-001, Revision 2, dated October 22, 2019.

(ii) Boeing Alert Service Bulletin 757-53A0108, Revision 1, dated July 17, 2019.

(3) For Aviation Partners Boeing service information identified in this AD, contact Aviation Partners Boeing, 2811 S 102nd Street, Suite 200, Seattle, WA 98168; phone: 206 830 7699; internet: <https://www.aviationpartnersboeing.com>.

(4) For Boeing service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110 SK57, Seal Beach, CA 90740-5600; phone: 562-797-1717; internet: <https://www.myboeingfleet.com>.

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

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

Issued on September 23, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020-21994 Filed 10-5-20; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 73**

[Docket No. FAA–2020–0613; Airspace
Docket No. 20–AWP–34]

RIN 2120–AA66

**Revocation of Restricted Area R–4811;
Hawthorne, NV**

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes restricted area R–4811 at Hawthorne, NV. This restricted area was established for the purpose of ordinance disposal. The United States Department of the Army has informed the FAA it no longer has a requirement for this area; therefore, the airspace is being returned to the National Airspace System (NAS).

DATES: Effective date 0901 UTC,
December 31, 2020.

FOR FURTHER INFORMATION CONTACT:
Christopher McMullin, Rules and
Regulations Group, Office of Policy,
Federal Aviation Administration, 800
Independence Avenue SW, Washington,
DC 20591; telephone: (202) 267–8783.

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 the 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 returns restricted area R–4811 Hawthorne, NV, as it is no longer needed for its designated purpose within the NAS.

The Rule

This action amends 14 Code of Federal Regulations (CFR) part 73 by revoking restricted area R–4811, Hawthorne, NV. The Army no longer has a use for the restricted area, which was originally established R–4811 for the purpose of ordinance disposal. The history of the restricted area shows the airspace was activated an average of 179

days per year, but has not been utilized since 2017. Therefore, the FAA has determined that a valid requirement for the airspace no longer exists and the restricted area is being returned to the NAS.

Since this action reduces restricted airspace, the solicitation of comments would only delay the return of airspace to public use without offering any meaningful right or benefit to any segment of the public; therefore, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under Department of Transportation (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 only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action of revoking of R–4811, Hawthorne, NV, qualifies for categorical exclusion under the National Environmental Policy Act and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5.c, “Actions to return all or part of special use airspace (SUA) to the National Airspace System (NAS), such as revocation of airspace, a decrease in dimensions, or a reduction in times of use (e.g., from continuous to intermittent, or use by a Notice to Airmen (NOTAM)).” This action returns restricted airspace to the NAS. Therefore, this airspace action is not expected to result in any significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, this action has been reviewed for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis, and it is determined that no

extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 73

Airspace, Prohibited areas, Restricted areas.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

■ 1. The authority citation for part 73 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.

§ 73.48 Nevada [Amended]

■ 2. Section 73.48 is amended as follows:

* * * * *

R–4811 Hawthorne, NV [Removed]

Issued in Washington, DC, on September 14, 2020.

Scott M. Rosenbloom,
*Acting Manager, Rules and Regulations
Group.*

[FR Doc. 2020–20607 Filed 10–5–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE**Bureau of Industry and Security****15 CFR Part 742**

[Docket No. 200624–0168]

RIN 0694–AH70

**Amendment to Licensing Policy for
Items Controlled for Crime Control
Reasons**

AGENCY: Bureau of Industry and
Security, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security (BIS) is amending the Export Administration Regulations (EAR) by revising, in part, the licensing policy for items controlled for crime control (CC) reasons, which is designed to promote respect for human rights throughout the world. BIS also is amending the EAR to provide that, except for items controlled for short supply reasons, it will consider human rights concerns when reviewing license applications for items controlled for reasons other than CC. This revision is necessary to clarify to the exporting community that licensing decisions are based in part upon U.S. Government

assessments of whether items may be used to engage in, or enable violations or abuses of, human rights including those involving censorship, surveillance, detention, or excessive use of force.

DATES: This rule is effective October 6, 2020.

FOR FURTHER INFORMATION CONTACT:

Sheila Quarterman, Regulatory Policy Division, Office of Exporter Services, at email RPD2@bis.doc.gov or by phone at (202) 482-2440; and refer to RIN-0694-AH70.

SUPPLEMENTARY INFORMATION:

Background

Items on the Commerce Control List (CCL), Supplement No. 1 to part 774 of the Export Administration Regulations (EAR), are listed for multilateral and unilateral control reasons to serve U.S. national security and foreign policy interests. Under the EAR, multiple criteria related to those multilateral and unilateral reasons for control may be considered in reviewing license applications for the export or reexport of items. Under the EAR, multilateral reasons for control include chemical and biological (CB), nuclear nonproliferation (NP), national security (NS), and missile technology (MT) reasons. Unilateral reasons for control include regional stability (RS), crime control (CC) and anti-terrorism (AT) reasons, as well as reasons related to exports of firearms to Organization of American States member countries (FC) and United Nations embargoes (UN). Controls for United Nations Security Council purposes are identified by the abbreviation “UN” in the applicable CCL entries. The “UN” reason for control is described in § 746.2(b) of the EAR.

To date, § 742.7 of the EAR has addressed the licensing of CC equipment and related technology and software (CC-controlled items). The licensing requirement set forth in paragraph (a) and the licensing policy set forth in paragraph (b) of § 742.7 were created to promote the observance of human rights throughout the world. The impact of an export or reexport based on human rights concerns has been a consideration for CC-controlled items. Under the licensing policy set forth in paragraph (b) of § 742.7, BIS will generally consider license applications favorably on a case-by-case basis unless there is civil disorder in the country or region of destination or unless there is evidence that the government of the importing country may have violated internationally recognized human rights.

In this final rule, the Bureau of Industry and Security (BIS) is amending the EAR by revising the licensing policy of paragraph (b) of § 742.7. With these amendments, BIS will both expand its licensing policy as it applies to CC-controlled items and expand its consideration of human rights beyond CC-controlled items to include those items controlled for any other reason, with the exception of items controlled for short supply. Therefore, this final rule amends § 742.7 by revising paragraph (b), in part, to specify in new subparagraph (b)(1) that BIS generally will consider favorably, on a case-by-case basis, license applications for a CC-controlled item unless there is civil disorder in the country or region of destination or if BIS assesses that there is a risk that the items will be used in a violation or abuse of human rights. This revision is necessary to clarify to the exporting community that licensing decisions are based in part upon U.S. Government assessments about whether CC-controlled items may be used to engage in or enable violations or abuses of human rights including through violations and abuses involving censorship, surveillance, detention, or excessive use of force.

This final rule also amends § 742.7 by adding a new subparagraph (b)(2) to make clear that BIS will consider the licensing policy set forth in new subparagraph (b)(1) when reviewing items controlled for reasons other than CC with the exception of items controlled for short supply. This revision furthers the foreign policy interests of the United States pertaining to the prevention of human rights violations and abuses by helping to ensure that items controlled for reasons other than CC are not exported or reexported in support of human rights violations or abuses. This revision is necessary to prevent items currently controlled for reasons other than CC, including reasons related to certain telecommunications and information security and sensors, from being used to engage in or enable the violation or abuse of human rights. As revised, this licensing policy will enable BIS and other reviewing agencies to consider (1) violations or abuses of human rights by individuals or entities other than the government of the importing country and (2) abuses of human rights by the government in addition to violations of internationally recognized human rights.

Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for

Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA), 50 U.S.C. Sections 4801–4852. ECRA provides the legal basis for BIS’s principal authorities and serves as the authority under which BIS issues this rule.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule has been designated to be not significant for purposes of Executive Order 12866. The requirements of Executive Order 13771 do not apply because the rule is not significant.

2. Notwithstanding any other provision of law, no person is required to respond to, nor is subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid OMB control number. This rule affects an approved collection, the Simplified Network Application Processing (control number 0694–0088), which carries a burden hour estimate of 43 minutes, including the time necessary to submit license applications, among other things, as well as miscellaneous and other recordkeeping activities that account for 12 minutes per submission. The amendment to the licensing review policy for items controlled for crime control reasons, which typically are licensable, is not expected to significantly increase the number of submissions under these collections.

3. This rule does not contain policies associated with Federalism as that term is defined under Executive Order 13132.

4. Pursuant to section 1762 of ECRA (*see* 50 U.S.C. 4821), this action is exempt from the Administrative Procedure Act requirements (under 5 U.S.C. 553) for notice of proposed rulemaking, opportunity for public participation, and delay in effective date.

5. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical

requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, are not applicable. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

List of Subjects in 15 CFR Part 742

Exports, Terrorism.

Accordingly, part 742 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

PART 742—[AMENDED]

- 1. The authority citation for part 742 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; Sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23, 68 FR 26459, 3 CFR, 2004 Comp., p. 320; Notice of November 12, 2019, 84 FR 61817 (November 13, 2019).

- 2. Amend § 742.7 by revising paragraph (b) to read as follows:

§ 742.7 Crime control and detection.

* * * * *

(b) *Licensing policy.* (1) Applications for items controlled under this section will generally be considered favorably on a case-by-case basis, unless there is civil disorder in the country or region or unless there is a risk that the items will be used to violate or abuse human rights. The judicious use of export controls is intended to deter human rights violations and abuses, distance the United States from such violations and abuses, and avoid contributing to civil disorder in a country or region.

(2) BIS will review license applications in accordance with the licensing policy in paragraph (b)(1) of this section for items that are not controlled under this section but that require a license pursuant to another section for any reason other than short supply and could be used by the recipient Government or other end user specifically to violate or abuse human rights.

* * * * *

Matthew S. Borman,
Deputy Assistant Secretary for Export Administration.

[FR Doc. 2020–21815 Filed 10–5–20; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 742 and 774

[Docket No. 200921–0252]

RIN 0694–AI04

Controls on Exports and Reexports of Water Cannon Systems

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: In this rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations to impose a license requirement on exports and reexports of water cannon systems for riot or crowd control and parts and components specially designed therefor. This action furthers U.S. foreign policy interests for crime control (CC) reasons and is intended to address the spread of violations of human rights globally by enabling the government to review covered exports and reexports worldwide, except to NATO member countries and certain other military allies. This change will also enable the Government to more effectively control exports of water cannons to the Hong Kong Police Force, consistent with a 2019 Congressional mandate to prohibit the licensing of such transactions. This rule also makes conforming amendments.

DATES: This rule is effective October 6, 2020.

FOR FURTHER INFORMATION CONTACT: Steven Schrader, Foreign Policy Division, Office of Nonproliferation and Treaty Compliance, Bureau of Industry and Security, U.S. Department of Commerce, by email at *Foreign.Policy@bis.doc.gov*, or by phone at 202–482–4252.

SUPPLEMENTARY INFORMATION:

Background

This rule furthers U.S. foreign policy interests for crime control (CC) reasons and is intended to promote the U.S. foreign policy of protecting human rights by imposing a license requirement under the Export Administration Regulations (EAR) for water cannon systems and related items.

Specifically, in this rule, BIS establishes export and reexport controls on water cannon systems for riot or crowd control and parts and components specially designed therefor by creating new Export Control Classification Numbers (ECCN) 0A977, 0D977 and 0E977 within the Commerce

Control List (CCL) of the EAR, Supplement No. 1 to Part 774. A license is now required under the EAR for the export and reexport of water cannon systems and related software and technology to countries that have been designated with an X in CC (crime control) Column 1 of the Commerce Country Chart, Supplement No. 1 to Part 738 of the EAR. This includes most countries worldwide, other than NATO member countries and certain other military allies.

Consistent with the current licensing policy described in § 742.7 of the EAR—Crime control and detection—applications to export or reexport items subject to control pursuant to this rule will generally be considered favorably on a case-by-case basis, unless there is civil disorder in the country or region or unless there is evidence that the government of the importing country may have violated internationally recognized human rights. These ECCN entries include illustrative, but not comprehensive, lists of features and items for additional clarity of what is controlled.

As a conforming change, BIS amends § 742.7 of the EAR by adding ECCNs 0A977, 0D977 and 0E977 to paragraph (a) (*License requirements*), which identifies the license requirements for items controlled for Crime Control reasons on the CCL.

On November 27, 2019, the Congress passed Public Law 116–77 to prohibit the commercial export of covered munitions items to the Hong Kong Police Force (the “Act”). The Act explicitly directs the President to prohibit, starting 30 days after enactment, the issuance of licenses for the export of water cannons, among other items, to the Hong Kong Police Force, unless the President makes certain certifications to Congress beforehand. Prior to this rule, all of the items covered by the licensing prohibition cited in the Act were generally controlled for export to Hong Kong, except for water cannons. With this rule, water cannons and related items will now require a license for export or reexport to Hong Kong, and license applications will be reviewed consistent with all applicable laws.

Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA) (codified, as amended, at 50 U.S.C. 4801–4852). ECRA provides the legal basis for BIS’s principal authorities

and serves as the authority under which BIS issues this rule.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule has not been designated to be a “significant regulatory action” under section 3(f) of Executive Order 12866.

2. This final rule is not subject to the requirements of E.O. 13771 (82 FR 9339, February 3, 2017) because it is issued with respect to a military and foreign affairs function of the United States. In particular, protection of human rights is a foreign affairs function addressed by this rule. Accordingly, this rule meets the requirements set forth in the April 5, 2017, OMB guidance implementing E.O. 13771. See <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/M-17-21-OMB.pdf>.

3. This rule does not contain policies with Federalism implications as that term is defined under Executive Order 13132.

4. Pursuant to section 1762 of the Export Control Reform Act of 2018 (50 U.S.C. 4821), this action is exempt from the Administrative Procedure Act (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date.

5. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

6. Notwithstanding any other provision of law, no person may be required to respond to or be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves a collection currently approved

by OMB under control number 0694–0088, Simplified Network Application Processing System. This collection includes, among other things, license applications, and carries a burden estimate of 42.5 minutes for a manual or electronic submission for a total burden estimate of 31,878 hours. BIS expects the burden hours associated with this collection to minimally increase and have limited impact on the existing estimates. Any comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, may be submitted through www.reginfo.gov/public/do/PRAMain.

List of Subjects

15 CFR Part 742

Exports, Terrorism.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

Accordingly, parts 742 and 774 of the Export Administration Regulations (15 CFR parts 730 through 774) are amended as follows:

PART 742—[AMENDED]

■ 1. The authority citation for part 746 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; Sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23, 68 FR 26459, 3 CFR, 2004 Comp., p. 320; Notice of November 12, 2019, 84 FR 61817 (November 13, 2019).

■ 2. Section 742.7 is amended by revising paragraph (a)(1) to read as follows:

§ 742.7 Crime control and detection.

(a) * * *

(1) Crime control and detection instruments and equipment and related “technology” and “software” identified in the appropriate ECCNs on the CCL under CC Column 1 in the Country Chart column of the “License Requirements” section. A license is required to countries listed in CC Column 1 (Supplement No. 1 to part 738 of the EAR). Items affected by this requirement are identified on the CCL under the following ECCNs: 0A502, 0A504, 0A505.b, 0A977, 0A978, 0A979, 0D977, 0E502, 0E505 (“technology” for

“development” or for “production” of buckshot shotgun shells controlled under ECCN 0A505.b), 0E977, 1A984, 1A985, 3A980, 3A981, 3D980, 3E980, 4A003 (for fingerprint computers only), 4A980, 4D001 (for fingerprint computers only), 4D980, 4E001 (for fingerprint computers only), 4E980, 6A002 (for police-model infrared viewers only), 6E001 (for police-model infrared viewers only), 6E002 (for police-model infrared viewers only), and 9A980.

* * * * *

PART 774—[AMENDED]

■ 3. The authority citation for part 774 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 8720; 10 U.S.C. 8730(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 42 U.S.C. 2139a; 15 U.S.C. 1824; 50 U.S.C. 4305; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 4. In Supplement No. 1 to Part 774, Category 0 is amended by adding ECCN 0A977 between existing ECCNs 0A919 and 0A978 to read as follows:

Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

0A977 Water cannon systems for riot or crowd control, and “parts” and “components” “specially designed” therefor.

License Requirements

Reason for Control: CC 1

<i>Control(s)</i>	<i>Country chart (see Supp. No. 1 to part 738)</i>
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CC applies to entire entry.	CC Column 1.
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List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: N/A

GBS: N/A

Special Conditions for STA

STA: License Exception STA may not be used for 0A977.

List of Items Controlled

Related Controls: N/A

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading.

Note: 0A977 water cannon systems include, for example: vehicles or fixed stations equipped with remotely operated water cannon that are designed to protect the operator from an outside riot with features such as armor, shatter resistant windows, metal screens, bull-bars, or run-flat tires. Components “specially designed” for water

cannons may include, for example: deck gun water nozzles, pumps, reservoirs, cameras, and lights that are hardened or shielded against projectiles, elevating masts for those items, and teleoperation systems for those items.

* * * * *

■ 5. In Supplement No. 1 to part 774, Category 0 is amended by adding ECCN 0D977 between existing ECCNs 0D617 and 0D999 to read as follows:

Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

0D977 “Software” “specially designed” for the “development,” “production” or “use” of commodities controlled by 0A977.

License Requirements

Reason for Control: CC1

<i>Control(s)</i>	<i>Country chart (see Supp. No. 1 to part 738)</i>
CC applies to entire entry.	CC Column 1.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: N/A

GBS: N/A

Special Conditions for STA

STA: License Exception STA may not be used for 0D977.

List of Items Controlled

Related Controls: N/A

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading.

* * * * *

■ 6. In Supplement No. 1 to part 774, Category 0 is amended by adding ECCN 0E977 between existing ECCNs 0E617 and 0E982 to read as follows:

Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

0E977 “Technology” “required” for the “development” or “production” of commodities controlled by 0A977.

License Requirements

Reason for Control: CC1

<i>Control(s)</i>	<i>Country chart (see Supp. No. 1 to part 738)</i>
CC applies to entire entry.	CC Column 1.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: N/A

GBS: N/A

Special Conditions for STA

STA: License Exception STA may not be used for 0E977.

List of Items Controlled

Related Controls: N/A

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 2020–21816 Filed 10–5–20; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 756

[Docket No. 200929–0260]

RIN 0694–AI29

Information Sharing for Purposes of Judicial Review

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security (BIS) has the authority under the Export Control Reform Act of 2018 (ECRA) to enforce the Export Administration Regulations (EAR). This rule sets forth the procedure for classified national security information to be submitted *ex parte* and *in camera* to a court reviewing any agency action under the EAR. BIS is taking this action to safeguard national security information by ensuring that access to such information is controlled.

DATES: This rule is effective October 6, 2020.

FOR FURTHER INFORMATION CONTACT:

Anthony Saler, Email: asaler@doc.gov, Office of Chief Counsel for Industry and Security; Phone: 202–482–5301.

SUPPLEMENTARY INFORMATION: BIS is adding to part 756 of the EAR new § 756.3, which is entitled “Judicial Review of Agency Action.” Section 4.1(e) of Executive Order (E.O.) 13526 provides that “Persons authorized to disseminate classified information outside the executive branch shall ensure the protection of the information in a manner equivalent to that provided within the executive branch.” This section specifies the procedure for providing a reviewing court access to classified information for any agency action under the EAR. By providing such information *ex parte* and *in camera* to a reviewing court, BIS can limit access to the information and prevent public disclosure of the information during the course of litigation.

Executive Order 13526 (75 FR 707)

On December 29, 2009, the President issued E.O. 13526, prescribing a uniform system for classifying, safeguarding, and declassifying national security information. E.O. 13526 provides the legal basis and authority under which BIS issues this rule.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule has not been designated a “significant regulatory action,” and not economically significant, under section 3(f) of Executive Order 12866. This final rule will protect national security information by preventing unauthorized persons from accessing such information in the course of judicial review of any agency action.

2. Notwithstanding any other provision of law, no person may be required to respond to or be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation does not involve any OMB collection of information.

3. This rule does not contain policies with federalism implications as that term is defined under Executive Order 13132.

4. This final rule is not subject to the requirements of Executive Order 13771 (82 FR 9339, February 3, 2017) because the subsection (b) requirement that agencies publish a notice of proposed rulemaking that includes information on the public proceedings does not apply when an agency for good cause finds that the notice and public procedures are impracticable, unnecessary, or contrary to the public interest, and the agency incorporates the finding (and reasons therefor) in the rule that is issued (5 U.S.C. 553(b)(3)(B)). In addition, the section 553(d)(3) requirement that publication of a rule shall be made not less than 30 days before its effective date can be waived

if an agency finds there is good cause to do so.

BIS finds good cause to issue this rule without advance notice and public comment because such procedures are unnecessary, see 5 U.S.C. 553(b)(3)(B). This final rule does not affect any substantive changes to the EAR. It implements the provision in E.O. 13526 that executive branch officials who are authorized to disseminate classified information outside the executive branch ensure the protection of the information in a manner equivalent to that provided within the executive branch. This final rule safeguards classified information by preventing unauthorized persons from accessing classified information submitted to a court reviewing agency action under the EAR. For the same reasons, the Department has determined that this final rule should be issued without a delayed effective date pursuant to 5 U.S.C. 553(d)(3).

5. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, are not applicable. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

List of Subjects in 15 CFR Part 756

Administrative practice and procedure, Appeals, Judicial review.

Accordingly, part 756 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

PART 756—APPEALS AND JUDICIAL REVIEW

- 1. The authority citation for part 756 is revised to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

- 2. The heading for part 756 is revised to read as set forth above.

- 3. Section 756.1 is revised to read as follows:

§ 756.1 Scope.

Section 756.2 describes the procedures applicable to appeals from administrative actions taken under the Export Administration Act (EAA) or the Export Administration Regulations (EAR). (In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C). Section 756.3 describes the procedures under which the Bureau of Industry and Security (BIS) can safeguard national security

information when agency action is under judicial review.

- 4. Section 756.2 is amended by redesignating paragraphs (a) through (d) as paragraphs (b) through (e) and adding a new paragraph (a) to read as follows:

§ 756.2 Appeal from an administrative action.

(a) *Scope.* Any person directly and adversely affected by an administrative action taken by BIS may appeal to the Under Secretary for reconsideration of that administrative action. The following types of administrative actions are not subject to the appeals procedures described in this part:

(1) Issuance, amendment, revocation, or appeal of a regulation. (These requests may be submitted to BIS at any time.)

(2) Denial or probation orders, civil penalties, sanctions, or other actions under parts 764 and 766 of the EAR, except that, any appeal from an action taken under § 766.25 and any appeal from an action taken in accordance with § 766.23 to make an action taken under § 766.25 applicable to a related person shall be subject to the appeals procedures described in this part.

(3) A decision on a request to remove or modify an Entity List entry made pursuant to § 744.16 of the EAR or a decision on a request to remove an Unverified List entry made pursuant to § 744.15 of the EAR.

(4) A decision on whether License Exception Strategic Trade Authorization (STA) is available for “600 series” “end items” pursuant to § 740.20(g) of the EAR.

* * * * *

- 5. Add § 756.3 to read as follows:

§ 756.3 Judicial review of agency action.

(a) *Definition.* For purposes of this section, the term *agency action* has the same meaning given such term in 5 U.S.C. 551(13), *i.e.*, includes the whole or a part of an agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act.

(b) *Classified national security information.* In any judicial review of any agency action under the EAR, if such action was based in whole or in part on classified national security information as defined in Executive Order 13526 (December 29, 2009), such information may be submitted to the reviewing court *ex parte* and *in camera*. This paragraph (b) does not confer or

imply any right to review in any tribunal, judicial or otherwise.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 2020–22077 Filed 10–5–20; 8:45 am]

BILLING CODE 3510–33–P

FEDERAL TRADE COMMISSION

16 CFR Part 303

RIN 3084–AB28

Rules and Regulations Under the Textile Fiber Products Identification Act

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (“FTC” or “Commission”) amends the Rules and Regulations Under the Textile Fiber Products Identification Act (“Textile Rules” or “Rules”) to incorporate the most recent ISO 2076 standard for generic fiber names.

DATES: This rule is effective November 5, 2020. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of November 5, 2020.

FOR FURTHER INFORMATION CONTACT: Jock Chung, (202) 326–2984, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

The Textile Fiber Products Identification Act (“Textile Act”) ¹ and Rules require marketers to, among other things, attach a label to each covered textile product disclosing: (1) The product’s generic names; (2) the percentages, by weight, of its constituent fibers; (3) the name under which the manufacturer or other responsible company does business or, in lieu thereof, the company’s registered identification number; and (4) the name of the country where the product was processed or manufactured.²

Section 303.7 of the Textile Rules (Generic names and definitions for manufactured fibers) establishes the generic names for man-made fibers that manufacturers must disclose. This provision lists the generic names and definitions established by the Commission through its textile petition

¹ 15 U.S.C. 70 *et seq.*

² See 15 U.S.C. 70b(b).

process under § 303.8, and incorporates by reference the generic names and definitions set forth in the ISO 2076 standard.

The Commission cannot automatically incorporate future changes to an incorporated standard.³ Therefore, it periodically updates the Rule's reference to the ISO standard to keep abreast of ISO 2076 amendments.⁴

II. Amendments to the Textile Rules

In a Notice of Proposed Rulemaking ("NPRM") published on February 18, 2020,⁵ the Commission proposed amending § 303.7 to incorporate the most recent version of the relevant ISO standard, ISO 2076:2013(E), "Textiles—Man-made fibres—Generic names." This standard includes seven generic fiber names that are not defined in the currently-incorporated 2010 ISO standard: "chitin," "ceramic," "polybenzimidazol," "polycarbamide," "polypropylene/polyamide bicomponent," "protein," and "trivinylnyl."

In the NPRM, the Commission noted that Commission staff had received several inquiries from manufacturers interested in using the petition process to add "chitin," a name recognized in ISO 2076:2013(E), to the Commission's list of approved generic fiber names. The Commission stated that incorporating the updated ISO standard into the Textile Rules would resolve those requests, save both the Commission and manufacturers resources, and harmonize the two standards without the need to address other ISO recognized names individually.

The Commission did not receive any germane comments. Accordingly, based on the analysis provided in the NPRM, the Commission now amends the Textile Rules to change the Rules' current reference to the ISO 2076:2010(E) standard for generic fiber names to the updated ISO 2076:2013(E) standard.

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

III. Paperwork Reduction Act

The Textile Rules contain recordkeeping and disclosure

requirements that constitute information collection requirements as defined by 5 CFR 1320.3(c), the definitional provision within the Office of Management and Budget ("OMB") regulations that implement the Paperwork Reduction Act ("PRA"). OMB has approved the Rule's existing information collection requirements through May 31, 2021 (OMB Control No. 3084–0101). The amended Textile Rules do not impose any additional collection of information requirements.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, requires that the Commission provide an Initial Regulatory Flexibility Analysis (IRFA) with a Proposed Rule, and a Final Regulatory Flexibility Analysis (FRFA) with the final Rule, unless the Commission certifies that the Rule will not have a significant economic impact on a substantial number of small entities.⁶

The Commission anticipates that the final amendment will not have a significant economic impact on a substantial number of small entities. The amendment incorporates the most recent version of the relevant ISO standard for textile fiber names, ISO 2076:2013(E), and should not increase the costs of small entities that manufacture or import textile fiber products. Instead, the amendment will enable these entities to market products in the United States under seven additional fiber names. Therefore, based on available information, the Commission certifies that amending the Textile Rules will not have a significant economic impact on a substantial number of small businesses. Although the Commission certifies under the RFA that the amendment will not have a significant impact on a substantial number of small entities, the Commission has determined, nonetheless, that it is appropriate to publish a Final Regulatory Flexibility Analysis in order to explain the impact of the amendment on small entities as follows:

A. Description of the Reason for Agency Action

The Commission is amending the Rules to provide greater flexibility in complying with the Rules' disclosure requirements by permitting textile fiber product marketers to market products containing fibers defined in the updated ISO 2076:2013(E) standard.

B. Issues Raised by Comments in Response to the IRFA

The Commission did not receive any comments related to the impact of the final amendment on small businesses. In addition, the Commission did not receive any comments filed by the Chief Counsel for Advocacy of the Small Business Administration.

C. Estimate of Number of Small Entities to Which the Amendments Will Apply

Under the Small Business Size Standards issued by the Small Business Administration, textile apparel manufacturers qualify as small businesses if they have 500 or fewer employees. Clothing wholesalers qualify as small business if they have 100 or fewer employees. The Commission's staff has estimated that approximately 10,744 textile fiber product manufacturers and importers are covered by the Textile Rules' disclosure requirements.⁷ A substantial number of these entities likely qualify as small businesses. The Commission estimates that the amendment will not have a significant impact on these small businesses because it does not impose any new obligations; rather, it permits them to offer more products while complying with the Textile Rules.

D. Projected Reporting, Recordkeeping, and Other Compliance Requirements, Including Classes of Covered Small Entities and Professional Skills Needed To Comply

The amendment is not expected to increase any reporting, recordkeeping, or other requirements associated with the Textile Rules.

E. Description of Steps Taken To Minimize Significant Economic Impact, If Any, on Small Entities, Including Alternatives

The Commission did not propose any specific small entity exemption or other significant alternatives because the amendment is not expected to increase reporting requirements and will not impose any new requirements or compliance costs. No comments identified any new compliance costs.

V. Incorporation by Reference

Consistent with 5 U.S.C. 552(a) and 1 CFR part 51, the Commission incorporates the specifications of the following standard issued by the International Organization of Standardization (ISO): ISO 2076:2013(E), which lists the generic names used to designate the different categories of man-made fibres, based on

³ Specifically, Office of the Federal Register regulations state that incorporation by reference is "limited to the edition of the publication that is approved," and "future amendments or revisions of the publication are not included." See 1 CFR 51.1(f).

⁴ See 79 FR 18766 (Apr. 4, 2014).

⁵ 85 FR 8781 (Feb. 18, 2020).

⁶ 5 U.S.C. 603–605.

⁷ 83 FR 2992, 2993 (Jan. 22, 2015).

a main polymer, currently manufactured on an industrial scale for textile and other purposes, together with the distinguishing attributes that characterize them.

This ISO standard is reasonably available to interested parties. Members of the public can obtain copies of ISO 2076:2013(E) from the International Organization for Standardization, ISO Central Secretariat, Chemin de Blandonnet 8, CP 401–1214 Vernier, Geneva, Switzerland; (+41 22 749 01 11); central@iso.org; <https://www.iso.org/home.html>. They can also obtain copies from the American National Standards Institute, 25 West 43rd Street, Fourth Floor, New York, NY 10036–7417; (212) 642–4900; isot@ansi.org; <https://www.ansi.org>. This ISO standard is also available for inspection at the FTC Library, (202) 326–2395, Federal Trade Commission, Room H–630, 600 Pennsylvania Avenue NW, Washington, DC 20580.

List of Subjects in 16 CFR Part 303

Advertising, Incorporation by reference, Labeling, Recordkeeping, Textile fiber products.

For the reasons discussed in the preamble, the Commission amends part 303 of title 16, Code of Federal Regulations, as follows:

PART 303—RULES AND REGULATIONS UNDER THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACT

■ 1. The authority citation for part 303 continues to read as follows:

Authority: 15 U.S.C. 70 *et seq.*

■ 2. Amend § 303.7:

■ a. By revising the introductory text; and

■ b. In paragraph (v), by removing the words “16 CFR 303.7(c)” and adding, in their place, the words “paragraph (c) of this section”.

The revision reads as follows:

§ 303.7 Generic names and definitions for manufactured fibers.

Pursuant to the provisions of section 7(c) of the Act, the Commission hereby establishes the generic names for manufactured fibers, together with their respective definitions, set forth in this section, and the generic names for manufactured fibers, together with their respective definitions, set forth in International Organization for Standardization (ISO) 2076:2013(E). ISO 2076:2013(E), “Textiles—Man-made fibres—Generic names,” Sixth edition, November 15, 2013, is incorporated by reference into this section with the approval of the Director of the Federal

Register under 5 U.S.C. 552(a) and 1 CFR part 51.

To enforce any edition other than that specified in this section, the Federal Trade Commission must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the Federal Trade Commission, 600 Pennsylvania Avenue NW, Room H–630, Washington, DC 20580, (202) 326–2222, and is available from: (a) The International Organization for Standardization, ISO Central Secretariat, Chemin de Blandonnet 8, CP 401–1214 Vernier, Geneva, Switzerland; (+41 22 749 01 11); central@iso.org; <https://www.iso.org/home.html>; and (b) the American National Standards Institute, 25 West 43rd Street, Fourth Floor, New York, NY 10036–7417; (212) 642–4900; isot@ansi.org; <https://www.ansi.org>. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email fedreg.legal@nara.gov, or go to <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

* * * * *

By direction of the Commission,
Commissioner Slaughter not participating.

April J. Tabor,

Acting Secretary.

[FR Doc. 2020–19515 Filed 10–5–20; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–658]

Schedules of Controlled Substances: Placement of Remimazolam in Schedule IV

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Interim final rule with request for comments.

SUMMARY: On July 2, 2020, the U.S. Food and Drug Administration approved a new drug application for BYFAVO (remimazolam) for intravenous use. Remimazolam is chemically known as 4*H*-imidazo[1,2-*a*][1,4]benzodiazepine-4-propionic acid, 8-bromo-1-methyl-6-(2-pyridinyl)-(4*S*)-methyl ester, benzenesulfonate (1:1) and also, methyl 3-[(4*S*)-8-bromo-1-methyl-6-pyridin-2-yl-4*H*-imidazo[1,2-*a*][1,4]benzodiazepin-4-yl]propanoate benzenesulfonic acid.

The Department of Health and Human Services provided the Drug Enforcement Administration (DEA) with a scheduling recommendation to place remimazolam and its salts in schedule IV of the Controlled Substances Act (CSA). In accordance with the CSA, as amended by the Improving Regulatory Transparency for New Medical Therapies Act, DEA is hereby issuing an interim final rule placing remimazolam, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible, in schedule IV of the CSA.

DATES: The effective date of this rulemaking is October 6, 2020. Interested persons may file written comments on this rulemaking in accordance with 21 U.S.C. 811(j)(3) and 21CFR 1308.43(g). Electronic comments must be submitted, and written comments must be postmarked, on or before November 5, 2020. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after 11:59 p.m. Eastern Time on the last day of the comment period.

Interested persons may file a request for hearing or waiver of hearing in accordance with 21 U.S.C. 811(j)(3) and 21 CFR 1308.44. Requests for hearing and waivers of an opportunity for a hearing or to participate in a hearing, together with a written statement of position on the matters of fact and law asserted in the hearing, must be received on or before November 5, 2020.

ADDRESSES: To ensure proper handling of comments, please reference “Docket No. DEA–658” on all correspondence, including any attachments.

• *Electronic comments:* The Drug Enforcement Administration (DEA) encourages that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <http://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon completion of your submission, you will receive a Comment Tracking Number for your comment. Please be aware that submitted comments are not instantaneously available for public view on [Regulations.gov](http://www.Regulations.gov). If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

• *Paper comments:* Paper comments that duplicate the electronic submission are not necessary and are discouraged.

Should you wish to mail a paper comment *in lieu of* an electronic comment, it should be sent via regular or express mail to: Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, VA 22152.

• **Hearing requests:** All requests for hearing and waivers of participation must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for hearing and waivers of participation should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrisette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152.

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

SUPPLEMENTARY INFORMATION:

Posting of Public Comments

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

business information to be redacted within the comment.

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

An electronic copy of this document and supplemental information, including the complete Department of Health and Human Services (HHS) and DEA eight-factor analyses, to this interim final rule are available at <http://www.regulations.gov> for easy reference.

Request for Hearing or Waiver of Participation in a Hearing

Pursuant to 21 U.S.C. 811(a), this action is a formal rulemaking "on the record after opportunity for a hearing." Such proceedings are conducted pursuant to the provisions of the Administrative Procedure Act (APA), 5 U.S.C. 551-559. 21 CFR 1308.41-1308.45; 21 CFR part 1316, subpart D. Such requests or notices must conform to the requirements of 21 CFR 1308.44(a) or (b), and 1316.47 or 1316.48, as applicable, and include a statement of the person's interests in the proceeding and the objections or issues, if any, concerning which the person desires to be heard. Any waiver must conform to the requirements of 21 CFR 1308.44(c) and may include a written statement regarding the interested person's position on the matters of fact and law involved in any hearing.

All requests for a hearing and waivers of participation must be sent to DEA using the address information provided above.

Background and Legal Authority

Under the CSA, as amended in 2015 by the Improving Regulatory Transparency for New Medical Therapies Act (section 2(b) of Pub. L. 114-89), DEA is required to commence an expedited scheduling action with respect to certain new drugs approved by the Food and Drug Administration (FDA). As provided in 21 U.S.C. 811(j), this expedited scheduling is required where both of the following conditions apply: (1) The Secretary of HHS has advised DEA that a New Drug

Application (NDA) has been submitted for a drug that has a stimulant, depressant, or hallucinogenic effect on the central nervous system (CNS), and that it appears that such drug has an abuse potential; and (2) the Secretary of HHS recommends that DEA control the drug in schedule II, III, IV, or V pursuant to 21 U.S.C. 811(a) and (b). In these circumstances, DEA is required to issue an interim final rule controlling the drug within 90 days.

Subsection (j)(2) states that the 90-day timeframe starts the later of (1) the date DEA receives HHS' scientific and medical evaluation/scheduling recommendation, or (2) the date DEA receives notice of the NDA approval by HHS. Subsection (j)(3) specifies that the rulemaking shall become immediately effective as an interim final rule without requiring DEA to demonstrate good cause therefore. Thus, the purpose of subsection (j) is to speed the process by which DEA schedules newly approved drugs that are currently either in schedule I or not controlled (but which have sufficient abuse potential to warrant control) so that such drugs may be marketed without undue delay following FDA approval.¹

Subsection (j)(3) further provides that the interim final rule shall give interested persons the opportunity to comment and to request a hearing. After the conclusion of such proceedings, DEA must issue a final rule in accordance with the scheduling criteria of 21 U.S.C. 811(b) through (d) and 812(b).

Remimazolam (4*H*-imidazol[1,2-*a*][1,4]benzodiazepine-4-propionic acid, 8-bromo-1-methyl-6-(2-pyridinyl)-(4*S*)-methyl ester, benzenesulfonate (1:1) or methyl 3-[(4*S*)-8-bromo-1-methyl-6-pyridin-2-yl-4*H*-imidazo[1,2-*a*][1,4]benzodiazepin-4-yl]propanoate benzenesulfonic acid), is a new molecular entity with CNS depressant properties. Remimazolam is an agonist at gamma-aminobutyric acid subtype A (GABA_A) receptors. On April 5, 2019, Cosmo Technologies, Ltd. (Sponsor) submitted an NDA for BYFAVO (remimazolam) to FDA with a proposed dose of 5.0 mg (intravenous; i.v.) with supplemental doses of 2.6 mg (i.v.). On July 2, 2020, DEA received notification that FDA, on the same date, approved the NDA for BYFAVO (remimazolam), under section 505(c) of the Federal Food, Drug, and Cosmetic Act (FDCA), to be used as an i.v. treatment for the induction and maintenance of

¹ Given the parameters of subsection (j), in DEA's view, it would not apply to a reformulation of a drug containing a substance currently in schedules II through V for which an NDA has recently been approved.

procedural sedation in adults undergoing procedures lasting 30 minutes or less. In January 2020, remimazolam was approved for marketing in Japan for general anesthesia.²

Determination To Schedule Remimazolam

On July 10, 2020, DEA received from HHS a scientific and medical evaluation (dated April 15, 2020) entitled “Basis for the Recommendation to Control Remimazolam and its Salts in Schedule IV of the Controlled Substances Act” and a scheduling recommendation. Pursuant to 21 U.S.C. 811(b) and (c), this document contained an eight-factor analysis of the abuse potential, legitimate medical use, and dependence liability of remimazolam, along with HHS’s recommendation to control remimazolam and its salts under schedule IV of the CSA.

In response, DEA reviewed the scientific and medical evaluation and scheduling recommendation provided by HHS, along with all other relevant data, and completed its own eight-factor review pursuant to 21 U.S.C. 811(c). DEA concluded that remimazolam meets the 21 U.S.C. 812(b)(4) criteria for placement in schedule IV of the CSA.

Pursuant to subsection 811(j), and based on HHS’ recommendation, NDA approval by HHS/FDA, and DEA’s determination, DEA is issuing this interim final rule to schedule remimazolam as a schedule IV controlled substance under the CSA.

Included below is a brief summary of each factor as analyzed by HHS and DEA, and as considered by DEA in its scheduling action. Please note that both DEA and HHS analyses are available in their entirety under “Supporting Documents” in the public docket for this interim final rule at <http://www.regulations.gov>, under Docket Number “DEA-658.” Full analysis of, and citations to, the information referenced in the summary may also be found in the supporting and related material.

1. Its Actual or Relative Potential for Abuse

Remimazolam is a new molecular entity that has not been marketed in the United States, and was approved in Japan for general anesthesia in January 2020. Evidence regarding its diversion, illicit manufacturing, or deliberate ingestions is lacking. DEA notes that there are no reports for remimazolam in the National Forensic Laboratory

Information System (NFLIS),³ which collects drug cases submitted to and analyzed by state and local forensic laboratories. There were also no reports in STARLiMS,⁴ DEA’s laboratory drug evidence data system of record.

As stated by HHS, remimazolam is so related in action to depressant drugs such as benzodiazepines in schedule IV that it is reasonable to assume that there may be comparable diversions from legitimate channels, use contrary to or without medical advice, and capability of creating hazards to the users and to the safety of the community. Preclinical and clinical studies show that remimazolam has similar pharmacological mechanism of action as an agonist at the GABA_A receptors as midazolam. Data gathered from general behavior studies indicate remimazolam produces a sedative effect, and similar abuse-related effects in humans and in animal studies to those of midazolam, a schedule IV depressant. It is likely that remimazolam has similar abuse potential and is likely to be abused for its depressant effects, contrary to medical advice.

2. Scientific Evidence of Its Pharmacological Effects, if Known

Remimazolam shares similar pharmacological mechanism of action via GABA_A receptor agonism as schedule IV benzodiazepines, such as midazolam. The GABA_A receptor is a ligand-gated chloride ion channel consisting of five subunits and a central chloride channel. Benzodiazepines enhance the opening of the ligand-gated chloride channel and the influx of chloride.

Remimazolam, similar to schedule IV benzodiazepines, has sedative activity in animals. Acute administration of remimazolam in rats elicited dose-dependent behaviors indicative of sedative and muscle relaxation properties of the drug. In a drug

³ NFLIS represents an important resource in monitoring illicit drug trafficking, including the diversion of legally manufactured pharmaceuticals into illegal markets. NFLIS is a comprehensive information system that includes data from forensic laboratories that handle more than 96% of an estimated 1.0 million distinct annual State and local drug analysis cases. NFLIS includes drug chemistry results from completed analyses only. While NFLIS data is not direct evidence of abuse, it can lead to an inference that a drug has been diverted and abused. See 76 FR 77330, 77332, Dec. 12, 2011. NFLIS data were queried April 23, 2020.

⁴ On October 1, 2014, DEA implemented STARLiMS (a web-based, commercial laboratory information management system) to replace the System to Retrieve Information from Drug Evidence (STRIDE) as its laboratory drug evidence data system of record. DEA laboratory data submitted after September 30, 2014, are reposit in STARLiMS. STARLiMS data were queried May 5, 2020.

discrimination study using male rats previously trained to discriminate midazolam, remimazolam produced interoceptive cues that are similar to those of midazolam. Remimazolam was self-administered variably based on session duration. In the shorter-access paradigm (two-hour sessions), only two of four monkeys tested self-administered remimazolam, whereas for the longer-access paradigm (24-hour sessions), all four monkeys self-administered remimazolam at a rate higher than placebo and pentobarbital, the reference drug (a schedule II or III depressant).⁵

In human abuse potential studies, remimazolam, in agreement with its mechanism of action as a GABA_A receptor agonist, produced subjective responses and abuse-related neuropharmacology profile similar to that of midazolam, a schedule IV depressant.

3. The State of Current Scientific Knowledge Regarding the Drug or Other Substance

Remimazolam is a new molecular entity. It is chemically known as 4*H*-imidazol[1,2-*a*][1,4]benzodiazepine-4-propionic acid, 8-bromo-1-methyl-6-(2-pyridinyl)-(4*S*)-methyl ester, benzenesulfonate (1:1) and also as methyl 3-[(4*S*)-8-bromo-1-methyl-6-pyridin-2-yl-4*H*-imidazo[1,2-*a*][1,4]benzodiazepin-4-yl]propanoate benzenesulfonic acid. It is a white to off-white powder that is freely soluble in water. In preclinical studies, remimazolam, an ester based drug, is rapidly hydrolyzed by tissue esterases, primarily in the liver by carboxylesterase-1, and results in one inactive metabolite. In humans, acute administration of the proposed therapeutic dose (5 mg, i.v.) of remimazolam resulted in rapid onset sedative effects (one to three minutes), fast time to maximal plasma concentration (*T*_{max}, nine minutes), and a short half-life (twenty minutes).

4. Its History and Current Pattern of Abuse

There is no information on the history and current pattern of abuse for

⁵ The HHS review of remimazolam incorrectly stated that pentobarbital was a schedule IV substance. FDA/Controlled Substance Staff through an email correspondence confirmed that it was an inadvertent error in the HHS review. Pentobarbital is currently controlled as schedule II (21 CFR 1308.12(e)), or as schedule III if any material, compound, mixture, or preparation containing any quantity of pentobarbital having a depressant effect on the central nervous system (21 CFR 1308.13(c)(1)), or any suppository dosage form and its salts that are approved by FDA for marketing only as a suppository (21 CFR 1308.13(c)(2)).

² Keam SJ (2020). Remimazolam: First Approval. *Drugs*; 80(6):625–633.

remimazolam, since it has not been marketed, legally or illegally, in the United States, and only recently in Japan. HHS notes that the abuse potential of remimazolam is similar to that of schedule IV benzodiazepines. Therefore, if remimazolam were available for marketing, it is likely to be abused in a manner similar to schedule IV benzodiazepines, such as midazolam.

DEA conducted a search of NFLIS and STARLIMS databases for remimazolam encounters. No records of encounters by law enforcement were identified in these databases, which is consistent with the fact that remimazolam is a new molecular entity.

The pharmacological mechanism of action of remimazolam through GABA_A receptor agonism suggests that its pattern of abuse would be similar to schedule IV depressants with a similar mechanism of action, such as midazolam.

5. The Scope, Duration, and Significance of Abuse

Remimazolam is not marketed in the United States, legally or illegally, and marketed only recently in Japan. However, because of remimazolam's pharmacological similarities to schedule IV benzodiazepines, remimazolam, similar to these schedule IV substances, is likely to be abused when available in the market.

6. What, If Any, Risk There Is To the Public Health

According to HHS, the public health risk associated with remimazolam is due to its abuse potential and is largely borne by the individual. Data from preclinical and clinical studies showed that remimazolam has abuse potential similar to that of the schedule IV depressant midazolam. In clinical studies when remimazolam was given to healthy individuals, adverse events such as euphoric mood and somnolence occurred; thus, remimazolam produced rewarding and depressant effects, as would be expected from a benzodiazepine. Therefore, upon availability for marketing, it is likely to pose a public health risk to a degree similar to schedule IV benzodiazepines, such as midazolam.

7. Its Psychic or Physiological Dependence Liability

As described in the HHS review, the Sponsor conducted a study related to physical dependence liability produced by remimazolam in six cynomolgus monkeys (0.5, 0.75, and 1.0 mg/kg/h, continuous i.v. infusion for 28 days) and psychic dependence liability in 39 humans (doses tested 5 and 10 mg, i.v.).

During extended daily dosing administrations lasting a period of 28 days, all monkeys showed depressant signs, such as ataxia, slowed motion, and hyporeactivity. During the discontinuation phase, all monkeys showed withdrawal signs including: Facial apprehension, hyperirritability, piloerection, muscle rigidity, retching and vomiting, tremors, restlessness, and impaired motor activity. Decreases in food consumption and body weights were also observed. Severe withdrawal symptoms such as dissociation from the environment, systemic convulsions, and continuously prone position for 25 hours were observed in one monkey, and remimazolam administration lessened this withdrawal syndrome in this monkey. HHS concluded that remimazolam produces physical dependence, as evidenced by the withdrawal syndrome observed after its chronic administration was discontinued.

Remimazolam produced positive subjective responses to ratings of Drug Liking, Overall Drug Liking, Good Drug Effects, and Take Drug Again in a human abuse potential study. The responses were significantly higher than the placebo and similar to midazolam, a schedule IV depressant. HHS concluded that remimazolam can produce psychic dependence to a similar extent as midazolam.

8. Whether the Substance is an Immediate Precursor of a Substance Already Controlled Under the CSA

Remimazolam is not an immediate precursor of any controlled substance, as defined by 21 U.S.C. 802(23).

Conclusion: After considering the scientific and medical evaluation conducted by HHS, HHS's recommendation, and its own eight-factor analysis, DEA has determined that these facts and all relevant data constitute substantial evidence of potential for abuse of remimazolam. As such, DEA hereby schedules remimazolam as a controlled substance under the CSA.

Determination of Appropriate Schedule

The CSA lists the findings required to place a drug or other substance in any particular schedule (I, II, III, IV, or V). 21 U.S.C. 812(b). After consideration of the analysis and recommendation of the Assistant Secretary for Health of HHS and review of all available data, the Acting Administrator of DEA, pursuant to 21 U.S.C. 812(b)(4), finds that:

1. Remimazolam Has a Low Potential for Abuse Relative to the Drugs or Other Substances in Schedule III.

Remimazolam, similar to that of the schedule IV drug midazolam, is an agonist at GABA_A receptors. Remimazolam produced depressant effects in general behavior assessments, and generalized to midazolam (schedule IV) in a drug discrimination study in animals, demonstrating it has GABA_A receptor agonist properties. In a human abuse potential study, remimazolam at the therapeutic and supra-therapeutic doses produced positive subjective responses such as Drug Liking, Overall Drug Liking, Good Drug Effects, and Take Drug Again similar to those of midazolam (schedule IV) and significantly higher than placebo. Furthermore, data from other clinical studies show that remimazolam produced abuse-related adverse events, namely euphoria and somnolence. Because remimazolam is similar to midazolam (schedule IV) in its abuse potential, remimazolam has a lower potential for abuse relative to the drugs or other substances in schedule III.

2. Remimazolam Has a Currently Accepted Medical Use in the United States.

FDA recently approved the NDA for BYFAVO (remimazolam) injection for use in the induction and maintenance of procedural sedation in adults undergoing procedures lasting 30 minutes or less. Thus, remimazolam has a currently accepted medical use for treatment in the United States.

3. Remimazolam May Lead To Limited Physical Dependence or Psychological Dependence Relative to the Drugs or Other Substances in Schedule III.

Remimazolam shares a similar pharmacology profile with benzodiazepine drugs. Abrupt discontinuation of benzodiazepines is associated with withdrawal symptoms. Remimazolam produced withdrawal symptoms after abrupt discontinuation in monkeys, indicative of physical dependence, similar to that of benzodiazepines. In addition, remimazolam produced positive subjective responses and euphoria-related adverse events in a human abuse potential study. It is likely that remimazolam can produce psychic dependence similar to midazolam. Thus, abuse of remimazolam may lead to limited physical or psychological dependence relative to the drugs or other substances in schedule III of the CSA.

Based on these findings, the Acting Administrator of DEA concludes that remimazolam warrants control in schedule IV of the CSA. 21 U.S.C. 812(b)(4).

Requirements for Handling Remimazolam

Remimazolam is subject to the CSA's schedule IV regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, reverse distribution, dispensing, importing, exporting, research, and conduct of instructional activities and chemical analysis with, and possession involving schedule IV substances, including the following:

1. *Registration.* Any person who intends to handle (manufactures, distributes, reverse distributes, dispenses, imports, exports, engages in research, or conducts instructional activities or chemical analysis with, or possesses) remimazolam, or who desires to handle remimazolam, 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. Any person who currently handles or intends to handle remimazolam and is not registered with DEA must submit an application for registration and may not continue to handle remimazolam unless DEA has approved that application for registration, 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.* Any person who does not desire or is not able to maintain a schedule IV registration must surrender all quantities of currently held remimazolam or may transfer all quantities of remimazolam to a person registered with DEA in accordance with 21 CFR part 1317, in addition to all other applicable Federal, State, local, and tribal laws.

3. *Security.* Remimazolam is subject to schedule III–V security requirements and must be handled and stored in accordance with 21 CFR 1301.71–1301.77. Non-practitioners handling remimazolam must also comply with the employee screening requirements of 21 CFR 1301.90–1301.93.

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

5. *Inventory.* Every DEA registrant who possesses any quantity of remimazolam must take an inventory of remimazolam on hand, pursuant to 21 U.S.C. 827 and 958, and in accordance

with 21 CFR 1304.03, 1304.04, and 1304.11.

Any person who becomes registered with DEA to handle remimazolam must take an initial inventory of all stocks of controlled substances (including remimazolam) on hand on the date the registrant first engages in the handling of controlled substances, pursuant to 21 U.S.C. 827 and 958(e), and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

After the initial inventory, every DEA registrant must take a new inventory of all stocks of controlled substances (including remimazolam) on hand every two years, pursuant to 21 U.S.C. 827 and 958(e), and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

6. *Records and Reports.* DEA registrants must maintain records and submit reports for remimazolam, pursuant to 21 U.S.C. 827, 832(a), and 958(e), and in accordance with 21 CFR 1301.74(b) and (c) and parts 1304, 1312, and 1317.

7. *Prescriptions.* All prescriptions for remimazolam, or products containing remimazolam, must comply with 21 U.S.C. 829, and be issued in accordance with 21 CFR parts 1306 and 1311, subpart C.

8. *Manufacturing and Distributing.* In addition to the general requirements of the CSA and DEA regulations that are applicable to manufacturers and distributors of schedule IV controlled substances, such registrants should be advised that (consistent with the foregoing considerations) any manufacturing or distribution of remimazolam may only be for the legitimate purposes consistent with the drug's labeling, or for research activities authorized by the FDCA and CSA.

9. *Importation and Exportation.* All importation and exportation of remimazolam must 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 remimazolam not authorized by, or in violation of, the CSA or its implementing regulations, is unlawful, and may subject the person to administrative, civil, and/or criminal sanctions.

Regulatory Analyses

Administrative Procedure Act

Section 553 of the APA (5 U.S.C. 553) generally requires notice and comment for rulemakings. However, 21 U.S.C. 811(j) provides that in cases where a certain new drug is (1) approved by HHS, under section 505(c) of the FDCA and (2) HHS recommends control in

CSA schedule II–V, DEA shall issue an interim final rule scheduling the drug within 90 days. As stated in the legal authority section, the 90-day time frame is the later of: (1) the date DEA receives HHS's scientific and medical evaluation/scheduling recommendation, or (2) the date DEA receives notice of the NDA approval by HHS. Additionally, subsection (j) specifies that the rulemaking shall become immediately effective as an interim final rule without requiring DEA to demonstrate good cause.

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

In accordance with 21 U.S.C. 811(a) and (j), this scheduling action is subject to formal rulemaking procedures performed “on the record after opportunity for a hearing,” which are conducted pursuant to the provisions of 5 U.S.C. 556 and 557. The CSA sets forth the procedures and criteria for scheduling a drug or other substance. Such actions are exempt from review by the Office of Management and Budget (OMB) pursuant to section 3(d)(1) of Executive Order (E.O.) 12866 and the principles reaffirmed in E.O. 13563.

This interim final rule is not an E.O. 13771 regulatory action pursuant to E.O. 12866 and OMB guidance.⁶

Executive Order 12988, Civil Justice Reform

This regulation 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 rulemaking does not have federalism implications warranting the application of E.O. 13132. The 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.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This rule does not have tribal implications warranting the application of E.O. 13175. It does not have

⁶ Office of Mgmt. & Budget, Exec. Office of The President, Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 Titled “Reducing Regulation and Controlling Regulatory Costs” (Feb. 2, 2017).

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.

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. Under 21 U.S.C. 811(j), DEA is not required to publish a general notice of proposed rulemaking. Consequently, the RFA does not apply to this interim final rule.

Unfunded Mandates Reform Act of 1995

In accordance with the Unfunded Mandates Reform Act (UMRA) of 1995, 2 U.S.C. 1501 *et seq.*, DEA has determined that this action would not result in any Federal mandate that may result “in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any 1 year.” Therefore, neither a Small Government Agency Plan nor any other action is required under UMRA of 1995.

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. This action would not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. 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 rule is not a major rule as defined by the Congressional Review Act (CRA), 5 U.S.C. 804. This rule 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 companies to compete with foreign-based companies in domestic and export markets. However, pursuant to the CRA, DEA has submitted a copy of this interim final rule 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 21 CFR part 1308 continues to read as follows:

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

■ 2. In § 1308.14:

■ a. Redesignate paragraphs (c)(51) through (c)(57) as (c)(52) through (c)(58); and

■ b. Add new paragraph (c)(51).

The addition reads as follows:

§ 1308.14 Schedule IV.

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Timothy J. Shea,

Acting Administrator.

[FR Doc. 2020–19313 Filed 10–5–20; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[TD 9924]

RIN 1545–B032

Income Tax Withholding From Wages

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document sets forth final regulations that provide guidance for employers concerning income tax withholding from employees' wages. These final regulations concern the amount of Federal income tax employers withhold from employees' wages, implement changes in the Internal Revenue Code made by the Tax Cuts and Jobs Act, and reflect the redesigned withholding allowance certificate (Form W–4) and related IRS publications. These final regulations affect employers that pay wages subject to Federal income tax withholding and employees who receive wages subject to Federal income tax withholding.

DATES:

Effective date: These final regulations are effective on October 6, 2020.

Applicability dates: For dates of applicability see §§ 31.3402(a)–1(h), 31.3402(b)–1(b), 31.3402(c)–1(f), 31.3402(f)(1)–1(c), 31.3402(f)(2)–1(h), 31.3402(f)(3)–1(d), 31.3402(f)(4)–1(e), 31.3402(f)(5)–1(d), 31.3402(f)(6)–1(c), 31.3402(g)–1(d), 31.3402(h)(4)–1(c), 31.3402(i)–1(b), 31.3402(l)–1(e), 31.3402(m)–1(f), and 31.3402(n)–1(f).

FOR FURTHER INFORMATION CONTACT: Concerning these final regulations, Mikhail Zhidkov of the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes), (202) 317–4774 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 3402(a)(1) provides that, except as otherwise provided in section 3402, every employer making a payment of wages shall deduct and withhold from such wages a tax determined in accordance with tables or computational procedures prescribed by the Secretary of the Treasury. Section 3402(a)(1) further provides that any tables or procedures prescribed under section 3402(a)(1) shall be in such form, and provide for such amounts to be deducted and withheld, as the Secretary determines to be most appropriate to carry out the purposes of chapter 1 (imposition of individual income tax). Section 3402 sets forth certain methods of withholding but also gives the Secretary broad regulatory authority in providing for tables or computational procedures for income tax withholding.

Generally, employers apply the withholding tables or computational procedures based on the entries on the Form W–4 the employee furnishes the employer. An employee who receives wages subject to withholding under section 3402 is required to furnish his or her employer a Form W–4 on commencement of employment or, generally, within 10 days after the employee experiences a “change of status” that reduces the “withholding allowance” to which the employee is entitled. *See* section 3402(f)(2).

An employee completes Form W–4 based on the employee's personal tax situation by applying the factors listed in section 3402(f)(1). Section 3402(f)(1) describes the combination of these factors as the employee's “withholding allowance.” Once an employee completes a valid Form W–4, the employee must furnish the Form W–4 to the employer. The employer puts the Form W–4 into effect in accordance with the timing rules in section

3402(f)(3). Once in effect, the employer generally applies the entries on an employee's Form W-4 (the withholding allowance) to compute the amount of income tax to withhold from the employee's regular wages under either the percentage method of withholding or the wage bracket method of withholding. *See* section 3402(b) and (c).¹

In certain cases, the IRS may issue an employer a lock-in letter that notifies the employer in writing that an employee is not entitled to claim exemption from withholding or is not entitled to the withholding allowance claimed on the employee's Form W-4 and prescribes the withholding allowance the employer must use to figure withholding. If the employer employs the employee at the time the employer receives the lock-in letter, the employer must furnish the employee notice of the lock-in letter within 10 days of receipt of the lock-in letter. In this case, the employer must withhold in accordance with the lock-in letter as of the date specified in the lock-in letter, which cannot be any earlier than 45 calendar days after the date of issuance of the lock-in letter.

After the lock-in letter becomes effective, the IRS may issue a subsequent notice (modification notice) modifying the lock-in letter. Generally, a modification notice is issued only after the employee contacts the IRS to request an adjustment to the withholding prescribed in the lock-in letter. In certain cases, if warranted, the IRS may issue a notice releasing the employee from the lock-in program. If the employee is subject to a lock-in letter or modification notice, the employer may put in effect a Form W-4 only if doing so results in more withholding than specified by the lock-in letter or modification notice. Finally, an employee who was subject to a lock-in letter or modification notice, who terminates employment and then resumes employment with the same employer within 12 months of termination, remains subject to the lock-in letter or the modification notice withholding instructions upon resuming the employment.

TCJA Changes

Prior to the Tax Cuts and Jobs Act, Public Law 115-97, 131 Stat. 2054 (2017) (TCJA), one withholding exemption was equal to the amount of one personal exemption provided in section 151(b), prorated to the payroll period. *See* section 3402(a)(2) (2017). TCJA enacted section 151(d)(5), which reduced the personal exemption amount to zero for the years 2018–2025. *See* TCJA section 11041(a). TCJA also increased the standard deduction under section 63, increased the child tax credit under section 24, and created a new credit under section 24 for other dependents. *See* TCJA sections 11021 and 11022.

TCJA permanently modified the wage withholding rules in section 3402(a)(2) and, replaced “withholding exemptions” with a “withholding allowance, prorated to the payroll period.” *See* TCJA section 11041(c)(1). TCJA also repealed section 3401(e), which, prior to TCJA, provided, for purposes of chapter 24 (relating to collection of income tax at source on wages), that the “number of withholding exemptions claimed” meant the number of withholding exemptions claimed in a withholding exemption certificate in effect under section 3402(f) or in effect under the corresponding section of prior law, except that if no such certificate was in effect, the number of withholding exemptions claimed was considered zero. *See* TCJA section 11041(c)(2)(A).

TCJA modified section 3402(f), and defined a “withholding allowance,” which is determined based on the factors listed in section 3402(f)(1). *See* TCJA section 11041(c)(2)(B). TCJA further changed the list of factors on which the withholding allowance is based and added that the withholding allowance is determined based on rules determined by the Secretary. *See* TCJA section 11041(c)(2)(B). This change to section 3402(f)(1) revised section 3402(f)(1)(C), entitling an employee to take into account the number of individuals for which the employee expects to take an income tax credit under section 24 instead of the number of individuals with respect to whom the employee reasonably expects to claim a deduction under section 151. Section 3402(f)(1)(D) also changed an employee's entitlement to take into account the standard deduction from an amount generally equal to one withholding exemption to the standard deduction allowable to such employee (one-half of the standard deduction in the case of an employee who is married and whose spouse is an employee

receiving wages subject to withholding). Finally, TCJA added section 3402(f)(1)(F), which provides that the employee's withholding allowance also takes into account “whether the employee has withholding allowance certificates in effect with respect to more than one employer.” *See* TCJA section 11041(c)(2)(B).

TCJA also made conforming changes to the “change of status” rules in section 3402(f)(2), changing “withholding exemptions” to “withholding allowance” and striking out “exemption” and inserting “allowance” in various subsections of section 3402. This resulted in a conforming change to the statutory name of the withholding exemption certificate in section 3402(f)(5) to the withholding allowance certificate. *See* TCJA sections 11041(c)(2)(B) and (C).

TCJA amended section 3402(m) by changing the reference from “withholding allowances” to “withholding allowance.” *See* TCJA sections 11041(c)(2)(D) and (E). TCJA added the section 199A deduction to the list of deductions in section 3402(m)(1) that an employee may take into account in determining the additional withholding allowance that the employee is entitled to claim on Form W-4, and struck the reference to section 62(a)(10) in section 3402(m)(1) with respect to certain payments made under divorce or separation instruments previously described in section 62(a)(10). *See* TCJA sections 11011(b)(4) and 11051(b)(2)(B).

The legislative history of TCJA states that “the Secretary of the Treasury is to develop rules to determine the amount of tax required to be withheld by employers from a taxpayer's wages.” H.R. Rep. No. 115-466, at 203 (2017).

Guidance Addressing TCJA

TCJA allowed the Secretary of the Treasury to administer section 3402 before January 1, 2019, without regard to the changes described above. *See* TCJA section 11041(f)(2). Nevertheless, on January 11, 2018, the Treasury Department and the IRS released Notice 1036, “Early Release Copies of the 2018 Percentage Method Tables for Income Tax Withholding,” which implemented TCJA's tax rate changes, standard deduction, and suspension of the deduction under section 151. The Treasury Department and the IRS designed the 2018 withholding tables to work with the Forms W-4 that employees had already furnished their employers. On February 28, 2018, the Treasury Department and the IRS updated Form W-4, “Employee's Withholding Allowance Certificate,”

¹ Special rules under § 31.3402(g)-1 of the current regulations apply to “supplemental wages”. In the case of supplemental wages in excess of \$1,000,000, employers must disregard the entries on the employee's Form W-4 and apply a mandatory flat rate of withholding. In the case of supplemental wages of less than \$1,000,000, employers may either disregard the entries on the employee's Form W-4 and withhold using the optional flat rate or may use an aggregate procedure, taking into consideration the entries on the Form W-4 furnished by the employee.

incorporating TCJA's changes in the 2018 Form W-4's worksheets and updated the online withholding calculator (now called the Tax Withholding Estimator) to reflect TCJA changes. Notice 2018-14, 2018-7 I.R.B. 353, published February 12, 2018, allowed continued use of the 2017 Form W-4 temporarily in 2018 and included a relief provision for employees who experienced changes in their tax circumstances solely attributable to TCJA.

Notice 2018-92, 2018-51 I.R.B. 1038, published December 17, 2018, addressed some of TCJA's changes to section 3402 and provided interim rules for the 2019 calendar year. Section 3 of Notice 2018-92 addressed TCJA's use of "withholding allowance" (singular) and provided that withholding allowances (plural) were to be used for wage withholding computational procedures in 2019. Under section 3 of Notice 2018-92, any reference to a withholding exemption in the regulations and other guidance under section 3402 was to be applied as if it were a reference to a withholding allowance. Section 4 of Notice 2018-92 extended the relief provided in Notice 2018-14 for changes in tax circumstances solely attributable to TCJA. Section 5 of Notice 2018-92 addressed the repeal of section 3401(e) and provided rules for employees who fail to furnish a valid Form W-4. Section 6 of Notice 2018-92 allowed employees to include the employee's estimated deduction under section 199A in determining the additional withholding allowance under section 3402(m) that the employee is entitled to claim on Form W-4. Section 7 of Notice 2018-92 allowed taxpayers to use the online withholding calculator (now called the Tax Withholding Estimator) or Publication 505, "Tax Withholding and Estimated Tax," in lieu of the Form W-4 worksheets. Section 8 of Notice 2018-92 requested comments on alternative withholding methods under section 3402(h) and announced that the IRS and the Treasury Department intended to eliminate the combined income tax withholding and employee Federal Insurance Contributions Act (FICA) tax withholding tables under § 31.3402(h)(4)-1(b). Section 9 of Notice 2018-92 confirmed that an employer in receipt of a lock-in letter should not send a response to the IRS when the employer no longer employs the employee (within the meaning of § 31.3402(f)(2)-1(g)(2)(iii)).

2019 Form W-4

In June 2018, the Treasury Department and the IRS released a draft 2019 Form W-4 and draft instructions

for public comment. The 2019 draft Form W-4 and instructions incorporated significant changes intended to improve the accuracy of income tax withholding and make the withholding system more transparent for employees. Many comments were received on the draft form and instructions. In response to comments received from stakeholders, the Treasury Department and the IRS announced on September 20, 2018, that implementation of the redesigned form would be postponed until 2020, and that the Treasury Department and the IRS would continue working closely with stakeholders as additional changes were made to the form for 2020. For 2019, however, Notice 2018-92 announced that the 2019 Form W-4 would include minimal changes to the 2018 Form W-4 and would continue to apply section 3402 by using the existing withholding system under which employees claimed a number of withholding allowances on a valid Form W-4.

In addition, the amount of each withholding allowance for 2019, like for the years before it, was set to what would have been the value of a personal or dependency exemption under section 151(b) prior to enactment of TCJA. *See* Rev. Proc. 2018-57, 2018-49 I.R.B. 827, sections 2.03 and 3.25. For calendar years 2018 through 2025, however, the exemption amount is zero. *See* section 151(d)(5)(A). Moreover, the high value of each withholding allowance (\$4,050 for 2017, \$4,150 for 2018, and \$4,200 for 2019) led to rounding errors that made it difficult for some employees to have their withholding equal their tax liability for the year. Accuracy was even more difficult to achieve for employees claiming tax credits, as these amounts first had to be converted into tax deductions and then expressed as a number of withholding allowances. In addition to limiting accuracy, the use of withholding allowances to compute withholding is not intuitive, given that wages, deductions, credits, and taxes are all expressed as dollar amounts, rather than as a number of withholding allowances. Although the 2019 or earlier Forms W-4 allowed an employee to achieve a high degree of accuracy if the employee requested an additional dollar amount to be withheld and/or used the online withholding calculator (now called the Tax Withholding Estimator) or Publication 505 in completing the Form W-4, most employees did not use these options.

Redesigned Form W-4, Employee's Withholding Certificate

To address the limitations of the 2019 Form W-4, on May 31, 2019, a draft of a redesigned 2020 Form W-4 was released for public comment. The redesigned Form W-4 was intended to reduce the combined complexity of the form, instructions, and worksheets and to increase the transparency and accuracy of the withholding system. The redesigned Form W-4 uses the same underlying information as the 2019 Form W-4 but replaces complex worksheets with more straightforward questions. The redesigned Form W-4 was released on December 4, 2019, and then was rereleased on December 31, 2019, to reflect a change in the medical expense deduction threshold under section 213 for 2020 made by the Further Consolidated Appropriations Act, 2020, Public Law 116-94, 133 Stat. 2534, 3228 (2019).

The redesigned Form W-4 does not use withholding allowances. An employee selects a filing status (single, married filing separately, head of household, married filing jointly, or qualifying widow(er)) on the Form W-4, and this entry generally results in the basic standard deduction relating to the filing status being taken into account in determining the amount of tax withheld from the employee's pay. In addition, the redesigned Form W-4 streamlines the multiple jobs procedures and gives employees three options to account for a working spouse or multiple jobs held concurrently. Specifically, employees may (1) use the Tax Withholding Estimator to achieve accurate withholding; (2) complete the Multiple Jobs Worksheet and enter an additional amount to withhold from pay for each pay period; or (3) check the box in Step 2(c) on the redesigned Form W-4 to request withholding using higher withholding rate tables. For married taxpayers filing jointly with two jobs held concurrently, the effect of checking the box in Step 2(c) is similar to selecting "Married, but withhold at higher Single rate" on a 2019 or earlier Form W-4. The redesigned Form W-4 also allows an employee to enter dollar amounts for tax credits, other income, and deductions the employee expects to claim on his or her income tax return to reflect the permitted allowance under sections 3402(f)(1)(C) and (f)(1)(D) and the increase in the amount of withholding under section 3402(i).

Publication 15-T, Federal Income Tax Withholding Methods

On June 7, 2019, the IRS released for public comment a draft of Publication

15-T, "Federal Income Tax Withholding Methods," which provided percentage method tables, wage bracket withholding tables, and other computational procedures for employers to use to compute withholding for employees for the 2020 calendar year, including for employees who furnished a redesigned Form W-4 to be effective for 2020. After stakeholder feedback, Publication 15-T was revised and rereleased on August 13, 2019, and was rereleased on November 4, 2019. Publication 15-T was finalized and released on December 24, 2019.

Publication 15-T prescribes percentage method tables, wage bracket withholding tables, discussion on alternative withholding methods, and Tables for Withholding on Distributions of Indian Gaming Profits to Tribal Members. These tables and discussions, which were formerly published in Publication 15 (Circular E), "Employer's Tax Guide," Publication 15-A, "Employer's Supplemental Tax Guide," and Publication 51, "Agricultural Employer's Tax Guide," are now published only in Publication 15-T, "Federal Income Tax Withholding Methods." However, in 2020, the IRS discontinued publishing Formula Tables for Percentage Method Withholding (for Automated Payroll Systems), Wage Bracket Percentage Method Tables (for Automated Payroll Systems), and Combined Federal Income Tax, Employee Social Security Tax, and Employee Medicare Tax Withholding Tables. In addition, the IRS has discontinued publishing Notice 1036, "Early Release Copies of the Percentage Method Tables for Income Tax Withholding," effective beginning with calendar year 2020, and instead will post information previously included in Notice 1036 in early release drafts of Publication 15 (www.irs.gov/Pub15) and Publication 15-T (www.irs.gov/Pub15T) for use by employers and the payroll community. For percentage method and wage bracket withholding tables, Publication 15-T describes different withholding computational procedures and different tables for 2019 or earlier Forms W-4 than for Forms W-4 from 2020 or later (the redesigned Forms W-4).

Notice of Proposed Rulemaking

On February 13, 2020, a notice of proposed rulemaking (proposed regulations) (REG-132741-17) was published in the **Federal Register** (85 FR 8344) to update the regulations under sections 3401 and 3402 for legislative changes, including TCJA, and expand the rules in the regulations to accommodate the changes necessary to

fully implement the redesigned Form W-4 and its related computational procedures, along with most existing computational procedures applicable to 2019 or earlier Forms W-4. These changes are explained in detail in the preamble to the proposed regulations.

The IRS did not receive any requests for a public hearing on the proposed regulations, and therefore no public hearing was held. Written comments responding to the proposed regulations were received and are available for public inspection and copying at <http://www.regulations.gov> or upon request. After full consideration of the comments received on the proposed regulations, this Treasury decision adopts the proposed regulations with revisions as described in the Summary of Comments and Explanation of Revisions.

Summary of Comments and Explanation of Revisions

The Treasury Department and the IRS received seven written comments in response to the proposed regulations. Some of the comments propose changes to the Form W-4 or related instructions, publications, or other guidance that would not require a change to the proposed regulations themselves. One commenter made a general comment about the complexity of income tax withholding from wages but did not offer any comments specific to the proposed regulations. Except to the extent that the comments raise issues related to the proposed regulations, the comments are beyond the scope of the proposed regulations, and therefore are not addressed in this Summary of Comments and Explanation of Revisions. However, the comments will remain under consideration for future revisions to forms, instructions, publications, and other guidance relating to income tax withholding from wages, including revisions to the Form W-4.

1. Requirement To Maintain Two Systems To Determine Withholding

Two commenters expressed concern that the proposed regulations and the related forms, instructions, publications, and other guidance require maintenance of two different systems for computing income tax withholding from wages: One system for 2019 or earlier Forms W-4, and another system for redesigned Forms W-4. According to these commenters, these two systems complicate computer programming and exacerbate inaccuracy of employees' withholding determined using 2019 or earlier Forms W-4. These commenters requested that all employees should be required to furnish a redesigned Form

W-4. One commenter stated that requiring all employees to furnish a redesigned Form W-4 would simplify computer programming and make employees more aware of TCJA changes to the wage withholding rules. The other commenter stated that not requiring employees to furnish a redesigned Form W-4 would increase burden on employers and would confuse employees who commence employment with a second or third employer that pays wages subject to income tax withholding for which the employee has to complete a redesigned Form W-4 while the employee still has 2019 or earlier Form(s) W-4 in effect with one or more employers.

The Treasury Department and the IRS note that section 3402(f)(4) generally requires that a Form W-4 continue in effect with respect to an employer until another Form W-4, furnished by the employee, takes effect under the rules in section 3402. Thus, an employer must continue withholding according to the Form W-4 submitted by an employee until the employee furnishes the employer a new Form W-4. In addition, section 11041 of TCJA does not require all employees to submit new Forms W-4 to conform to changes to the wage withholding rules in TCJA. In contrast, section 1581 of the Tax Reform Act of 1986, Public Law 99-514, 100 Stat. 2085, 2101 (1987), explicitly required all employees to furnish new Forms W-4 as a result of the changes made to the statute. In other words, although TCJA and the Tax Reform Act of 1986 both enacted significant changes to the income tax withholding rules in chapter 1, only the Tax Reform Act of 1986 mandated that employees furnish new Forms W-4. Therefore, the final regulations do not require all employees with a 2019 or earlier Form W-4 in effect to furnish a redesigned Form W-4.

Nevertheless, the Treasury Department and the IRS acknowledge the commenters' concerns and address them in two ways: (1) Through instructions to the redesigned Form W-4 for employees with multiple jobs and (2) through optional computational "bridge" entries permitted under these regulations and described in Publication 15-T.

First, in redesigning the Form W-4, the Treasury Department and the IRS were aware of the challenges facing employees who have multiple employers paying wages subject to withholding and who have 2019 or earlier Form(s) W-4 in effect in completing the redesigned Form W-4. The redesigned 2020 Form W-4 includes instructions advising

employees that, “[t]o be accurate, submit a 2020 Form W-4 for all other jobs.” The IRS intends to continue providing an updated version of this instruction on Forms W-4 for future years.

Second, to address commenters’ concerns relating to employers maintaining separate withholding systems, these regulations adopt optional computational bridge entries that will allow employers to continue in effect 2019 or earlier Forms W-4 as if the employees had furnished redesigned Forms W-4. This will allow employers to use one process for both 2019 and earlier Forms W-4 and 2020 and later Forms W-4 and free employers from the need to use the number of allowances data field from 2019 and earlier Forms W-4 once the employers apply the appropriate computational bridge entries for their employees. Accordingly, starting for calendar year 2021, the IRS intends to include instructions in Publication 15-T for these optional computational bridge entries. The computational bridge entries will allow employers to use the computational procedures and data fields for the redesigned Form W-4 to arrive at the equivalent withholding for an employee that would have applied using the computational procedures and data fields related to a 2019 or earlier Form W-4 furnished by the employee.

Specifically, Publication 15-T will provide for four adjustments to accurately implement the computational bridge entries. First, Publication 15-T will provide for treating an employee as having made an entry on line 1(c) (filing status) of the redesigned Form W-4 that most accurately reflects the employee’s entry on line 3 (marital status) of a 2019 or earlier Form W-4. In this regard, an employee will be treated as having selected “single or married filing separately” on the redesigned form if the employee selected either “single” or “married, but withhold at higher single rate” on a 2019 or prior Form W-4. An employee will be treated as having selected “married filing jointly” on the redesigned form if the employee selected “married” on a 2019 or prior Form W-4.

Second, Publication 15-T will provide for treating an employee as also having made an entry in step 4(a) (other income (not from jobs)) on the redesigned Form W-4 based on the marital status on line 3 of a 2019 or earlier Form W-4 to help offset the full basic standard deduction that has otherwise been incorporated in tables related to the various filing statuses in step 1(c) of the redesigned Form W-4. In particular, the employer would treat

the employee as having entered the value of two allowances corresponding to a single employee’s filing status and the value of three allowances corresponding to a married employee’s filing status in Step 4(a) of the redesigned Form W-4.

Third, Publication 15-T will provide for treating an employee as having made an entry in step 4(b) (deductions) of the redesigned Form W-4 to replicate the effect of allowances claimed on line 5 (number of allowances) of a 2019 or earlier Form W-4. In particular, the employer would multiply the number of allowances claimed on line 5 of a 2019 or earlier Form W-4 by \$4,300 and treat the employee as having entered the product in Step 4(b) of the redesigned Form W-4.

Finally, fourth, Publication 15-T will provide for treating an employee as having made an entry in step 4(c) (extra withholding) of the redesigned Form W-4 to replicate the effect of any additional amount that the employee requested to have withheld using line 6 (additional amount withheld from each paycheck) on a 2019 or earlier Form W-4. In particular, the employer would treat the employee as having entered any additional amount the employee requested to have withheld from each paycheck on line 6 of a 2019 or earlier Form W-4 in Step 4(c) of the redesigned Form W-4.²

To facilitate the use of the computational bridge entries, starting in 2021, the IRS will no longer index the withholding allowance to reflect cost-of-living adjustments to what would have been the value of a personal or dependency exemption in section 151(b) prior to enactment of TCJA. The withholding allowance will be fixed at \$4,300 in 2021. Thus, employers that choose to implement the computational bridge entries starting in 2021 will not have to make any adjustments to employees’ withholding entries that the employee is treated as having made on the redesigned Form W-4 within their system unless the employee furnishes a new, redesigned Form W-4.

For example, for the year 2021 and its withholding allowance of \$4,300, an

employer determining withholding from wages for an employee with a 2019 Form W-4 in effect on which the employee reported a marital status of single (or married, but withhold at a higher single rate) and one withholding allowance would compute withholding for the employee as if the employee had made the following entries on a 2021 Form W-4: Single or married filing separately in Step 1(c) (filing status), an entry of \$8,600 in Step 4(a) (other income (not from jobs)) and an entry of \$4,300 in Step 4(b) (deductions) to determine withholding from wages for this employee. In this case, the computational bridge entries that the employee is treated as having made in Step 1(c), Step 4(a), and Step 4(b) of the 2021 Form W-4 replicate the effect of selecting single and one withholding allowance on the 2019 Form W-4.

Use of the computational bridge entries will be optional; the IRS intends to continue publishing withholding tables and procedures for employers that choose to continue computing withholding using the computational procedures related to 2019 or earlier Forms W-4 furnished by employees. The computational bridge entries apply only for Forms W-4 that were properly put in effect on or before December 31, 2019, and that continue in effect under section 3402(f)(4). The computational bridge entries are not intended to continue 2019 or earlier computational procedures, including the use of a number of withholding allowances, for redesigned Forms W-4. Furthermore, if an employee is either required, or chooses, to furnish a new Form W-4, the use of the computational bridge entries by an employer does not change the requirement that the employee must use the current year’s revision of the Form W-4 when furnishing a new Form W-4 to his or her employer.³

Accordingly, these final regulations revise § 31.3402(f)(4)-1(a) to provide that an employer’s use of the computational bridge entries to adapt a 2019 or earlier Form W-4 to the redesigned computational procedures as if using entries on a redesigned Form W-4 will continue in effect, within the meaning of section 3402(f)(4), a 2019 or earlier Form W-4 that was properly in effect on or before December 31, 2019.

2. Lock-in Letters or Modification Notices

One commenter expressed concern about whether a lock-in letter under which an employer is required to

² For employers that use the computational bridge entries for nonresident alien employees with 2019 or earlier Forms W-4 in effect, the procedures in Publication 15-T will provide for an entry on the redesigned form to replicate the effect of allowances claimed on a 2019 or earlier Form W-4, as well as an entry for any additional amount the nonresident alien requested to be withheld on a 2019 or earlier Form W-4. Publication 15-T will instruct employers that choose to use the computational bridge entries for nonresident alien employees with a 2019 or earlier Form W-4 in effect to apply the general procedures applicable to nonresident alien employees who furnish a redesigned Form W-4.

³ Near the end of a year, an employee may furnish the Form W-4 revision for the following calendar year to take effect for the following calendar year.

withhold based on instructions using 2019 or earlier Form W-4 computational procedures ceases to be effective because of the redesign of the Form W-4 until a new lock-in letter using redesigned Form W-4 computational procedures is issued to the employer. Under current regulations, once an employer is required to furnish the employee a copy of the lock-in letter, the lock-in letter becomes effective. It remains effective until the IRS issues the employer a modification notice, including a modification notice releasing the employee from a lock-in letter or a prior modification notice, or until the employee furnishes the employer a Form W-4 that requests more withholding than required under the lock-in letter or modification notice. If the employee is no longer employed by the employer, the lock-in letter generally does not apply because the employer generally is not paying wages subject to withholding. Under the proposed regulations and these final regulations, employers are no longer required to notify the IRS that they no longer employ an employee for whom a lock-in letter was issued.

These final regulations follow the proposed regulations and do not require the IRS to reissue lock-in letters or modification notices solely because of the redesign of the Form W-4. Employers may not assume that a lock-in letter or modification notice ceases to be effective because of changes resulting from the redesigned Form W-4 and related withholding procedures. Unless the employee furnishes the employer a Form W-4 that results in more withholding than under the lock-in letter or modification notice, the employer must continue following any lock-in letter or modification notice until the IRS releases the employee from the program.

For ease of administering the withholding instructions in lock-in letters or modification notices that were based on 2019 or earlier Forms W-4, employers may use the optional computational bridge entries discussed in section 1 of this Summary of Comments and Explanation of Revisions to comply with the requirement to withhold based on the maximum withholding allowance and filing status permitted in a lock-in letter or modification notice and to adapt to the redesigned Form W-4 and computational procedures. For example, for calendar year 2021, based on a withholding allowance of \$4,300, an employer that is determining withholding from wages for an employee subject to a lock-in letter that

uses 2019 computational procedures and instructs the employer use a filing status of single and a maximum withholding allowance of zero allowances, may comply with the lock-in letter by using the following computational bridge entries on a 2021 Form W-4: An entry of single or married filing separately in Step 1(c), an entry of \$8,600 in Step 4(a) (other income (not from jobs)) to further account for the effect of the withholding instructions directing an employer to withhold from the employee using the single filing status, and an entry of \$0 in Step 4(b) (deductions) to replicate the effect of the employee's maximum withholding allowance of zero withholding allowances.

These final regulations revise the rules in § 31.3402(f)(2)–1(g)(2)(iv) (relating to lock-in letters) and (vii) (relating to modification notices) to provide that an employer may comply with a lock-in letter or modification notice that is based on a 2019 or earlier Form W-4, as required by the regulations, if the employer implements the maximum withholding allowance and filing status permitted in a lock-in letter or modification notice by using the computational bridge entries as set forth in forms, instructions, publications, and other guidance prescribed by the Commissioner to calculate withholding for a 2019 or earlier Form W-4.

Another commenter stated that lock-in letters and modification notices should be revised in such a way that makes it easier for employers to compare withholding based on a lock-in letter or modification notice to withholding based on the redesigned Form W-4. Specifically, this commenter notes that the new entries on the redesigned Form W-4 make it more difficult for employers to determine whether a newly furnished Form W-4 results in more withholding than a lock-in letter or modification notice that the employer was required to put in effect. The commenter's suggestions regarding the contents of the lock-in letters or modifications notices do not require changes to the proposed regulations because the language of the proposed regulations is broad enough to accommodate the commenter's suggestions to the letters and notices. Accordingly, the proposed regulations regarding the contents of the lock-in letter or modification notice will be adopted as final without change. However, these comments will be considered in future revisions of the lock-in letter and modification notice.

Furthermore, to ease the employer's burden in determining whether a Form

W-4 furnished by an employee for whom a lock-in letter or modification notice is in effect results in more withholding (and thus may be put into effect), the Treasury Department and the IRS note that employers may use the Income Tax Withholding Assistant for employers available on www.irs.gov. The Income Tax Withholding Assistant can aid in estimating the amount of tax to be withheld from employee's wages based on a Form W-4 furnished by the employee, which can be compared to the withholding required pursuant to a lock-in letter or modification notice. The Income Tax Withholding Assistant is a software tool that is designed to help small employers with manual payroll systems compute the amount of income tax to withhold from employees' wages. Employers enter the employees' pay frequency, wages, and Form W-4 entries, and the software tool computes the amount of income tax that is required to be withheld from employees' wages. This software tool is compatible with 2019 or earlier Forms W-4, as well as with the 2020 Form W-4, and is designed to be used by employers that use the income tax withholding tables in Publication 15–T.

The same commenter also suggested that employees who are subject to a lock-in letter or modification notice be restricted from making certain entries on a Form W-4 that they furnish to an employer that must withhold pursuant to a lock-in letter or modification notice. However, because each entry on Form W-4 is intended to foster accuracy and simplicity in income tax withholding, an employee who is subject to a lock-in letter or modification notice should be able to use all entries on Form W-4 when appropriate. Due to the circumstances under which a lock-in letter or modification notice is issued (*i.e.*, the employee's history of noncompliance with withholding requirements), and that any decrease in withholding from a lock-in letter or modification notice may only be accomplished by seeking a modification notice from the IRS, the employee would be furnishing a redesigned Form W-4 only to request an increase in withholding.

3. Effective Period of a Withholding Allowance Certificate

The proposed regulations provide that when an employee is released from a lock-in letter or modification notice, the employee would generally be required to furnish a new Form W-4, and if the employee fails to do so, the employee would be treated as single but having the withholding allowance provided in forms, instructions, publications, and

other guidance prescribed by the Commissioner that applies to other employees who fail to furnish a new Form W-4.⁴ Under the redesigned computational procedures, this means that the employee would be treated as single or married filing separately in Step 1(c) of the 2020 Form W-4 with no entries in Step 2, Step 3, or Step 4.

One commenter recommended that this rule be modified to require an employee to furnish a new Form W-4, but, in the event the employee fails to do so, the withholding according to the lock-in letter or modification notice would continue. The commenter recommended this approach to reduce the administrative burden on employers in administering lock-in letters and modification notices, especially upon the employee's release from a lock-in letter or modification notice. After careful consideration of the comment, the Treasury Department and the IRS do not agree that this approach is appropriate. To foster accuracy, the Treasury Department and IRS are of the view that an employee released from a lock-in letter should be subject to the normal default rule until the employee furnishes a new Form W-4.

Accordingly, these final regulations adopt the rule in § 31.3402(f)(4)-1 as set forth in the proposed regulations.

4. Head of Household Filing Status

One commenter questioned whether employees who were eligible for the head of household filing status but claimed single filing status on a 2019 or earlier Form W-4 must be withheld as head of household using tables applicable to redesigned Forms W-4. Under the proposed regulations, the adoption of the head of household filing status and the use of related tables is limited to redesigned Forms W-4. The head of household filing status and related tables are not available for 2019 or earlier Forms W-4. These final regulations adopt the filing status rules set forth in the proposed regulations.

5. Amount of Income Tax Withheld Using the Redesigned Form W-4

One commenter noted that in processing 2020 Forms W-4 for employees, it appeared that no tax would be withheld from employees' pay, in certain circumstances, such as when employees enter an amount in Step 3 to reflect the child or other

dependent credits. The commenter further noted that it appeared that no tax would be withheld in these circumstances despite the Tax Withholding Estimator showing that the employee would have a tax liability. The Treasury Department and the IRS cannot comment on specific factual situations; however, the Treasury Department and the IRS note that the redesigned Form W-4 is intended to result in more accurate withholding.

Prior to the redesign of the Form W-4, approximately 30% of income tax returns that reported gross income from wages did not report any income tax liability, yet approximately 93% of these taxpayers with no income tax liability still had federal income tax withheld from wages. Accordingly, the redesigned Form W-4 was designed to consider all the deductions and credits an employee is entitled to, which often results in no income tax withholding from the employee's wages. This is consistent with the goal of increased accuracy in withholding, which includes minimizing overwithholding from employees who owe little or no income tax, especially after tax credits reduce the employees' income tax liability.

6. Estimated Tax Payments

Under the proposed regulations, employees who are not subject to a lock-in letter or modification notice may take into account estimated tax payments already made, provided that they take into account nonwage income and follow the instructions to the Tax Withholding Estimator. Although no comments were received on this issue, the Treasury Department and the IRS have determined that certain employees, especially those employees with a higher amount of nonwage income relative to wage income, should also be able to take into account planned estimated tax payments not yet made provided that the employee (1) takes into account all wage and nonwage income in determining withholding, (2) follows the instructions to the Tax Withholding Estimator, and (3) does not use planned estimated tax payments to reduce income tax withholding from wages below the pro-rata share of chapter 1 income tax attributable to the estimated annual wages. The pro-rata share of chapter 1 tax attributable to estimated annual wages will be determined under forms, instructions, publications, and other guidance prescribed by the Commissioner. The Treasury Department and the IRS have determined that this rule furthers accuracy in withholding without encouraging inappropriate

underwithholding on wages by shifting withholding from wages to estimated tax payments.

In addition, the Treasury Department and the IRS have determined that employees who do not use the Tax Withholding Estimator and instead use IRS Publication 505 to determine their withholding should be able to take into account estimated tax payments subject to the applicable requirements, provided that the employees use Publication 505 instructions.

Accordingly, these final regulations revise § 31.3402(m)-1(d) to allow employees to take into account estimated tax payments provided that the employee (1) follows the instructions to the Tax Withholding Estimator or Publication 505, (2) is not subject to a lock-in letter or modification notice, and (3) does not request withholding from wages that falls below the pro rata share of chapter 1 taxes attributable to wages as determined under forms, instructions, publications, and other guidance prescribed by the Commissioner. The IRS intends to update the Tax Withholding Estimator and Publication 505 to reflect this rule.

7. Applicability Date

Consistent with the applicability date provisions in the proposed regulations, these final regulations generally apply on and after October 6, 2020. However, as in the proposed regulations, § 31.3402(f)(2)-1(g), relating to withholding compliance, applies as of February 13, 2020, the date the notice of proposed rulemaking was published in the **Federal Register**; § 31.3402(f)(5)-1(a)(3), regarding the requirement to use the current version of Form W-4, applies as of March 16, 2020, 30 days after the date the notice of proposed rulemaking was published in the **Federal Register**; and the removal of § 31.3402(h)(4)-1(b), relating to the combined income tax withholding and employee FICA tax withholding tables, applies on and after January 1, 2020. Except with regard to the removal of § 31.3402(h)(4)-1(b), taxpayers may also choose to apply the final regulations, on and after January 1, 2020 and before their applicability date as set forth in the regulations. See section 7805(b)(7).

Special Analyses

I. Regulatory Planning and Review

These final regulations are not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and the Office of Management and

⁴ If the employee's Form W-4 results in more withholding than prescribed by the lock-in letter or modification notice, the proposed regulations provide that the employer should continue withholding according to the employee's Form W-4, even after the employee is released from the lock-in letter or modification notice.

Budget regarding review of tax regulations.

II. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA) (5 U.S.C. chapter 6), it is hereby certified that these final regulations do not have a significant economic impact on a substantial number of small entities that are directly affected by these final regulations. These final regulations will apply to all employers that have an income tax withholding obligation and, therefore, are likely to affect a substantial number of small entities. Although these final regulations are likely to affect a substantial number of small entities, the economic impact of these final regulations will not be significant.

These final regulations do not independently impact employers or employees because these final regulations support both the 2019 and 2020 Form W-4 and related withholding procedures, and employees are not required to furnish a new Form W-4 solely because of the redesign of the Form W-4. Employees who have a Form W-4 on file with their employer from years prior to 2020 generally will continue to have their withholding determined based on that form. These final regulations incorporate the changes made by TCJA to sections 3401 and 3402 and provide flexible and administrable rules for income tax withholding from wages to implement the 2020 Form W-4 and its related tables and computational procedures described in Publication 15-T and to work with 2019 or earlier Forms W-4. Any economic impact on small entities that have an income tax withholding obligation is generally a result of the change in underlying substantive tax rules which led to revisions in the method of computing withholding, not these final regulations. Because the final regulations preserve the option of continuing to use old Forms W-4 for existing employees who have not had significantly changed circumstances, and provide for optional computational bridge entries for employers to facilitate continued use of Forms W-4 provided in 2019 or earlier years that eliminates the need for employers to maintain separate withholding systems, these final regulations minimize impact of the statutory changes on employers, including small entities. Accordingly, the Treasury Department and the IRS certify that these final regulations will not have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business, and no comments were received.

III. Paperwork Reduction Act

Any collection of information associated with these final regulations has been submitted to the Office of Management and Budget for review under OMB control number 1545-0074 in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). In general, the collection of information is required under section 3402 of the Internal Revenue Code. The Treasury Department and the IRS request comments on all aspects of information collection burdens related to these final regulations, including estimates for how much time it would take to comply with the paperwork burdens described in OMB control number 1545-0074 and ways for the IRS to minimize the paperwork burden. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a valid OMB control number.

IV. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a state, local, or tribal government, in the aggregate, or by the private sector, of \$100 million in 1995 dollars, updated annually for inflation. This rule does not include any Federal mandate that may result in expenditures by state, local, or tribal governments, or by the private sector in excess of that threshold.

V. Executive Order 13132: Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on state and local governments, and is not required by statute, or preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This final rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive order.

Statement of Availability of IRS Documents

IRS Revenue Procedures, Revenue Rulings, and Notices cited in this preamble are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at <http://www.irs.gov>.

Drafting Information

The principal author of these final regulations is Mikhail Zhidkov, Office of the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). Other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 31

Employment taxes, Fishing vessels, Gambling, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 31 is amended as follows:

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

■ **Paragraph 1.** The authority citation for part 31 is amended by adding an entry for § 31.3402 in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805.

* * * * *

Section 31.3402 also issued under 26 U.S.C. 3402(i) and (m).

* * * * *

§ 31.3401(e)–1 [Removed]

■ **Par. 2.** Section 31.3401(e)–1 is removed.

■ **Par. 3.** Section 31.3402(a)–1 is amended by adding paragraphs (g) and (h) to read as follows:

§ 31.3402(a)–1 Requirement of withholding.

* * * * *

(g) For purposes of chapter 24 of the Code and this subpart:

(1) References to "withholding exemption certificate" include "withholding allowance certificate" unless otherwise stated in this subpart.

(2) [Reserved]

(h) The provisions of paragraph (g) of this section apply on and after October 6, 2020. Taxpayers may choose to apply

paragraph (g) of this section on or after January 1, 2020 and before October 6, 2020.

■ **Par. 4.** Section 31.3402(b)–1 is revised to read as follows:

§ 31.3402(b)–1 Percentage method of withholding.

(a) *Percentage method of withholding.* The amount of tax to be deducted and withheld from an employee's wages under the percentage method of withholding is determined based on the entry for the employee's anticipated filing status or marital status and other entries on the employee's withholding allowance certificate using the applicable percentage method tables and computational procedures set forth in the applicable forms, instructions, publications, and other guidance prescribed by the Commissioner issued with respect to the period in which wages are paid.

(b) *Applicability date.* The provisions of this section apply on and after October 6, 2020. Taxpayers may choose to apply this section on or after January 1, 2020 and before October 6, 2020. For rules that apply before October 6, 2020, see 26 CFR part 31, revised as of April 1, 2020.

■ **Par. 5.** Section 31.3402(c)–1 is amended:

- 1. By revising paragraph (a)(1).
- 2. By redesignating paragraph (a)(2) as paragraph (a)(3).
- 3. By adding a new paragraph (a)(2).
- 4. By revising paragraph (b).
- 5. In paragraph (c)(1), by revising the first sentence.
- 6. By adding paragraph (f).
- 7. By removing the parenthetical authority citation at the end of the section.

The revisions and additions read as follows:

§ 31.3402(c)–1 Wage bracket withholding.

(a) * * *

(1) The employer may elect to use the wage bracket method provided in section 3402(c) instead of the percentage method with respect to any employee. The tax computed under the wage bracket method shall be in lieu of the tax required to be deducted and withheld under section 3402(a).

(2) The amount of tax to be deducted and withheld from an employee's wages under the wage bracket method of withholding is determined based on the entry for the employee's anticipated filing status or marital status and other entries on the employee's withholding allowance certificate using the applicable wage bracket method tables and computational procedures set forth

in the applicable forms, instructions, publications, and other guidance prescribed by the Commissioner issued with respect to the period in which wages are paid.

* * * * *

(b) *Established payroll periods, other than daily or miscellaneous, covered by wage bracket withholding tables.* The wage bracket withholding tables applicable to the employee's filing status set forth in forms, instructions, publications, and other guidance prescribed by the Commissioner for established periods other than daily or miscellaneous should be used in determining the tax to be deducted and withheld for any such period without reference to the time the employee is actually engaged in the performance of services during such payroll period.

(c) * * *

(1) * * * The tables applicable to a daily or miscellaneous payroll period show the tentative amount of tax to be deducted and withheld from an employee's wages for the employee's filing status for one day. * * *

* * * * *

(f) *Applicability date.* The provisions of this section apply on and after October 6, 2020. Taxpayers may choose to apply this section on or after January 1, 2020 and before October 6, 2020. For rules that apply before October 6, 2020, see 26 CFR part 31, revised as of April 1, 2020.

■ **Par. 6.** Section 31.3402(f)(1)–1 is revised to read as follows:

§ 31.3402(f)(1)–1 Withholding allowance.

(a) *In general.* (1) Except as otherwise provided in section 3402(f)(6) (see § 31.3402(f)(6)–1), an employee receiving wages will, on any day, be entitled to a withholding allowance as provided in section 3402(f)(1) and paragraph (b) of this section. In order to receive the benefit of the withholding allowance, the employee must furnish to the employer a valid withholding allowance certificate in effect for the calendar year as provided in section 3402(f)(2) and § 31.3402(f)(2)–1.

(2) The employer is not required to ascertain whether the withholding allowance claimed is greater than the withholding allowance to which the employee is entitled. For rules relating to invalid withholding allowance certificates, see § 31.3402(f)(2)–1(f)(3), for rules relating to required submission of copies of certain withholding allowance certificates to the Internal Revenue Service, see § 31.3402(f)(2)–1(g)(1), and for rules relating to the notice of the maximum withholding

allowance permitted, see § 31.3402(f)(2)–1(g)(2).

(b) *Withholding allowance defined.*

(1) Generally, the withholding allowance to which an employee is entitled is determined under the computational procedures prescribed by the Commissioner in forms, instructions, publications, and other guidance for the calendar year for which the withholding allowance certificate is in effect.

(2) The withholding allowance is determined based on the following—

(i) Whether the employee is an individual for whom a deduction is allowable with respect to another taxpayer under section 151;

(ii) If the employee is married, whether the employee's spouse is an individual for whom a deduction is allowable with respect to another taxpayer under section 151 but only if such spouse does not have in effect a withholding allowance certificate claiming such deduction;

(iii) If the employee is married, whether the employee's spouse is entitled to additional deductions, credits, or other items the employee elects to take into account under § 31.3402(m)–1 or would be so entitled if the employee's spouse were an employee receiving wages, but only if such spouse does not have in effect a withholding allowance certificate claiming such allowance;

(iv) Any credit under section 24(a) that the employee reasonably expects to be able to claim on the employee's income tax return for the calendar year for which the withholding allowance certificate is in effect, except that the employee may not take into account any credit under section 24(a) if this credit is claimed on another valid withholding allowance certificate in effect with respect to another employer of the employee or the employee's spouse. In addition, an employee whose employer must withhold for that employee pursuant to a notice under § 31.3402(f)(2)–1(g)(2) must offset any tax benefit resulting from a credit under section 24(a) with any anticipated income tax attributable to items other than wages includible in the employee's gross income in the manner prescribed by the Commissioner;

(v) Any additional deductions, credits, or other items the employee elects to take into account under § 31.3402(m)–1 for the calendar year for which the withholding allowance certificate is in effect;

(vi) The basic standard deduction (as defined in section 63(c)(2)) relating to the filing status the employee reasonably expects to claim on the

employee's income tax return for the calendar year for which the withholding allowance certificate is in effect; and

(vii) Any adjustment resulting from multiple withholding allowance certificates the employee, the employee's spouse, or both have or reasonably expect to have in effect with respect to one or more employers, determined based on the instructions to the withholding allowance certificate and other guidance for the calendar year for which the withholding allowance certificate is in effect.

(c) *Applicability date.* The provisions of this section apply on and after October 6, 2020. Taxpayers may choose to apply this section on or after January 1, 2020 and before October 6, 2020. For rules that apply before October 6, 2020, see 26 CFR part 31, revised as of April 1, 2020.

■ **Par. 7.** Section 31.3402(f)(2)–1 is revised to read as follows:

§ 31.3402(f)(2)–1 Furnishing of withholding allowance certificates.

(a) *On commencement of employment.* (1) On or before the date on which an individual commences employment with an employer, the individual must furnish the employer with a signed withholding allowance certificate (see § 31.3402(f)(5)–1) relating to the filing status the employee reasonably expects to claim under § 31.3402(l)–1(b) for the calendar year for which the withholding allowance certificate is in effect and the withholding allowance under § 31.3402(f)(1)–1(b) that the employee claims.

(2) In no event may the withholding allowance exceed the withholding allowance that the employee is entitled to as determined based on the employee's reasonable expectations and the instructions set forth in forms, instructions, publications, and other guidance prescribed by the Commissioner.

(3) The employee may claim exemption from withholding if the certifications described in section 3402(n) and § 31.3402(n)–1(a)(1) and (2) are true with respect to the employee.

(4) If an employee has no valid withholding allowance certificate in effect with the employer at the time of the payment of the wages, and fails to furnish a valid withholding allowance certificate to the employer, the employee will be treated as single but having the withholding allowance provided in forms, instructions, publications, and other guidance prescribed by the Commissioner.

(b) *Change of status that affects calendar year—(1) General rule.* If, on

any day during the calendar year, the employee experiences a change of status that reduces the employee's withholding allowance or withholding allowances, in the manner described in paragraph (b)(2) of this section, the employee must, within 10 days after the change occurs, furnish the employer with a new withholding allowance certificate claiming the withholding allowance to which the employee is entitled under § 31.3402(f)(1)–1(b), unless paragraph (b)(3) of this section applies to the employee.

(2) *Changes of status.* A change of status occurs if any of the following changes occur on any day during the calendar year:

(i) The employee's filing status changes in the manner described in § 31.3402(l)–1(c).

(ii) The employee no longer has only one withholding allowance certificate in effect for the employee, the employee's spouse, or both, and the employee or the employee's spouse selects higher withholding rate tables on the additional withholding allowance certificate, but higher withholding rate tables are not selected on any previously furnished withholding allowance certificate.

(iii) The employee has multiple withholding allowance certificates in effect on which higher withholding rate tables are not selected, and the employee or the employee's spouse reasonably expects an increase in regular wages for the calendar year (as defined in § 31.3402(g)–1(a)(1)(ii)) in excess of \$10,000.

(iv) The employee has included on a valid withholding allowance certificate the child tax credit allowed under section 24(a) but reasonably expects the number of individuals who satisfy the definition of “qualifying child” as defined in section 24(c) who will be reported on the employee's income tax return for the year for which tax is being withheld to be less than the number taken into account in completing the withholding allowance certificate.

(v) The employee has included on a valid withholding allowance certificate a tax credit allowed under section 24(a) or other tax credits allowed under § 31.3402(m)–1 but reasonably expects the employee's tax credits that will be reported on the employee's income tax return for the year for which tax is being withheld to decrease by more than \$500 from the amount taken into account in completing the withholding allowance certificate.

(vi) The employee has included on a valid withholding allowance certificate deductions allowed under § 31.3402(m)–1 but reasonably expects

the employee's included income tax deductions that will be reported on the employee's income tax return for the year for which tax is being withheld to decrease by more than \$2,300 from the amount taken into account in completing the withholding allowance certificate.

(vii) It is no longer reasonable for an employee who has furnished the employer with a withholding allowance certificate which relies upon the certifications described in § 31.3402(n)–1(a) to anticipate that the employee will incur no liability for income tax imposed under subtitle A of the Code for the current or previous taxable year.

(3) *Exception.* If one or more of the changes described in paragraph (b)(2) of this section occurs, but the total effect of the changes together with any other changes affecting the employee's anticipated tax liability under subtitle A is not anticipated to result in an amount of tax to be deducted and withheld from the employee's wages under section 3402 for the year that is less than the employee's anticipated tax liability under subtitle A, the employee is not required to furnish a new withholding allowance certificate.

(c) *Increase in withholding allowance.* If, on any day during the calendar year, the employee experiences a change of status that increases the employee's withholding allowance, the employee may furnish the employer with a new withholding allowance certificate claiming the withholding allowance the employee is entitled to under § 31.3402(f)(1)–1(b).

(d) *Exemption from withholding.* If, on any day during the calendar year, the certifications described in section 3402(n) and § 31.3402(n)–1(a)(1) and (2) are true with respect to an employee, the employee may furnish the employer with a withholding allowance certificate claiming exemption from withholding in the manner described in forms, instructions, publications, and other guidance prescribed by the Commissioner.

(e) *Change of status which affects next calendar year—(1) General rule.* If, on any day during the calendar year, the withholding allowance to which the employee will be, or may reasonably be expected to be, entitled under § 31.3402(f)(1)–1(b) for the next calendar year, but not for the current calendar year, decreases in the manner prescribed in paragraph (b)(2) of this section, the employee must furnish a new withholding allowance certificate claiming the withholding allowance the employee is entitled to under § 31.3402(f)(1)–1(b) to take effect in the next calendar year by the later of

December 1 of the calendar year of the year in which the change occurs or within 10 days after the change occurs, unless paragraph (e)(2) of this section applies to the employee.

(2) *Exception.* If one or more of the changes in paragraph (b)(2) of this section occurs, but the total effect of the changes together with any other changes affecting the employee's anticipated tax liability under subtitle A is not anticipated to result in an amount of tax to be deducted and withheld from the employee's wages under section 3402 for the employee's next year that is less than the employee's anticipated tax liability under subtitle A, the employee is not required to furnish a new withholding allowance certificate.

(f) *Special rules—(1) Employer requests.* Before December 1 of each year, every employer should request each employee to furnish a new withholding allowance certificate for the next calendar year, in the event of a change to the employee's withholding allowance.

(2) *Social security account numbers.* Every individual to whom a social security number has been assigned must include such number on any withholding allowance certificate furnished to an employer. An employee may not use a truncated social security number (see § 301.6109-4 of this chapter) in completing the withholding allowance certificate. For provisions relating to the obtaining of an account number from the Social Security Administration, see § 31.6011(b)-2.

(3) *Invalid withholding allowance certificates—(i) General rule.* Any alteration of or unauthorized addition to a withholding allowance certificate causes such certificate to be invalid; see § 31.3402(f)(5)-1(b) for the definitions of alteration and unauthorized addition. Any withholding allowance certificate which the employee clearly indicates to be false by an oral statement or by a written statement (other than one made on the withholding allowance certificate itself) made by the employee to the employer on or before the date on which the employee furnishes such certificate is also invalid. For purposes of the preceding sentence, the term "employer" includes any individual authorized by the employer either to receive withholding allowance certificates, to make withholding computations, or to make payroll distributions.

(ii) *Employer disregard of invalid withholding allowance certificate.* If an employer receives an invalid withholding allowance certificate, the employer must disregard it for purposes of computing withholding. The

employer must inform the employee who furnished the certificate that it is invalid and must request another withholding allowance certificate from the employee. If the employee who furnished the invalid certificate fails to comply with the employer's request, the employer must treat the employee as single but having the withholding allowance provided by the forms, instructions, publications, and other guidance prescribed by the Commissioner. If, however, a prior certificate is in effect with respect to the employee, the employer must continue to withhold in accordance with the prior certificate.

(g) *Submission of certain withholding allowance certificates and notice of maximum withholding allowance permitted—(1) Submission of certain withholding allowance certificates—(i) In general.* An employer must submit to the Internal Revenue Service (IRS) a copy of any currently effective withholding allowance certificate as directed in a written notice to the employer from the IRS or as directed in published guidance.

(A) *Notice to submit withholding allowance certificates.* A notice to the employer to submit withholding allowance certificates may relate either to one or more named employees, to one or more reasonably segregable units of the employer, or to withholding allowance certificates under certain specified criteria. The notice will designate the IRS office to which the copies of the withholding allowance certificates must be submitted. Alternatively, upon notice from the IRS, the employer must make available for inspection by an IRS employee withholding allowance certificates received from one or more named employees, from one or more reasonably segregable units of the employer, or from employees who have furnished withholding allowance certificates under certain specified criteria.

(B) *Published guidance.* Employers may also be required to submit copies of withholding allowance certificates under certain specified criteria when directed to do so by the IRS in published guidance in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter).

(ii) *Withholding after submission of withholding allowance certificate.* After a copy of a withholding allowance certificate has been submitted to the IRS under this paragraph (g)(1), the employer must withhold tax on the basis of the withholding allowance certificate, if the withholding allowance certificate meets the requirements of § 31.3402(f)(5)-1. However, the

employer may not withhold on the basis of the withholding allowance certificate if the certificate must be disregarded based on a notice of the maximum withholding allowance permitted under the provisions of paragraph (g)(2) of this section.

(2) *Notice of the maximum withholding allowance permitted—(i) Notice to employer.* The IRS may notify the employer in writing that the employee is not entitled to claim a complete exemption from withholding or more than the maximum withholding allowance specified by the IRS in the written notice. The notice will also specify the applicable filing status for purposes of calculating the required amount of withholding. The notice will specify the IRS office to be contacted for further information. The notice of maximum withholding allowance permitted may be issued if—

(A) The IRS determines that a copy of a withholding allowance certificate submitted under paragraph (g)(1) of this section or otherwise provided to the IRS includes a materially incorrect statement or determines, after a request to the employee for verification of the statements on the certificate, that the IRS lacks sufficient information to determine if the certificate is correct; or

(B) The IRS otherwise determines that the employee is not entitled to claim a complete exemption from withholding and is not entitled to claim more than a specified number of withholding exemptions, withholding allowances, or a specified withholding allowance.

(ii) *Notice to employee.* If the IRS provides a notice to the employer under this paragraph (g)(2), the IRS will also provide the employer with a similar notice for the employee (employee notice) that identifies the maximum withholding allowance permitted and specifies the filing status to be used for calculating the required amount of withholding for the employee. The employee notice will indicate the process by which the employee can provide additional information to the IRS for purposes of determining the appropriate withholding allowance and/or modifying the specified filing status. The IRS will also mail a similar notice to the employee's last known address. For further guidance regarding the definition of last known address, see § 301.6212-2 of this chapter. If the IRS is unable to determine a last known address for the employee, the IRS will use other available information as appropriate to mail the notice to the employee.

(iii) *Requirement to furnish.* If the employee is employed by the employer as of the date of the notice, the employer

must furnish the employee notice to the employee within 10 business days of receipt. The employer may follow any reasonable business practice to furnish the copy of the notice to the employee. For purposes of this paragraph (g)(2)(iii), the determination of whether an employee is employed as of the date of the notice is based on all the facts and circumstances, including whether the employer has treated the employment relationship as terminated for other purposes. An employee who is not performing services for the employer as of the date of the notice is employed by the employer as of the date of the notice for purposes of this paragraph (g)(2)(iii) if—

(A) The employer pays wages with respect to prior employment to the employee subject to income tax withholding on or after the date specified in the notice;

(B) The employer reasonably expects the employee to resume the performance of services for the employer within twelve months of the date of the notice; or

(C) The employee is on a bona fide leave of absence and either the period of such leave does not exceed twelve months or the employee retains a right to reemployment with the employer under an applicable statute or by contract.

(iv) *Requirement to withhold based on the notice.* If the employer is required to furnish the employee notice to the employee under paragraph (g)(2)(iii) of this section, then the employer must withhold tax on the basis of the maximum withholding allowance and the filing status specified in the notice for any wages paid after the date specified in the notice, except as provided in paragraphs (g)(2)(v) through (ix) of this section. The employer must withhold tax in accordance with the notice as of the date specified in the notice, which shall be no earlier than 45 calendar days after the date of the notice. If the notice was provided to the employer based on computational procedures applicable to a withholding allowance certificate that was in effect on December 31, 2019 or earlier, the employer may comply with the requirement in this paragraph (g)(2)(iv) to withhold on the basis of the notice by implementing the maximum withholding allowance and filing status permitted by using the computational bridge entries as set forth in forms, instructions, publications, and other guidance prescribed by the Commissioner to calculate withholding for a withholding allowance certificate that was in effect on December 31, 2019 or earlier.

(v) *Employment resumes after twelve months.* If the employer is required to furnish the employee notice to the employee only pursuant to paragraph (g)(2)(iii)(B) of this section and the employee resumes the performance of services for the employer more than 12 months after the date of the notice, then the employer is not required to withhold based on the notice.

(vi) *Requirement to withhold based on an existing Form W-4.* If a withholding allowance certificate is in effect with respect to the employee before the employer receives a notice of the maximum withholding allowance permitted under this paragraph (g)(2), the employer must continue to withhold tax in accordance with the existing withholding allowance certificate, rather than on the basis of the notice, if the existing withholding allowance certificate does not claim complete exemption from withholding and claims a filing status, a withholding allowance, and any additional amount under § 31.3402(i)–1(a)(1) and (2) that results in more withholding than would result from applying the filing status and withholding allowance specified in the notice.

(vii) *Modification notice.* After issuing the notice specifying the maximum withholding allowance permitted and the filing status, the IRS may issue a subsequent notice to the employer and the employee that modifies the original notice (modification notice). The modification notice may change the filing status and/or the withholding allowance permitted. The employer must withhold based on the modification notice as of the date specified in the modification notice. If the modification notice was provided to the employer based on computational procedures applicable to a withholding allowance certificate that was in effect on December 31, 2019 or earlier, the employer may comply with the requirement in this paragraph (g)(2)(vii) to withhold on the basis of the modification notice by implementing the maximum withholding allowance and filing status permitted by using the optional computational bridge entries as set forth in forms, instructions, publications, and other guidance prescribed by the Commissioner to calculate withholding for a withholding allowance certificate that was in effect on December 31, 2019 or earlier.

(viii) *Requirement to withhold after termination of employment.* If the employee is employed as of the date of the notice under paragraph (g)(2)(iii) of this section but the employer or employee terminates the employment relationship after the date of the notice,

the employer must continue to withhold based on the maximum withholding allowance and the filing status specified in the notice or a modification notice if any wages subject to income tax withholding are paid with respect to the prior employment after such date. Furthermore, the employer must withhold based on the notice or modification notice if the employee resumes an employment relationship with the employer within 12 months after the termination of the employment relationship. Whether the employment relationship is terminated is based on all the facts and circumstances.

(ix) *Requirement to withhold based on new Form W-4.* The employee may furnish a new withholding allowance certificate after the employer receives a notice or modification notice from the IRS of the maximum withholding allowance permitted under this paragraph (g)(2).

(A) *Employee requests more withholding.* If the employee furnishes a new withholding allowance certificate after the employer receives the notice or modification notice, the employer must withhold tax on the basis of that new certificate only if the new certificate does not claim complete exemption from withholding and claims a filing status, a withholding allowance, and any additional amount under § 31.3402(i)–1(a)(1) and (2) that results in more withholding than would result under the notice or modification notice.

(B) *Employee requests less withholding.* If the employee furnishes a new withholding allowance certificate after the employer receives the notice or modification notice, the employer must disregard the new certificate and withhold on the basis of the notice or modification notice if the employee claims complete exemption from withholding or claims a filing status, a withholding allowance, and any additional amount under § 31.3402(i)–1(a)(1) and (2) that results in less withholding than would result under the notice or modification notice. If the employee wants to put a new certificate into effect that results in less withholding than that required under the notice or modification notice, the employee must contact the IRS. The employer must withhold on the basis of the notice or modification notice unless the IRS subsequently notifies the employer to withhold based on the new certificate.

(3) *Definition of employer.* For purposes of this paragraph (g), the term “employer” includes any person authorized by the employer to receive withholding allowance certificates, to

make withholding computations, or to make payroll distributions.

(4) *Examples.* The following examples illustrate the rules of this section.

(i) *Example 1.* Employer U receives a notice from the IRS that identifies the maximum withholding allowance permitted and specifies the filing status for Employee A. Employee A is not currently performing any services for Employer U. However, Employer U is continuing to make certain wage payments to Employee A. Employer U must furnish the employee notice to Employee A within 10 business days of receipt and must withhold based on the notice on any wages paid to Employee A on or after the date specified in the notice.

(ii) *Example 2.* Employer V receives a notice in October of Year 1 from the IRS that identifies the maximum withholding allowance permitted and specifies the filing status for Employee B. Employee B has not performed services for Employer V since August of Year 1. However, since Employee B has performed services for Employer V for several years on a seasonal basis, Employer V reasonably expects Employee B to resume the performance of services for Employer V in June of Year 2, a date that is within 12 months of the date of the notice. Employer V is required to furnish the notice to Employee B within 10 business days of receipt. Employee B does not resume the performance of services with Employer V until June of Year 3. Employer V is not required to withhold based on the notice.

(iii) *Example 3.* Employer W receives a notice from the IRS that identifies the maximum withholding allowance permitted and specifies the filing status for Employee C. Employee C began a 4-month unpaid maternity leave of absence three weeks before Employer W received the notice. Employer W must furnish the employee notice to Employee C within 10 business days of receipt. When her maternity leave ends and Employee C resumes performing services for Employer W, Employer W must withhold based on the notice.

(iv) *Example 4.* Employer X receives a notice from the IRS in Year 1 that identifies the maximum withholding allowance permitted and specifies the filing status for Employee D. Employer X must furnish the employee notice to Employee D within 10 business days of receipt and withhold based on the notice. In Year 2, Employee D terminates the employment relationship. Employee D applies for a different position with Employer X and resumes employment 10 months after having left her previous position with Employer X. Since Employer X rehired Employee D within 12 months after the termination of employment, Employer X must withhold based on the notice.

(v) *Example 5.* Employer Y receives a notice from the IRS that identifies the maximum withholding allowance permitted and specifies the filing status for Employee E. Employer Y must furnish the employee notice to Employee E within 10 business days of receipt. After receipt of this notice, Employee E contacts the IRS and establishes that the employee is entitled to claim a modified filing status and withholding

allowance. Employer Y receives a modification notice from the IRS that changes the maximum withholding allowance permitted for Employee E. Employer Y must withhold tax based on the modification notice as of the date specified in such notice.

(vi) *Example 6.* Employer Z pays remuneration to Employee F, a United States citizen, for services performed in Country M. Employer Z receives a notice from the IRS in Year 1 that identifies the maximum withholding allowance permitted and specifies the filing status for Employee F. Employer Z must furnish the employee notice to Employee F within 10 business days of receipt. Employer Z reasonably believes all the remuneration paid to Employee F in Year 1 is excluded from Employee F's gross income under section 911. Since section 3401(a)(8)(B) excludes such remuneration from wages for income tax withholding purposes, Employer X does not have to withhold on such remuneration, notwithstanding the maximum withholding allowance permitted and filing status specified in the notice. In Year 2, Employee F returns to the United States to perform services. Employer Z does not reasonably believe any part of Employee F's remuneration paid in Year 2 is excluded from Employee F's gross income under section 911. Rather, Employer Z reasonably believes that remuneration paid to Employee F in Year 2 is subject to income tax withholding. Employer Z must withhold on the remuneration paid to Employee F in Year 2 based on the notice.

(h) *Applicability date.* The provisions of paragraph (g) of this section apply on February 13, 2020. Taxpayers may choose to apply paragraph (g) of this section on or after January 1, 2020 and before February 13, 2020. For rules that apply under paragraph (g) of this section before February 13, 2020, see 26 CFR part 31, revised as of April 1, 2020. The provisions of paragraphs (a) through (f) of this section apply on and after October 6, 2020. Taxpayers may choose to apply the provisions of paragraph (a) through (f) of this section on or after January 1, 2020 and before October 6, 2020. For rules that apply before October 6, 2020, see 26 CFR part 31, revised as of April 1, 2020.

■ **Par. 8.** Section 31.3402(f)(3)–1 is revised to read as follows:

§ 31.3402(f)(3)–1 When withholding allowance certificate takes effect.

(a) *No withholding allowance certificate on file.* A withholding allowance certificate furnished to the employer in any case in which no previous withholding allowance certificate is in effect with such employer, takes effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is so furnished.

(b) *Withholding allowance certificate on file.* Except as provided in paragraph (c) of this section, a withholding allowance certificate furnished to the employer in any case in which a previous withholding allowance certificate is in effect with such employer takes effect as of the beginning of the first payroll period ending (or the first payment of wages made without regard to a payroll period) on or after the 30th day after the day on which such certificate is so furnished.

However, the employer may elect to put a withholding allowance certificate into effect earlier, beginning with any payment of wages on or after the day on which the certificate is so furnished.

(c) *Withholding allowance certificate furnished to take effect in next calendar year.* A withholding allowance certificate furnished to the employer pursuant to section 3402(f)(2)(C) (see § 31.3402(f)(2)–1(e) or § 31.3402(l)–1(c)) which effects a change for the next calendar year, does not take effect, and may not be made effective, with respect to the calendar year in which the certificate is furnished.

(d) *Applicability date.* The provisions of this section apply on and after October 6, 2020. Taxpayers may choose to apply this section on or after January 1, 2020 and before October 6, 2020. For rules that apply before October 6, 2020, see 26 CFR part 31, revised as of April 1, 2020.

§ 31.3402(f)(4)–1 [Removed]

■ **Par. 9.** Section 31.3402(f)(4)–1 is removed.

§ 31.3402(f)(4)–2 [Redesignated as § 31.3402(f)(4)–1]

■ **Par. 10.** Section 31.3402(f)(4)–2 is redesignated as § 31.3402(f)(4)–1.

■ **Par. 11.** Newly redesignated § 31.3402(f)(4)–1 is revised to read as follows:

§ 31.3402(f)(4)–1 Effective period of a withholding allowance certificate.

(a) *In general.* Except as provided in paragraph (b) of this section and § 31.3402(f)(2)–1(g)(2), a withholding allowance certificate that takes effect under section 3402(f) of the Internal Revenue Code of 1986 continues in effect with respect to the employee until another withholding allowance certificate takes effect under section 3402(f). An employer's use of computational bridge entries as set forth in forms, instructions, publications, and other guidance prescribed by the Commissioner to calculate withholding for a withholding allowance certificate that was in effect on December 31, 2019 or earlier continues in effect an

employee's withholding allowance certificate under this paragraph (a).

(b) *Certifications under section 3402(n) eliminating requirement of withholding.* The certifications described in § 31.3402(n)–1(a) made by an employee with respect to the employee's preceding taxable year and current taxable year are effective until either a new withholding allowance certificate furnished by the employee takes effect or the existing certificate that relies upon such certifications expires. If an employee's certificate expires and the employee fails to furnish a valid withholding allowance certificate, the employee will be treated as single but having the withholding allowance provided in forms, instructions, publications, and other guidance prescribed by the Commissioner. In no case shall a withholding allowance certificate that relies upon such certifications be effective with respect to any payment of wages made to an employee:

(1) In the case of an employee whose liability for tax under subtitle A of the Code is determined on a calendar year basis, after February 15 of the calendar year following the estimation year; or

(2) In the case of an employee to whom paragraph (b)(1) of this section does not apply, after the 15th day of the 2nd calendar month following the last day of the estimation year.

(c) *Estimation year.* The estimation year is the taxable year including the day on which the employee furnishes the withholding allowance certificate to the employer, except that if the employee furnishes the withholding allowance certificate to the employer and specifies on the certificate that the certificate is not to take effect until a specified future date, the estimation year will be the taxable year including that specified future date.

(d) *Applicability to notice of maximum withholding allowance.* If a withholding allowance certificate is no longer in effect because of the application of § 31.3402(f)(2)–1(g)(2), the employer is no longer required to withhold pursuant to any notice under § 31.3402(f)(2)–1(g)(2), and the employee fails to furnish the employer a valid withholding allowance certificate, then the employee will be treated as single but having the withholding allowance provided in forms, instructions, publications, and other guidance prescribed by the Commissioner, in accordance with § 31.3402(f)(2)–1(a)(4).

(e) *Applicability date.* The provisions of this section apply on and after October 6, 2020. Taxpayers may choose to apply this section on or after January

1, 2020 and before October 6, 2020. For rules that apply before October 6, 2020, see 26 CFR part 31, revised as of April 1, 2020.

■ **Par. 12.** Section 31.3402(f)(5)–1 is revised to read as follows:

§ 31.3402(f)(5)–1 Form and contents of withholding allowance certificates.

(a) *In general.*—(1) *Form W–4.* Form W–4, “Employee’s Withholding Certificate,” previously called “Employee’s Withholding Allowance Certificate,” is the form prescribed for the withholding allowance certificate required to be furnished under section 3402(f)(2). A withholding allowance certificate must be prepared in accordance with the instructions applicable thereto and must set forth fully and clearly the information that is called for therein. In lieu of the prescribed form, an employer may prepare and provide to employees a form the provisions of which are identical to those of the prescribed form, but only if the employer also provides employees with all the tables, instructions, and worksheets set forth in the Form W–4 in effect at that time, and only if the employer complies with all revenue procedures and other guidance prescribed by the Commissioner relating to substitute forms in effect at that time.

(2) *Employee substitute forms.* Employers are prohibited from accepting a substitute form developed by an employee, and an employee furnishing such form will be treated as failing to furnish a withholding allowance certificate. For further guidance regarding the employer's obligations when an employee is treated as failing to furnish a withholding allowance certificate, see § 31.3402(f)(2)–1.

(3) *Current year revision.* Only the Form W–4 revision in effect for a calendar year may be furnished by an employee in that calendar year and given legal effect by the employer, unless provided otherwise in forms, instructions, publications, or other guidance, except that an employee may furnish the Form W–4 revision for the following calendar year in the current calendar year to take effect for the following calendar year.

(4) *Examples.* The following examples illustrate the rule in paragraph (a)(3) of this section.

(i) *Example 1.* Employee A furnishes a 2019 Form W–4 to Employer X in calendar year 2020. The 2019 Form W–4 furnished by Employee A in 2020 has no legal effect. Employer X must disregard this 2019 Form W–4 furnished in 2020 and continue to withhold based on a previously furnished Form W–4 that has been in effect for

Employee A, if any. If Employee A has no Form W–4 in effect, she is treated as having no valid withholding allowance certificate in effect.

(ii) *Example 2.* Employee A furnishes a 2021 Form W–4 to Employer X in calendar year 2020 to take effect in calendar year 2021. The 2021 Form W–4 is valid, and the employer must put this form into effect in 2021 in accordance with the timing rules in § 31.3402(f)(3)–1.

(b) *Invalid Form W–4.* A Form W–4 does not meet the requirements of section 3402(f)(5) or this section and is invalid if it includes an alteration or unauthorized addition. For purposes of § 31.3402(f)(2)–1(f)(3) and this paragraph (b)—

(1) An alteration of a withholding allowance certificate is any deletion of the language of the jurat or other similar provision of such certificate by which the employee certifies or affirms the correctness of the completed certificate, or any material defacing of such certificate; and

(2) An unauthorized addition to a withholding allowance certificate is any writing on such certificate other than the entries requested on the Form W–4 (e.g., name, address, and filing status) or permitted by instructions or other guidance. For purposes of this paragraph (b)(2), an entry claiming exemption from withholding that is accompanied by other entries on the Form W–4 (other than the employee's filing status) that could potentially affect the amount of income tax deducted and withheld from the employee's pay is an unauthorized addition; consequently, the employer must treat the Form W–4 as an invalid Form W–4.

(c) *Electronic Form W–4.*—(1) *In general.* An employer may establish a system for its employees to furnish withholding allowance certificates electronically.

(2) *Requirements.*—(i) *In general.* The electronic system must ensure that the information received is the information sent and must document all occasions of employee access that result in the furnishing of a Form W–4. In addition, the design and operation of the electronic system, including access procedures, must make it reasonably certain that the person accessing the system and furnishing the Form W–4 is the employee identified in the form.

(ii) *Information to employer.* The electronic furnishing must provide the employer with exactly the same information as the current version of the official Internal Revenue Service (IRS) Form W–4 available on [irs.gov](https://www.irs.gov).

(iii) *Information to employee.* The electronic Form W–4 system must

provide the employee with the same information as the current version of the official IRS Form W-4 available on *irs.gov* and must satisfy any requirements specified by the IRS in forms, publications, and other guidance. The electronic Form W-4 system must provide employees the ability to claim exemption from withholding under section 3402(n) and must include the two certifications described in § 31.3402(n)-1(a).

(iv) *Jurat and signature requirements.* The electronic furnishing must be signed by the employee under penalties of perjury.

(A) *Jurat.* The jurat (perjury statement) must contain the language that appears on the paper Form W-4. The electronic program must inform the employee that he or she must make the declaration set forth in the jurat and that the declaration is made by signing the Form W-4. The instructions and the language of the jurat must immediately follow the employee's income tax withholding selections and immediately precede the employee's electronic signature.

(B) *Electronic signature.* The electronic signature must identify the employee furnishing the electronic Form W-4 and authenticate and verify the furnishing. For purposes of this paragraph (c)(2)(iv)(B), the terms "authenticate" and "verify" have the same meanings as they do when applied to a written signature on a paper Form W-4. An electronic signature can be in any form that satisfies the foregoing requirements. The electronic signature must be the final entry in the employee's Form W-4 furnished electronically.

(v) *Copies of electronic Forms W-4.* Upon request by the Internal Revenue Service, the employer must supply a hard copy of the electronic Form W-4 and a statement that, to the best of the employer's knowledge, the electronic Form W-4 was furnished by the named employee. The hardcopy of the electronic Form W-4 must provide exactly the same information as, but need not be a facsimile of, the paper Form W-4.

(d) *Applicability date.* The provisions of paragraphs (a)(3) and (4) of this section apply on and after March 16, 2020. Taxpayers may choose to apply the provisions of paragraphs (a)(3) and (4) of this section on or after January 1, 2020 and before March 16, 2020. For the provision of paragraph (a)(3) of this section that applies before March 16, 2020, see 26 CFR part 31, revised as of April 1, 2020. The provisions of paragraphs (a)(1) and (2), (b), and (c) of this section apply on and after October 6, 2020. Taxpayers may choose to apply

paragraphs (a)(1) and (2), (b), and (c) of this section on or after January 1, 2020 and before October 6, 2020. For rules that apply before October 6, 2020, see 26 CFR part 31, revised as of April 1, 2020.

■ **Par. 13.** Section 31.3402(f)(6)-1 is revised to read as follows:

§ 31.3402(f)(6)-1 Withholding exemptions for nonresident alien individuals.

(a) *In general.* (1) A nonresident alien individual (other than a nonresident alien individual treated as a resident under section 6013(g) or (h)) subject to withholding under section 3402 is on any one day entitled to the number of withholding exemptions corresponding to the number of personal exemptions to which the nonresident alien is entitled on such day by reason of the application of section 873(b)(3) or section 876, whichever applies. Thus, a nonresident alien individual who is not a resident of Canada or Mexico and who is not a resident of Puerto Rico during the entire taxable year, is allowed only one withholding exemption.

(2) The withholding exemption in paragraph (a) of this section and section 3402(f)(6) is the deduction allowed to the nonresident alien individual under section 151.

(b) *Additional guidance.* A nonresident alien individual (other than a nonresident alien individual treated as a resident under section 6013(g) or (h)) subject to withholding must follow administrative guidance such as forms, instructions, publications, or other guidance prescribed by the Commissioner to determine the nonresident alien's withholding allowance.

(c) *Applicability date.* The provisions of this section apply on and after October 6, 2020. Taxpayers may choose to apply this section on or after January 1, 2020 and before October 6, 2020. For rules that apply before October 6, 2020, see 26 CFR part 31, revised as of April 1, 2020.

■ **Par. 14.** Section 31.3402(g)-1 is amended:

- 1. In paragraph (a)(2), by revising the second sentence.
- 2. In paragraph (a)(7)(ii), by revising the first sentence.
- 3. By adding paragraph (d).

The revisions and addition read as follows:

§ 31.3402(g)-1 Supplemental wage payments.

(a) * * *

(2) * * * This flat rate shall be applied without regard to whether income tax has been withheld from the employee's regular wages, and without regard to any entries on Form W-4,

including whether the employee has claimed exempt status on Form W-4 or whether the employee has requested additional withholding on Form W-4, and without regard to the withholding method used by the employer. * * *

* * * * *

(7) * * *
(ii) * * * The determination of the tax to be withheld under paragraph (a)(7)(iii) of this section is made without reference to any payment of regular wages and without regard to any entries on the Form W-4 other than the entry claiming exempt status on Form W-4 (see § 31.3402(n)-1(b)). * * *

* * * * *

(d) *Applicability date.* The provisions of paragraphs (a)(2) and (a)(7)(ii) of this section apply on and after October 6, 2020. Taxpayers may choose to apply paragraphs (a)(2) and (a)(7)(ii) of this section on or after January 1, 2020 and before October 6, 2020. For the provisions of paragraphs (a)(2) and (a)(7)(ii) of this section that apply before October 6, 2020, see 26 CFR part 31, revised as of April 1, 2020.

■ **Par. 15.** Section 31.3402(h)(4)-1 is amended by:

- 1. Removing paragraph (b).
- 2. Redesignating paragraph (c) as paragraph (b).
- 3. Adding a new paragraph (c).
- 4. Removing the parenthetical authority citation at the end of the section.

The addition reads as follows:

§ 31.3402(h)(4)-1 Other methods.

* * * * *

(c) *Applicability date.* The removal of paragraph (b) from this section as of October 6, 2020, which provided for combined FICA and income tax withholding tables, applies on and after January 1, 2020. For rules that apply before January 1, 2020, see 26 CFR part 31, revised as of April 1, 2020.

§ 31.3402(i)-1 [Removed]

■ **Par. 16.** Section 31.3402(i)-1 is removed.

§ 31.3402(i)-2 [Redesignated as § 31.3402(i)-1]

■ **Par. 17.** Section 31.3402(i)-2 is redesignated as § 31.3402(i)-1.

■ **Par. 18.** Newly redesignated § 31.3402(i)-1 is amended by:

- 1. Revising the section heading and paragraph (a)(2).
- 2. Adding paragraph (a)(3).
- 3. Revising paragraph (b).
- 4. Removing the parenthetical authority citation at the end of the section.

The revisions and addition read as follows:

§ 31.3402(l)–1 Increases in withholding.

(a) * * *

(2) *Increases in withholding based on additional income.* (i) The employee may request that the employer add an additional amount to the employee's wages and that the employer deduct and withhold an additional amount of income tax resulting from this addition under the computational procedures prescribed by the Commissioner in forms, instructions, publications, and other guidance for the calendar year for which the withholding allowance certificate claiming an additional amount to add to the employee's wages is furnished;

(ii) The employee may request that the employer deduct and withhold additional amounts of income tax resulting from the employee selecting higher withholding rate tables on the withholding allowance certificate;

(iii) The employer must comply with the employee's request under paragraph (a)(1)(i) or (ii) of this section, except that the employer shall comply with the employee's request only to the extent that the amount that the employee requests to be deducted and withheld under this section does not exceed the amount that remains after the employer has deducted and withheld all amounts otherwise required to be deducted and withheld by Federal law (other than by section 3402(i) and this section), State law, and local law (other than by State or local law that provides for voluntary withholding); and

(iv) The employer must comply with the employee's request in accordance with the time limitations in § 31.3402(f)(3)–1. The employee must make the request on Form W–4 as provided in § 31.3402(f)(5)–1 (relating to form and contents of withholding allowance certificates), and this Form W–4 shall take effect and remain effective in accordance with section 3402(f) and § 31.3402(f)(4)–1.

(3) *Amount deducted treated as tax.* The amount deducted and withheld pursuant to paragraphs (a)(1) and (2) of this section shall be treated as tax required to be deducted and withheld under section 3402.

(b) *Applicability date.* The provisions of paragraphs (a)(2) and (3) of this section apply on and after October 6, 2020. Taxpayers may choose to apply paragraphs (a)(2) and (3) this section on or after January 1, 2020 and before October 6, 2020.

■ **Par. 18.** Section 31.3402(l)–1 is revised to read as follows:

§ 31.3402(l)–1 Determination and disclosure of marital or filing status.

(a) *In general.* An employer shall apply the applicable percentage method or wage bracket method withholding tables corresponding to the marital status or filing status that the employee selects on a valid withholding allowance certificate as set forth in forms, instructions, publications, and other guidance prescribed by the Commissioner.

(b) *Employee's filing status.* An employee will be treated as single unless the employee selects head of household or married filing jointly filing status on a valid withholding allowance certificate. Employees may select a filing status other than single, subject to the following conditions:

(1) The employee may select head of household filing status on the employee's withholding allowance certificate only if the employee reasonably expects to be eligible to claim head of household filing status under section 2(b) and § 1.2–2(b) of this chapter on the employee's income tax return.

(2) The employee may select married filing jointly filing status on the employee's withholding allowance certificate only if paragraph (d) of this section applies to the employee and the employee reasonably expects to file jointly a single return of income under subtitle A of the Code with the employee's spouse. If an employee is married and expects to file a separate return from the employee's spouse, the employee must select single or married filing separately filing status on the employee's withholding allowance certificate.

(c) *Change in filing status—*(1) *In general.* Unless paragraph (c)(2) of this section applies, the employee must within 10 days furnish the employer with a new withholding allowance certificate if the employee's filing status changes—

(i) From married filing jointly (or qualifying widow(er)) to head of household, married filing separately, or single; or

(ii) From head of household to married filing separately or single.

(2) *Exception.* If the employee's filing status changes in the manner described in paragraph (c)(1)(i) or (ii) of this section, but the total effect of the changes together with other changes affecting the employee's anticipated tax liability under subtitle A does not result in an amount of tax to be deducted and withheld from the employee's wages for the taxable year that is less than the employee's anticipated tax liability under subtitle A, the employee is not

required to furnish a new withholding allowance certificate within 10 days. However, the employee must furnish a new withholding allowance certificate to take effect the following calendar year by the later of December 1 of the calendar year in which the employee's filing status changes, or within 10 days of such change.

(d) *Determination of marital status.* For the purposes of section 3402(l)(2) and paragraph (b) of this section, paragraphs (d)(1) and (2) of this section shall be applied in determining whether an employee is a single person or a married person:

(1) An employee shall on any day be considered as a single person and not married if—

(i) The employee is legally separated from the employee's spouse under a decree of divorce or separate maintenance; or

(ii) Either the employee or the employee's spouse is, or on any preceding day within the same calendar year was, a nonresident alien unless the employee has made or reasonably expects to make an election under section 6013(g) in the time and manner prescribed in § 1.6013–6(a)(4) of this chapter.

(2) An employee shall on any day be considered as a married person if paragraph (d)(1) of this section does not apply and—

(i) The employee is married within the meaning of § 301.7701–18(b) of this chapter on the day the withholding allowance certificate is furnished;

(ii) The employee's spouse died during the employee's taxable year; or

(iii) The employee's spouse died during one of the two taxable years immediately preceding the current taxable year and, on the basis of facts existing at the beginning of such day, the employee reasonably expects, at the close of the taxable year, to be a surviving spouse as defined in section 2 and § 1.2–2(a) of this chapter. The employee must reasonably expect to file an income tax return claiming qualifying widow(er) status.

(e) *Applicability date.* The provisions of this section apply on and after October 6, 2020. Taxpayers may choose to apply paragraphs (a)(2) and (3) this section on or after January 1, 2020 and before October 6, 2020. For rules that apply before October 6, 2020, see 26 CFR part 31, revised as of April 1, 2020.

■ **Par. 20.** Section 31.3402(m)–1 is revised to read as follows:

§ 31.3402(m)–1 Additional withholding allowance.

(a) *In general.* In determining the withholding allowance or additional

reductions in withholding under section 3402(m) on employee withholding allowance certificates furnished to the employer to be effective on or after January 1, 2020, employees may take into account the estimated tax deductions described in paragraph (b) of this section, the estimated tax credits described in paragraph (c) of this section, and estimated tax payments described in paragraph (d) of this section. Employees may only claim items in paragraphs (b), (c), and (d) of this section to the extent provided in paragraph (e) of this section.

(b) *Estimated tax deductions.*

Employees may take into account the following income tax deductions in chapter 1 of the Code:

(1) Estimated itemized deductions (as defined in section 63(d)) allowable under chapter 1;

(2) Estimated deductions described in section 62(a), except for—

(i) Any deduction described in section 62(a)(1);

(ii) Any deduction described in section 62(a)(2) if the reimbursement or payment for the amount allowable as such deduction is excludable from wages subject to income tax withholding;

(iii) Any deduction described in section 62(a)(3);

(iv) Any deduction described in section 62(a)(4); and

(v) Any deduction described in section 62(a)(5);

(3) Estimated deductions for net operating loss carryovers under section 172;

(4) The estimated aggregate net losses from schedules C (Profit or Loss from Business), D (Capital Gains and Losses), E (Supplemental Income and Loss), and F (Profit or Loss from Farming) of Form 1040 and from the last line of Part II of Form 4797 (Sale of Business Property);

(5) Estimated additional standard deduction for the aged and blind provided under section 63(c)(3) and section 63(f);

(6) Estimated deduction allowed under section 199A; and

(7) Estimated deduction or deductions allowed under section 151.

(c) *Estimated tax credits.* Employees may take into account the estimated income tax credits allowable under chapter 1, except for—

(1) The credit under section 31(a) for taxes withheld under chapter 24 of the Code (which includes taxes withheld on wages and amounts treated as wages for chapter 24 purposes, such as pension withholding under section 3405 and backup withholding under section 3406) unless, on the day the employee estimates this amount, the amount has

been actually withheld from the employee's wages (or another payment treated as wages for this purpose), the employee enters this amount of tax withheld pursuant to the instructions in the Tax Withholding Estimator (or successor) or Publication 505 (or successor), and the employee is not an employee whose employer must withhold for that employee pursuant to a notice under § 31.3402(f)(2)–1(g)(2);

(2) The credit for tax withheld at source for nonresident aliens and foreign corporations under section 33; and

(3) Any credit to the extent that the employee has filed or expects to file any IRS form claiming such credit other than the employee's United States Individual Income Tax Return (Form 1040).

(d) *Estimated tax payments.*

Employees may take into account estimated tax payments only if—

(1) The employee's employer is not obligated to withhold on the employee's wages pursuant to a notice under § 31.3402(f)(2)–1(g)(2);

(2) The amount claimed has been paid with the payment voucher from Form 1040–ES (or was otherwise designated by the taxpayer as a payment of estimated tax) or is planned to be made with respect to nonwage items but only if the planned amount does not decrease withholding below the pro-rata share of chapter 1 tax attributable to wages as determined under forms, instructions, publications, and other guidance prescribed by the Commissioner;

(3) The employee uses the Tax Withholding Estimator (or successor) or Publication 505 (or successor) and enters the amount claimed pursuant to the instructions in the Tax Withholding Estimator (or successor) or Publication 505 (or successor); and

(4) In using the Tax Withholding Estimator (or successor) or Publication 505 (or successor), the employee includes all items of nonwage income the Tax Withholding Estimator (or successor) or Publication 505 (or successor) prompts or instructs the employee to enter or include.

(e) *Definitions and special rules—*(1) *Estimated.* The term “estimated” as used in this section to modify the terms “deduction,” “deductions,” “credits,” “losses,” and “amount of decrease” means with respect to an employee the aggregate dollar amount of a particular item that the employee reasonably expects will be allowable to the employee on the employee's income tax return for the estimation year under the section of the Code specified for each item. In no event shall that amount exceed the sum of:

(i) The amount shown for that particular item on the income tax return that the employee has filed for the taxable year preceding the estimation year (or, if such return has not yet been filed, then the income tax return that the employee filed for the taxable year preceding such year), which amount the employee also reasonably expects to show on the income tax return for the estimation year; plus

(ii) The determinable additional amounts (as defined in paragraph (e)(1)(iii) of this section) for each item for the estimation year.

(iii) The determinable additional amounts are amounts that are not included in paragraph (e)(1)(i) of this section and that are demonstrably attributable to identifiable events during the estimation year or the preceding year. Amounts are demonstrably attributable to identifiable events if they relate to payments already made during the estimation year, to binding obligations to make payments (including the payment of taxes) during the year, and to other transactions or occurrences, the implementation of which has begun and is verifiable at the time the employee furnishes a withholding allowance certificate. The estimation year is the taxable year including the day on which the employee furnishes the withholding allowance certificate to the employer, except that if the employee furnishes the withholding allowance certificate to the employer and specifies on the certificate that the certificate is not to take effect until a specified future date, the estimation year shall be the taxable year including that specified future date. It is not reasonable for an employee to include in his or her withholding computation for the estimation year any amount that is shown for a particular item on the income tax return that the employee has filed for the taxable year preceding the estimation year (or, if such return has not yet been filed, then the income tax return that the employee filed for the taxable year preceding such year) and that has been disallowed by the Service as part of an adjustment described in § 601.103(b) of this chapter (relating to examination and determination of tax liability) and § 601.105(b) through (d) of this chapter (relating to examination of returns), without regard to any pending request for reconsideration, protest, request for consideration by an Appeals office, or civil action in which such proposed adjustment is at issue.

(2) *Restriction for employees with nonwage income.* The employee must offset any deduction described in paragraph (b) of this section with items

includible in the employee's gross income for which no Federal income tax is withheld in accordance with forms, instructions, publications, and other guidance prescribed by the Commissioner. In addition, an employee whose employer must withhold for that employee pursuant to a notice under § 31.3402(f)(2)–1(g)(2) must offset any tax benefit resulting from any deduction or credit described in paragraph (b) or (c) of this section with the anticipated income tax attributable to items other than wages includible in the employee's gross income in the manner determined by the Commissioner.

(3) *Multiple withholding allowance certificates*—(i) *In general.* The employee may not take into account deductions, credits, or estimated tax payments described in paragraph (b), (c), or (d) of this section if these deductions, credits, or estimated tax payments are claimed on another valid withholding allowance certificate in effect with respect to another employer of the employee or any employer of the employee's spouse.

(ii) *Married taxpayers filing jointly.* Married taxpayers who reasonably expect to file as married filing jointly on their Federal income tax return for the estimation year determine the withholding allowance to which they are entitled under section 3402(m) on the basis of their combined wages, allowable credits or deductions, and estimated tax payments permitted to be taken into account. The deductions, credits, or estimated tax payments described in paragraphs (b), (c), and (d) of this section to which either spouse is entitled may be claimed by either spouse or may be allocated between both spouses. However, one spouse may not claim deductions, credits, or estimated tax payments described in paragraphs (b), (c), and (d) of this section claimed on the other spouse's withholding allowance certificate.

(iii) *Married taxpayers filing separately.* A married taxpayer who reasonably expects to file a separate income tax return from the employee's spouse for the estimation year determines the withholding allowance deductions, credits, or estimated tax payments described in paragraphs (b), (c), and (d) of this section on the basis of the employee's individual wages, deductions, credits, and estimated tax payments.

(4) *IRS instructions.* An employee must follow the instructions to the Form W-4, and other IRS forms, instructions, publications, and related guidance in determining the employee's withholding allowance or other reductions in withholding permitted

under section 3402(m) for deductions, credits, or estimated tax payments described in paragraphs (b), (c), and (d) of this section.

(f) *Applicability date.* The provisions of this section apply on or after October 6, 2020. Taxpayers may choose to apply paragraphs (a)(2) and (3) this section on or after January 1, 2020 and before October 6, 2020. For rules that apply before October 6, 2020, see 26 CFR part 31, revised as of April 1, 2020.

■ **Par. 21.** Section 31.3402(n)–1 is revised to read as follows:

§ 31.3402(n)–1 Employees incurring no income tax liability.

(a) *In general.* Notwithstanding any other provision of this subpart (except to the extent a payment of wages is subject to withholding under § 31.3402(g)–1(a)(2)), an employer shall not deduct and withhold any tax under chapter 24 of the Code upon a payment of wages made to an employee, if there is in effect with respect to the payment a withholding allowance certificate furnished to the employer by the employee which certifies that—

(1) The employee incurred no liability for income tax imposed under subtitle A of the Internal Revenue Code for the employee's preceding taxable year; and

(2) The employee anticipates that the employee will incur no liability for income tax imposed under subtitle A for the employee's current taxable year.

(b) *Mandatory flat rate withholding.* To the extent wages are subject to income tax withholding under § 31.3402(g)–1(a)(2), such wages are subject to such income tax withholding regardless of whether a withholding allowance certificate under section 3402(n) and this section has been furnished to the employer.

(c) *Liability for income tax.* For purposes of section 3402(n) and this section, an employee is not considered to incur liability for income tax imposed under subtitle A if the amount of such tax imposed is equal to or less than the total amount of credits against such tax which are allowable under chapter 1 of the Internal Revenue Code, other than those credits allowable under section 31 or 34. For purposes of this section, an employee who files a joint return under section 6013 is considered to incur liability for any tax shown on such return. An employee who is entitled to file a joint return under section 6013 shall not certify that the employee anticipates that he or she will incur no liability for income tax imposed by subtitle A for the employee's current taxable year if such statement would not be true in the event that the employee files a joint return for such year, unless

the employee filed a separate return for the preceding taxable year and anticipates that the employee will file a separate return for the current taxable year.

(d) *Rules about withholding allowance certificates.* For rules relating to invalid withholding allowance certificates, see § 31.3402(f)(2)–1(h), and for rules relating to disregarding certain withholding allowance certificates on which an employee claims a complete exemption from withholding, see § 31.3402(f)(2)–1(i).

(e) *Examples.* The following examples illustrate this section:

(1) *Example 1.* A, an unmarried, calendar-year basis taxpayer, files an income tax return for 2020 on April 10, 2021, showing that A had adjusted gross income of \$5,000 and is not liable for any income tax for 2020. A had \$180 of income tax withheld during 2020. A anticipates that A's gross income for 2021 will be approximately the same amount, and that A will not incur income tax liability for that year. On April 20, 2021, A commences employment and furnishes the employer a withholding allowance certificate certifying that A incurred no liability for income tax imposed under subtitle A for 2020, and that A anticipates that A will incur no liability for income tax imposed under subtitle A for 2021. A's employer shall not deduct and withhold on payments of wages made to A on or after April 20, 2021. Under § 31.3402(f)(4)–1(b), unless A furnishes a new withholding allowance certificate including the certifications described in paragraph (a) of this section to the employer, the employer is required to deduct and withhold upon payments of wages to A made after February 15, 2022.

(2) *Example 2.* Assume the facts are the same as in paragraph (e)(1) of this section (Example 1) except that A had been employed by the employer prior to April 20, 2021, and had furnished the employer a withholding allowance certificate prior to furnishing the withholding allowance certificate including the certifications described in paragraph (a) of this section on April 20, 2021. Under § 31.3402(f)(3)–1(b), the employer would be required to give effect to the new withholding allowance certificate no later than the beginning of the first payroll period ending (or the first payment of wages made without regard to a payroll period) on or after May 20, 2021. However, under § 31.3402(f)(3)–1(b), the employer could, if it chose, make the new withholding allowance certificate effective with respect to any payment of wages made on or after April 20, 2021, and before the effective date mandated by section 3402(f)(3)(B)(i) and § 31.3402(f)(3)–1(b). Under § 31.3402(f)(4)–1(b), unless A furnishes a new withholding allowance certificate including the certifications described in § 31.3402(n)–1(a) to A's employer, the employer is required to deduct and withhold upon payments of wages to A made after February 15, 2022.

(3) *Example 3.* Assume the facts are the same as in paragraph (e)(1) of this section (Example 1) except that for 2020 A has

taxable income of \$8,000, income tax liability of \$839, and income tax withheld of \$1,195. Although A received a refund of \$356 due to income tax withholding of \$1,195, A may not certify on A's withholding allowance certificate that A incurred no liability for income tax imposed by subtitle A for 2020.

(f) *Applicability date.* The provisions of this section apply on and after October 6, 2020. Taxpayers may choose to apply paragraphs (a)(2) and (3) this section on or after January 1, 2020 and before October 6, 2020. For rules that apply before October 6, 2020, see 26 CFR part 31, revised as of April 1, 2020.

Sunita Lough,

Deputy Commissioner for Services and Enforcement.

Approved: September 29, 2020.

David J. Kautter,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2020-22071 Filed 10-5-20; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 200227-0066; RTID 0648-XA365]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Aleutian district (CAI) of the Bering Sea and Aleutian Islands management area (BSAI) by vessels participating in the BSAI trawl limited access sector fishery. This action is necessary to prevent exceeding the 2020 total allowable catch (TAC) of Pacific ocean perch in the CAI allocated to vessels participating in the BSAI trawl limited access sector fishery.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), October 1, 2020, through 2400 hrs, A.l.t., December 31, 2020.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea

and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2020 TAC of Pacific ocean perch, in the CAI, allocated to vessels participating in the BSAI trawl limited access sector fishery was established as a directed fishing allowance of 717 metric tons by the final 2020 and 2021 harvest specifications for groundfish in the BSAI (85 FR 13553, March 9, 2020).

In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the CAI by vessels participating in the BSAI trawl limited access sector fishery. While this closure is effective, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA) finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of the Pacific ocean perch directed fishery in the CAI for vessels participating in the BSAI trawl limited access sector fishery. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 30, 2020.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: October 1, 2020.

Jennifer M. Wallace,

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

[FR Doc. 2020-22031 Filed 10-1-20; 4:15 pm]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 200227-0066; RTID 0648-XA364]

Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Atka mackerel in the Central Aleutian district (CAI) of the Bering Sea and Aleutian Islands management area (BSAI) by vessels participating in the BSAI trawl limited access sector fishery. This action is necessary to prevent exceeding the 2020 total allowable catch (TAC) of Atka mackerel in the CAI allocated to vessels participating in the BSAI trawl limited access sector fishery.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), October 1, 2020, through 2400 hrs, A.l.t., December 31, 2020.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907-586-7228.

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

The 2020 TAC of Atka mackerel, in the CAI, allocated to vessels participating in the BSAI trawl limited access sector fishery was established as a directed fishing allowance of 1,307 metric tons by the final 2020 and 2021 harvest specifications for groundfish in the BSAI (85 FR 13553, March 9, 2020).

In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that

this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Atka mackerel in the CAI by vessels participating in the BSAI trawl limited access sector fishery. While this closure is effective, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA) finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of the Atka mackerel directed fishing in the CAI for vessels participating in the BSAI trawl limited access sector fishery. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 30, 2020.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: October 1, 2020.

Jennifer M. Wallace,

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

[FR Doc. 2020–22025 Filed 10–1–20; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 200221–0062]

RTID 0648–XA516

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

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting retention of Pacific cod by catcher vessels using trawl gear in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary because the 2020 total allowable catch (TAC) of Pacific cod allocated to catcher vessels using trawl gear in the Central Regulatory Area of the GOA has been reached.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), October 1, 2020, through 2400 hours, A.l.t., December 31, 2020.

FOR FURTHER INFORMATION CONTACT: Krista Milani, 907–581–2062.

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

The 2020 TAC of Pacific cod allocated to catcher vessels using trawl gear in the Central Regulatory Area of the GOA is 1,567 metric tons (mt) as established by

the final 2020 and 2021 harvest specifications for groundfish of the GOA (85 FR 13802, March 10, 2020).

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

Classification

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

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay prohibiting the retention of Pacific cod by catcher vessels using trawl gear in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 29, 2020.

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

Dated: September 30, 2020.

Jennifer M. Wallace,

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

[FR Doc. 2020–22000 Filed 10–1–20; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 85, No. 194

Tuesday, October 6, 2020

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. AMS–SC–20–0028; SC20–905–1 CR]

Oranges, Grapefruit, Tangerines, and Pummelos Grown in Florida; Continuance Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Referendum order.

SUMMARY: This document directs that a referendum be conducted among eligible producers of oranges, grapefruit, tangerines, and pummelos grown in Florida to determine whether they favor continuance of the marketing order regulating the handling of oranges, grapefruit, tangerines, and pummelos produced in the production area.

DATES: The referendum will be conducted from October 19 through November 9, 2020. Only current fresh citrus producers within the production area that produced oranges, grapefruit, tangerines, or pummelos for the fresh market during the period of August 1, 2019, through July 31, 2020, are eligible to vote in this referendum.

ADDRESSES: Copies of the marketing order may be obtained from the Southeast Marketing Field Office, Marketing Order Agreement Division, Specialty Crops Program, AMS, USDA, 1124 First Street South, Winter Haven, FL 33880; Telephone: (863) 324–3375; from the Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491; or internet: <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Jennie M. Varela, Senior Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops

Program, AMS, USDA, 1124 First Street South, Winter Haven, FL 33880; Telephone: (863) 324–3375, Fax: (863) 291–8614, or Email: Jennie.Varela@usda.gov or Christian.Nissen@usda.gov.

SUPPLEMENTARY INFORMATION: Pursuant to Marketing Agreement and Order No. 905, as amended (7 CFR part 905), hereinafter referred to as the “Order,” and the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the “Act,” it is hereby directed that a referendum be conducted to ascertain whether continuance of the Order is favored by producers. The referendum shall be conducted from October 19 through November 9, 2020, among Florida fresh citrus producers in the production area. Only current fresh citrus producers that were engaged in the production of oranges, grapefruit, tangerines, or pummelos grown in the production area, during the period of August 1, 2019, through July 31, 2020, may participate in the continuance referendum.

USDA has determined that continuance referenda are an effective means for determining whether producers favor the continuation of marketing order programs. The Order will continue in effect if at least two-thirds of the producers voting in the referendum or at least two-thirds of the volume of Florida fresh citrus represented in the referendum votes in favor of continuance. In evaluating the merits of continuance versus termination, USDA will not exclusively consider the results of the continuance referendum. USDA will also consider all other relevant information concerning the operation of the Order and the relative benefits and disadvantages to producers, handlers, and consumers in determining whether continued operation of the Order would tend to effectuate the declared policy of the Act.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the ballots used in the referendum have been approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0189, Fruit Crops. It has been estimated it will take an average of 20 minutes for each of the approximately 500 producers of oranges, grapefruit, tangerines, and pummelos grown in Florida to cast a ballot. Participation is

voluntary. Ballots postmarked after November 9, 2020, will not be included in the vote tabulation.

Jennie M. Varela, Dolores Lowenstine, and Christian D. Nissen of the Southeast Marketing Field Office, Specialty Crops Program, AMS, USDA, are hereby designated as the referendum agents of the Secretary of Agriculture to conduct this referendum. The procedure applicable to the referendum shall be the “Procedure for the Conduct of Referenda in Connection with Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended” (7 CFR 900.400 *et seq.*).

Ballots will be mailed to all producers of record and may also be obtained from the referendum agents or their appointees.

List of Subjects in 7 CFR Part 905

Grapefruit, Oranges, Pummelos, Reporting and recordkeeping requirements, and Tangerines.

Authority: 7 U.S.C. 601–674.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2020–20745 Filed 10–5–20; 8:45 am]

BILLING CODE P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket Nos. PRM–50–103; NRC–2011–0189]

Measurement and Control of Combustible Gas Generation and Dispersal

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; denial.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is denying a petition for rulemaking (PRM), dated October 14, 2011, submitted by Mr. Jordan Weaver (the petitioner) on behalf of the Natural Resources Defense Council, Inc. The petitioner requested that the NRC amend its regulations regarding the measurement and control of combustible gas generation and dispersal within a power reactor system. The petition was assigned Docket No. PRM–50–103 and the NRC published a

notice of docketing in the **Federal Register** on January 5, 2012. The NRC is denying the petition because the issues raised by the petitioner had been considered by the NRC in other NRC processes and the petitioner presented no sufficient new information or arguments to warrant the requested changes to the regulations.

DATES: The docket for the petition for rulemaking, PRM–50–103, is closed on October 6, 2020.

ADDRESSES: Please refer to Docket ID NRC–2011–0189 when contacting the NRC about the availability of information for this petition. You may obtain publicly-available information related to this petition by any of the following methods:

- *Federal Rulemaking Website:* Public comments and supporting materials related to this petition can be found at <https://www.regulations.gov> by searching on the petition Docket ID NRC–2011–0189. 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.

- *The NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Document collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 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 Section IV, “Availability of Documents.”

- *The NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Joseph Sebrosky, Office of Nuclear Reactor Regulation; telephone: 301–415–1132; email: Joseph.Sebrosky@nrc.gov; or Edward M. Lohr, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–0253; email: Edward.Lohr@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

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I. The Petition

Section 2.802 of title 10 of the *Code of Federal Regulations* (10 CFR), “Petition for rulemaking—requirements for filing,” provides an opportunity for any interested person to petition the Commission to issue, amend, or rescind any regulation. The NRC received a petition for rulemaking, dated October 14, 2011, from Mr. Jordan Weaver on behalf of the Natural Resources Defense Council, Inc. The NRC published a notice of docketing in the **Federal Register** on January 5, 2012. The petitioner requested that the NRC amend its regulations regarding the measurement and control of combustible gas generation and dispersal within a power reactor system.

When the NRC published the notice of docketing in 2012, the NRC elected not to seek public comment, because the staff was addressing the issues raised in the petition in the context of an ongoing effort at the time. Recommendations on that effort in response to the Fukushima Dai-ichi accident in Japan, SECY–11–0093, “Near-Term Report and Recommendations for Agency Actions Following the Events in Japan,” (Near-Term Task Force Report) had not yet been resolved.

The NRC was in the process of holding public meetings on the Near-Term Task Force Report recommendations and indicated in the notice of docketing for the petition that “the NRC is not requesting public comment at this time but may do so in the future, if it decides public comment would be appropriate.” Because the NRC held several public meetings on the Near-Term Task Force Report recommendations and on the subjects raised by the petitioner, the NRC determined that additional public input was not needed to resolve the issues raised in this petition.

The NRC identified six issues in the petition. The petitioner raised various issues related to pressurized-water reactors (PWRs); boiling-water reactors (BWRs); or specific containment designs such as BWR Mark I, Mark II, or Mark III containments or PWR large dry containments, sub-atmospheric containments, and ice condenser containments.

II. Reasons for Denial

The NRC is denying the petition because the issues raised by the petitioner had been considered by the NRC in other NRC processes and the petitioner did not present sufficient new

information or arguments to warrant the requested changes to the NRC's regulations in light of the NRC's relevant past decisions and current policies. The NRC completed an assessment of potential regulatory changes related to hydrogen control following the March 2011 Fukushima accident in Japan. This assessment is summarized in SECY–16–0041, “Closure of Fukushima Tier 3 Recommendations Related to Containment Vents, Hydrogen Control, and Enhanced Instrumentation.” In SECY–16–0041, the NRC addressed recommendation 6 of the Near-Term Task Force Report involving hydrogen control and mitigation inside containment or in other buildings, and other recommendations from the report provided in connection with implementing lessons learned from the 2011 accident at the Fukushima Dai-ichi nuclear power plant.

The NRC's response to Near-Term Task Force recommendation 6, as documented in SECY–16–0041, was based on a detailed holistic review of hydrogen control measures for power reactors. In SECY–16–0041, the NRC provided a high-level summary of the studies and evaluations related to hydrogen control, including studies issued in September of 2003 that supported requirements found in 10 CFR 50.44, “Combustible gas control for nuclear power reactors.” In SECY–16–0041, the NRC discusses hydrogen-related issues that have been addressed in major studies, such as those documented in NUREG–1150, “Severe Accident Risks: An Assessment for Five U.S. Nuclear Power Plants,” and NUREG–1935, “State-of-the-Art Reactor Consequence Analyses (SOARCA) Report.” Additionally, the NRC has been participating in various international efforts, including a working group studying hydrogen generation, transport, and risk management organized by the Organisation for Economic Cooperation and Development/Nuclear Energy Agency.

In SECY–16–0041, the NRC concluded that additional regulatory actions were not needed based on: (1) The evaluations of event frequencies, plant responses, the timing of barrier failures, and conditional release fractions, and; (2) the significant margin that exists between the NRC's quantitative health objectives as described in the NRC's “Safety Goal Policy Statement,” and estimated plant risks that might be reduced by improvement in hydrogen control.

The NRC, in SECY–16–0041, documented that existing NRC

requirements and programs undertaken by licensees addressed the risks to public health and safety from hydrogen generation during severe accidents; therefore, additional requirements would not provide a substantial safety improvement. For new reactors licensed after 2003, NRC regulations include more stringent hydrogen control and mitigation requirements. The NRC also documented in SECY-16-0041 that changes to NRC regulations related to hydrogen control and mitigation requirements for new reactors licensed after 2003 were not warranted.

In PRM-50-103, the petitioner raised six issues and requested that the NRC address them in rulemaking. While the NRC's assessment in SECY-16-0041 of Near-Term Task Force Report recommendation 6, is closely related to the issues raised in PRM-50-103, SECY-16-0041 does not specifically address every aspect of the six issues raised in the petition. The conclusions in SECY-16-0041 and other sources are referenced in addressing the specific issues raised in PRM-50-103. The following explains each issue raised in the petition, the NRC's detailed response, and as appropriate, supplemental information beyond that provided in SECY-16-0041.

Issue 1: The petitioner requested that the NRC revise § 50.44 "to require that all PWRs (with large dry containments, sub-atmospheric containments, and ice condenser containments) and [BWRs with Mark III containments] operate with systems for combustible gas control that would effectively and safely control the potential *total* quantity of hydrogen that could be generated in different severe accident scenarios. . . ." The petitioner stated that the total quantity of hydrogen could exceed the amount generated from the metal-water reaction of 100 percent of the fuel cladding because of contributions produced by the metal-water reaction with non-fuel components of the reactor.

Response to Issue 1: The NRC has evaluated requirements related to hydrogen control for these containment types on several occasions. For example, hydrogen-related issues have been addressed in major studies, such as those documented in NUREG-1150 and NUREG-1935. In SECY-16-0041, the NRC provided a detailed assessment of whether additional hydrogen controls were warranted for large dry containments, ice condenser containments, and Mark III containments. The NRC concluded that the risks to public health and safety from hydrogen generation during severe accidents were addressed by existing

NRC requirements and programs undertaken by licensees and that additional requirements for existing operating reactors would, therefore, not provide a substantial increase in the overall protection of the public health and safety and that changes to requirements were not warranted.

For large dry and sub-atmospheric containments, § 50.44 does not include a requirement to assume a particular percentage of hydrogen generated from metal-water reactions for existing operating reactors. The NRC's **Federal Register** notice for the final rule "Combustible Gas Control in Containment," published on September 16, 2003, stated that combustible gas generated from severe accidents was not risk significant for large dry and sub-atmospheric containments "because of the large volumes, high failure pressures, and likelihood of random ignition to help prevent the build-up of detonable hydrogen concentrations."

As documented in the draft report, "State-of-the-Art Reactor Consequence Analysis Project—Uncertainty Analysis of the Unmitigated Short-Term Station Blackout of the Surry Power Station" the MELCOR best-estimate computer program was used to model the progression of hypothetical severe accidents at Surry Power Station. Sandia National Laboratories developed the MELCOR computer program for the NRC to model the progression of severe accidents in nuclear power plants. The Surry Power Station MELCOR uncertainty analysis showed that the hydrogen that is produced in-vessel can vary between 250 kilograms (5th percentile) to 600 kilograms (95th percentile) with a mean of about 400 kilograms at 48 hours after the start of an accident. The corresponding fraction of cladding oxidized varies from 35 percent to 83 percent equivalent cladding mass with a mean of 55 percent. The typical timing for rapid initial hydrogen generation is about one to two hours after the start of hydrogen generation. None of the cases in the uncertainty analysis indicated early containment failure as a result of hydrogen combustion. In the hypothetical severe accident, any containment failure would occur later, as a result of continued heat up of the containment, due to core-concrete interaction if cooling to the containment were not restored. The analysis also did not predict late failure due to hydrogen combustion because after breach of the reactor pressure vessel, which would occur prior to containment failure, ignition sources would be available to burn the hydrogen at lower flammability levels.

NUREG/CR-7110, "State-of-the-Art Reactor Consequence Analyses Project," Volume 2, "Surry Integrated Analysis" considered hydrogen generated from non-cladding sources. That analysis showed that high-steam concentrations are typically associated with scenarios that lead to large amounts of hydrogen generation from metal-water reactions. These high steam concentrations are sufficient to inert the containment and suppress hydrogen combustion in containments with large volumes.

In reviewing the issues raised in the petition, the NRC also considered safety gains attributable to NRC Order EA-12-049, "Order Modifying Licenses with Regard to Requirements for Mitigation Strategies for Beyond-Design-Basis External Events," (codified in 10 CFR 50.155) which requires mitigation strategies for each operating reactor to reduce the risk of core damage from an extended loss of alternating current power event. Also, based on Commission direction in SRM-SECY-15-0065, "Proposed Rulemaking: Mitigation of Beyond-Design-Basis Events," the staff revised the Reactor Oversight Process to cover licensees' implementation and maintenance of severe accident management guidelines. The severe accident management guidelines address hydrogen generation in large dry and sub-atmospheric containments to minimize the potential for containment failure from hydrogen combustion events.

For ice condenser and BWR Mark III containments, § 50.44(b)(2)(ii), (b)(3), and (b)(5) require the capability for controlling combustible gas (*i.e.*, hydrogen igniters) and the performance of an evaluation of equipment survivability and an evaluation of the consequences of large amounts of hydrogen generated if there is an accident (hydrogen resulting from the metal-water reaction of up to and including 75 percent of the fuel cladding surrounding the active fuel region, excluding the cladding surrounding the plenum volume). As discussed in SECY-16-0041, the NRC performed additional analyses for these containments to determine if additional regulatory actions were warranted relative to hydrogen control. The NRC determined that such actions were not needed based on the underlying requirements in § 50.44 as supplemented by additional guidance to include backup power supplies for hydrogen igniters under NRC Order EA-12-049. The Order requirements have been made generically applicable in "§ 50.155, "Mitigation of beyond-design-basis events."

As documented in SECY-16-0041, the NRC has performed assessments using best estimate simulations with MELCOR, consistent with the approach used in prior State-of-the-Art Consequence Analyses efforts. Additional assessments are documented in NUREG/CR-7245, "State-of-the-Art Consequence Analyses (SOARCA) Project—Sequoyah Integrated Deterministic and Uncertainty Analyses," dated November 2017. The NUREG/CR-7245 assessment included hydrogen generated from non-cladding sources. Based on the results of these studies, the NRC concluded that early containment failures could only occur on the first hydrogen burn for ice condenser containments in those cases where the hydrogen igniters were not credited. Subsequent hydrogen burns do not challenge ice condenser containment integrity because they occur closer to the lower flammability limit of hydrogen due to the presence of active ignition sources (e.g., hot gases from the primary system or ex-vessel debris). The total amount of hydrogen produced by the first deflagration varies between 5 to 50 percent of equivalent cladding mass oxidized. Therefore, the NRC concluded in SECY-16-0041 that the existing requirement to consider hydrogen generation from a 75 percent cladding mass oxidation for ice condenser containments is appropriate. In cases crediting hydrogen igniters, containment failure was delayed and only occurred as a result of overpressure if heat removal systems were not restored.

For BWR Mark III containments, calculations were performed in resolving Near-Term Task Force recommendation 5.2 related to reliable hardened vents for containments other than BWR Mark I and Mark II. Further, analysis performed in response to Near-Term Task Force recommendation 6, associated with hydrogen control measures, showed that the total in-vessel hydrogen generation by the time of lower head failure is about 90 percent of equivalent cladding mass oxidized. The outcomes of these calculations indicate that containment failure by overpressure is significantly delayed in this scenario.

Licensees with Mark III containments have extended reactor core isolation cooling system operation by cooling water in the suppression pool in compliance with NRC Order EA-12-049, made generically applicable in § 50.155. This change decreases the likelihood of fission product barrier breaches.

An assessment of event frequencies, plant responses, the timing of barrier

failures, radioactive releases, and other factors show substantial margin to the quantitative health objectives of the Commission's Safety Goal Policy Statement. Therefore, even if hydrogen generation is assumed to be 90 percent of equivalent cladding mass oxidized, the NRC determined that additional regulatory actions are not warranted above those found in § 50.44 and in response to NRC Order EA-12-049.

The petitioner's request also applied to new reactors. Section 50.44(c) sets forth combustible gas control requirements for water-cooled nuclear power reactor designs licensed after 2003 with characteristics (e.g., type and quantity of cladding materials) such that the potential for production of combustible gases is comparable to light-water reactor designs licensed as of 2003. These requirements are more conservative than those for operating reactors.

Section 50.44(c)(2) requires a system for hydrogen control that can safely accommodate hydrogen generated by the equivalent of a 100 percent fuel clad metal-water reaction and that is capable of precluding uniformly distributed concentrations of hydrogen from exceeding 10 percent (by volume). If these conditions cannot be satisfied, an inerted atmosphere must be provided within the containment. As a result, new plants have design features such as hydrogen igniters for AP1000 design reactors and inerted containments and passive autocatalytic recombiners for the Economic Simplified Boiling-Water Reactors. As described in SECY-16-0041, the NRC assessed the potential for further hydrogen control enhancements and found that such measures would not be justified under the issue finality provisions of 10 CFR part 52, "Licenses, certifications, and approvals for nuclear power plants" (similar to the backfit requirements defined in § 50.109, "Backfitting"). In addition, based on the analyses for the various containment types, the NRC concludes that changing the existing § 50.44(c) requirements is not warranted.

The NRC also considered the petitioner's position that a hydrogen detonation inside containment can result in internally generated missiles that could damage structures, systems, and components used to maintain key safety functions of ensuring core cooling and containment integrity, as well as the petitioner's position that these types of events should be analyzed. While SECY-16-0041 does not specifically address this issue, the conclusions in that paper are based, in part, on the low risk associated with core damage events that could lead to the generation of large

amounts of hydrogen. Given the low probability of missiles being generated from a hydrogen combustion event (which assumes the core is substantially degraded) the estimated plant risks that might be reduced by a proposed requirement to consider missiles generated from a hydrogen combustion event are not substantial.

Therefore, the NRC concludes that the issues raised by the petitioner have been considered by the NRC in other NRC processes and the petitioner did not present sufficient new information or arguments to warrant the requested amendment in light of the NRC's relevant past decisions and current policies. The NRC determined that the analyses and plant changes requested by the petitioner in issue 1 of the petition for existing operating reactors would not provide substantial safety enhancements. For reactors licensed after 2003 (new reactors), the NRC determined that changes to the requirements in § 50.44(c)(2) are not warranted. The NRC continues to conclude that the current design and licensing requirements for operating and new reactors for the control of hydrogen provide adequate protection of public health and safety.

Issue 2: The petitioner requested that the NRC revise § 50.44 to "require that [BWRs with Mark I and Mark II containments] operate with systems for combustible gas control or inerted containments that would effectively and safely control the potential total quantity of hydrogen that could be generated in different severe accident scenarios." The petitioner stated that the total quantity of hydrogen could exceed the amount generated from the metal-water reaction of 100 percent of the fuel cladding because of contributions produced by the metal-water reaction with non-fuel components of the reactor.

Response to Issue 2: The NRC has evaluated requirements related to hydrogen control for BWRs with Mark I and Mark II containments on several occasions. In SECY-16-0041, the NRC provided a detailed assessment of whether additional hydrogen controls were warranted for these containment types. The NRC concluded that additional requirements or guidance beyond § 50.44, those associated with NRC Order EA-13-109, "Order Modifying Licenses with Regard to Reliable Hardened Containment Vents Capable of Operation under Severe Accident Conditions," and the severe accident management guidelines were not warranted. For hydrogen combustion events outside primary containment, assessments performed

with best estimate simulations (e.g., NUREG-1935) included hydrogen generated from non-cladding sources.

In resolving issue 2, the NRC considered the international evaluations referenced by the petitioner in support of the request to modify the NRC's regulations. The NRC participated in the international working groups that developed these evaluations and used them in developing current NRC regulations and guidance.

Under § 50.44, BWRs with Mark I and Mark II containments have an inerted atmosphere within the primary containment that greatly reduces the possibility of hydrogen combustion.

The analyses in NUREG/CR-7155, "State-of-the-Art Reactor Consequence Analyses Project—Uncertainty Analysis of the Unmitigated Long-Term Station Blackout of the Peach Bottom Atomic Power Station," predicted that the hydrogen that is produced in-vessel during an unmitigated long-term station blackout at a BWR with a Mark I containment can vary between about 1,100 kilograms (5th percentile) and about 1,600 kilograms (95th percentile) with a mean of about 1,300 kilograms. This corresponds to a fraction of equivalent cladding mass oxidized that varies from 62 percent to 90 percent, with a mean at 73 percent. The more recent calculations in support of the NRC's evaluation of a potential rulemaking on containment protection and release reduction (NUREG-2206, "Technical Basis for the Containment Protection and Release Reduction Rulemaking for Boiling Water Reactors with Mark I and Mark II Containments"), showed that equivalent cladding mass oxidation fraction varies between 60 percent and 77 percent, with a typical timing for rapid initial hydrogen generation of about 2 to 3 hours after the start of hydrogen generation. The assessment in SECY-16-0041 concluded that adding hydrogen control measures beyond those already included in NRC regulations, Order EA-13-109, and the severe accident management guidelines would not provide a substantial safety improvement, and therefore, were not warranted.

In SRM-SECY-15-0085, "Evaluation of the Containment Protection and Release Reduction for Mark I and Mark II Boiling Water Reactors Rulemaking Activities (10 CFR part 50) (RIN-3150-AJ26)," the Commission directed the staff not to undertake rulemaking and to "leverage the draft regulatory basis to the extent applicable to support resolution of the post-Fukushima Tier 3 item related to containments of other designs." In SECY-16-0041, the NRC

evaluated the technical analyses for Order EA-13-109, and the proposed Containment Protection and Release Reduction draft regulatory basis for rulemaking, "Draft Regulatory Basis for Containment Protection and Release Reduction for Mark I and Mark II Boiling Water Reactors (10 CFR part 50)." Order EA-13-109 and the Containment Protection and Release Reduction draft regulatory basis show that the threat of explosions from combustible gases outside primary containment is significantly reduced by effective venting strategies. Additionally, the implementation of Order EA-13-109 included the severe accident water addition/severe accident water management approaches to further control containment conditions in the event of a severe accident. In SECY-16-0041, the NRC considered additional measures for hydrogen control and mitigation within containments and adjacent buildings that were being pursued in some countries. Examples of these measures include the installation of passive autocatalytic recombiners and venting capabilities to release hydrogen from BWR reactor buildings. The NRC concluded that these additional measures would not themselves directly support the cooling of core debris, but could help, for some selected scenarios, to maintain barriers to the release of radioactive material and prevent explosions that could hamper severe accident management activities. The potential benefits of the measures requested by the petitioner would be comparable or less than the alternatives analyzed in SECY-16-0041, which the NRC determined to be below the threshold for warranting further regulatory actions.

Therefore, the NRC concludes that the issues raised by the petitioner have been considered by the NRC in other NRC processes and the petitioner did not present sufficient new information or arguments to warrant the requested requirement in light of the NRC's relevant past decisions and current policies. The NRC determined that the analyses and plant changes requested by the petitioner in issue 2 of the petition would not provide substantial safety enhancements. The NRC continues to conclude that the current design and licensing requirements for the control of hydrogen provide adequate protection of public health and safety.

Issue 3: The petitioner requested that the NRC revise § 50.44 "to require that PWRs and [BWRs with Mark III containments] operate with systems for combustible gas control that would be capable of precluding local

concentrations of hydrogen in the containment from exceeding concentrations that would support combustions, fast deflagrations, or detonations that could cause a loss of containment integrity or loss of necessary accident mitigating features."

Response to Issue 3: As discussed in the portion of this document entitled "Response to Issue 1," additional hydrogen controls for large dry and sub-atmospheric containments do not yield a substantial safety benefit. The NRC provides additional insights on the basis for the removal of the requirements for hydrogen recombiners for these containment types in the **Federal Register** notice for the § 50.44 final rule, "Combustible Gas Control in Containment," which references Attachment 2 to SECY-00-0198, "Status Report on Study of Risk-Informed Changes to the Technical Requirements of 10 CFR part 50 (Option 3) and Recommendations on Risk-Informed Changes to 10 CFR 50.44 (Combustible Gas Control)." Attachment 2 provides a discussion regarding why the large volumes and likelihood of spurious ignition in large dry and sub-atmospheric containment help prevent the build-up of detonable concentrations.

The petitioner stated that the small volumes and confined spaces found in ice condenser and BWR Mark III containments make them susceptible to hydrogen pocketing. The NRC's analyses documented in SECY-16-0041 confirm that hydrogen accumulation and potential combustion could challenge the integrity of these containment types if igniters were not required.

However, to meet the requirements of § 50.44(b)(2)(ii), (b)(3), and (b)(5), ice condenser and BWR Mark III containments must have hydrogen igniters for combustible gas control. The hydrogen igniters address the threat from combustible gas buildup. In response to Order EA-12-049, as made generically applicable in 10 CFR 50.155, licensees with these containment types have taken action to ensure power is available to the igniter systems during station blackout conditions. These licensees follow the severe accident management guidelines to minimize the potential for containment failure from hydrogen combustion events. The location of the igniters prevents hydrogen (or any other combustible gas) from accumulating in large quantities.

The petitioner's request also applied to new reactors. As discussed in the portion of this document entitled "Response to Issue 1," § 50.44(c) sets forth combustible gas control

requirements for water-cooled nuclear power reactor designs licensed after 2003, which are more stringent than those for existing operating reactors. As a result, new plants have design features such as hydrogen igniters for AP1000 design reactors and inerted containments and passive autocatalytic recombiners for the Economic Simplified Boiling-Water Reactors. As described in SECY-16-0041, the NRC assessed the potential for further hydrogen control enhancements for existing operating reactors and found that such measures would not be justified under the issue finality provisions of 10 CFR part 52 (similar to backfit requirements defined in § 50.109, "Backfitting").

Therefore, as it relates to issue 3 of the petition, the NRC concludes that the petitioner did not present sufficient new information or arguments to warrant the requested requirement in light of the NRC's relevant past decisions and current policies. Although SECY-16-0041 did not specifically consider this issue, the NRC's assessments in SECY-16-0041 did consider the contributions to the risk to public health and safety from severe accidents and related hydrogen generation and concluded that those contributions were not substantial. The NRC determined that the analyses and plant changes requested by the petitioner in issue 3 of the petition for existing operating reactors would not provide substantial safety enhancements and therefore, they were not warranted. For reactors licensed after 2003, the NRC also determined that changes to the requirements in § 50.44(c)(2) are not warranted. The NRC continues to conclude that the current design and licensing requirements for the control of hydrogen for operating and new reactors provide adequate protection of public health and safety.

Issue 4: The petitioner stated that "[t]he current requirement that hydrogen monitors be functional within 90-minutes after the initiation of safety injection is inadequate for protecting public and plant worker safety." To correct this issue, the petitioner requested that the NRC revise § 50.44 to "require that PWRs and [BWRs with Mark III containments] operate with combustible gas and oxygen monitoring systems that are qualified in accordance with 10 CFR 50.49." The petitioner also requested that NRC revise § 50.44 "to require that after the onset of a severe accident, combustible gas monitoring systems be functional within a timeframe that enables the proper monitoring of quantities of hydrogen indicative of core damage and indicative

of a potential threat to the containment integrity."

Response to Issue 4: Hydrogen monitoring in containment in § 50.44 includes requirements that hydrogen monitors be functional. Functional requirements are also provided in Item II.F.1, Attachment 6, of NUREG-0737, "Clarification of TMI Action Plan Requirements," which states that hydrogen monitors are to be functioning within 30 minutes of the initiation of safety injection. This requirement was imposed by confirmatory orders in 1983 following the accident at Three Mile Island Unit 2.

Since NUREG-0737 was issued, the NRC has determined that the 30-minute requirement can be unnecessarily stringent. This is documented in the **Federal Register** notice for the § 50.44 final rule and in Regulatory Guide 1.7, Revision 3, "Control of Combustible Gas Concentrations in Containment." Through a confirmatory order, "Confirmatory Order Modifying Post-TMI Requirements Pertaining to Containment Hydrogen Monitors for Arkansas Nuclear One, Units 1 and 2 (TAC NOS. MA1267 and 1268)," the NRC developed a method for licensees to adopt a risk-informed functional requirement in lieu of the 30-minute requirement. As described in the confirmatory order, an acceptable functional requirement would meet the following requirements:

(1) Procedures shall be established for ensuring that indication of hydrogen concentration in the containment atmosphere is available in a sufficiently timely manner to support the role of information in the emergency plan (and related procedures) and related activities such as guidance for the severe accident management plan.

(2) Hydrogen monitoring will be initiated on the basis of the following considerations:

a. The appropriate priority for establishing indication of hydrogen concentration within containment in relation to other activities in the control room.

b. The use of the indication of hydrogen concentration by decision-makers for severe accident management and emergency response.

c. Insights from experience or evaluation pertaining to possible scenarios that result in significant generation of hydrogen that would be indicative of core damage or a potential threat to the integrity of the containment building.

The NRC has determined that adoption of this risk-informed functional requirement by licensees results in the hydrogen monitors being

functional within 90 minutes after the initiation of safety injection.

Subsequent to the issuance of the confirmatory order, the NRC issued a notice of availability of a model in the **Federal Register** titled, "Notice of Availability of Model Application Concerning Technical Specification Improvement to Eliminate Hydrogen Recombiner Requirement, and Relax the Hydrogen and Oxygen Monitor Requirements for Light Water Reactors Using the Consolidated Line Item Improvement Process." The notice stated that this model was available for referencing in license amendment applications for licensees wanting to relax safety classifications and the licensee commitments to certain design and qualification criteria for hydrogen monitors. This allowed licensees to choose to remove containment hydrogen monitoring requirements from their license through a license amendment process. One such license amendment was approved for Arkansas Nuclear One, Unit 1 in August 2004. The NRC based its approval of the license amendment request on the conclusion that the hydrogen monitors were not risk-significant. However, because the monitors are needed to diagnose the course of beyond-design-basis accidents, each licensee choosing this approach should verify that it has a hydrogen monitoring system capable of diagnosing beyond-design-basis accidents and make a regulatory commitment to maintain the system.

Section 50.44 requires that equipment used for monitoring hydrogen in containment is functional, reliable, and capable of continuously measuring the concentration of hydrogen in the containment atmosphere following a significant beyond-design-basis accident. The **Federal Register** notice for the § 50.44 final rule states that the NRC determined that the monitoring equipment need not be qualified in accordance with § 50.49 because the requirements found in § 50.44 address beyond-design-basis combustible gas control. As a result of the Fukushima lessons learned, the NRC also reviewed whether enhancements to reactor and containment instrumentation to withstand beyond-design-basis accident conditions were warranted. As documented in Enclosure 2 to SECY-16-0041, the NRC concluded that regulatory actions to require enhancements to reactor and containment instrumentation to support the response to severe accidents would not provide a substantial safety enhancement and, therefore, were not warranted.

Additionally, the NRC has revised the Reactor Oversight Process to address licensees' implementation and maintenance of severe accident management guidelines. The severe accident management guidelines are based on the concept of using available resources (including instrumentation) to mitigate a severe accident, such that if a key instrument is not available for any reason, alternate instruments are used. The instrumentation available that might be used before, during, and after a severe accident is discussed in Regulatory Guide 1.97, Revision 3, "Instrumentation for Light-Water Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident," licensing documents, severe accident management guidelines, and supporting technical guidance documents. The severe accident management guidelines include guidance to address hydrogen generation from metal-water reactions and actions to take to minimize the potential for containment failure from hydrogen combustion events.

The petitioner stated that effective and safe use of hydrogen igniters in ice condenser and BWR Mark III containments is a complex issue that requires thorough analysis, including consideration of the safety of using the igniters at certain times in a severe accident. The severe accident management guidelines for ice condenser and Mark III containments include guidelines for the use of the igniters.

Therefore, as it relates to issue 4 of the petition, the NRC concludes that the petitioner did not present sufficient new information or arguments to warrant the requested requirement in light of the NRC's relevant past decisions and current policies. The NRC determined that the analyses and plant changes requested by the petitioner in issue 4 of the petition would not provide substantial safety enhancements.

Issue 5: The petitioner requested that the NRC revise § 50.44 to "require that licensees of PWRs and [BWRs with Mark III containments] perform analyses that demonstrate containment structural integrity would be retained in the event of a severe accident." Additionally, the petitioner requested that the NRC revise § 50.44 to require licensees of Mark I and Mark II to perform analyses "using the most advanced codes, which demonstrate containment structural integrity would be retained in the event of a severe accident."

Response to Issue 5: For large dry and sub-atmospheric PWR containments, § 50.44 does not require that containment structural integrity analysis

is performed for hydrogen combustion events. Studies, including "Feasibility Study for a Risk-Informed Alternative to 10 CFR 50.44 'Standards for Combustible Gas Control System in Light-water cooled Power Reactors'" (Attachment 2 to SECY-00-0198), NUREG-1935, SECY-16-0041 evaluations, and "State-of-the-Art Reactor Consequence Analysis Project—Uncertainty Analysis of the Unmitigated Short-Term Station Blackout of the Surry Power Station" (draft report), have indicated that these containments have very large internal volumes and are not predicted to fail until they reach about three times their design pressure. These studies also have determined that these containments have significant capacity for withstanding the pressure load associated with hydrogen deflagrations. Detonations of sufficient magnitude to cause failure of these types of containments were determined to have a low probability of occurrence.

In SECY-16-0041, the NRC determined that the longer times to over-pressurize large dry containments in long-term station blackout scenarios provides additional opportunities for emergency responders to restore key safety functions prior to the containment being breached. The low latent cancer fatality risks estimated in NUREG-1935 reflect the ability of large dry containments to limit the release of radioactive material for many hours. These estimates confirm the NRC's assessment of the adequacy of containment performance and finding that additional regulatory actions, such as requiring improved containment vents, are not warranted for large dry containments. Therefore, the staff concludes requiring licensees to perform detailed structural analysis of the containment using different or advanced codes (as the petitioner requested) to demonstrate that containment structural integrity would be retained in the event of a severe accident is not warranted.

For ice condenser and BWRs with Mark III containments, § 50.44(b)(5)(v)(A) requires demonstration of containment structural integrity by use of an analytical technique accepted by the NRC for hydrogen combustion events. The demonstration must include sufficient supporting justification to show that the technique describes the containment response to the structural loads involved. In SECY-16-0041, additional analyses performed by the NRC confirmed that hydrogen accumulation and potential combustion could challenge the integrity of these containments and showed the benefit of

igniters to address this concern. Therefore, the NRC continues to find that the structural analysis associated with hydrogen deflagration events regarding the use of the igniters that is required by § 50.44(b)(5)(v)(A) is appropriate.

Further, the NRC concludes that the additional requirements proposed by the petitioner to use the most advanced codes, such as computational fluid dynamic codes, to model hydrogen distribution in the containment and loads from flame acceleration, are not required. In SECY-16-0041, the NRC assessed whether additional regulatory requirements, such as a hardened containment vent or additional hydrogen control and mitigation, were warranted for these containment types. The assessments, which used the best-estimate computer program MELCOR, concluded that sufficient safety margins exist between estimated plant risks that might be influenced by improvements in containment performance or hydrogen control and the NRC's quantitative health objectives described in the NRC's "Safety Goal Policy Statement." Therefore, because the requirements for existing structural analysis for these containment designs provide sufficient margin to ensure safety, the staff concluded that requiring licensees to continually update this structural evaluation using updated codes would not provide a substantial safety benefit and that no regulatory action is warranted.

For BWRs with Mark I and Mark II containments, § 50.44 does not require that containment structural integrity analysis be performed for hydrogen combustion events. Under § 50.44, BWR Mark I and Mark II primary containments are inerted. Because the primary containments are inerted, hydrogen combustion inside the primary containment is highly unlikely, rendering performance of primary containment structural analysis associated with hydrogen combustion events unnecessary. In addition, for BWR Mark I and Mark II containments, Order EA-13-109 requires the installation of reliable hardened containment vents capable of operation under severe accident conditions. In SECY-16-0041, the technical analyses for Order EA-13-109 and NUREG-2206 show that the threat of explosions from combustible gasses in secondary containment is significantly reduced by effective venting strategies and that severe accident water addition/severe accident water management approaches are used as part of the implementation of Order EA-13-109.

Severe accident management guidelines also include specific measures to monitor and vent BWR Mark I and Mark II containments to address containment over-pressurization events and hydrogen issues. This provides further risk reduction by improving the control of hydrogen in BWR Mark I and Mark II containments. Using different or advanced codes (as the petitioner requested) to demonstrate that containment structural integrity would be retained in the event of a severe accident, is not necessary for these containment designs because: (1) Hydrogen combustion events are highly unlikely in the primary containment given the inerted containment, (2) the severe accident hardened containment vents being installed in these primary containments reduce the already low likelihood of containment failure to levels below the levels where additional regulatory actions are warranted, and (3) as documented in SECY-16-0041, reduction of pressure in the primary containment using the severe accident capable hardened vents reduces the already low likelihood of secondary containment failure due to hydrogen combustion events to levels below where additional regulatory actions are warranted.

For new reactors, § 50.44(c) sets forth combustible gas control requirements for water-cooled nuclear power reactor designs licensed after 2003 with characteristics (e.g., type and quantity of cladding materials) such that the potential for production of combustible gases is comparable to light-water reactor designs licensed as of 2003. These requirements are more stringent than those for existing operating reactors. Section 50.44(c)(5) requires a structural analysis that demonstrates containment structural integrity. This demonstration must use an analytical technique accepted by the NRC and must include sufficient supporting justification to show that the technique describes the containment response to the structural loads involved. The analysis must address an accident that releases hydrogen generated from a 100 percent fuel clad coolant reaction accompanied by hydrogen burning.

Systems necessary to ensure containment integrity must also be demonstrated to perform their function under these conditions. Therefore, for reactors licensed after 2003 with similar characteristics to current pressurized water reactors and Mark III boiling water reactors, the kind of structural analysis requested by the petitioner is already required.

Therefore, as it relates to issue 5 of the petition, the NRC concludes that the petitioner did not present sufficient new information or arguments to warrant the requested amendments in light of the NRC's relevant past decisions and current policies. The NRC determined that the analyses and plant changes for operating reactors requested by the petitioner in issue 5 of the petition would not provide substantial safety enhancements. For reactors licensed after 2003, for reasons stated in previous paragraphs, the NRC determined that changes to the requirements in § 50.44(c)(5) are not warranted. The NRC continues to conclude that the current design and licensing requirements for the control of hydrogen for operating and new reactors provide adequate protection of public health and safety.

Issue 6: The petitioner requested that the NRC revise § 50.44 to “require that licensees of PWRs with ice condenser containments and [BWRs with Mark III containments] (and any other NPPs that would operate with hydrogen igniter systems) perform analyses that demonstrate hydrogen igniter systems would effectively and safely mitigate hydrogen in different severe accident scenarios.”

Response to Issue 6: In SECY-16-0041, the NRC's assessment concluded that hydrogen igniters would likely delay containment failures in ice condenser and BWR Mark III containments. The NRC determined that additional improvements beyond those already included in NRC regulations and Order EA-12-049 would not provide a substantial safety improvement.

The NRC concluded that compliance with Order EA-12-049, as made generically applicable in 10 CFR 50.155, ensures that additional mitigation

strategies are available for each operating reactor to reduce the risk of core damage from an extended loss of alternating current power event. The NRC has revised the reactor oversight process to cover licensees' implementation and maintenance of severe accident management guidelines. The severe accident management guidelines include guidance to address hydrogen generation in these containment designs and the use of the igniters to minimize the potential for containment failure from hydrogen detonation.

For new reactors, § 50.44(c) sets forth combustible gas control requirements for water-cooled nuclear power reactor designs licensed after 2003 that are more stringent than those requirements for existing operating reactors. As a result, new plants have design features such as hydrogen igniters for AP1000 design reactors. As described in SECY-16-0041, the NRC assessed potential further hydrogen control enhancements and found that such measures were not warranted. The NRC further notes that development of severe accident management guidelines, which include guidance for the use of the igniters to minimize the potential for containment failure for hydrogen detonation, is addressed by combined license holders for the AP1000 design in accordance with the AP1000 design certification.

Therefore, the NRC determined that the analyses and plant changes requested by the petitioner in issue 6 of the petition for existing operating reactors would not provide substantial safety enhancements. For reactors licensed after 2003, the NRC determined that changes to the requirements in § 50.44(c) are not needed for the reasons discussed. The NRC concludes that the current design and licensing requirements for the control of hydrogen for both operating and new reactors provide adequate protection of public health and safety.

III. 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
Petition for rulemaking from the Natural Resources Defense Council, Inc., October 14, 2011. Federal Register notice, “Measurement and Control of Combustible Gas Generation and Dispersal,” January 5, 2012.	ML11301A094 77 FR 441

Document	ADAMS Accession No./ web link/ Federal Register citation
SECY-16-0041, "Closure of Fukushima Tier 3 Recommendations Related to Containment Vents, Hydrogen Control, and Enhanced Instrumentation," March 31, 2016.	ML16049A079 (Package)
SECY-11-0093, "Near-Term Report and Recommendations for Agency Actions Following the Events in Japan," July 12, 2012.	ML11186A950 (Package)
Federal Register notice for the final rule, "Combustible Gas Control in Containment," September 16, 2003.	68 FR 54123
NUREG-1150, "Severe Accident Risks: An Assessment for Five U.S. Nuclear Power Plants," December 1990.	ML120960691
NUREG-1935, "State-of-the-Art Reactor Consequence Analyses (SOARCA) Report," November 2012.	ML12332A053 (Package)
"Safety Goals for the Operations of Nuclear Power Plants; Policy Statement Correction and Republication," August 21, 1986.	ML011210381
Draft report "State-of-the-Art Reactor Consequence Analysis Project—Uncertainty Analysis of the Unmitigated Short-Term Station Blackout of the Surry Power Station," August 2015.	ML15224A001
NUREG/CR-7245, "State-of-the-Art Reactor Consequence Analyses (SOARCA) Project—Sequoyah Integrated Deterministic and Uncertainty Analyses," November 2017.	ML17340B209
NUREG/CR-7110, Vol. 2, "State-of-the-Art Reactor Consequence Analyses Project—Volume 2: Surry Integrated Analysis," January 2012.	ML120260681
Order EA-12-049, "Order Modifying Licenses With Regard to Requirements for Mitigation Strategies for Beyond-Design-Basis External Events," March 12, 2012.	ML12054A735
Order EA-13-109, "Order Modifying Licenses with Regard to Reliable Hardened Containment Vents Capable of Operation Under Severe Accident Conditions," June 6, 2013.	ML13130A067
SRM-SECY-15-0065, "Proposed Rulemaking: Mitigation of Beyond-Design-Basis Events (RIN 3150-AJ49)," August 27, 2015.	ML15239A767
SRM-SECY-16-0142, "Final Rule: Mitigation of Beyond-Design-Basis Events (RIN 3150-AJ49)," January 24, 2019.	ML19023A038
Federal Register notice, "Policy Statement on Severe Reactor Accidents Regarding Future Designs and Existing Plants," August 8, 1985.	50 FR 32138
NUREG/CR-7155, "State-of-the-Art Reactor Consequence Analyses Project—Uncertainty Analysis of the Unmitigated Long-Term Station Blackout of the Peach Bottom Atomic Power Station," May 2016.	ML16133A461
NUREG-2206, "Technical Basis for the Containment Protection and Release Reduction Rulemaking for Boiling Water Reactors with Mark I and Mark II Containments," March 2018.	ML18065A048
"Draft Regulatory Basis for Containment Protection and Release Reduction for Mark I and Mark II Boiling Water Reactors (10 CFR Part 50)," May 2015.	ML15022A214
SRM-SECY-15-0085, "Evaluation of the Containment Protection and Release Reduction for Mark I and Mark II Boiling Water Reactors Rulemaking Activities (10 CFR Part 50) (RIN-3150-AJ26)," August 19, 2015.	ML15231A471
SECY-00-0198, "Status Report on Study of Risk-Informed Changes to the Technical Requirements of 10 CFR PART 50 (Option 3) and Recommendations on Risk-Informed Changes to 10 CFR 50.44 (Combustible Gas Control)," September 14, 2000.	ML003747725 (Package)
NUREG-0737, "Clarification of TMI Action Plan Requirements," November 1980.	ML051400209
Regulatory Guide 1.7, Revision 3, "Control of Combustible Gas Concentrations in Containment," March 2007.	ML070290080
"Confirmatory Order Modifying Post-TMI Requirements Pertaining to Containment Hydrogen Monitors for Arkansas Nuclear One, Units 1 and 2 (TAC NOS. MA1267 and 1268)," September 28, 1998.	ML021270103
Federal Register notice, "Notice of Availability of Model Application Concerning Technical Specification Improvement to Eliminate Hydrogen Recombiner Requirement and Relax the Hydrogen and Oxygen Monitor Requirements for Light Water Reactors Using the Consolidated Line Item Improvement Process," September 25, 2003.	68 FR 55416
License amendment, "Arkansas Nuclear One, Unit 1, License Amendment 222 regarding Elimination of Requirements for Hydrogen Recombiners and Hydrogen Monitors," August 12, 2004.	ML042290464 (Package)
Regulatory Guide 1.97, Revision 3, "Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident," May 1983.	ML003740282

IV. Conclusion

For the reasons cited in this document, the NRC is denying PRM-50-103. The petitioner did not present sufficient new information or arguments to warrant the requested requirements. The NRC continues to conclude that the current design and licensing requirements for the control of hydrogen for operating and new reactors provide adequate protection of public health and safety.

Dated at Rockville, Maryland, this 15th day of September, 2020.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

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FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2700

Procedural Rules

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Mine Safety and Health Review Commission (the "Commission") is an independent adjudicatory agency that provides trials and appellate review of cases arising under the Federal Mine Safety and Health Act of 1977 (the "Mine Act"). Trials are held before the Commission's Administrative Law Judges, and appellate review is provided by a five-member Review Commission appointed by the President and confirmed by the Senate. The Commission proposes revising its procedural rules in order to aid the just and efficient adjudication of such proceedings.

DATES: Written and electronic comments must be submitted on or before December 7, 2020.

ADDRESSES: Written comments should be mailed to Michael A. McCord, General Counsel, Office of the General Counsel, Federal Mine Safety and Health Review Commission, 1331 Pennsylvania Ave. NW, Suite 520N, Washington, DC 20004–1710. Electronic comments should state “Comments on Procedural Rules” in the subject line and be sent to RulesComments@fmshrcc.gov.

FOR FURTHER INFORMATION CONTACT: Sarah Stewart, Deputy General Counsel, Office of the General Counsel, Federal Mine Safety and Health Review Commission, at (202) 434–9935.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission last significantly revised its procedural rules, 29 CFR part 2700, in August 2006. 71 FR 44,190 (Aug. 4, 2006). Since that time, the Commission has identified several rules that require revision or clarification in order to aid the efficient adjudication of proceedings at the Commission’s trial and appellate levels. For instance, confusion has arisen in discrimination proceedings brought pursuant to section 105(c)(3) of the Mine Act, 30 U.S.C. 815(c)(3), regarding when a decision on the merits of discrimination becomes ripe for review. The Commission proposes changing procedures relating to section 105(c)(3) discrimination proceedings in order to make them more consistent with procedures relating to discrimination proceedings brought pursuant to section 105(c)(2) of the Mine Act, 30 U.S.C. 815(c)(2). Such changes are intended to provide greater clarity and to eliminate unnecessary delay.

In order to provide transparency as to its processes, the Commission has proposed both new rules and revisions to its current rules that reflect the Commission’s actual practices. The Commission has proposed adding new Commission Procedural Rule 32 which pertains to motions to reopen orders that have become final as the result of a failure to make a timely filing. The Commission has also proposed new Commission Procedural Rule 72 which describes the method by which the Commission empanels Commissioners, as authorized by section 113(c) of the Mine Act, 30 U.S.C. 823(c). The Commission has proposed adding provisions to § 2700.5(e) for protecting sensitive commercial information, and for placing sensitive documents under Commission seal. In addition, the Commission has proposed numerous changes with respect to § 2700.80, which more fully describe the

Commission’s process for investigating and making determinations in disciplinary proceedings.

Finally, the Commission has proposed more technical changes. A number of changes are necessitated by the evolution of the Commission’s electronic management of its dockets. In addition, the Commission has proposed a number of corrections and stylistic changes to word usage throughout its rules.

The proposed changes are described more fully in the following section-by-section analysis. The Commission welcomes all comments and suggestions regarding the proposed changes and any necessary changes that have not been included.

II. Section-by-Section Analysis

Set forth below is an analysis of proposed changes to the Commission’s procedural rules. Some proposals involve similar or identical changes to multiple rules. Those changes are described immediately below by subject matter. Other changes generally pertain to one rule and are described following the subject matter discussion on a rule-by-rule basis.

A. Changes Related to the Commission’s Paperless Docketing System

In 2014, the Commission began using an electronic case management system (“eCMS”) in order to more efficiently manage its caseload. In late 2013, the Commission published interim rules permitting parties to file and serve documents electronically. 78 FR 77,354 (Dec. 23, 2013). The Commission later adopted those interim rules as final rules. 84 FR 59,931 (Nov. 7, 2019). Although parties may continue to file documents non-electronically with the Commission as they have in the past, unless otherwise directed by the Commission in response to emergencies and special circumstances such as the COVID–19 considerations, experience has shown that a vast majority of documents are filed electronically through eCMS.

The Commission recognizes that, as eCMS evolves, the Commission’s procedural rules should reflect any necessary changes. For instance, it is likely that in the future, eCMS will allow parties to serve documents electronically through the system. Currently, parties may serve documents electronically only through the use of email. The Commission proposes changing its service requirements to allow parties to serve documents electronically by other means in addition to email in anticipation of such changes to eCMS. These proposed

changes appear identically in §§ 2700.7(c) (general service requirements); 2700.9(a) (motions for extensions of time); 2700.24(d) (filing and service of pleadings in emergency response plan dispute proceedings); 2700.45(a) and 2700.45(f) (service in temporary reinstatement proceedings); 2700.46(d) (service of pleadings in temporary relief proceedings); 2700.70(f) (motions for leave to exceed page limit relating to petitions for discretionary review); and 2700.75(f) (motions for leave to exceed page limit relating to briefs).

In addition, documents issued by the Commission may be offered in electronic format rather than in paper format to parties. Consequently, the Commission proposes deleting provisions in §§ 2700.4(b)(1), 2700.24(f)(1), 2700.45(e)(3), 2700.54, and 2700.66(a) that specify a method of postal mail for the issuance of documents by the Commission under those provisions. Although the Mine Act does not specify the method by which the Commission must distribute its issuances, the Commission intends to use the most expeditious means reasonably available which is appropriate under the circumstances. Because Commission Procedural Rules 24 (emergency response plan dispute proceedings) and 45 (temporary reinstatement proceedings) deal with expedited proceedings, they shall retain their current language stating that the parties shall be notified of the Judge’s decision or determination by the “most expeditious means reasonably available.” The Commission proposes adding similar language to Commission Procedural Rule 66 (summary disposition of proceedings) in paragraph (a) stating that the order to show cause shall be provided to the party who has failed to comply by “the most expeditious means reasonably available.”

B. Gender-Specific Pronouns

The masculine gender is currently used throughout the Commission’s Procedural Rules. The Commission proposes changing the gender-specific pronouns in its rules to more gender-neutral language. Conforming changes have been proposed for §§ 2700.4(a); 2700.6(a)(1), (a)(2)(ii) and (b); 2700.8 (Example 2); 2700.20(d); 2700.24(e)(2)(i) and (ii); 2700.25; 2700.26; 2700.27; 2700.41(a); 2700.45(b), (c), (d) and (g); 2700.55(h); 2700.56(c); 2700.58(c); 2700.61; 2700.62; 2700.63(b); 2700.68(a) and (b); 2700.69(a), (b) and (c); 2700.73(b); 2700.75(a)(1) and (e); and 2700.76(a)(1)(i); and 2700.81(a) and (c). The Commission also proposes deleting

the provision in Procedural Rule 1(c) that currently states that “[w]herever the masculine gender is used in these rules, the feminine gender is also implied.” 29 CFR 2700.1(c). In addition, the Commission proposes revising references in § 2700.83 from “Chairman” to “Chair.”

C. Consistency in Use of Language

1. References to Pleadings

The term “pleading” generally refers to those documents filed in the beginning stage of proceedings in which parties formally submit their claims and defenses (*i.e.*, petitions, answers). The Commission’s rules sometimes erroneously use the term “pleading,” when the use of a more generic term, such as “document” or “filing” is intended. The Commission proposes changing the term “pleading” to the term “document” or “filing” when the more generic term is intended in §§ 2700.4(c), 2700.5(h), 2700.8(b) and Example 2, 2700.10(b), 2700.11, 2700.24(d), 2700.45(a), and 2700.46(d).

2. References to a Judge

The Commission proposes capitalizing the word “Judge” wherever it appears in the Commission’s Procedural Rules. Such changes are proposed with respect to §§ 2700.24(f)(2) and 2700.67(e).

3. References to the Secretary of Labor

The rules variously refer to the Secretary of Labor as “Secretary” and “Secretary of Labor.” For purposes of clarity and consistency, the Commission proposes making revisions so that the first reference in the text of a rule shall be to the “Secretary of Labor,” with a parenthetical indicating that subsequent references shall be to the “Secretary.” No parenthetical is included if “Secretary of Labor” appears only once in the rule. In addition, no parenthetical is included with the first reference to “Secretary of Labor” that appears in a title of the rule or in the title of its paragraphs. The Commission proposes making such changes to §§ 2700.4(a), 2700.20(b), 2700.21(a), 2700.22(c), 2700.24(a), 2700.25, 2700.26, 2700.27, 2700.28(a), 2700.30(b), 2700.31(b)(1), 2700.40(a), 2700.41(a), 2700.44(a), and 2700.45(b).

4. References to Website

The Commission proposes changing all references from “website” to “website,” in keeping with current accepted usage. Such changes are proposed with respect to §§ 2700.1(a)(1), and 2700.5(b), (c)(1), (f)(1), and (j).

D. Subpart A—General Provisions

§ 2700.3 Who may practice.

The Commission proposes revising Commission Procedural Rule 3 to clarify the conduct required of, and actions prohibited by, those who appear before the Commission and its Judges as a representative. The proposed revisions state that all individuals authorized to practice before the Commission, including attorney representatives and other non-attorney persons, shall be subject to the standards of conduct and disciplinary proceedings set forth in 29 CFR 2700.80. As discussed below, the Commission proposes revising Commission Procedural Rule 80(a) to state that the American Bar Association’s Model Rules of Professional Conduct shall be considered in the Commission’s disciplinary proceedings.

§ 2700.4 Parties, intervenors, and amici curiae.

Current Commission Procedural Rule 5, 29 CFR 2700.5, provides that parties may file documents by electronic means and non-electronic means and provides instructions for doing so. The Commission proposes revising § 2700.4(b) to state that notices of intervention shall be filed in accordance with the filing requirements set forth in Commission Procedural Rule 5. In addition, as noted with respect to changes proposed that are related to the Commission’s paperless docketing system, the Commission proposes deleting the reference in current § 2700.4(b)(1) that appears to recognize that copies of a notice of intervention may be provided by the Commission only by postal mail.

§ 2700.5 General requirements for pleadings and other documents; status or informational requests.

Commission Procedural Rule 5 is currently entitled, “General requirements for pleadings and other documents; status or informational requests.” A large part of Rule 5 pertains to filing requirements. A party who is unfamiliar with the Commission’s Procedural Rules would not know which rule to consult for filing requirements. The Commission proposes inserting “filing requirements” in the title of Rule 5.

The Commission also proposes revising paragraph (a) to replace an erroneous citation of “30 U.S.C. 820(c)” with the correct citation of “30 U.S.C. 820.”

Paragraph (c)(2) of Rule 5 (§ 2700.5(c)(2)) provides instructions for filing documents by non-electronic means. The Commission proposes two

changes with respect to this paragraph. First, the Commission proposes amending paragraph (c)(2)(i) of Rule 5 to require that filings submitted by a means other than electronic transmission should be sent to the Commission’s Docket Office rather than to the Commission’s Executive Director. The Commission’s Executive Director plays no role with respect to filings, and the proposed change reflects the Commission’s actual practice.

Second, the Commission proposes deleting paragraph (c)(2)(iii) as superfluous and possibly confusing. Paragraph (2)(c) sets forth filing instructions pertaining to the following specific time-frames: (i) Before a Judge has been assigned; (ii) after a Judge has been assigned; (iii) interlocutory review; and (iv) after a Judge has issued a final decision. Section 2700.5(c)(2)(iii) relating to documents filed in connection with interlocutory review is unnecessary and possibly confusing because such documents also fall under section 5(c)(2)(ii) (after a Judge has been assigned). In addition, § 2700.5(c)(2)(iii) refers the reader to § 2700.76, which does not provide detailed information about how to file documents non-electronically.

The Commission proposes revising paragraph (e) of Commission Procedural Rule 5 in order to address various privacy considerations. Parties sometimes provide sensitive commercial information to the Commission. Further, a party may request documents from an opposing party that contain such information. The Commission proposes adding paragraph (5) to § 2700.5(e) in order to include a requirement that parties take steps to protect their sensitive commercial information. In addition, while the Commission’s Judges already consider and decide motions to place records under seal, there currently is no Commission rule that specifically addresses the Commission’s procedure for doing so. The Commission proposes adding paragraph (6) to § 2700.5(e) in order to expressly address the procedures for placing sensitive documents under Commission seal.

Paragraph (j) of Rule 5 sets forth the manner in which status or informational requests shall be made. It provides that such requests may be satisfied by accessing the Commission’s website or by directing the request to the address of the Docket Office. The Commission proposes revising the rule to include a telephone number for contacting the Docket Office for those who need to contact the Docket Office in an expeditious manner but who do not have access to a computer.

§ 2700.6 Signing of documents.

Although Commission Procedural Rule 6 states how and by whom documents filed with the Commission must be signed, there is no specific requirement that all such documents shall be signed. The Commission proposes adding a requirement that all documents filed with the Commission must be signed.

§ 2700.8 Computation of time.

Section 2700.8(b) currently provides that five additional days are added to the due date for responding to a pleading served by a method of delivery resulting in other than same-day service. As noted above with respect to references to pleadings, the Commission proposes changing the term “pleading” to “filing” since the Commission intends for the provision to apply to more documents than just those filed with the Commission during the initial stage of proceedings that set forth a party’s claims and defenses.

The Commission also proposes adding a clarification to Rule 8(b) that the five extra days are not added for a response to a proposed penalty assessment because a proposed penalty assessment is not a filing with the Commission. Rather, a proposed penalty assessment is a notification sent by the Secretary of Labor to the operator or any other person against whom a civil penalty is proposed.

§ 2700.10 Motions.

Commission Procedural Rule 10, which addresses motions, currently provides that oral motions may be made during a hearing or a conference. However, the rule does not require that any proceedings on such oral motions shall be on the record. A lack of such record makes review of proceedings on oral motions difficult. The Commission proposes adding a provision requiring that proceedings on any motion made at hearing or during a conference shall be on the record. The Commission also proposes making a conforming revision to § 2700.53(a) recognizing that a Judge has the discretion to record any in-person or telephonic conference.

E. Subpart C—Contests of Proposed Penalties**§ 2700.25 Proposed penalty assessment.**

The Commission received a suggestion that the service requirements in a regulation promulgated by the Department of Labor’s Mine Safety and Health Administration (“MSHA”) at 30 CFR 100.8(a) are inconsistent with the service requirements in § 2700.25, and that changes should be made to Commission Procedural Rule 25. The

Commission has considered the matter and has concluded not to propose any such changes.

Section 2700.25 requires that the Secretary of Labor shall send a notice of a proposed civil penalty to an operator or any other person against whom a penalty is proposed by “certified mail.” The requirements of Commission Procedural Rule 25 are taken directly from the language of section 105(a) of the Mine Act, 30 U.S.C. 815(a), which authorizes notification of a proposed penalty by “certified mail” only.

In contrast, section 100.8 states that proposed penalty assessments shall be “delivered” to an operator’s name and address of record. Section 100.8 sets forth what constitutes a proper service address but does not state how service to that address should be made. The Commission declines proposing changes to Commission Procedural Rule 25 since the rule is wholly consistent with the Mine Act.

§ 2700.28 Filing of petition for assessment of penalty with the Commission.

The Commission proposes adding a provision to § 2700.28(b)(1) indicating that no more than 20 citations or orders may be the subject of a petition for assessment of penalty. Past practice has demonstrated that more than 20 citations or orders make a docket too large and unwieldy for the Commission to efficiently manage.

Current Commission Procedural Rule 28(b)(2) mistakenly refers to a “single penalty assessment that has been proposed under 30 CFR 100.4.” Single penalty assessments have been subsumed by regular assessments. The Commission proposes deleting the reference to single penalty assessments.

§ 2700.31 Penalty settlement.

Paragraph (a) of § 2700.31 currently provides that in “all penalty proceedings, except for discrimination proceedings arising under section 105(c) of the Mine Act,” a settlement motion must be accompanied by a proposed order approving settlement. In “discrimination proceedings, a party need not file a proposed order.” 29 CFR 2700.31(a). The Commission proposes deleting the reference to discrimination proceedings because the reference appears to erroneously include discrimination proceedings arising under section 105(c) of the Act as a subcategory of “all penalty proceedings.” The proposed change to paragraph (a) of Rule 31 would require parties to file proposed orders approving settlement in penalty proceedings associated with a discrimination proceeding as they are

required to do in all penalty proceedings.

Section 2700.31(d) currently sets forth requirements for electronically filing proposed settlement documents under the rule. Paragraph (d) was added to Rule 31 prior to the development of e-CMS. After the development of e-CMS, the Commission promulgated rule changes for the electronic filing and service of documents, which are now final rules and include all documents filed in accordance with Rule 31. *See, e.g.*, 29 CFR 2700.5, 2700.7. The Commission proposes deleting references to electronic filing appearing in Rule 31 as superfluous and potentially confusing.

The Commission also proposes deleting references that appear in Rule 31 regarding forms for approved orders approving settlement. The Commission no longer provides sample forms for proposed orders approving settlement on its website. Rather, parties draft proposed orders appropriate to each case.

§ 2700.32 Motions to reopen.

The Commission receives requests to reopen final orders that generally fall into two categories. Requests in the first category involve circumstances in which a party has failed to file a timely contest of a proposed penalty assessment and the proposed penalty thereby becomes a final order of the Commission by operation of section 105(a) of the Mine Act, 30 U.S.C. 815(a). *See* 29 CFR 2700.27. Requests in the second category involve circumstances in which a Commission Administrative Law Judge issues a default order because a party has failed to file an answer to a petition for assessment of penalty filed by the Secretary of Labor. *See* 29 CFR 2700.28, 2700.29.

In 2008, the Commission published an Advanced Notice of Proposed Rulemaking (“ANPRM”). 73 FR 51,256 (Sept. 2, 2008). In the notice, the Commission sought suggestions for improving its procedures for processing requests to reopen and reducing the number of cases in which a party seeks relief before the Commission after default. The Commission stated that one of its key considerations was whether it should set forth requirements for requesting relief from default in a rule, or whether further guidance should be provided in an informal document.

The Commission ultimately decided to provide guidance concerning motions to reopen in its case law and in informal guidance available on the Commission’s website. In 2016, the Court of Appeals for the Fifth Circuit held that the Commission applied its case law

precedent arbitrarily in denying a motion to reopen. *Noranda Alumina, LLC v. Perez*, 841 F.3d 661, 665–69 (5th Cir. 2016). The Court noted that the Commission has not promulgated any regulations concerning motions to reopen, “although it has provided nonbinding guidance on its website.” *Id.* at 666 n.1.

From the comments received on the ANPRM and the Commission’s own experience, the Commission recognizes that there are many arguments in favor of adopting a rule and arguments against such a rule. For instance, creating a rule may provide more visibility for the Commission’s expectations regarding information necessary to support a motion to reopen. Application of a rule may result in more consistency in the Commission’s case law. However, the creation of a rule may not necessarily increase the efficiency of the Commission’s processing of motions to reopen or reduce the instances in which a party seeks relief.

The Commission has proposed a rule setting forth a procedure for motions to reopen drawn from the Commission’s experience in receiving and disposing of such motions. The Commission invites comment regarding whether a rule would be beneficial and, if so, whether any changes to the proposed rule are appropriate.

F. Subpart E—Complaints of Discharge, Discrimination or Interference

§ 2700.44 Petition for assessment of penalty in discrimination cases.

In discrimination proceedings arising under section 105(c)(2) of the Act, 30 U.S.C. 815(c)(2), a Judge’s decision is not considered final and reviewable by the Commission until the Judge has ruled upon the merits of the discrimination complaint, and, in instances in which discrimination has been found, awarded compensation to the miner and assessed a civil penalty against the operator. A Judge’s decision that reaches only the merits of the complaint, and reserves for later such issues as compensation and the penalty, is an “interim decision” and is thus not appealable to the Commission (except by a petition for interlocutory review) until the resolution of the outstanding issues.

Because the Secretary of Labor is not involved in a discrimination proceeding brought by a miner under section 105(c)(3) of the Mine Act, 30 U.S.C. 815(c)(3), in the past the Commission has often separately docketed the Secretary’s civil penalty proposal, which is made subsequent to the Judge’s determination of discrimination. Thus,

unlike in section 105(c)(2) proceedings, the discrimination docket is separate from the associated civil penalty docket in section 105(c)(3) proceedings.

In a section 105(c)(3) proceeding, if a penalty determination is unresolved at the time that the Judge’s merits and compensation decision becomes ripe for court review, a question arises regarding whether the pendency of the penalty before the Commission renders the merits determination in the discrimination proceeding non-final for court review purposes.

Consequently, in order to afford more clarity, the Commission has proposed revisions to Commission Procedural Rule 44 so that section 105(c)(3) cases may be treated in a manner similar to section 105(c)(2) cases in terms of when a decision becomes ripe for review. In addition, in recognition of the Mine Act’s requirement that proceedings under section 105(c) “shall be expedited by the Secretary and the Commission,” the Commission has proposed changes to § 2700.44 that permit expedition and eliminate unnecessary delay. 30 U.S.C. 815(c)(3).

More specifically, the Commission proposes making changes to § 2700.44(b) that clarify that a Judge’s finding of discrimination in a section 105(c)(3) proceeding is an interim decision, rather than a final decision. Under the proposed changes, after the Judge sustains a discrimination complaint brought pursuant to section 105(c)(3), the Secretary must enter an appearance within 10 days in that discrimination proceeding and file a petition for assessment of penalty within 30 days. When necessary to expedite the issuance of a final decision in the proceeding, the Judge is authorized under the proposed changes to shorten the 30-day period and the period within which the operator has to respond to the petition. The proposed changes also set forth other procedural safeguards to prevent unnecessary delay. Under these proposed revisions, the final decision of the Judge will include the compensation to the miner and the penalty to be assessed against the operator.

The Commission also proposes making a conforming change to Commission § 2700.41 by adding a new paragraph (c). Proposed Commission Procedural Rule 41(c) would state that proceedings under subpart E of the part 2700, which pertain to complaints of discharge, discrimination or interference, are to be expedited.

The Commission further proposes making a conforming change to Commission Procedural Rule 69. The Commission proposes revising

§ 2700.69(a) to explicitly require that any decision of a Judge that is not final shall be denoted as an “interim decision.”

G. Subpart G—Hearings

§ 2700.53 Prehearing conferences and statements.

The Commission proposes revising § 2700.53(a) to add a provision stating that a Judge has the discretion to record any in-person or telephonic conference. As discussed with respect to § 2700.10, the Commission also proposes making changes to Commission Procedural Rule 10 by adding a requirement that proceedings on any motion made at a hearing or during a conference shall be on the record. Thus, while a Judge may record any in-person or telephonic conference within the Judge’s discretion, proceedings on any motion must be made part of the record.

§ 2700.64 Retention of exhibits.

Commission Procedural Rule 64 pertains generally to exhibits which are made part of the official record. The Commission proposes revising the title of the rule to more generally refer to “exhibits,” rather than “retention of exhibits” since the rule encompasses more than the retention of exhibits. In addition, the Commission proposes changing the rule to reflect that exhibits shall be “deemed part of” the official record, rather than “retained with” the official record. The Commission’s official record is electronic and some physical exhibits will be deemed to be part of the official record although they may not be retained in a digital format with the other parts of the official record.

H. Subpart H—Review by the Commission

§ 2700.72 Commission panels.

Rule 72 is currently reserved. In order to promote transparency as to its functioning, the Commission proposes creating a new Procedural Rule 72 which would explain the Commission’s process for impaneling Commissioners. Section 113(c) of the Mine Act, 30 U.S.C. 823(c), provides in part that the Commission is authorized “to delegate to any group of three or more members any or all of the powers of the Commission.” Proposed Rule 72 would provide that the Commission may impanel a group of three or more members to hear any pending matter, and that a Commissioner’s assignment to such a panel may be made by a random method agreed upon by a majority of Commissioners.

§ 2700.78 Reconsideration.

The Commission proposes revising Commission Procedural Rule 78 in order to clarify when a motion for reconsideration must be filed. Rule 78 currently provides that a petition for reconsideration must be filed with the Commission within 10 days after a decision or order. The proposed revision clarifies that the ten-day period is counted from the issuance of the decision or order.

*I. Subpart I—Miscellaneous***§ 2700.80 Standards of conduct; disciplinary proceedings.**

The Commission proposes making changes to Commission Procedural Rule 80 that would clarify the Commission's procedure in disciplinary proceedings and the standards applicable in such proceedings.

Rule 80(a) currently provides that individuals practicing before the Commission or its Judges shall conform to the standards of ethical conduct required of practitioners in the courts of the United States. Practitioners appearing before the Commission could appear in Commission proceedings, live, and work, in varying locations, making a number of jurisdictions' rules of conduct potentially applicable. The Commission considers it more equitable to apply the same standards of conduct to all individuals practicing before the Commission. Therefore, the Commission proposes revising Rule 80(a) to state that the American Bar Association's Model Rules of Professional Conduct shall be considered in the Commission's disciplinary proceedings.

The Commission also proposes revising § 2700.80(c) to provide appropriate notice to the person named in a disciplinary referral, and to permit the person an opportunity for response. Proposed paragraph (c)(1) of Rule 80 would require the Commission to provide written notice to the person named in a disciplinary referral of the initiation of an investigation. The Commission proposes revising paragraph (c)(2) of rule 80 to provide that after the Commission has determined that a hearing is warranted on the matter described in the disciplinary referral, the Commission shall specify the disciplinary issues to be resolved through hearing.

Paragraph (c)(3) permits the respondent named in the disciplinary proceeding an opportunity to file a response. In addition, paragraph (c)(3) provides that the Chief Administrative Law Judge may assign the proceeding to a Commission Administrative Law

Judge or to a non-Commission Administrative Law Judge. Such assignment will be made in an impartial manner. Paragraph (c)(3) clarifies that subpart G of part 2700, pertaining to hearings before the Commission's Administrative Law Judges, also applies as appropriate to all Commission disciplinary proceedings.

§ 2700.82 Ex parte communications.

Commission Procedural Rule 5(j) sets forth requirements regarding the manner in which status or informational requests shall be made. Section 2700.82(d) sets forth slightly different requirements for making status or informational requests. In keeping with the Commission's actual practice, the Commission proposes making changes to § 2700.82(d) so that it conforms with the provisions of § 2700.5(j).

§ 2700.83 Authority to sign orders.

Under current § 2700.83, the Chairman or other designated Commissioner is authorized to sign an order on behalf of the other Commissioners disposing of certain procedural motions. The motions subject to Commission Procedural Rule 83 are non-substantive and involve minor procedural issues such as motions for extensions of time. The vast majority of those motions are unopposed.

The Commission proposes adding a provision to § 2700.83 clarifying that in the absence of a quorum, the remaining Commissioner or Commissioners may dispose of the procedural motions subject to the rule. The proposed change would reflect the Commission's practice.

The Commission also proposes deleting the provision in Procedural Rule 83 stating that a person aggrieved by an order signed by the Chairman or designated Commissioner under the rule may request that the order be signed by the participating Commissioners. The Commission has not received such a request and, given the unopposed nature of the motions at issue, considers it unlikely that it would receive such a request in the future. Thus, the Commission considers the provision unnecessary.

Finally, consistent with changing gender-specific pronouns to more gender neutral language throughout its rules, the Commission proposes changing references from "Chairman" to "Chair."

III. Notice and Public Procedure*A. Executive Orders*

The Commission is an independent regulatory agency under section 3(b) of

Executive Order ("E.O.") 12866 (Sept. 30, 1993), 58 FR 51735 (Oct. 4, 1993); E.O. 13563 (Jan. 18, 2011), 76 FR 3821 (Jan. 21, 2011); E.O. 13771 (Jan. 30, 2017), 82 FR 9339 (Feb. 3, 2017); E.O. 13777 (Feb. 24, 2017), 82 FR 12285 (Mar. 1, 2017); and E.O. 13132 (Aug. 4, 1999), 64 FR 43255 (Aug. 10, 1999).

The Commission has determined that this rulemaking does not have "takings implications" under E.O. 12630 (Mar. 15, 1988), 53 FR 8859 (Mar. 18, 1988).

The Commission has determined that these regulations meet all applicable standards set forth in E.O. 12988 (Feb. 5, 1996), 61 FR 4729 (Feb. 7, 1996).

B. Statutory Requirements

Although notice-and-comment rulemaking requirements under the Administrative Procedure Act ("APA") do not apply to rules of agency procedure (5 U.S.C. 553(b)(3)(A)), the Commission invites members of the interested public to submit comments on this final rule. The Commission will accept public comment until [Insert date 60 days after date of publication in the **Federal Register**].

The Commission has determined that this rulemaking is exempt from the requirements of the Regulatory Flexibility Act ("RFA") (5 U.S.C. 601 *et seq.*), because the proposed rule would not have a significant economic impact on a substantial number of small entities.

The Commission has determined that this rule is not a "major rule" under the Small Business Regulatory Enforcement Fairness Act ("SBREFA") (5 U.S.C. 804(2)).

The Commission has determined that the Paperwork Reduction Act ("PRA") (44 U.S.C. 3501 *et seq.*) does not apply because these rules do not contain any information collection requirements that require the approval of the OMB.

The Commission has determined that the Congressional Review Act ("CRA") (5 U.S.C. 801 *et seq.*) does not apply because, pursuant to 5 U.S.C. 804(3)(C), these rules are rules of agency procedure or practice that do not substantially affect the rights or obligations of non-agency parties.

The Commission has determined that this rulemaking is not a major Federal action significantly affecting the quality of the human environment requiring an environmental assessment under the National Environmental Policy Act ("NEPA") (42 U.S.C. 4321 *et seq.*).

The Commission is an independent regulatory agency, and as such, is not subject to the requirements of the Unfunded Mandates Reform Act ("UMRA") (2 U.S.C. 1532 *et seq.*).

List of Subjects in 29 CFR Part 2700

Administrative practice and procedure, Confidential business information, Mine safety and health, Penalties, Whistleblowing.

For the reasons stated in the preamble, the Commission proposes amending 29 CFR part 2700 as follows:

PART 2700—PROCEDURAL RULES

■ 1. The authority citation for part 2700 is revised to read as follows:

Authority: 30 U.S.C. 815, 820, and 823.

■ 2. In § 2700.1, revise paragraphs (a)(1) and (c) to read as follows:

§ 2700.1 Scope; applicability of other rules; construction.

(a) *Scope.* (1) This part sets forth rules applicable to proceedings before the Federal Mine Safety and Health Review Commission (“the Commission”) and its Administrative Law Judges. The Commission is an adjudicative agency that provides administrative trial and appellate review of legal disputes arising under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801 *et seq.* (“the Act”). The Commission is an independent agency, not a part of nor affiliated in any way with the U.S. Department of Labor or its Mine Safety and Health Administration (“MSHA”). The location of the Commission’s headquarters is at 1331 Pennsylvania Avenue NW, Suite 520N, Washington, DC 20004–1710; its primary phone number is 202–434–9900; and the fax number of its Docket Office is 202–434–9954. The Commission maintains a website at <http://www.fmshrc.gov> where these rules, recent and many past decisions of the Commission and its Judges, and other information regarding the Commission, can be accessed.

* * * * *

(c) *Construction.* These rules shall be construed to secure the just, speedy and inexpensive determination of all proceedings, and to encourage the participation of miners and their representatives.

■ 3. Revise § 2700.3 to read as follows:

§ 2700.3 Who may appear before the Commission as a representative of a party.

(a) *Notice of appearance.* When first making an appearance, each representative of a party must file a notice of appearance that indicates on whose behalf the appearance is made and the proceeding name and docket number.

(b) *Persons who may represent a party or subpoenaed witness before an Administrative Law Judge or the Commission.* (1) An attorney who is a

member of a bar in good standing of the highest court of a State, Commonwealth, or Territory of the United States, or the District of Columbia where the attorney has been licensed to practice law, who will promptly disclose to the Judge any action suspending, enjoining, restraining, disbaring, or otherwise currently restricting the attorney in the practice of law in any jurisdiction where the attorney is licensed to practice law;

(2) A party;

(3) A representative of miners;

(4) An owner, partner, officer or employee of a party when the party is a labor organization, an association, a partnership, a corporation, governmental agency, other business entity, or a political subdivision; or

(5) Any other person with the permission of the presiding Judge or the Commission.

(c) *Entry of appearance.* A representative of a party shall enter an appearance in a proceeding under the Act or these procedural rules by signing the first document filed on behalf of the party with the Commission or Judge in accordance with § 2700.6; filing a written entry of appearance with the Commission or Judge; or, if the Commission or Judge permits, by orally entering an appearance in open hearing.

(d) *Duties.* All individuals authorized to practice before the Commission shall be subject to § 2700.80 (Standards of conduct; disciplinary proceedings). A representative must be diligent, prompt, and forthright when dealing with parties, other representatives and the Judge, and act in a manner that furthers the fair and orderly conduct of the proceeding.

(e) *Prohibited actions.* A representative must not:

(1) Threaten, coerce, intimidate, deceive or knowingly mislead a party, representative, witness, potential witness, Judge, or anyone participating in the proceeding regarding any matter related to the proceeding.

(2) Knowingly make or present false or misleading statements, assertions, or misrepresentations about a material fact or law related to the proceeding;

(3) Unreasonably delay, or cause to be delayed without good cause, any proceeding;

(4) Violate or attempt to violate the standards of conduct (*see* 29 CFR 2700.80(a)), knowingly assist or induce another to do so, or do so through acts of another; or

(5) Engage in any other action or behavior prejudicial to the fair and orderly conduct of the proceeding.

(f) *Withdrawal of appearance.* A representative who desires to withdraw after filing a notice of appearance, or a

party desiring to withdraw the appearance of a representative, must file a motion with the Commission or Judge. The motion must state that a notice of the withdrawal has been provided to all parties. The Commission or Judge may deny a representative’s motion to withdraw when necessary to avoid undue delay or prejudice to the rights of a party.

■ 4. In § 2700.4, revise paragraphs (a), (b)(1), and (c) to read as follows:

§ 2700.4 Parties, intervenors, and amici curiae.

(a) *Party status.* A person, including the Secretary of Labor (“Secretary”) or an operator, who is named as a party or who is permitted to intervene, is a party. In a proceeding instituted by the Secretary under section 105(c)(2) of the Act, 30 U.S.C. 815(c)(2), the complainant on whose behalf the Secretary has filed the complaint is a party and may present additional evidence. A miner, applicant for employment, or representative of a miner who has filed a complaint with the Commission under section 105(c)(3) or 111 of the Act, 30 U.S.C. 815(c)(3) and 821, and an affected miner or the miner’s representative who has become a party in accordance with paragraph (b) of this section, are parties.

(b) *Intervention—(1) Intervention by affected miners and their representatives.* Before a case has been assigned to a Judge, affected miners or their representatives shall be permitted to intervene upon filing a written notice of intervention with the Commission. If the case has been assigned to a Judge, the notice of intervention shall be filed with the Judge. Notices of intervention shall be filed with the Commission or Judge in accordance with § 2700.5(c). The Commission or the Judge shall provide forthwith a copy of the notice to all parties. After the start of the hearing, affected miners or their representatives may intervene upon just terms and for good cause shown.

* * * * *

(c) *Procedure for participation as amicus curiae.* Any person may move to participate as amicus curiae in a proceeding before a Judge. Such participation as amicus curiae shall not be a matter of right but of the sound discretion of the Judge. A motion for participation as amicus curiae shall set forth the interest of the movant and show that the granting of the motion will not unduly delay or prejudice the adjudication of the issues. If the Judge permits amicus curiae participation, the Judge’s order shall specify the time within which such amicus curiae memorandum, brief, or other filing must

be filed and the time within which a reply may be made. The movant may conditionally attach its memorandum, brief, or other filing to its motion for participation as *amicus curiae*.

■ 5. Revise § 2700.5 to read as follows:

§ 2700.5 General requirements for pleadings and other documents; filing requirements; status or informational requests.

(a) *Jurisdiction.* A proposal for a penalty under section 110, 30 U.S.C. 820; an answer to a notice of contest of a citation or withdrawal order issued under section 104, 30 U.S.C. 814; an answer to a notice of contest of an order issued under section 107, 30 U.S.C. 817; a complaint issued under section 105(c) or 111, 30 U.S.C. 815(c) and 821; and an application for temporary reinstatement under section 105(c)(2), 30 U.S.C. 815(c)(2), shall allege that the violation or imminent danger took place in or involves a mine that has products which enter commerce or has operations or products that affect commerce. Jurisdictional facts that are alleged are deemed admitted unless specifically denied in a responsive pleading.

(b) *How to file.* Unless otherwise provided for in the Act, these rules, or by order, filing may be accomplished in person, by U.S. Postal Service, by third-party commercial carrier, by facsimile transmission, or by electronic transmission. Instructions for electronic filing may be accessed on the Commission's website (<http://www.fmshrc.gov>).

(c) *Where to file.* Unless otherwise provided for in the Act, these rules, or by order:

(1) *Filing by electronic transmission.* A document may be filed by electronic transmission with the Commission and its Judges. Instructions for electronic filing may be accessed on the Commission's website (<http://www.fmshrc.gov>).

(2) *Filing in person, by U.S. Postal Service, by third-party commercial carrier, or by facsimile transmission.*

(i) *Before a Judge has been assigned.* Before a Judge has been assigned to a case, all documents shall be filed with the Commission. Documents filed with the Commission shall be addressed to the Docket Office, Federal Mine Safety and Health Review Commission, 1331 Pennsylvania Avenue NW, Suite 520N, Washington, DC 20004–1710; facsimile delivery shall be transmitted to (202) 434–9954.

(ii) *After a Judge has been assigned.* After a Judge has been assigned, and before a decision has been issued, documents shall be filed with the Judge

at the address set forth on the notice of the assignment.

(iii) *After a Judge has issued a final decision.* After the Judge has issued a final decision, documents shall be filed with the Commission as described in paragraph (c)(2)(i) of this section.

(d) *Necessary information.* All documents shall be legible and shall clearly identify on the cover page the filing party by name. All documents shall be dated and shall include the assigned docket number, page numbers, and the filing person's address, business telephone number, cell telephone number if available, fax number if available, and email address if available. Written notice of any change in contact information shall be given promptly to the Commission or the Judge and all other parties.

(e) *Privacy considerations.* Persons submitting information to the Commission shall protect information that tends to identify certain individuals, to constitute an unwarranted intrusion of personal privacy, or disclose confidential commercial information in the following manner:

(1) Social security numbers, financial account numbers, driver's license numbers, or other personal identifying numbers, shall be redacted or excluded;

(2) Minor children shall be identified only by initials;

(3) If dates of birth must be included, only the year shall be used;

(4) Parties shall exercise caution when filing medical records, medical treatment records, medical diagnosis records, employment history, and individual financial information, and shall redact or exclude materials unnecessary to a disposition of the case, provided the party gives notice to other parties and the Judge of the types of material redacted and the reason for such redactions.

(5) Parties shall, consistent with 29 CFR 2702.6, exercise caution when providing corporate or commercial information and, with the permission of the Judge, shall redact or exclude any portion of its filing unnecessary to a disposition of the case or shall designate by appropriate markings any portion that it considers to be confidential.

(6) The Commission may order, sua sponte or pursuant to a party's motion, that a filing be placed under seal. The Commission may subsequently unseal the filing or order the person who made the submission to substitute a redacted version in the record. Prior to unsealing a filing, the Commission shall provide the party that submitted the filing a reasonable opportunity to object to the sealing or to withdraw the filing. If no

response is received, the Commission will take appropriate action at its discretion. No placements under seal, redactions or withdrawals shall be permitted during the pendency of a subpoena duces tecum validly issued to the Commission or a valid request pursuant to 29 CFR part 2702 related to the filing.

(f) *Effective date of filing.* Unless otherwise provided for in the Act, these rules, or by order:

(1) *Filing by electronic transmission.* When filing is by electronic transmission, filing is effective upon successful receipt by the Commission. The electronic transmission shall be in the manner specified by the Commission's website (<http://www.fmshrc.gov>).

(2) *Filing in person, by U.S. Postal Service, by third-party commercial carrier, or by facsimile transmission.* When filing is by U.S. Postal Service, filing is effective upon mailing, except that the filing of a motion for extension of time, any document in an emergency response plan dispute proceeding, a petition for review of a temporary reinstatement order, a motion for summary decision, a petition for discretionary review, and a motion to exceed page limit is effective only upon receipt. See §§ 2700.9(a), 2700.24(d), 2700.45(f), 2700.67(a), 2700.70(a), (f), and 2700.75(f). When filing is in person, by third-party commercial carrier, or by facsimile, filing is effective upon successful receipt by the Commission.

(g) *Number of copies.* Unless otherwise ordered or stated in this part, only the original of a document shall be filed.

(h) *Form of filings.* All documents, including those filed electronically, shall appear in at least 12-point type on paper 8½ by 11 inches in size, with margins of at least 1 inch on all four sides. Text and footnotes shall appear in the same size type. Text shall be double spaced. Headings and footnotes may be single spaced. Quotations of 50 words or more may be single spaced and indented left and right. Excessive footnotes are prohibited. The failure to comply with the requirements of this paragraph (h) or the use of compacted or otherwise compressed printing features may be grounds for rejection of a filing.

(i) *Citation to a decision of a Judge.* Each citation to a decision of a Judge should include "(ALJ)" at the end of the citation.

(j) *Status or informational requests.* Information concerning filing requirements, the status of cases, or docket information may be accessed through the Commission's website

(<http://www.fmshrc.gov>). In the event such information is unavailable through the Commission's website or the requesting party does not have access to the website, such status or informational requests must be directed to the Docket Office of the Federal Mine Safety and Health Review Commission, 1331 Pennsylvania Avenue NW, Suite 520N, Washington, DC 20004-1710; 202-434-9950.

■ 6. Revise § 2700.6 to read as follows:

§ 2700.6 Signing of documents.

(a) *Signature.* All documents filed with the Commission must be signed by a party or representative of the party.

(1) *Documents not filed by electronic transmission.* A party or representative of the party shall sign a document by handwritten signature.

(2) *Documents filed by electronic transmission.* (i) A party or representative of the party may sign a document by including the notation “/s/” followed by the typewritten name of the party or representative of the party filing the document.

(ii) A party or representative of the party may sign a document by including a graphical duplicate of the handwritten signature.

(b) *Meaning of Signature.* A document or signature may not be denied legal effect or enforceability solely because it is in electronic form. When a party or representative of the party signs a document in the manner described in paragraph (a) of this section, that person's signature shall constitute a certification:

(1) That under the provisions of the law, including these rules and all federal conflict of interest statutes, the person is authorized and qualified to represent the particular party in the matter; and

(2) That the person has read the document; that based on knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for extension, modification, or reversal of existing law; and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

■ 7. In § 2700.7, revise paragraphs (c)(1) and (2) to read as follows:

§ 2700.7 Service.

* * * * *

(c) * * *

(1) *Methods of service.* Documents may be served in person, by U.S. Postal Service, by third-party commercial carrier, by facsimile transmission, or by email or other electronic transmission.

For documents filed pursuant to §§ 2700.9(a), 2700.24, 2700.45, 2700.70(f), 2700.75(f), and subpart F (applications for temporary relief), the method of service used must be no less expeditious than that used for filing, except that if service by email or other electronic transmission is impossible, the filing party must serve in person, by third party commercial carrier, or facsimile transmission, resulting in same-day delivery.

(2) *Effective date of service.* When service is by U.S. Postal service, service is effective upon mailing. When service is in person, by third-party commercial carrier, by facsimile transmission, or by email or other electronic transmission, service is effective upon successful receipt by the party intended to be served.

* * * * *

■ 8. In § 2700.8, revise paragraph (b) and Example 2 to read as follows:

§ 2700.8 Computation of time.

* * * * *

(b) When a party serves a filing by a method of delivery resulting in other than same-day service, the due date for party action in response is extended 5 additional calendar days beyond the date otherwise prescribed, after consideration of paragraph (a) of this section where applicable. (n.b. A proposed penalty assessment is not a filing with the Commission and additional days are not added to the time for responding to a proposed assessment.)

* * * * *

Example 2: A Commission Judge issues a final decision in a case on Friday, July 5, 2013. Under § 2700.70(a), parties have until August 4, 2013, to file with the Commission a petition for discretionary review of the Judge's decision. Even though the decision was mailed, 5 additional calendar days are not added, because paragraph (b) of this section only applies to actions in response to parties' filings. However, because August 4, 2013, is a Sunday, the actual due date for the petition is Monday, August 5, 2013.

* * * * *

■ 9. In § 2700.9, revise paragraph (a) to read as follows:

§ 2700.9 Extensions of time.

(a) The time for filing or serving any document may be extended for good cause shown. Filing of a motion requesting an extension of time is effective upon receipt. A motion requesting an extension of time shall be received no later than 3 days prior to the expiration of the time allowed for the

filing or serving of the document, and shall comply with § 2700.10. The motion and any statement in opposition shall include proof of service on all parties by a means of delivery no less expeditious than that used for filing the motion, except that if service by email or other electronic transmission is impossible, the filing party must serve in person, by third party commercial carrier, or by facsimile transmission resulting in same-day delivery.

* * * * *

■ 10. In § 2700.10, revise paragraphs (a) and (b) to read as follows:

§ 2700.10 Motions.

(a) An application for an order shall be by motion which, unless made during a hearing or a conference, shall be made in writing and shall set forth the relief or order sought. Proceedings on any motion made at a hearing or during a conference shall be on the record.

(b) Written motions shall be set forth in a document separate from other filings.

* * * * *

■ 11. Revise § 2700.11 to read as follows:

§ 2700.11 Withdrawal of filing.

A party may withdraw a filing at any stage of a proceeding with the approval of the Judge or the Commission.

■ 12. In § 2700.20, revise paragraphs (b) and (d) to read as follows:

§ 2700.20 Notice of contest of a citation or order issued under section 104 of the Act.

* * * * *

(b) *Time to contest.* Contests filed by an operator pursuant to paragraph (a)(1) of this section shall be filed with the Secretary of Labor (“Secretary”) at the appropriate Regional Solicitor's Office or at the Solicitor's Office, Mine Safety and Health Division, Arlington, Virginia, within 30 days of receipt by the operator of the contested citation, order, or modification. Contests filed by a miner or representative of miners pursuant to paragraph (a)(2) of this section shall be filed in the same manner within 30 days of receipt by the miner or representative of miners of the contested order, modification, or termination.

* * * * *

(d) *Copy to Commission.* The contesting party shall also file a copy of the notice of contest with the Commission at the time the party files with the Secretary.

* * * * *

■ 13. In § 2700.21, revise paragraph (a) to read as follows:

§ 2700.21 Effect of filing notice of contest of citation or order.

(a) The filing of a notice of contest of a citation or order issued under section 104 of the Act, 30 U.S.C. 814, does not constitute a challenge to a proposed penalty assessment that may subsequently be issued by the Secretary of Labor under section 105(a) of the Act, 30 U.S.C. 815(a), which is based on that citation or order. A challenge to such a proposed penalty assessment must be filed as a separate notice of contest of the proposed penalty assessment. *See* § 2700.26.

* * * * *

■ 14. In § 2700.22, revise paragraph (c) to read as follows:

§ 2700.22 Notice of contest of imminent danger withdrawal orders under section 107 of the Act.

* * * * *

(c) *Answer.* Within 15 days after service of the notice of contest, the Secretary of Labor shall file an answer responding to each allegation of the notice of contest.

■ 15. Revise § 2700.24 to read as follows:

§ 2700.24 Emergency response plan dispute proceedings.

(a) *Referral by the Secretary of Labor.* The Secretary of Labor (“Secretary”) shall immediately refer to the Commission any citation arising from a dispute between the Secretary and an operator with respect to the content of the operator’s emergency response plan, or any refusal by the Secretary to approve such a plan. Any referral made pursuant to this paragraph (a) shall be made within two business days of the issuance of any such citation.

(b) *Contents of referral.* A referral shall consist of a notice of plan dispute describing the nature of the dispute; a copy of the citation issued by the Secretary; a short and plain statement of the Secretary’s position with respect to any disputed plan provision; and a copy of the disputed provision of the emergency response plan.

(c) *Short and plain statement by the operator.* Within five calendar days following the filing of the referral, the operator shall file with the Commission a short and plain statement of its position with respect to the disputed plan provision.

(d) *Filing and service of documents.* The filing with the Commission of any document in an emergency response plan dispute proceeding, including the referral, is effective upon receipt. A copy of each document filed with the Commission in such a proceeding shall be served on all parties and on any

miner or miners’ representative who has participated in the emergency response plan review process by a method of service no less expeditious than that used for filing, except that if service by email or other electronic transmission is impossible, the filing party must serve in person, by third party commercial carrier, or by facsimile transmission, resulting in same-day delivery.

(e) *Proceedings before the Judge—(1) Submission of materials.* Within 15 calendar days of the referral, the parties shall submit to the Judge assigned to the matter all relevant materials regarding the dispute. Such submissions shall include a request for any relief sought and may include proposed findings of fact and conclusions of law. Such materials may be supported by affidavits or other verified documents, and shall specify the grounds upon which the party seeks relief. Supporting affidavits shall be made on personal knowledge and shall show affirmatively that the affiant is competent to testify to the matters stated.

(2) *Hearing.* (i) Within 5 calendar days following the filing of the Secretary’s referral, any party may request a hearing and shall so advise the Commission’s Chief Administrative Law Judge or designee, and simultaneously notify the other parties.

(ii) Within 10 calendar days following the filing of the Secretary’s referral, the Commission’s Chief Administrative Law Judge or designee may issue an order scheduling a hearing on the Judge’s own motion, and must immediately so notify the parties.

(iii) If a hearing is ordered under paragraphs (e)(2)(i) or (ii) of this section, the hearing shall be held within 15 calendar days of the filing of the referral. The scope of such a hearing is limited to the disputed plan provision or provisions. If no hearing is held, the Judge assigned to the matter shall review the materials submitted by the parties pursuant to paragraph (e)(1) of this section, and shall issue a decision pursuant to paragraph (f) of this section.

(f) *Disposition—(1) Decision of the Judge.* Within 15 calendar days following receipt by the Judge of all submissions and testimony made pursuant to paragraph (e) of this section, the Judge shall issue a decision that constitutes the Judge’s final disposition of the proceedings. The decision shall be in writing and shall include all findings of fact and conclusions of law, and the reasons or bases for them, on all the material issues of fact, law or discretion presented by the record, and an order. The parties shall be notified of the Judge’s decision by the most expeditious means reasonably available.

(2) Stay of plan provision.

Notwithstanding § 2700.69(b), a Judge shall retain jurisdiction over a request for a stay in an emergency response plan dispute proceeding. Within two business days following service of the decision, the operator may file with the Judge a request to stay the inclusion of the disputed provision in the plan during the pendency of an appeal to the Commission pursuant to paragraph (g) of this section. The Secretary shall respond to the operator’s motion within two business days following service of the motion. The Judge shall issue an order granting or denying the relief sought within two business days after the filing of the Secretary’s response.

(g) *Review of decision.* Any party may seek review of a Judge’s decision, including the Judge’s order granting or denying a stay, by filing with the Commission a petition for discretionary review pursuant to § 2700.70. Neither an operator’s request for a stay nor the issuance of an order addressing the stay request affects the time limits for filing a petition for discretionary review of a Judge’s decision with the Commission under this paragraph (g). The Commission shall act upon a petition on an expedited basis. If review is granted, the Commission shall issue a briefing order. Except as otherwise ordered or provided for herein, the provisions of § 2700.75 apply. The Commission will not grant motions for extension of time for filing briefs, except under extraordinary circumstances.

■ 16. Revise § 2700.25 to read as follows:

§ 2700.25 Proposed penalty assessment.

The Secretary of Labor (“Secretary”), by certified mail, shall notify the operator or any other person against whom a penalty is proposed of the violation alleged, the amount of the proposed penalty assessment, and that such person shall have 30 days to notify the Secretary of the intent to contest the proposed penalty assessment.

■ 17. Revise § 2700.26 to read as follows:

§ 2700.26 Notice of contest of proposed penalty assessment.

A person has 30 days after receipt of the proposed penalty assessment within which to notify the Secretary of Labor (“Secretary”) of the contest of the proposed penalty assessment. A person who wishes to contest a proposed penalty assessment must provide such notification regardless of whether the person has previously contested the underlying citation or order pursuant to § 2700.20. The Secretary shall immediately transmit to the

Commission any notice of contest of a proposed penalty assessment.

■ 18. Revise § 2700.27 to read as follows:

§ 2700.27 Effect of failure to contest proposed penalty assessment.

If, within 30 days from the receipt of the proposed penalty assessment, the operator or other person fails to notify the Secretary of Labor (“Secretary”) of the contest of the proposed penalty, the Secretary’s proposed penalty assessment shall be deemed to be a final order of the Commission not subject to review by any court or agency.

■ 19. In § 2700.28, revise paragraphs (a), and (b)(1) and (2) to read as follows:

§ 2700.28 Filing of petition for assessment of penalty with the Commission.

(a) *Time to file.* Within 45 days of receipt of a timely contest of a proposed penalty assessment, the Secretary of Labor shall file with the Commission a petition for assessment of penalty.

(b) * * *

(1) List the alleged violations and the proposed penalties. Each violation shall be identified by the number and date of the citation or order and the section of the Act or regulations alleged to be violated. The list shall include no more than 20 citations or orders which are the subject of the petition for assessment of penalty.

(2) Include a short and plain statement of supporting reasons based on the criteria for penalty assessment set forth in section 110(i) of the Act, 30 U.S.C. 820(i).

* * * * *

■ 20. In § 2700.30, revise paragraph (b) to read as follows:

§ 2700.30 Assessment of penalty.

* * * * *

(b) In determining the amount of penalty, neither the Judge nor the Commission shall be bound by a penalty proposed by the Secretary of Labor or by any offer of settlement made by a party.

■ 21. Revise § 2700.31 to read as follows:

§ 2700.31 Penalty settlement.

(a) *General.* A proposed penalty that has been contested before the Commission may be settled only with the approval of the Commission upon motion. In all penalty proceedings, a settlement motion must be accompanied by a proposed order approving settlement.

(b) *Content of motion.*—(1) Factual support. A motion to approve a penalty settlement shall include for each violation the amount of the penalty proposed by the Secretary of Labor

(“Secretary”), the amount of the penalty agreed to in settlement, and facts in support of the penalty agreed to by the parties.

(2) *Certification.* The party filing a motion must certify that the opposing party has authorized the filing party to represent that the opposing party consents to the granting of the motion and the entry of the proposed order approving settlement.

(c) *Content of proposed order.*—(1) *Factual support.* A proposed order approving a penalty settlement shall include for each violation the amount of the penalty proposed by the Secretary, the amount of the penalty agreed to in settlement, and facts in support of the penalty agreed to by the parties. Proposed orders shall not be submitted in PDF format.

(2) *Appearance by CLR.* If a motion has been filed by a Conference and Litigation Representative (“CLR”) on behalf of the Secretary, the proposed order approving settlement accompanying the motion shall include a provision in which the Judge accepts the CLR to represent the Secretary in accordance with the notice of either limited or unlimited appearance previously filed with the Commission. A CLR does not need to obtain authorization from the Commission to represent the Secretary before the CLR files a motion to approve settlement and proposed order.

(d) *Filing of motion and proposed order prior to filing of petition.* If a motion to approve settlement and proposed order is filed with the Commission before the Secretary has filed a petition for assessment of penalty, the filing party must also submit as attachments, electronic copies of the proposed penalty assessment and citations and orders at issue. If such attachments are filed, the Secretary need not file a petition for assessment of penalty.

(e) *Final order.* Any order by the Judge approving a settlement shall set forth the reasons for approval and shall be supported by the record. Such order shall become the final order of the Commission 40 days after issuance unless the Commission has directed that the order be reviewed. A Judge may correct clerical errors in an order approving settlement in accordance with the provisions of 29 CFR 2700.69(c).

■ 22. Add § 2700.32 to read as follows:

§ 2700.32 Motions to reopen.

(a) *General.* This section applies to situations:

(1) Where an operator has failed to file a timely notice of contest of a proposed

penalty assessment issued by the Department of Labor’s Mine Safety and Health Administration (“MSHA”), resulting in the proposed penalty assessment being deemed a final order of the Commission pursuant to section 105(a) of the Act, 30 U.S.C. 815(a), and § 2700.27; and

(2) Where an operator has failed to file a timely answer to a petition for assessment of a penalty and the Judge has issued a default order. Either situation is termed a “default.”

(b) *Definition.* For purposes of this section only, “operator” also includes a person subject to the provisions of section 110(c) of the Act, 30 U.S.C. 820(c), as well as an entity considered an operator under section 3(d) of the Act, 30 U.S.C. 802(d).

(c) *Grounds for relief.* In reviewing motions to reopen cases where a default has occurred, the Commission is guided by Rule 60(b) of the Federal Rules of Civil Procedure, under which, for example, a party could be entitled to relief from a final order of the Commission on the basis of inadvertence, surprise, mistake, misrepresentation, misconduct by an opposing party, or other reason that justifies relief. The operator bears the burden of establishing entitlement to such extraordinary relief.

(d) *Time limits for filing the motion.* (1) A party seeking relief from a default must promptly file a motion with the Commission requesting that the final order be reopened with a full explanation of why reopening is warranted, accompanied by appropriate documentation, as required by paragraph (e) of this section. A party’s diligence in promptly filing the motion will be taken into account in the decision whether to grant relief. If a party fails to file its motion to reopen within 30 days of notice or discovery of its delinquency, it must provide a reasonable explanation for the delay.

(2) Motions for relief based on mistake, inadvertence, surprise, excusable neglect, newly discovered evidence, fraud, misrepresentation, or misconduct by an opposing party must be filed within one year after a proposed penalty assessment has become a final order of the Commission. Failure to do so will result in denial of the motion.

(e) *Contents of the motion.* (1) In submitting a motion, the operator should seek guidance from the Commission’s website (<https://www.fmshrc.gov/content/requests-reopen> and <https://www.fmshrc.gov/guides/faq#problems>).

(2) The motion must include the operator’s name and mine ID number, the name of the operator’s

representative, the representative's relationship to the mine operator, and the representative's contact information.

(3) The motion shall include a detailed explanation of facts related to the grounds for relief, including:

(i) The nature of the event, error, or omission leading to the default, including, if applicable, the movant's control of the filing of a notice of contest, the circumstances causing the lateness, and any factor bearing upon the good faith of the movant;

(ii) The steps taken in attempting to contest the proposed penalty or to answer the penalty petition;

(iii) The reason for the untimeliness; and

(iv) Any other relevant factor.

(4) The reasons for the default must be substantiated by documentation containing, as appropriate, affidavits and documents, including written and electronic communications, which are relevant to the issues raised in the motion to reopen and are within the party's custody or control.

(5) Motions seeking to reopen a proposed penalty that has been deemed a final order must also include:

(i) The assessment case number(s) that the operator seeks to reopen and the individual penalties within the assessment case which the operator seeks to contest upon reopening.

(ii) The operator's internal procedures for timely contesting proposed penalty assessments or answer penalty petitions, including the existence of the tracking and backup systems, and

(iii) Any available documentation of the mailing and/or delivery of the operator's contest if the movant claims that it timely contested a proposed penalty assessment.

(f) *Secretary of Labor's response to motion.* (1) The Secretary of Labor ("Secretary") may submit a response to the Commission within 30 days after receipt of the operator's motion to reopen a default. In the response, the Secretary shall state whether the Secretary opposes the motion and, if so, the reasons for such opposition, including any prejudice resulting from the delay.

(2) The Secretary shall also submit a copy of all relevant documents to which the Secretary has access that were not submitted by the operator in its motion.

(3) In response to a motion to reopen a penalty assessment, the Secretary shall include a summary, from the MSHA Mine Data Retrieval System or other sources, of the operator's status regarding penalty delinquencies during the preceding 24-month period. Such information shall be presumed to be correct unless rebutted by the operator.

(g) *Operator's reply.* The operator may file a reply within 20 days after service of the Secretary's response.

(h) *Refiling of motion.* (1) If a motion is denied "without prejudice," a new motion may be refiled within 30 days of the issuance of the Commission's decision. If no new motion is filed within 30 days, the initial motion is denied permanently, "with prejudice."

(2) If a motion is denied "with prejudice," in cases involving a failure to timely contest a proposed penalty assessment, the underlying assessment shall be deemed to have been a final order of the Commission. In cases involving a Judge's default order, the order shall be a final order.

(3) When a motion is refiled, for purposes of § 2700.32(d)(2), the time during which the initial motion that was denied without prejudice was pending before the Commission shall not be counted toward the one-year period within which some motions to reopen a default must be filed.

■ 23. In § 2700.40, revise paragraph (a) to read as follows:

§ 2700.40 Who may file.

(a) *The Secretary of Labor.* A discrimination complaint under section 105(c)(2) of the Act, 30 U.S.C. 815(c)(2), shall be filed by the Secretary of Labor ("Secretary") if, after an investigation conducted pursuant to section 105(c)(2), the Secretary determines that a violation of section 105(c)(1), 30 U.S.C. 815(c)(1), has occurred.

* * * * *

■ 24. In § 2700.41, revise paragraph (a) and add paragraph (c) to read as follows:

§ 2700.41 Time to file.

(a) *The Secretary of Labor.* A discrimination complaint shall be filed by the Secretary of Labor ("Secretary") within 30 days after the Secretary's written determination that a violation has occurred.

* * * * *

(c) *Expedition.* Proceedings held under this subpart E are to be expedited. 30 U.S.C. 815(c)(3).

■ 25. Revise § 2700.44 to read as follows:

§ 2700.44 Petition for assessment of penalty in discrimination cases.

(a) *Petition for assessment of penalty in Secretary of Labor's complaint.* A discrimination complaint filed by the Secretary of Labor ("Secretary") shall propose a civil penalty of a specific amount for the alleged violation of section 105(c) of the Act, 30 U.S.C. 815(c). The petition for assessment of penalty shall include a short and plain statement of supporting reasons based

on the criteria for penalty assessment set forth in section 110(i) of the Act. 30 U.S.C. 820(i).

(b) *Petition for assessment of penalty after sustaining of complaint by miner, representative of miners, or applicant for employment.* Immediately upon issuance of a decision by a Judge sustaining a discrimination complaint brought pursuant to section 105(c)(3), 30 U.S.C. 815(c)(3), the Judge shall notify the Secretary in writing of such determination. The Secretary shall enter an appearance in the case within 10 days and file with the Commission a petition for assessment of civil penalty within 30 days of receipt of such notice. When necessary to expedite the issuance of a final decision in the proceeding, the Judge is authorized to shorten the Secretary's 30-day filing period and the period in which the operator has to respond to the petition. In the event the Judge does not receive a petition for assessment of a civil penalty within 30 days of the Secretary's receipt of the notice, or a shorter period specified in the notice, the Judge shall issue an order to show cause as to why the Secretary has not filed a petition. If after 7 days of issuance of such order the Secretary has not filed with the Commission a petition for civil penalty and the Judge has not granted an extension of time for filing, the Judge shall presume the Secretary has proposed no penalty and assess a penalty in accordance with 29 CFR 2700.30.

■ 26. Revise § 2700.45 to read as follows:

§ 2700.45 Temporary reinstatement proceedings.

(a) *Service of documents.* A copy of each document filed with the Commission in a temporary reinstatement proceeding shall be served on all parties by a method of service as expeditious as that used for filing, except that, if service by email or other electronic transmission is impossible, the filing party must serve in person, by third party commercial carrier, or by facsimile transmission, resulting in same-day delivery.

(b) *Contents of application.* An application for temporary reinstatement shall state the finding by the Secretary of Labor ("Secretary") that the miner's discrimination complaint was not frivolously brought and shall be accompanied by an affidavit setting forth the Secretary's reasons supporting this finding. The application also shall include a copy of the miner's complaint to the Secretary and proof of notice to and service on the person against whom relief is sought by the most expeditious

method of notice and delivery reasonably available.

(c) *Request for hearing.* Within 10 calendar days following receipt of the Secretary's application for temporary reinstatement, the person against whom relief is sought shall advise the Commission's Chief Administrative Law Judge or designee, and simultaneously notify the Secretary, whether a hearing on the application is requested. If no hearing is requested, the Judge assigned to the matter shall immediately review the Secretary's application and, if based on the contents thereof the Judge determines that the miner's complaint was not frivolously brought, the Judge shall immediately issue a written order of temporary reinstatement. If a hearing on the application is requested, the hearing shall be held within 10 calendar days following receipt of the request for hearing by the Commission's Chief Administrative Law Judge or designee, unless compelling reasons are shown in an accompanying request for an extension of time.

(d) *Hearing.* The scope of a hearing on an application for temporary reinstatement is limited to a determination as to whether the miner's complaint was frivolously brought. The burden of proof shall be upon the Secretary to establish that the complaint was not frivolously brought. In support of the application for temporary reinstatement, the Secretary may limit presentation to the testimony of the complainant. The respondent shall have an opportunity to cross-examine any witnesses called by the Secretary and may present testimony and documentary evidence in support of its position that the complaint was frivolously brought.

(e) *Order on application.* (1) Within 7 calendar days following the close of a hearing on an application for temporary reinstatement, the Judge shall issue a written order granting or denying the application. However, in extraordinary circumstances, the Judge's time for issuing an order may be extended as deemed necessary by the Judge.

(2) The Judge's order shall include findings and conclusions supporting the determination as to whether the miner's complaint has been frivolously brought.

(3) The parties shall be notified of the Judge's determination by the most expeditious means reasonably available.

(4) A Judge's order temporarily reinstating a miner is not a final decision within the meaning of § 2700.69, and except during appellate review of such order by the Commission or courts, the Judge shall retain jurisdiction over the temporary reinstatement proceeding.

(f) *Review of order.* Review by the Commission of a Judge's written order granting or denying an application for temporary reinstatement may be sought by filing with the Commission a petition, which shall be captioned "Petition for Review of Temporary Reinstatement Order," with supporting arguments, within 5 business days following receipt of the Judge's written order. The filing of any such petition is effective upon receipt. The filing of a petition shall not stay the effect of the Judge's order unless the Commission so directs; a motion for such a stay will be granted only under extraordinary circumstances. Any response shall be filed within 5 business days following service of a petition. Pleadings under this rule shall include proof of service on all parties by a means of delivery no less expeditious than that used for filing, except that if service by email or other electronic transmission is impossible, the filing party must serve in person, by third party commercial carrier, or by facsimile transmission, resulting in same-day delivery. The Commission's ruling on a petition shall be made on the basis of the petition and any response (any further briefs will be entertained only at the express direction of the Commission), and shall be rendered within 10 calendar days following receipt of any response or the expiration of the period for filing such response. In extraordinary circumstances, the Commission's time for decision may be extended.

(g) *Dissolution of order.* If, following an order of temporary reinstatement, the Secretary determines that the provisions of section 105(c)(1), 30 U.S.C. 815(c)(1), have not been violated, the Judge shall be so notified. An order dissolving the order of reinstatement shall not bar the filing of an action by the miner on the miner's own behalf under section 105(c)(3) of the Act, 30 U.S.C. 815(c)(3), and § 2700.40(b) of these rules.

■ 27. In § 2700.46, revise paragraph (d) to read as follows:

§ 2700.46 Procedure.

* * * * *

(d) *Service of documents.* A copy of each document filed with the Commission under subpart F of this part must be served on all parties by a means of delivery no less expeditious than that used for filing, except that if service by email or other electronic transmission is impossible, the filing party must serve in person, by third party commercial carrier, or by facsimile transmission, resulting in same-day delivery.

■ 28. In § 2700.53, revise the introductory text of paragraph (a) to read as follows:

§ 2700.53 Prehearing conferences and statements.

(a) The Judge may require the parties to participate in a prehearing conference, either in person or by telephone or other video/audio teleconferencing. Notwithstanding the mandatory recording of motions on the record in accordance with § 2700.10(a), the Judge has the discretion to record any in-person or telephonic conference, a transcript of which shall be provided to the parties upon reasonable request. The participants at any such conference may consider and take action with respect to:

* * * * *

■ 29. Revise § 2700.54 to read as follows:

§ 2700.54 Notice of hearing.

Except in expedited proceedings, written notice of the time, place, and nature of the hearing, the legal authority under which the hearing is to be held, and the matters of fact and law asserted shall be given to all parties at least 20 days before the date set for hearing.

■ 30. In § 2700.55, revise paragraph (h) to read as follows:

§ 2700.55 Powers of Judges.

* * * * *

(h) Make decisions in the proceedings, provided that the Judge shall not be assigned to make a recommended decision; and

* * * * *

■ 31. In § 2700.56, revise paragraph (c) to read as follows:

§ 2700.56 Discovery; general.

* * * * *

(c) *Limitation of discovery.* Upon motion by a party or by the person from whom discovery is sought or upon the Judge's own motion, a Judge may, for good cause shown, limit discovery to prevent undue delay or to protect a party or person from oppression or undue burden or expense.

* * * * *

■ 32. In § 2700.58, revise paragraph (c) to read as follows:

§ 2700.58 Interrogatories, requests for admissions and requests for production of documents.

* * * * *

(c) *Request for production, entry or inspection.* Any party, without leave of the Judge, may serve on another party a written request to produce and permit inspection, copying or photocopying of designated documents or objects, or to permit a party or its agent to enter upon designated property to inspect and gather information. A party served with such a request shall respond in writing

within 25 days of service unless the party making the request agrees to a longer time. The Judge may order a shorter or longer period for responding. A party objecting to a request for production, entry or inspection shall state the basis for the objection in its response.

■ 33. Revise § 2700.61 to read as follows:

§ 2700.61 Name of miner informant.

A Judge shall not, except in extraordinary circumstances, disclose or order a person to disclose to an operator or its agent the name of an informant who is a miner.

■ 34. Revise § 2700.62 to read as follows:

§ 2700.62 Name of miner witness.

A Judge shall not, until 2 days before a hearing, disclose or order a person to disclose to an operator or its agent the name of a miner who is expected by the Judge to testify or whom a party expects to summon or call as a witness.

■ 35. In § 2700.63, revise paragraph (b) to read as follows:

§ 2700.63 Evidence; presentation of case.

* * * * *

(b) The proponent of an order has the burden of proof. A party shall have the right to present a case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

■ 36. Revise § 2700.64 to read as follows:

§ 2700.64 Exhibits.

All exhibits received in evidence in a hearing or submitted for the record in any proceeding before the Commission shall be deemed part of the official record of the proceeding. The withdrawal of original exhibits may be permitted by the Commission or the Judge, upon request and after notice to the other parties, if true copies are substituted, where practical, for the originals.

■ 37. In § 2700.66, revise paragraph (a) to read as follows:

§ 2700.66 Summary disposition of proceedings.

(a) *Generally.* When a party fails to comply with an order of a Judge or these rules, except as provided in paragraph (b) of this section, an order to show cause shall be directed to the party before the entry of any order of default or dismissal. The order shall be provided to the party by the most expeditious means reasonably available.

* * * * *

■ 38. In § 2700.67, revise paragraph (e) to read as follows:

§ 2700.67 Summary decision of the Judge.

* * * * *

(e) *Affidavits.* Supporting and opposing affidavits shall be made on personal knowledge and shall show affirmatively that the affiant is competent to testify to the matters stated. Sworn or certified copies of all papers or parts of papers referred to in an affidavit shall be attached to the affidavit or be incorporated by reference if not otherwise a matter of record. The Judge shall permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, admissions, or further affidavits.

* * * * *

■ 39. Revise § 2700.68 to read as follows:

§ 2700.68 Substitution of the Judge.

(a) *Generally.* Should a Judge become unavailable to the Commission, the proceedings assigned to that Judge shall be reassigned to a substitute Judge.

(b) *Substitution following a hearing.* The substitute Judge may render a decision based upon the existing record, provided the parties are notified of the Judge's intent and they are given an opportunity to object. An objection to the Judge rendering a decision based upon the existing record shall be filed within 10 days following receipt of the Judge's notice, or the objection shall be deemed to be waived. An objection shall be founded upon a showing of a need for the resolution of conflicting material testimony requiring credibility determinations. Upon good cause shown the Judge may order a further hearing on the merits, which shall be limited, so far as practicable, to the testimony in dispute.

■ 40. In § 2700.69, revise paragraphs (a) through (c) to read as follows:

§ 2700.69 Decision of the Judge.

(a) *Form and content of the Judge's decision.* The Judge shall make a decision that constitutes a final disposition of the proceedings. A decision that is not final shall be titled "Interim Decision." Any decision shall be in writing and shall include all findings of fact and conclusions of law, and the reasons or bases for them, on all the material issues of fact, law or discretion presented by the record, and an order. If a decision is announced orally from the bench, it shall be reduced to writing after the filing of the transcript. An order by a Judge approving a settlement proposal is a decision of the Judge.

(b) *Termination of the Judge's jurisdiction.* Except to the extent otherwise provided herein, the jurisdiction of the Judge terminates when the Judge's decision has been issued.

(c) *Correction of clerical errors.* At any time before the Commission has directed that a Judge's decision be reviewed, and on the Judge's own motion or the motion of a party, the Judge may correct clerical errors in decisions, orders, or other parts of the record. After the Commission has directed that a Judge's decision be reviewed, the Judge may correct such errors with the leave of the Commission. If a Judge's decision has become the final order of the Commission, the Judge may correct such errors with the leave of the Commission. Neither the filing of a motion to correct a clerical error, nor the issuance of an order or amended decision correcting a clerical error, shall toll the time for filing a petition for discretionary review of the Judge's decision on the merits.

* * * * *

■ 41. In § 2700.70, revise paragraph (f) to read as follows:

§ 2700.70 Petitions for discretionary review.

* * * * *

(f) *Motion for leave to exceed page limit.* A motion requesting leave to exceed the page limit shall be received not less than 3 days prior to the date the petition for discretionary review is due to be filed, shall state the total number of pages proposed, and shall comply with § 2700.10. Filing of a motion requesting an extension of page limit is effective upon receipt. The motion and any statement in opposition shall include proof of service on all parties by a means of delivery no less expeditious than that used for filing the motion, except that if service by email or other electronic transmission is impossible, the filing party must serve in person, by third party commercial carrier, or by facsimile transmission, resulting in same-day delivery.

* * * * *

■ 42. Add § 2700.72 to read as follows:

§ 2700.72 Commission panels.

The Commission may, at its discretion, impanel a group of three or more members to hear any pending matter. Assignment to such panels shall be made by a random method agreed upon by a majority of the Commissioners.

■ 43. In § 2700.73, revise paragraph (b) to read as follows:

§ 2700.73 Procedure for intervention.

* * * * *

(b) A showing that the disposition of the proceeding may impair or impede the movant's ability to protect that interest;

* * * * *

■ 44. In § 2700.75, revise paragraphs (a)(1), (e), and (f) to read as follows:

§ 2700.75 Briefs.

(a) *Time to file*—(1) *Opening and response briefs*. Within 30 days after the Commission grants a petition for discretionary review, the petitioner shall file an opening brief. The petitioner may notify the Commission and all other parties within the 30-day period that the petition and any supporting memorandum are to constitute the opening brief. Other parties may file response briefs within 30 days after the petitioner's brief is served. If the Commission directs review on its own motion, all parties shall file any opening briefs within 30 days of the direction for review. In such cases, a party may file a response brief within 20 days after service of the opposing party's opening brief.

* * * * *

(e) *Consequences of petitioner's failure to file brief*. If a petitioner fails to timely file a brief or to designate the petition as the opening brief, the direction for review may be vacated.

(f) *Motion for leave to exceed page limit*. A motion requesting leave to exceed the page limit for a brief shall be received not less than 3 days prior to the date the brief is due to be filed, shall state the total number of pages proposed, and shall comply with § 2700.10. Filing of a motion requesting an extension of page limit is effective upon receipt. The motion and any statement in opposition shall include proof of service on all parties by a means of delivery no less expeditious than that used for filing the motion, except that if service by email or other electronic transmission is impossible, the filing party must serve in person, by third party commercial carrier, or by facsimile transmission, resulting in same-day delivery.

* * * * *

■ 45. In § 2700.76, revise paragraph (a)(1)(i) to read as follows:

§ 2700.76 Interlocutory review.

(a) * * *

(1) * * *

(i) The Judge has certified, upon the Judge's own motion or the motion of a party, that an interlocutory ruling involves a controlling question of law and that in the Judge's opinion

immediate review will materially advance the final disposition of the proceeding; or

* * * * *

■ 46. In § 2700.78, revise paragraph (a) to read as follows:

§ 2700.78 Reconsideration.

(a) A petition for reconsideration must be filed with the Commission within 10 days after the issuance of a decision or order of the Commission. Any response must be filed with the Commission within 10 days of service of the petition.

* * * * *

■ 47. In § 2700.80, revise paragraphs (a) through (c) to read as follows:

§ 2700.80 Standards of conduct; disciplinary proceedings.

(a) *Standards of conduct*. Representatives practicing before the Commission or before Commission Judges pursuant to 29 CFR 2700.3(b) shall conform to the standards of ethical conduct required of practitioners under the American Bar Association's Rules of Professional Conduct ("ABA's Model Rules"). The Commission shall apply the ABA's Model rules as far as practicable.

(b) *Grounds*. Disciplinary proceedings may be instituted against anyone who is practicing or has practiced before the Commission on grounds that such person has engaged in unethical or unprofessional conduct; has failed to comply with these rules or an order of the Commission or its Judges; has been disbarred or suspended by a court or administrative agency; or has been disciplined by a Judge under paragraph (e) of this section.

(c) *Procedure*. Disciplinary proceedings shall be subject to the following procedure:

(1) *Disciplinary referral*. Except as provided in paragraph (e) of this section, a Judge or other person having knowledge of circumstances that may warrant disciplinary proceedings against an individual who is practicing or has appeared before the Commission shall forward to the Commission for action such information in the form of a written disciplinary referral. Whenever the Commission receives a disciplinary referral, the matter shall be assigned a docket number and a notice will be issued to the individual named in the referral of the initiation of an investigation.

(2) *Inquiry and preliminary determination by the Commission*. The Commission shall conduct an inquiry concerning a disciplinary referral and shall determine whether disciplinary proceedings are warranted. The Commission may require persons to

submit affidavits setting forth their knowledge of relevant circumstances.

(i) *Termination of referral*. If the Commission determines that disciplinary proceedings are not warranted, it shall issue an order terminating the referral.

(ii) *Further disciplinary proceedings*. Whenever, as a result of its inquiry, the Commission, by a majority vote of the full Commission or a majority vote of a duly constituted panel of the Commission, determines that the circumstances warrant a hearing, the Commission shall issue an order specifying the disciplinary issues to be resolved through hearing and order the Commission's Chief Administrative Law Judge to assign the matter to an Administrative Law Judge, from within or outside of the Commission, other than the referring Judge, for hearing and decision. The Commission may designate counsel from within or outside of the Commission to prosecute the matter before the Judge.

(3) *Hearing before an Administrative Law Judge*—(i) *Assignment*. Upon the Commission's order determining that further proceedings are warranted, the Commission's Chief Administrative Law Judge shall select a Commission Administrative Law Judge, or select a non-Commission Administrative Law Judge, and issue an order of assignment for hearing. The order of assignment shall advise the respondent that the respondent may file a statement in accordance with paragraph (c)(3)(ii) of this section.

(ii) *Response*. The respondent named in the disciplinary proceeding may file a statement responding to the Commission's decision within 30 days after service of the order of assignment.

(iii) *Evidence and applicability of hearing rules*. The parties shall have the opportunity to present evidence and cross-examine witnesses. Subpart G of the Commission's procedural rules governing Commission hearings before Administrative Law Judges shall apply as appropriate to all Commission disciplinary proceedings.

(iv) *Judge's decision*. The Judge's decision shall include findings of fact and conclusions of law and either an order dismissing the proceedings or an appropriate disciplinary order, which may include reprimand, suspension, or prohibition from practice before the Commission.

* * * * *

■ 48. In § 2700.81, revise paragraphs (a) and (c) to read as follows:

§ 2700.81 Recusal and disqualification.

(a) *Recusal*. Whenever a Commissioner or a Judge deems

appropriate, the Commissioner or Judge may choose to be recused from a proceeding.

* * * * *

(c) *Procedure if Commissioner or Judge does not withdraw.* If, upon being requested to withdraw pursuant to paragraph (b) of this section, the Commissioner or the Judge does not withdraw from the proceeding, the Commissioner or Judge shall so rule upon the record, stating the grounds for such ruling. If the Judge does not withdraw, the Judge shall proceed with the hearing, or, if the hearing has been completed, the Judge shall proceed with the issuance of a decision, unless the Commission stays the hearing or further proceedings upon the granting of a petition for interlocutory review of the Judge's decision not to withdraw.

■ 49. In § 2700.82, revise paragraph (d) to read as follows:

§ 2700.82 Ex parte communications.

* * * * *

(d) *Status or informational requests.* Information concerning filing requirements, the status of cases, or docket information may be accessed through the Commission's website (<http://www.fmshr.gov>). In the event such information is unavailable through the Commission's website, such status or informational requests must be directed to the Docket Office of the Federal Mine Safety and Health Review Commission, 1331 Pennsylvania Avenue NW, Suite 520N, Washington, DC 20004-1710; 202-434-9950.

■ 50. Revise § 2700.83 to read as follows:

§ 2700.83 Authority to sign orders.

The Chair or other designated Commissioner is authorized to sign on behalf of the Commissioners, orders disposing of the following procedural motions: motions for extensions of time, motions for permission to file briefs in excess of page limits, motions to accept late filed briefs, motions to consolidate, motions to expedite proceedings, motions for oral argument, and similar procedural motions. In the absence of a designated Chair, Acting Chair or quorum, the remaining Commissioner or Commissioners continue to be authorized to sign orders disposing of procedural motions as identified above.

Dated: August 31, 2020.

Marco M. Rajkovich, Jr.,

Chair, Federal Mine Safety and Health Review Commission.

[FR Doc. 2020-19492 Filed 10-5-20; 8:45 am]

BILLING CODE 6735-01-P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS-COLO-29180; GPO Deposit Account 4311H2]

RIN 1024-AE39

Colonial National Historical Park; Vessels and Commercial Passenger-Carrying Motor Vehicles

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service proposes to amend the special regulations for Colonial National Historical Park. This proposed rule would remove a regulation that prevents the Superintendent from designating sites within the park for launching and landing private vessels. The proposed rule also would remove outdated permit and fee requirements for commercial passenger-carrying vehicles.

DATES: Comments on the proposed rule must be received by December 7, 2020.

ADDRESSES: You may submit comments, identified by Regulation Identifier Number (RIN) 1024-AE39, by either of the following methods:

- (1) *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- (2) *By hard copy:* Mail or hand deliver to: Superintendent, Colonial National Historical Park, P.O. Box 210, Yorktown, VA 23690.

Instructions: Comments will not be accepted by fax, email, or in any way other than those specified above. All submissions received must include the words "National Park Service" or "NPS" and must include the docket number or RIN 1024-AE39 for this rulemaking. Comments received may be posted without change to www.regulations.gov, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Kym Hall, Superintendent, Colonial National Historical Park. Phone: (757) 898-2401; Email: kym_hall@nps.gov.

SUPPLEMENTARY INFORMATION:

Background

Colonial National Historical Park is located along the James and York Rivers and encompasses the historic Jamestown Island, Colonial Parkway,

and the Yorktown Battlefield. There are also small, inland parcels of the park located at Greenspring, Gloucester Point, and Fort Story. The park tells the story of the Colonial era from the origins of the occupancy of Jamestown Island in 1607 to the last major battle of the Revolutionary War at Yorktown in 1781. These two sites are connected by the Colonial Parkway which winds 23 miles through scenic forests, over waterways, along river banks, and under Colonial Williamsburg. Much of the park is surrounded by water and includes an extensive amount of shoreline. All of the waterways in the area are a part of the Captain John Smith Chesapeake National Historic Trail that overlays the entire Chesapeake Bay and a large portion of its navigable tributaries. The park and the national historic trail are both a part of the National Park System and go hand-in-hand in this area of Virginia.

Secretarial Priorities

On February 24, 2017, President Trump issued Executive Order 13777, "Enforcing the Regulatory Reform Agenda." This Executive Order established a regulatory reform initiative to alleviate unnecessary regulatory burdens placed on the American people. As part of the Department of the Interior's approach for implementing this initiative, the NPS is reviewing its regulations in order to identify those that should be repealed, replaced, or modified. These include regulations that are outdated or unnecessary. The NPS has identified special regulations for the park addressing vessels and commercial passenger-carrying vehicles as candidates for repeal, consistent with the direction given under Executive Order 13771.

The proposed change in this document for launching and landing vessels is consistent with Secretary of the Interior Order 3366, "Increasing Recreational Opportunities on Lands and Waters Managed by the U.S. Department of the Interior." This Order directs the NPS to expand recreational opportunities on NPS-managed lands and waters.

Proposed Rule

Launching and Landing Vessels

Since the park was established in the 1930s, the NPS has prohibited the launching or landing of watercraft, except in emergency situations. The current prohibition is codified at 36 CFR 7.1(a) which states that, except in emergencies, no privately owned vessel shall be launched from land within the park and no privately owned vessel

shall be beached or landed on land within the park. Consistent with the 2003 Record of Decision for the Jamestown Project Development Concept Plan, the NPS has been exploring new opportunities for boating within the park. Local partners and members of the community have approached the NPS to discuss funding the construction of potential launch sites to better connect a variety of visitors to the shared history of the area. The NPS and its partners share an interest in establishing access to the James and York Rivers, and thus the Captain John Smith Chesapeake National Historic Trail, for water-based educational and recreational activities.

In order to allow the NPS to pursue these management objectives, the special regulation at 36 CFR 7.1(a) must be removed. Without this park-specific prohibition, the launching and landing of vessels would be governed by NPS general regulations at 36 CFR 3.8(a)(2). This regulation prohibits the launching or recovering (*i.e.*, retrieval) of a vessel, except at launch sites designated by the superintendent. Under this general regulation, the Superintendent may designate launch and retrieval sites within the park should the Superintendent determine that the use of those sites for boating activities is an appropriate public use. The Superintendent would provide notice to the public using the methods set forth in 36 CFR 1.7.

Commercial Passenger-Carrying Motor Vehicles

The NPS also proposes to remove the special regulations for the park at 36 CFR 7.1(b). These regulations require a permit for the operation of commercial passenger-carrying motor vehicles within the park and establish a fee structure for obtaining the permits. For each seat carrying a passenger, an annual permit costs \$3.50 and a quarterly permit costs \$1. One-day permits are available for \$1 (up to 5-passenger vehicles) or \$3 (over 5 passenger vehicles). 36 CFR 7.1(b)(1) through (4).

The permit requirement is unnecessary because it is redundant with the NPS general regulation at 36 CFR 5.3, which requires a permit, contract, or other written agreement in order to engage in business operations within a park area. The NPS uses commercial use authorizations (CUAs) to authorize commercial passenger-carrying motor vehicles. A CUA is a type of permit that allows an individual, group, company, or other for-profit entity to conduct commercial activities and provide specific visitor services

within a unit of the National Park System.

The fee structure in 36 CFR 7.1(b) is over 30 years old. The NPS no longer charges those fees because they would not come close to offsetting the increasing administrative costs of managing commercial passenger-carrying vehicles within the park. Instead, the NPS charges an entrance fee for commercial passenger-carrying vehicles under section 803 of the Federal Lands Recreation Enhancement Act (16 U.S.C. 6802) and CUA fees under section 418 of the National Park Service Concessions Management Improvement Act of 1998 (54 U.S.C. 101925).

Compliance With Other Laws, Executive Orders and Department Policy

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. The OIRA has waived review of this proposed rule and, at the final rule stage, will make a separate decision as to whether the rule is a significant regulatory action as defined by Executive Order 12866.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. The NPS has developed this rule in a manner consistent with these requirements.

Reducing Regulation and Controlling Regulatory Costs (Executive Order 13771)

This rulemaking is not an E.O. 13771 ("Reducing Regulation and Controlling Regulatory Costs") (82 FR 9339, February 3, 2017) regulatory action because this rulemaking is not significant under E.O. 12866.

Regulatory Flexibility Act

This rulemaking will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This certification is based on information contained in the economic analyses found in the report entitled "Draft Cost-Benefit and Regulatory Flexibility Threshold Analyses: Proposed Regulations for Vessels and Commercial Passenger-Carrying Motor Vehicles at Colonial National Historical Park." The document may be viewed at www.regulations.gov by searching for "1024-AE39."

Small Business Regulatory Enforcement Fairness Act

This rulemaking is not a major rule under 5 U.S.C. 804(2). This rulemaking:

(a) Does not have an annual effect on the economy of \$100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This rulemaking does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rulemaking does not have a significant or unique effect on State, local or tribal governments or the private sector. It addresses public use of national park lands, and imposes no requirements on other agencies or governments. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

This rulemaking does not effect a taking of private property or otherwise have takings implications under Executive Order 12630. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. This rulemaking only affects use of federally-administered lands and waters. It has no outside effects on other areas. A Federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rulemaking complies with the requirements of Executive Order 12988. This rulemaking:

- (a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and
- (b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes (Executive Order 13175 and Department Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. The NPS has evaluated this rulemaking under the criteria in Executive Order 13175 and under the Department's tribal consultation policy and have determined that tribal consultation is not required because the proposed rule will have no substantial direct effect on federally recognized Indian tribes. The NPS will consult with federally recognized tribes if and when launching and landing sites for vessels are designated.

Paperwork Reduction Act

This rulemaking does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act is not required. The NPS may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

This rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because the rulemaking is covered by a categorical exclusion. The NPS has determined the rule is categorically excluded under 43 CFR 46.210(i). The environmental effects of removing 36 CFR 7.1(a) are too broad, speculative, or conjectural to lend themselves to meaningful analysis. Decisions to construct and designate launching and landing sites will later be subject to the NEPA process, either collectively or case-by-case. The nature

of the proposal to remove 36 CFR 7.1(b) is administrative, financial and legal. The NPS has determined the rulemaking does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

Effects on the Energy Supply (Executive Order 13211)

This rulemaking is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

List of Subjects in 36 CFR Part 7

District of Columbia, National parks, Reporting and Recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR part 7 as set forth below:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

- 1. The authority citation for part 7 continues to read as follows:

Authority: 54 U.S.C. 100101, 100751, 320102; Sec. 7.96 also issued under DC Code 10–137 and DC Code 50–2201.07.

§ 7.1 [Removed and Reserved]

- 2. Remove and reserve § 7.1.

George Wallace,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2020–21756 Filed 10–5–20; 8:45 am]

BILLING CODE 4312–52–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2020–0435; FRL–10014–95–Region 9]

Air Plan Approval; California; Placer County Air Pollution Control District, Antelope Valley Air Quality Management District, Mariposa County Air Pollution Control District, and Eastern Kern Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Placer County Air Pollution Control District (PCAPCD), Antelope Valley Air Quality Management District (AVAQMD), Mariposa County Air Pollution Control District (MCAPCD), and Eastern Kern

Air Pollution Control District (EKAPCD) portions of the California State Implementation Plan (SIP). These revisions concern negative declarations for the Control Techniques Guidelines (CTG) for the Oil and Natural Gas Industry (Oil and Natural Gas CTG). We are taking comments on this proposal to approve the PCAPCD, AVAQMD, MCAPCD, and EKAPCD negative declarations into the California SIP. We plan to follow with a final action.

DATES: Comments must be received on or before November 5, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2020–0435 at <https://www.regulations.gov>. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English, or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Sina Schwenk-Mueller, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105 by phone: (415) 947–4100 or email at SchwenkMueller.Sina@epa.gov or Rebecca Newhouse, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105 by phone: (415) 972–3004 or email at newhouse.rebecca@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

Table of Contents**I. The State's Submittal**

- A. What documents did the State submit?
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II. The EPA's Evaluation and Action

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III. Statutory and Executive Order Reviews**I. The State's Submittal****A. What documents did the State submit?**

Table 1 lists the documents addressed by this proposal with the dates that they were adopted by the local air agencies and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED DOCUMENTS

Local agency	Document title	Adopted	Submitted
PCAPCD	Negative Declaration for the Control Techniques Guidelines for the Oil and Natural Gas Industry Source Category.	12/12/19	¹ 01/23/20
AVAQMD	Federal Negative Declaration for Control Techniques Guidelines (CTG) for the Oil and Natural Gas Industry Source Category.	01/21/20	² 05/01/20
MCAPCD	Negative Declaration for the Control Techniques Guidelines for the Oil and Natural Gas Industry Source Category.	03/10/20	³ 05/01/20
EKAPCD	Reasonably Available Control Technology (RACT) State Implementation Plan (SIP) Revision for the 2008 Ozone National Ambient Air Quality Standards—Negative Declaration for Oil and Natural Gas CTG ⁴ .	05/11/17	08/09/17

¹ This submittal was transmitted to the EPA by a letter from CARB dated January 21, 2020.

² This submittal was transmitted to the EPA by a letter from CARB dated April 30, 2020.

³ This submittal was transmitted to the EPA by a letter from CARB dated April 30, 2020.

⁴ The EPA is only acting on the negative declaration for the Oil and Natural Gas CTG in Table 6—CTG Categories with No Applicable Source (Negative Declarations) of the EKAPCD RACT SIP Submittal. At this time, the EPA is not proposing any action on the remainder of the EKAPCD RACT SIP that was submitted on August 9, 2017. The EPA will propose a separate action on the remainder of the EKAPCD RACT SIP at a future date.

On June 9, 2020, the EPA determined that the submittals for AVAQMD and MCAPCD negative declarations for the Oil and Natural Gas CTG met the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

The submittals for the EKAPCD and PCAPCD negative declarations for the Oil and Natural Gas CTG were deemed by operation of law to meet the completeness criteria in 40 CFR part 51 Appendix V on February 9, 2018, and July 23, 2020, respectively.

B. Are there other versions of these documents?

There are no previous versions of the PCAPCD, AVAQMD, MCAPCD, or EKAPCD negative declarations for the Oil and Natural Gas CTG in the California SIP.

C. What is the purpose of the submitted negative declarations?

Emissions of volatile organic compounds (VOCs) contribute to the production of ground-level ozone, smog and particulate matter (PM), which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions.

CAA section 182(b)(2) requires states to submit SIP revisions to implement RACT for each category of VOC sources in the nonattainment area covered by a CTG. On October 27, 2016, (81 FR 74798), the EPA announced the

availability of the Oil and Natural Gas CTG. In lieu of adopting local regulations to implement the CTG, air agencies may adopt a negative declaration if the nonattainment area has no sources covered by the 2016 Oil and Natural Gas CTG.¹ The PCAPCD, AVAQMD, MCAPCD, and EKAPCD's negative declaration submittals are the districts' certifications that there are no sources covered by the 2016 Oil and Natural Gas CTG in their respective ozone nonattainment areas.²

The EPA's technical support documents (TSDs) for this action have more information about the PCAPCD, AVAQMD, MCAPCD, and EKAPCD

¹ Memorandum dated October 20, 2016, from Anna Marie Wood, Director, Air Quality Policy Division, U.S. EPA, to Regional Air Division Directors 1–10, Subject: "Implementing Reasonably Available Control Technology Requirements for Sources Covered by the 2016 Control Techniques Guidelines for the Oil and Natural Gas Industry," Question #8.

² The Placer County APCD, Antelope Valley AQMD, Mariposa County APCD and Eastern Kern APCD are subject to CAA section 182(b)(2) RACT. PCAPCD has jurisdiction over all of Placer County and is classified as Severe nonattainment for the 2008 ozone national ambient air quality standards (NAAQS). AVAQMD's jurisdiction includes the portion of the South Coast Air Quality Management District (SCAQMD) that is not within the South Coast Air Basin (SCAB) and is classified as Severe nonattainment for the 2008 ozone NAAQS. MCAPCD has jurisdiction over all of Mariposa County, which is classified as Moderate nonattainment for the 2008 ozone NAAQS. EKAPCD's jurisdiction includes the eastern portion of Kern County, which is classified as Serious nonattainment for the 2008 ozone NAAQS.

negative declarations, and the EPA's evaluation thereof.

II. The EPA's Evaluation and Action**A. How is the EPA evaluating the negative declarations?**

Generally, CAA section 110(a)(2)(A) requires SIPs to "include enforceable emission limitations and other control measures, means, or techniques . . . as may be necessary or appropriate to meet the applicable requirements of [the CAA]," and SIPs must be consistent with the requirements of CAA sections 110(l) and 193.

SIPs must also require RACT for each category of sources covered by a CTG document as well as each major source in ozone nonattainment areas classified as Moderate or above (see CAA sections 182(b)(2) and (f)). States relying on negative declarations for CTG source categories for which the states have not adopted CTG-based regulations because they have no sources above the CTG-recommended applicability threshold must submit them for SIP approval, regardless of whether such negative declarations were made for an earlier SIP.³ To do so, the submittal should provide reasonable assurance that no sources subject to the CTG's requirements currently exist in the relevant ozone nonattainment area.

Guidance and policy documents that we used to evaluate enforceability,

³ This submittal was transmitted to the EPA by a letter from CARB dated April 30, 2020.

revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. “State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,” 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).

2. EPA 453/B-16-001, Control Techniques Guidelines for the Oil and Natural Gas Industry.

B. Do the negative declarations meet the evaluation criteria?

With respect to the PCAPCD, AVAQMD, MCAPCD, and EKAPCD negative declarations for the Oil and Natural Gas CTG, the submittals contain the air districts’ certifications that there are no sources within the ozone nonattainment areas under the air districts’ jurisdiction that are subject to the Oil and Natural Gas CTG for the 2008 8-hour ozone national ambient air quality standards (NAAQS). The PCAPCD, AVAQMD, MCAPCD, and EKAPCD based their certifications on reviews of their permit files and emission inventories. We accessed California’s Department of Conservation Geologic Energy Management Division’s (CalGEM) Well Finder website, CARB’s pollution mapping tool, and a 2017 archived map of the California Natural Gas Pipelines⁴ and did not find indications of operations that would be subject to the Oil and Natural Gas CTG in the ozone nonattainment areas. For EKAPCD, we additionally used a geographic information system (GIS) mapping tool to ensure that there were no oil and gas operations within EKAPCD’s jurisdiction covered by the Oil and Natural Gas CTG. Based on our review, we agree with the PCAPCD, AVAQMD, MCAPCD, and EKAPCD negative declarations for the Oil and Natural Gas CTG. Our TSDs for each of the air districts’ negative declarations have more information on our evaluation.

⁴ The California Energy Commission (CEC) map of natural gas pipelines and compressor stations in California we accessed and reviewed is an archived version from 2017 and can be found here: https://web.archive.org/web/20200217015846/https://ww2.energy.ca.gov/maps/infrastructure/Natural_Gas_Pipelines.pdf. More current and/or non-archived versions of this information from CEC are not available, because CEC has discontinued maintenance on the natural gas pipeline and station GIS datasets and related maps and removed them from their website. Email dated August 7, 2020, from Travis David (CEC) to Sina Schwenk-Mueller (EPA), Subject: “RE: California Natural Gas Pipelines.”

C. Public Comment and Proposed Action

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the PCAPCD, AVAQMD, MCAPCD, and EKAPCD negative declarations for the Oil and Natural Gas CTG because they fulfill the relevant requirements in CAA sections 110(a), 110(l), 182(b)(2), and 193. We will accept comments from the public on this proposal until November 5, 2020. If we take final action to approve the submitted documents, our final action will incorporate these documents into the federally enforceable SIP.

III. Statutory and Executive Order Reviews

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

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 3, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997)
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

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

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

Dated: September 22, 2020.

John Busterud,

Regional Administrator, Region IX.

[FR Doc. 2020-21322 Filed 10-5-20; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2020-0114; FRL-10014-26-Region 8]

Approval and Promulgation of Implementation Plans; Colorado; Revisions to Regulation Number 7 and RACT Requirements for 2008 8-Hour Ozone Standard for the Denver Metro/ North Front Range Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval and conditional approval of State Implementation Plan (SIP) revisions submitted by the State of Colorado on May 31, 2017, May 14, 2018, and May 10, 2019. The revisions are to Colorado Air Quality Control Commission (Commission or AQCC) Regulation Number 7 (Reg. 7). The revisions to Reg. 7 address Colorado’s reasonably

available control technology (RACT) SIP obligations for Moderate 2008 ozone nonattainment areas; add incorporation by reference dates to rules and reference methods; and make typographical, grammatical, and formatting corrections. Also, in this action, the EPA is proposing to correct a July 3, 2018 final rule pertaining to Colorado's SIP. In that action, we inadvertently excluded regulatory text corresponding to "incorporation by reference" (IBR) materials for graphic arts and printing revisions to Reg. 7, Section XIII (adopted November 17, 2016). The EPA is taking this action pursuant to the Clean Air Act (CAA).

DATES: Written comments must be received on or before November 5, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R08-OAR-2020-0114, to the Federal Rulemaking Portal: <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from www.regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/submitting-epa-dockets>.

Docket: All documents in the docket are listed in the www.regulations.gov 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 hard copy. Publicly available docket materials are available electronically in www.regulations.gov. To reduce the risk of COVID-19 transmission, for this action we do not plan to offer hard copy review of the docket. Please email or call the person listed in the **FOR FURTHER INFORMATION CONTACT** section if you need to make

alternative arrangements for access to the docket.

FOR FURTHER INFORMATION CONTACT:

Abby Fulton, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD-IO, 1595 Wynkoop Street, Denver, Colorado 80202-1129, Telephone number: (303) 312-6563, email address: fulton.abby@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document wherever "we," "us," or "our" is used, we mean the EPA.

I. What action is the Agency taking?

As explained below, the EPA is proposing to approve various revisions to the Colorado SIP that were submitted to the EPA on May 31, 2017, May 14, 2018, and May 10, 2019. In particular, we propose to approve certain area source rules to meet the 2008 8-hour ozone national ambient air quality standards (NAAQS) RACT requirements for Moderate nonattainment areas that were not acted on in our July 3, 2018 rulemaking approving the State's attainment demonstration and various SIP elements.¹ We are also proposing to approve into the SIP the submitted revisions to Colorado's Reg. 7 that we have not previously acted on, except for Sections XII and XVIII (from the May 2018 submittal) and Sections XVI.D.4.b.(i) and XVI.D.4.d. (from the two May 2019 submittals), which we will be acting on at a later date (see Tables 4, 5 and 6). Finally, we propose to approve IBR material submitted in May 2017 but inadvertently excluded from our July 3, 2018 action.

The specific bases for our proposed actions and our analyses and proposed findings are discussed in this proposed rulemaking. Technical information that we are relying on is in the docket, available at <http://www.regulations.gov>, Docket No. EPA-R08-OAR-2020-0114.

II. Background

2008 8-Hour Ozone NAAQS Nonattainment

On March 12, 2008, the EPA revised both the primary and secondary NAAQS for ozone to a level of 0.075 parts per million (ppm) (based on the annual fourth-highest daily maximum 8-hour average concentration, averaged over 3 years), to provide increased protection of public health and the environment.²

¹ See Final Rule, Approval and Promulgation of State Implementation Plan Revisions; Colorado; Attainment Demonstration for the 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area, and Approval of Related Revisions, 83 FR 31068, 31069-31072.

² Final rule, National Ambient Air Quality Standards for Ozone, 73 FR 16436 (March 27, 2008).

The 2008 ozone NAAQS retains the same general form and averaging time as the 0.08 ppm NAAQS set in 1997, but is set at a more protective level. Specifically, the 2008 8-hour ozone NAAQS is attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.075 ppm.³

Effective July 20, 2012, the EPA designated as nonattainment any area that was violating the 2008 8-hour ozone NAAQS based on the three most recent years (2008-2010) of air monitoring data.⁴ With that rulemaking, the Denver-Boulder-Greeley-Ft. Collins-Loveland, Colorado area (Denver or DMNFR Area) area was designated nonattainment and classified as Marginal.⁵ Ozone nonattainment areas are classified based on the severity of their ozone levels, as determined using the area's design value. The design value is the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration at a monitoring site.⁶ Areas that were designated as Marginal nonattainment were required to attain the 2008 8-hour ozone NAAQS no later than July 20, 2015, based on 2012-2014 monitoring data.⁷

On May 4, 2016, the EPA published its determination that the Denver Area, among other areas, had failed to attain the 2008 8-hour ozone NAAQS by the attainment deadline, and that it was accordingly reclassified to Moderate ozone nonattainment status.⁸ Colorado submitted SIP revisions to the EPA on May 31, 2017 to meet the Denver Area's requirements under the Moderate classification.⁹ The EPA took final action on July 3, 2018, approving the majority of the May 31, 2017 submittal,

³ 40 CFR 50.15(b).

⁴ Final rule, Air Quality Designations for the 2008 Ozone National Ambient Air Quality Standards, 77 FR 30088 (May 21, 2012).

⁵ *Id.* at 30110. The nonattainment area includes Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas and Jefferson Counties, and portions of Larimer and Weld Counties. See 40 CFR 81.306.

⁶ 40 CFR part 50, appendix I.

⁷ See 40 CFR 51.903.

⁸ Final rule, Determinations of Attainment by the Attainment Date, Extensions of the Attainment Date, and Reclassification of Several Areas for the 2008 Ozone National Ambient Air Quality Standards, 81 FR 26697 (May 4, 2016); see 40 CFR 81.306.

⁹ CAA section 182, 42 U.S.C. 7511a, outlines SIP requirements applicable to ozone nonattainment areas in each classification category. Areas classified Moderate under the 2008 8-hour ozone NAAQS had a submission deadline of January 1, 2017 for these SIP revisions. 81 FR at 26699.

but deferring action on portions of the submitted Reg. 7 RACT rules.¹⁰

SIP Control Measures, Reg. 7

Colorado's Reg. 7, entitled "Control of Ozone via Ozone Precursors and Control of Hydrocarbons via Oil and Gas Emissions," contains general RACT requirements as well as specific emission limits applicable to various industries. The EPA approved the repeal and re-promulgation of Reg. 7 in 1981,¹¹ and has approved various revisions to parts of Reg. 7 over the years. In 2008, the EPA approved revisions to the control requirements for condensate storage tanks in Section XII,¹² and the EPA later approved revisions to Reg. 7, Sections I through XI and Sections XIII through XVI.¹³ The EPA also approved Reg. 7 revisions to control emissions from rich-burn reciprocating internal combustion engines in Section XVII.E.3.a.¹⁴

Most recently, in 2018 the EPA approved Reg. 7 revisions in Sections XII (emission control requirements for volatile organic compounds (VOCs) from oil and gas operations), and XIII (emission control requirements for VOC emissions from graphic art and printing processes),¹⁵ as well as non-substantive revisions to numerous other parts of the regulation.¹⁶

III. Summary of the State's SIP Submittals

We are proposing to take action on Colorado SIP submittals made on three different dates:

May 31, 2017 Submittal

This submittal contains revisions to Reg. 7 that the EPA has not yet acted on.

¹⁰ 83 FR at 31068. Under the Moderate classification, the Denver Area was required to attain the standard by July 20, 2018. It did not do so, and as a result has been reclassified to Serious nonattainment status. See Final rule, Finding of Failure To Attain and Reclassification of Denver Area for the 2008 Ozone National Ambient Air Quality Standard, 84 FR 70897 (Dec. 26, 2019).

¹¹ Final rule, Colorado: Approval and Promulgation of State Implementation Plans, 46 FR 16687 (March 13, 1981).

¹² Final rule, Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Regulation No. 7, Section XII, Volatile Organic Compounds From Oil and Gas Operations, 73 FR 8194 (Feb. 13, 2008).

¹³ Final rule, Approval and Promulgation of State Implementation Plans; State of Colorado; Attainment Demonstration for the 1997 8-Hour Ozone Standard, and Approval of Related Revisions, 76 FR 47443 (Aug. 5, 2011).

¹⁴ Final rule, Approval and Promulgation of Implementation Plans; State of Colorado; Regional Haze State Implementation Plan, 77 FR 76871 (Dec. 31, 2012).

¹⁵ In this document we are correcting the previous inadvertent omission of IBR material from the regulatory text for this action.

¹⁶ See 83 FR at 31068, 31071.

These include Sections X (Use of Cleaning Solvents), XVI (Controls of Emissions from Stationary and Portable Engines and Other Combustion Equipment in the 8-Hour Ozone Control Area), and XIX (Control of Emissions from Specific Major Sources of VOC and/or nitrogen oxides (NO_x) in the 8-hour Ozone Control Area). In addition, this submittal contains graphic arts and printing revisions to Section XIII. In our final rule published in the **Federal Register** on July 3, 2018, we inadvertently did not include regulatory text and corresponding IBR materials for our approval to graphic arts and printing revisions to Reg. 7, Section XIII (adopted November 17, 2016).¹⁷ The EPA is proposing to correct this error with today's action. The IBR material for our July 3, 2018 action is in the docket for this action.

May 14, 2018 Submittal

This submittal contains amendments to Reg. 7 Sections XII and XVIII to meet RACT for oil and gas sources covered by EPA's 2016 Oil and Gas Control Techniques Guideline (CTG). The submittal also includes clarifying revisions and typographical, grammatical, and formatting corrections throughout Reg. 7.

May 10, 2019 Submittals

On this date the State submitted two SIP revisions. One submittal contains amendments to Reg. 7 that establish categorical RACT requirements for major sources of NO_x in the DMNFR Area. Specifically, on July 19, 2018 the AQCC adopted RACT requirements in Section XVI.D. for boilers, stationary combustion turbines, lightweight aggregate kilns, glass melting furnaces, and compression ignition reciprocating internal combustion engines ("RICE") (collectively referred to as "stationary combustion equipment") located at major sources of NO_x.¹⁸

The other submittal contains amendments to Reg. 7 that were adopted by the AQCC on November 15, 2018. The revisions include RACT requirements in Section XX for brewing-related activities at major sources of VOC, and RACT requirements in Section IX for wood furniture surface coating operations. The submittal also includes revisions to IBR dates to rules

and reference methods in Sections II, VI, VIII, IX, X, XII, XIII, XVI and XVII. Lastly, the submittal contains SIP cleanup revisions, including removal of a one-time RACT reporting requirement in Section I, adds a surface coating work practice in Section IX, and revises an exemption in the industrial cleaning solvent requirements in Section X. Typographical, grammatical, and formatting corrections were also made.

IV. Procedural Requirements

The CAA requires that states meet certain procedural requirements before submitting SIP revisions to the EPA, including the requirement that states adopt SIP revisions after reasonable notice and public hearing.¹⁹ For the May 31, 2017 submittal, the AQCC provided notice in the Colorado Register on July 29 and August 29, 2016, and held a public hearing on the SIP revisions on November 17, 2016. The Commission adopted the SIP revisions on November 17, 2016. The SIP revisions became state-effective on January 14, 2017.

For the May 14, 2018 submittal, the AQCC provided notice in the Colorado Register on July 22, 2017 and held a public hearing on the revisions on October 19 and 20, 2017. The Commission adopted the SIP revisions on November 16, 2017. The SIP revisions became state-effective on December 20, 2017.

For the May 10, 2019 submittal (RACT for combustion sources), the AQCC provided notice in the Colorado Register on April 21, 2018 and held a public hearing on the revisions on July 19, 2018. The Commission adopted the SIP revisions on July 19, 2018. The SIP revisions became state-effective on September 14, 2018.

For the May 10, 2019 submittal (RACT for brewing related activities and wood furniture surface coating operations), the AQCC provided notice in the Colorado Register on August 18, 2018 and held a public hearing on the revisions on November 15, 2018. The Commission adopted the SIP revisions on November 15, 2018. The revisions became state-effective on January 14, 2019.

Accordingly, we propose to find that Colorado met the CAA's procedural requirements for reasonable notice and public hearing.

V. Reasonably Available Control Technology (RACT) Analysis

A. Background

The CAA requires that SIPs for nonattainment areas "provide for the

¹⁷ See 83 FR at 31068.

¹⁸ On June 29, 2018, the EPA provided comments on Colorado's revised draft ozone SIPs for the DMNFR Area, including the TSD and rules in Reg. 7, Section XVI.D.4. These written comments from the EPA included some comments applicable to the rules we are proposing to act on today. The comment letters can be found within the docket for this action at www.regulations.gov.

¹⁹ CAA section 110(a)(2), 42 U.S.C. 7410(a)(2),

implementation of all reasonably available control measures as expeditiously as practicable (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology).²⁰ The EPA has defined RACT as the lowest emissions limitation that a particular source is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility.²¹ The CAA amendments of 1990 introduced the requirement for existing major stationary sources of NO_x in nonattainment areas to install and operate NO_x RACT. Specifically, section 182(b)(2) of the CAA requires states to adopt RACT for all major sources of VOC not covered by an existing CTG in ozone nonattainment areas, and section 182(f) requires the RACT provisions for major stationary sources of NO_x.

The EPA provides guidance concerning what types of controls can constitute RACT for a given source category by issuing CTG and Alternative Control Techniques (ACT) documents.²² States must submit a SIP revision requiring the implementation of RACT for each source category in the area for which the EPA has issued a CTG, and

for any major source in the area not covered by a CTG.²³

For a Moderate nonattainment area, a major stationary source is one that emits, or has the potential to emit, 100 tons per year (tpy) or more of VOCs or NO_x.²⁴ RACT can be adopted in the form of emission limitations or “work practice standards or other operation and maintenance requirements,” as appropriate.²⁵ In assessing RACT requirements under the Moderate classification, the Colorado Air Pollution Control Division (Division) identified 51 major sources in the DMNFR Area, operated by 32 companies.

In November 2016, the Commission determined that some major sources and CTG VOC source categories were adequately addressed under existing SIP requirements. The Commission also adopted new requirements for some major sources and CTG VOC source categories. In July 2018, the Commission adopted categorical RACT requirements for combustion equipment at major sources that the Commission had determined in 2016 were not addressed by SIP RACT requirements. In November 2018, the Commission adopted SIP requirements to include provisions that implement RACT for major sources of VOC and NO_x and for

all CTG VOC source categories in the DMNFR ozone nonattainment area (NAA). Specifically, the Commission adopted categorical RACT requirements for combustion equipment at major sources, major source breweries and wood furniture manufacturing, and addressed EPA concerns with industrial cleaning solvent and metal furniture surface coating requirements.²⁶

B. Evaluation

As part of its May 31, 2017 and May 10, 2019 submittals, the Division conducted RACT analyses to demonstrate that the RACT requirements for CTG and major sources in the DMNFR 2008 8-hour ozone NAA have been fulfilled. The Division conducted these RACT analyses for VOC and NO_x by listing the state regulation that implements or exceeds RACT requirements for each CTG or non-CTG category at issue, and by detailing the basis for concluding that these regulations fulfill RACT, through comparison with established RACT requirements described in the CTG and ACT guidance documents and rules developed by other state and local agencies. A summary of our proposed action with respect to each RACT category follows.

Category	Proposed action	Location of RACT demonstration
Aerospace	Conditional approval of the State's negative declaration that there are no sources in the DMNFR Area subject to the aerospace CTG.	n/a.
Certain Major sources of NO _x and VOC.	Approval	pp. 1119–1120 and 1142–1149 of the May 31, 2017 submittal and the Technical Support Document for Reasonably Available Control Technology for Major Sources, November 17, 2016 (p. 2990–3273 of May 10, 2017 submittal).
Combustion equipment at major sources.	Approval	Categorical Reasonably Available Control Technology Review for Boilers, Turbines, Engines, Glass Melt Furnaces and Aggregate Kilns and Major NO _x Sources in the Denver Metro/North Front Range Ozone Nonattainment Area, July 2018, document set 25 (contained within the May 31, 2019 submittal for combustion equipment).
Industrial cleaning solvents ..	Approval	p. 1116 of the May 31, 2017 submittal and p. 4 of the Statement of Basis, document set 18 (contained within the May 10, 2019 submittal for RACT for brewing related activities and wood furniture surface coating operations).
Major Source Breweries	Approval	State of Colorado Categorical Reasonable Available Control Technology Review for Brewing and Wood Furniture Surface Coating TSD, October 30, 2018, p. 5, document set 21 (contained within the May 10, 2019 submittal).
Metal furniture coatings	Approval	p. 1126 of the May 31, 2017 submittal.

²⁰ CAA section 172(c)(1), 42 U.S.C. 7502(c)(1).

²¹ Proposed rule, General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas—Supplement (on Control Techniques Guidelines), 44 FR 53761, 53762 (Sep. 17, 1979).

²² See <https://www.epa.gov/ground-level-ozone-pollution/control-techniques-guidelines-and-alternative-control-techniques> (accessed April. 27, 2020) for a list of EPA-issued CTGs and ACTs (also available within the docket).

²³ See CAA section 182(b)(2), 42 U.S.C. 7511a(b)(2). See also Note, RACT Qs & As—Reasonably Available Control Technology (RACT): Questions and Answers, William Harnett, Director, Air Quality Policy Division, EPA (May 2006), available at https://www3.epa.gov/ttn/naaqs/aqmguide/collection/cp2/20060518_harnett_ract_q&a.pdf.

²⁴ See CAA sections 182(b), 42 U.S.C. 7511a(b); and 302(j), 42 U.S.C. 7602(j).

²⁵ See Memorandum, “Approval Options for Generic RACT Rules Submitted to Meet the non-

CTG VOC RACT Requirement and Certain NO_x RACT Requirements,” Sally Shaver, Director, Air Quality Strategies & Standards Division, EPA (Nov. 7, 1996), available at https://www.epa.gov/sites/production/files/2016-08/documents/shavermemogenericract_7nov1996.pdf.

²⁶ The Commission also adopted miscellaneous metal surface coating requirements. We will be making our RACT determination for these sources in a future rulemaking.

Category	Proposed action	Location of RACT demonstration
Wood furniture manufacturing.	Approval	pp. 1115 and 1135 of the May 31, 2017 submittal, and p. 24 of the State of Colorado Categorical Reasonable Available Control Technology Review for Brewing and Wood Furniture Surface Coating TSD, October 30, 2018, document set 21 (contained within the May 10, 2019 submittal).

Cited materials are contained within the docket for this action.

In our July 3, 2018 rulemaking, we approved Colorado's demonstration of RACT for certain VOC CTG sources²⁷ for the 2008 8-hour ozone standard. Today we are taking action on the RACT demonstrations for certain additional VOC CTG, non-CTG VOC, and NO_x sources and categories. We have reviewed Colorado's new and revised VOC and NO_x rules for the source categories covered by the CTGs, and for major sources of non-CTG VOC and

NO_x sources for the 2008 8-hour ozone NAAQS, and the demonstrations submitted by Colorado. Based on this review we propose to find that these rules are consistent with the control measures, definitions, recordkeeping, and test methods in these CTGs and the CAA, and that they satisfy CAA RACT requirements for the categories in question.²⁸

1. RACT for CTG Sources

Table 1 contains a list of CTG source categories, EPA reference documents, and the corresponding sections of Reg. 7 that fulfill the applicable RACT requirements for EPA-issued CTGs.²⁹ Colorado's Reg. 7 contains SIP-approved³⁰ and submitted revisions (see Section IV of this document); we propose to find that these revisions meet RACT requirements for the source categories listed in Table 1.

TABLE 1—SOURCE CATEGORIES, EPA CTG REFERENCE DOCUMENTS, AND CORRESPONDING SECTIONS OF REG. 7 FULFILLING RACT

Source category in DMNFR Area	CTG reference document	Date of CTG	Reg. 7 sections fulfilling RACT
Metal Furniture Coatings ³¹	Control Techniques Guidelines for Metal Furniture Coatings.	2007	Sections V and IX (already SIP approved except XI.A.9.a.(ii) proposed for approval in this action).
Wood Furniture Manufacturing Operations ³² .	Control of Volatile Organic Compound Emissions from Wood Furniture Manufacturing Operations.	1996	Sections V (already SIP approved) and IX.O (proposed for approval in this action).
Industrial Cleaning Solvents ³³	Control Techniques Guidelines for Industrial Cleaning Solvents.	2006	Sections V (already SIP approved) and X (proposed for approval in this action).
Aerospace ³⁴	Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations.	1997	No sources above the CTG applicability threshold in the DMNFR Area (negative declaration proposed for conditional approval in this action).

We have reviewed the emission limitations and control requirements for the above source categories and compared them against the EPA's CTG documents and available technical information in CTG dockets and regional RACT determinations. The EPA has also evaluated the submitted rules³⁵ and has determined that they are consistent with the CAA, EPA

regulations, and EPA policy. For more information, see the EPA TSD prepared in conjunction with this action. Based on the information in the record, we propose to find that the corresponding sections in Reg. 7 provide for the lowest emission limitation through application of control techniques that are reasonably available considering technological and economic feasibility. Therefore, we

propose to find that the control requirements for the source categories identified in Table 1 are RACT for all affected sources in the DMNFR Area under the 2008 8-hour ozone NAAQS.

2. RACT for Non-CTG Major Sources

In Appendix 6–F of the May 31, 2017 submittal, Colorado identified a list of major non-CTG VOC and NO_x sources

²⁷ 83 FR at 31069–31070; see Proposed Rule, Promulgation of State Implementation Plan Revisions; Colorado; Attainment Demonstration for the 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area, and Approval of Related Revisions, 83 FR 14807, 14814–14815, Tables 5 and 6 (Apr. 6, 2018).

²⁸ See <https://www.epa.gov/ground-level-ozone-pollution/ractinformation>.

²⁹ See EPA's TSD for a full analysis of Colorado's rules as they relate to EPA guidelines and available technical information. We will be acting on the RACT demonstrations for the Oil and Gas 2016 CTG source category, the Miscellaneous Metal Products Coatings category, and for sources of NO_x in the categories for process heaters, glass melting furnaces, and pre 2005 turbines in a future action.

³⁰ See 76 FR at 47443 and 83 FR at 31069–31070.

³¹ See p. 1126 of the May 31, 2017 submittal for Colorado's RACT demonstration for Metal furniture coatings.

³² See p. 1115 and p. 1135 of the May 31, 2017 submittal, and p. 24 of the State of Colorado Categorical Reasonable Available Control Technology Review for Brewing and Wood Furniture Surface Coating TSD, October 30, 2018, document set 21 (contained within the May 10, 2019 submittal).

³³ See p. 1116 of the May 31, 2017 submittal.

³⁴ See Colorado's August 4, 2020 letter committing to submit to EPA a negative declaration certifying that there are no sources in the DMNFR Area above the aerospace CTG applicability threshold (contained within the docket). The EPA proposes to conditionally approve Colorado's determination that there are no sources in the DMNFR Area subject to the aerospace CTG and

therefore RACT is satisfied for this category. If we finalize our proposed conditional approval, Colorado must submit the negative declaration, after state notice and public hearing, to EPA within one year of our finalization. If Colorado does not submit the negative declaration within one year, or if we find Colorado's revisions to be incomplete, or we disapprove Colorado's revisions, this conditional approval will convert to a disapproval. If any of these occur and our conditional approval converts to a disapproval, that will constitute a disapproval of a required plan element under part D of title I of the Act, which starts an 18-month clock for sanctions, see CAA section 179(a)(2), and the two-year clock for a federal implementation plan, see CAA section 110(c)(1)(B).

³⁵ See 83 FR at 31068 and section V of this proposed rule.

in the DMNFR Area. The State reviewed its point source inventory to verify that major sources of VOC and NO_x emissions in the NAA are subject to requirements that meet or exceed RACT. For major VOC and NO_x sources subject to NAA RACT review, Colorado used the construction permit thresholds established in the State's Reg. 3 for determining which emission points to review. Accordingly, emission points exceeding two tpy of VOC at a major VOC source and five tpy of NO_x at a major NO_x source, as reported on source Air Pollutant Emission Notices, were evaluated. We have reviewed the State's

May 31, 2017 submittal and find its approach to including these sources in the inventory acceptable.

On November 17, 2016, to satisfy the Moderate RACT SIP requirement to establish RACT for all existing major sources of VOC and/or NO_x in the DMNFR Area, the Commission incorporated by reference several New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) regulations.³⁶ The Division also developed the stationary combustion equipment and brewery categorical RACT standards, based on a detailed

review of the information provided by owners and operators of major NO_x and VOC sources in the DMNFR Area, an examination of the EPA RACT/Best Available Control Technology/Lowest Achievable Emission Rate Clearinghouse for similar emission points, and consideration of CAA section 182(b) RACT requirements for other ozone nonattainment areas. Table 2 contains a list of non-CTG source category EPA reference documents and the corresponding sections of Reg. 7 that are proposed for approval in this action to fulfill RACT requirements (see Section IV of this document).³⁷

TABLE 2—SOURCE CATEGORIES, EPA REFERENCE DOCUMENTS, AND CORRESPONDING SECTIONS OF REG. 7 PROPOSED FOR APPROVAL TO FULFILL RACT

Source category in the DMNFR Area ³⁸	EPA reference documents (if applicable)	Date of ACT	Reg. 7 sections fulfilling RACT
Stationary Internal Combustion Engines ³⁹ .	NO _x Emissions from Stationary Internal Combustion Engines (EPA-453/R-93-032).	July 1993, Updated September 2000.	Applicable provisions in XVI.D. and XIX.A. (proposed for approval in this action).
Commercial & Institutional Boilers ⁴⁰ .	NO _x Emissions from Industrial, Commercial and Institutional Boilers (EPA-453/R-94-022).	March 1994	Applicable provisions in XVI.D. (proposed for approval in this action).
Stationary Combustion Turbines ⁴¹ .	NO _x Emissions from Stationary Gas Turbines (EPA-453/R-93-007).	January 1993	Applicable provisions in XVI.D. (proposed for approval in this action, except XVI.D.4.b.(i) which will be acted on at a later date).
Utility Boilers ⁴²	NO _x Emissions from Utility Boilers (EPA-453/R-94-023).	March 1994	Applicable provisions in XVI.D. (proposed for approval in this action).
Cement Manufacturing ⁴³	NO _x Emissions from Cement Manufacturing (EPA-453/R-94-004) and NO _x Control Technologies for the Cement Industry: Final Report (EPA-457/R-00-002)..	March 1994/September 2000.	XIX.B. (proposed for approval in this action).
Landfill Gas Flares ⁴⁴ .....	.....	.....	XIX.C. (proposed for approval in this action).
Brewing Operations ⁴⁵ .....	.....	.....	XX. (proposed for approval in this action).

We have reviewed the emission limitations and control requirements for the source categories in Table 2 and compared them against EPA's ACT documents, available technical information, and guidelines. The EPA has also evaluated the submitted rules⁴⁶ and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. For more information, see the EPA TSD prepared

in conjunction with this action. Based on the information in the record, we propose to find that the corresponding sections in Reg. 7 provide for the lowest emission limitation through application of control techniques that are reasonably available considering technological and economic feasibility. Therefore, we propose to find that, with the noted exceptions, the control requirements for the source categories identified in Table 2 are RACT for all affected sources in

the DMNFR Area under the 2008 8-hour ozone NAAQS. We also propose to find that for VOC RACT requirements at major non-CTG VOC sources, Colorado has RACT-level controls in place for the DMNFR Area under the 2008 8-hour ozone standard. We are not finalizing our RACT determination for major sources of NO_x in this document because we have requested additional analyses from Colorado for older turbines and process heaters.

³⁶ The EPA previously approved Colorado's rule revisions and RACT analyses for VOCs into Colorado's SIP under the 1-hour ozone standard. See Final rule, Approval and Promulgation of Air Quality Implementation Plans; Colorado; Regulation 7, 60 FR 28055 (May 30, 1995).

³⁷ See the EPA's TSD for a full analysis of Colorado's rules as they relate to EPA guidelines and available technical information.

³⁸ Colorado's major source RACT analysis can be found on pp. 1119–1120 and 1142–1149 of the May 31, 2017 submittal and the Technical Support Document for Reasonably Available Control

Technology for Major Sources, November 17, 2016 (pp. 2990–3273 of May 31, 2017 submittal).

³⁹ See pp. 21–26 of the Categorical Reasonably Available Control Technology Review for Boilers, Turbines, Engines, Glass Melt Furnaces and Aggregate Kilns and Major NO_x Sources in the Denver Metro/North Front Range Ozone Nonattainment Area, July 2018. Contained within the May 10, 2019 submittal for combustion equipment (document set 25).

⁴⁰ See *id.* pp. 9–15.

⁴¹ See *id.* pp. 16–21.

⁴² See *id.* pp. 9–15.

⁴³ See May 31, 2017 submittal at 1145; Technical Support Document for Reasonably Available Control Technology for Major Sources, at 3005 (Nov. 17, 2016) (contained in the May 10, 2017 submittal).

⁴⁴ See *id.* at 3015–3016.

⁴⁵ See State of Colorado Categorical Reasonable Available Control Technology Review for Brewing and Wood Furniture Surface Coating TSD, document set 21, at 5–24 (Oct. 30, 2018) (contained in the May 10, 2019 submittal).

⁴⁶ See 83 FR at 31068 and section V of this proposed rule.

VI. EPA's Evaluation of SIP Control Measures in Reg. 7

We evaluated Colorado's May 31, 2017, May 14, 2018, and May 10, 2019 submittals regarding revisions to the State's Reg. 7 to meet RACT requirements for various source categories. Revisions to Reg. 7 include emission control requirements for surface coating operations, use of cleaning solvents, oil and gas operations, stationary and portable combustion equipment, major sources of VOC and/or NO_x in the ozone NAA, and breweries. The revisions establish RACT requirements for certain CTG categories and emission points at major sources of VOC and NO_x in the DMNFR Area. Reg. 7 revisions also add incorporation by reference dates to rules and reference methods; and correct typographical, grammatical, and formatting errors. For ease of review, Colorado submitted the full text of Reg. 7 as SIP revisions (with the exception of provisions designated "State Only"). The EPA is only seeking comment on Colorado's proposed substantive changes to the SIP-approved version of Reg. 7, which are described below. We are not seeking comment on incorporation into the SIP of the revised portions of the regulation that were previously approved into the SIP and have not been substantively modified by the State as part of any of these submittals.

As noted above, Colorado designated various parts of Reg. 7 "State Only," and in Section I.A.1.c indicated that sections designated State Only are not federally enforceable. The EPA concludes that provisions designated State Only have not been submitted for EPA approval, but for informational purposes. Hence, the EPA is not proposing to act on the portions of Reg. 7 designated State Only, and this proposed rule does not discuss them further except as relevant to discussion of the portions of the regulation that Colorado intended to be federally enforceable.

A. Evaluation

1. May 31, 2017 SIP Submittal

The State's May 31, 2017 SIP submittal contains amendments to Reg. 7 that were not acted on in our July 3, 2018 rulemaking.⁴⁷ We propose to approve the changes included in Colorado's May 31, 2017 submittal, as identified in Table 4.⁴⁸ Below, we

describe in detail Colorado's proposed revisions and the basis for our proposed approval of them.

a. Section X

Section X regulates VOC emissions from and establishes RACT for the use of cleaning solvents. Changes to Sections X, X.A.1, X.A.2.b.–j., X.B.1.d.(ii), and X.D.1.a.(i) include clarification of the applicability of Section X, addition of an effective date for Section X requirements, addition of definitions for terms used in industrial cleaning solvent operations, and minor clerical⁴⁹ revisions that do not affect the substance of the requirements.

Section X.E. addresses VOC emissions from industrial cleaning solvent operations. Section X.E.1 sets forth control requirements for owners and operators of industrial cleaning solvent operations with uncontrolled and non-exempt VOC emissions of three tons per year or more. These owners and operators must limit the VOC content of cleaning solvents to less than or equal to 0.42 lb of VOC/gal (50 grams VOC/liter), limit the composite partial vapor pressure of cleaning solvent to 8 millimeters of mercury (mmHg) at 20 degrees Celsius (68 degrees Fahrenheit), and reduce VOC emissions with an emission control system having a control efficiency of 90% or greater. Section X.E.2. adds work practice requirements to reduce VOC emissions from fugitive sources, while Section X.E.3. contains monitoring, recordkeeping, and reporting requirements to demonstrate compliance with the control requirements in Section X.E. Section X.E.4. contains exemptions from the requirements in X.E. We are proposing to approve the exemptions in X.E.4., X.E.4.b., X.E.4.b.(i)–(xi), X.E.4.c., and X.E.4.c.(i)–(ii) from the May 31, 2017 SIP submittal. All other exemptions in Section X.E. have been superseded by the May 10, 2019 submittal.

We propose to find that the provisions are consistent with CAA requirements and CTGs, and that they strengthen the SIP, and therefore we propose to approve the changes in Section X.

b. Section XVI

Section XVI specifies emission control requirements for stationary and portable combustion equipment. Section XVI.D.⁵⁰ adds a combustion adjustment

requirement for individual pieces of combustion equipment at major sources of NO_x in Section XVI.D. The requirements in Section XVI.D.⁵¹ apply to boilers, duct burners, process heaters, stationary combustion turbines and stationary reciprocating internal combustion engines that have uncontrolled actual NO_x emissions equal to or greater than 5 tpy that existed at major sources of NO_x as of June 3, 2016. Sections XVI.D.2.a–d include inspection and adjustment requirements for boilers, process heaters, duct burners, stationary combustion turbines and stationary internal combustion engines. Section XVI.D.2.e requires owners and operators to operate and maintain equipment subject to Section XVI.D. consistent with manufacturer's specifications or good engineering and maintenance practices. Section XVI.D.2.f outlines combustion adjustment frequency requirements. Section XVI.D.4 sets forth alternative options to the requirements in Sections XVI.D.2.a–e and XVI.D.3.a, including conducting combustion process adjustments according to manufacturer's recommended procedures and schedules, and conducting tune-ups or adjustments according to schedules and procedures of applicable NSPS or NESHAPs.⁵²

We propose to find that the provisions in Section XVI.D are consistent with CAA requirements, and that they strengthen the SIP. Therefore, and for the reasons explained above, we propose to approve the changes in Section XVI.

c. Section XIX

Section XIX establishes RACT requirements for emission points at certain major sources of VOC and NO_x in the DMNFR Area. We are proposing approval of Sections XIX.D, XIX.F., and XIX.G. from the May 31, 2017 submittal. All other parts of Section XIX have been superseded by subsequent submittals. Section XIX.D sets forth emission limits and monitoring, recordkeeping, and reporting (MRR) requirements for major sources of stationary internal combustion engines. Sections XIX.F. and XIX.G. establish requirements for certain major sources to meet RACT.⁵³

We propose to find that the provisions in Section XIX strengthen the SIP, are consistent with CAA requirements, and establish RACT requirements for certain

⁴⁷ 83 FR at 31068.

⁴⁸ All other sections of Reg. 7 addressed in the May 31, 2017 submission have been superseded by the State's May 14, 2018 and May 10, 2019 submissions. The EPA is not acting on the superseded earlier submissions.

⁴⁹ When we describe changes as clerical in this proposed action, we are referring to changes like section renumbering; alphabetizing of definitions; minor grammatical, editorial, and typographical revisions; and changes in capitalization.

⁵⁰ Renumbered to XVI.D.6.b. in May 10, 2019 submittal.

⁵¹ Sections XVI.D.1, XVI.D.1(a)–(e), and XVI.D.3. are superseded by the May 10, 2019 submittal.

⁵² See also p. 3082 of the May 31, 2017 submittal (contained within the docket).

⁵³ See the TSD associated with this action for a detailed RACT analysis associated with these revisions.

major sources by incorporating federal regulations. We therefore propose to approve the changes in Section XIX.

2. May 14, 2018 SIP Submittal

The State's May 14, 2018 SIP submittal contains amendments to Reg. 7 Sections XII and XVIII to meet RACT for oil and gas sources covered by EPA's 2016 Oil and Gas CTG. The submittal also includes clarifying revisions and typographical, grammatical and formatting corrections throughout Reg. 7. We propose to approve the typographical, grammatical and formatting corrections made to Sections I, II, III, V, VI, VII, VIII, IX, X, XI, XIII, XIV, XV and XVI with Colorado's May 14, 2018 submittal. The revisions in this section are clerical in nature and do not affect the substance of the requirements. Therefore, we propose to approve the changes.

We are not acting on any submitted changes to Sections XII or XVII. These revisions will be acted on at a later date.

3. May 10, 2019 SIP Submittal (Combustion Equipment)

The State's May 10, 2019 SIP submittal contains amendments to Reg. 7, Sections XVI and XIX, establishing categorical and source specific RACT requirements for major sources of VOC and/or NO_x in the DMNFR Area. We propose to approve the changes made to Section XVI except for Section XVI.D.4.b.(i) and XVI.D.4.d. which we will act on at a later date. We also propose to approve the changes made to Section XIX with Colorado's May 10, 2019 submittal.

Below, we describe in detail Colorado's proposed revisions and the basis for our proposed approval of such revisions.

a. Section XVI

As previously stated, Section XVI specifies emission control requirements for stationary and portable combustion equipment. One revision to Section XVI updates the title to the Section. This revision is clerical in nature and does not affect the substance of the requirement.

The other revisions to Section XVI that we are considering in this action concern Section XVI.D., which establishes requirements for major sources of NO_x within the DMNFR Area. Section XVI.D.1. ("Applicability") establishes the geographic scope of the rule and the sources that are subject to Section XVI.D. requirements. Owners and operators of stationary combustion equipment, as defined in Section XVI.D.3.n., located at a major source of NO_x as of June 3, 2016 in the DMNFR Area, must comply with the requirements of XVI.D. unless exempted under XVI.D.2. We propose to find that this is consistent with CAA requirements.

Section XVI.D.2. outlines exemptions from control requirements in Section XVI.D. Section XVI.D.2.a. contains a 20% capacity factor exemption for boilers and a 10% capacity factor exemption for stationary combustion turbines and compression ignition reciprocating internal combustion engines. The capacity factor exemptions consolidate a number of limited-use exemptions that were analyzed and considered by the Division to limit the complexity of the categorical rules and to adequately accommodate technical and cost concerns for limited-use equipment. Once stationary combustion equipment no longer qualifies for any exemption, the owner or operator must comply with the applicable requirements of Section XVI.D.

Stationary combustion equipment that meets one of the exemptions contained

in Section XVI.D.2. is not required to comply with the emission limitations, the compliance demonstration requirements and the related recordkeeping and reporting requirements in Sections XVI.D.4., XVI.D.5., XVI.D.7. and XVI.D.8., except for XVI.D.7.g, which requires a source that qualifies for an exemption under Section XVI.D.2. to maintain records demonstrating that an exemption applies. All stationary combustion equipment is subject to some level of recordkeeping and may also be subject to combustion process adjustment requirements in Section XVI.D.6. The technical support document in the docket for this action has more details on the justification for these exemptions. These exemptions are consistent with exemptions allowed in other state federally enforceable rules,⁵⁴ and meet CAA requirements. Accordingly, we propose to approve these revisions.

Section XVI.D.3. contains definitions specific to Section XVI.D. The definitions are clear, straightforward, and accurate.

Section XVI.D.4. establishes NO_x emission rate limits by source category applicable to emission units operating above the applicability threshold. The source categories, emission limitations, and Reg. 7 rule citation are presented in Table 3. The emission limits contained in the rule are a 30-day rolling average requirement applicable on a year-round basis. A unit subject to an emission limitation must demonstrate compliance by October 1, 2021. The following emission limits established in Section XVI.D.4. are consistent with CAA requirements applicable to the various categories for which ACT documents have been issued and with more recent state and federal NO_x control programs.

TABLE 3—AFFECTED SOURCES AND NO_x EMISSION REQUIREMENTS FOR BOILERS, ENGINES, TURBINES, AND LIGHTWEIGHT AGGREGATE KILNS IN THE DMNFR AREA

Source category	NO _x emission limitation (30 day rolling average)	Additional information	Citation
Boilers ⁵⁵	0.2 lbs/MMBtu	Gaseous and liquid fuel-fired with design heat input ≥100 MMBtu/hr.	XVI.D.4.a.
Reciprocating Internal Combustion Engines ⁵⁶ .	9.0 g/bhp-hr	Maximum design power output equal to or greater than 500 horsepower.	XVI.D.4.e.
Turbines ⁵⁷	Applicable NO _x limits in 40 CFR part 60, subpart KKKK.	Maximum design heat input capacity equal to or greater than 10 MMBtu/hr. For turbines that commenced construction, modification, or reconstruction after Feb. 18, 2005.	XVI.D.b.(ii).
Lightweight aggregate kilns ⁵⁸	56.6 lbs NO _x per hour .....	.....	XVI.D.4.c.

⁵⁴ See, e.g., Wisconsin Control of Nitrogen Compound Emissions rule, Wis. Admin. Code NR § 428.08 (2020).

By October 1, 2021, owners or operators must determine compliance with emission limitations in Section XVI.D.4. in accordance with one of the methods in Section XVI.D.5. Section XVI.D.5. requires most sources subject to emission limitations to demonstrate compliance using continuous emissions monitoring. For electric generating unit sources, this monitoring is based on 40 CFR part 75 methods, and for industrial sources monitoring is based on 40 CFR part 60 methods. For a few source categories with low variability in operations or emission rates, compliance is demonstrated by periodic stack testing. The emission monitoring requirements are consistent with existing State and EPA programs.

Colorado's May 10, 2019 submittal renumbers the combustion process adjustment requirements in XVI.D.6. (previously Sections XVI.D.1. and 2); clarifies the applicability of the requirements in XVI.D.6.a.; moves definitions for boilers, duct burners, process heaters, stationary combustion turbines and stationary internal combustion engines to Section XVI.D.3.; and revises section references in Section XVI.D.6.b.(vi)(B). These revisions do not affect the substance of the Section XVI.D. requirements we propose to approve from the May 31, 2017 submittal. We therefore propose to approve these changes.

Sections XVI.D.7. and 8 require all affected unit owners and operators to maintain records for five years and submit reports to the Division. These records and reports will be used to determine compliance, instances of noncompliance, and to determine if exempt units continue to remain exempt by staying below specific thresholds. These provisions are acceptable.

b. Section XIX

Section XIX establishes RACT requirements for emission points at major sources of VOC and NO_x in the DMNFR Area. We are proposing approval of the renumbering in Section XIX.A from the May 10, 2019 submittal.⁵⁹

⁵⁵ See Table 4 in Colorado's "Categorical RACT Review for Boilers, Turbines, Engines, Glass Melt Furnaces and Aggregate Kilns at Major NO_x Sources in the DMNFR NAA" TSD (July 2018) for a list of boilers potentially subject to XVI.D.4.a.

⁵⁶ See Table 11 in Colorado's TSD (July 2018) for a list of compression ignition engines potentially subject to XVI.D.e.

⁵⁷ See Table 9 in Colorado's TSD (July 2018) for a list of turbines potentially subject to XVI.D.e.

⁵⁸ There is one lightweight aggregate kiln at a major source of NO_x in the DMNFR NAA. RACT for this kiln is analyzed on p. 28–30 in Colorado's TSD (July 2018).

⁵⁹ Sections XIX.A.–C. were originally submitted to EPA on May 31, 2017 and listed by name major

4. May 10, 2019 SIP Submittal (Brewing Activities and Wood Furniture Surface Coating Operations)

The State's May 10, 2019 SIP submittal contains amendments to Reg. 7, Sections I, II, VI, VII, IX, X, XII, XIII, XVI, XVII, XVIII and XX. The revisions include RACT requirements in Section XX for brewing related activities at major VOC sources and RACT requirements in Section IX for wood furniture surface coating operations. The submittal also includes incorporation by reference dates to rules and reference methods in Sections II, VI, VIII, IX, X, XII, XIII, XVI and XVII. Lastly, the submittal contains SIP cleanup revisions in Section I, adds a surface coating work practice in Section IX, and revises an exemption in the industrial cleaning solvent requirements in Section X. Typographical, grammatical and formatting corrections were also made. We propose to approve these changes with Colorado's May 10, 2019 submittal, except for the revisions in Sections XII. and XVIII, which will be acted on at a later date.

a. Sections II, VI, VIII, IX, X, XIII, XV, XVI, XVII, XIX

The changes made in these sections include revisions to specific rule or reference methods incorporated by reference to add applicable citation dates. These changes strengthen the SIP. Other changes throughout these sections are clerical in nature and do not affect the substance of the requirements.

b. Section I

Section I sets forth the applicability of Reg. 7. Sections I.B.2.f. and I.B.2.g. were adopted by the Commission in 1990 and include one-time reporting requirements concerning source emissions and RACT for sources existing as of 1989. The provisions were not an ongoing reporting requirement potentially necessary for monitoring compliance with applicable emissions limits. Since these one-time requirements have passed and Colorado's major stationary sources are now subject to RACT requirements in Reg. 7, as adopted by the Commission through 2018, the Commission removed provisions in I.B.2.f and I.B.2.g. Removal of these provisions does not remove or modify

sources of VOC and/or NO_x, required owners or operators of major sources to submit RACT analyses to the Division by December 31, 2017, and set a compliance date for turbines to meet emission limits and MRR requirements. The EPA did not act on Section XIX with our April 6, 2018 (83 FR 14807) rulemaking. Colorado's May 10, 2019 submission deletes Sections XIX.A–C, but since the provisions were never approved into the SIP, we are taking no action on the deleted portions of the submission.

any control measures, and therefore does not affect emissions nor interfere with attainment or reasonable further progress. Where information in the Sections I.B.2.f. and I.B.2.g. reports informed RACT requirements under Section II.C., sources remain subject to applicable RACT requirements and any emission reporting requirements as addressed by the emission statement rule last approved by the EPA in 2015.⁶⁰ The removal of the one-time reporting requirements in I.B.2.f. and I.B.2.g. is reasonable and does not relax the SIP or otherwise interfere with CAA requirements.

Section I.E. deletes language regarding IBR materials available for public inspection. The deletion is reasonable because the same language is contained in the paragraph under "Outline of Regulation" and has updated instructions on how to obtain materials electronically.

c. Section IX

Section IX regulates VOC emissions and establishes RACT requirements for surface coatings operations. Section IX.A.9. sets forth required and prohibited acts for owners and operators of sources of VOCs subject to Section IX. Based on an EPA recommendation, the Commission adopted good air pollution control practices and coating application methods in IX.A.9.a.(ii). We propose to find the provision consistent with CTG recommendations and that it strengthens the SIP.

Section IX.O. establishes new rules for limiting VOC emissions from wood furniture coating operations. These emission reductions are accomplished through limiting VOC content of coatings/materials used, establishing requirements for application equipment, and work practices and recordkeeping requirements.

Section IX.O.2. provides that the rules in section IX.O. apply to wood furniture manufacturing operations, including related cleaning activities, that have the potential to emit 25 tons or more per year of VOCs and that are located in the DMNFR Area. Section IX.O.3. sets forth control requirements for owners and operators of wood manufacturing operations. Requirements include VOC content limits for topcoats, sealers, and strippable booth coatings. Section IX.O.4. adds work practice requirements to minimize material usage and overspray, manage cleanup of wastes, inspect for leaks and provide for the collection of cleaning and washoff solvents and the use of conventional air spray guns. Section IX.O.5. contains

⁶⁰ See 80 FR 50205 (Aug. 19, 2015).

reporting requirements to demonstrate compliance with the control requirements in Section IX.O.⁶¹ A detailed evaluation of Section IX.O. is in the TSD for this action. We propose to find that the provisions in Section IX.O. are consistent with CAA requirements and CTGs, and that they strengthen the SIP. For the reasons previously explained, we propose to approve the changes in Section IX.

d. Section X

As previously discussed, Section X. regulates VOC emissions from the use of cleaning solvents. Section X.E.4. establishes exemptions from the requirements in Section X.E. for industrial cleaning solvent operations. The Commission removed the general exemption in X.E.4.a.(i) and (ii) originally submitted on May 31, 2017 and revised the exemption in X.E.4.a. to apply only to industrial cleaning solvent operations that are subject to another federally enforceable section of Reg. 7 that establishes RACT. The provisions in X.E.4.a. are reasonable and consistent with CAA requirements. We therefore propose to approve the changes in this section.

e. Section XX

Section XX regulates VOC emissions from major source brewery and brewery-related operations. Section XX.A. establishes new rules for limiting

emissions from breweries and brewery-related operations at major sources of VOCs as of June 3, 2016. These reductions are accomplished through process line emission limits, packaging operations work practices, wastewater management and treatment and recordkeeping requirements.

Section XX applies to owners or operators of breweries that existed at major sources of VOC in the DMNFR Area as of July 3, 2016. A brewery, as defined in Section XX.A.3.a., includes brewhouse, fermentation, aging and packaging operations. Brewery-related operations include operations that support the production of malt beverages such as wastewater management, container manufacturing and ethanol distillation. Section XX.A.4. sets forth emissions limitations of 6 percent process loss across all packaging operations in a calendar month and 4 percent process loss on a 12-month rolling average during packaging operations. Section XX.A.5. establishes packaging operation work practices including performance metrics to reduce product loss, operator training and packaging equipment to reduce container breakage and product loss. Section XX.A.6. includes requirements for wastewater management and treatment for land application of wastewater. Section XX.A.7. requires owners or operators to keep records of production, pollution prevention

activities and wastewater to demonstrate compliance with the operational requirements. A detailed evaluation of Section XX.A. is in the TSD for this action. We propose to find that the provisions in Section XX.A. are consistent with CAA and RACT requirements, and that they strengthen the SIP.

For the reasons previously explained, we propose to approve the changes in Section XX.A.

VII. Proposed Action

For the reasons expressed above, the EPA proposes to approve revisions to Sections I, II, III, V, VI, VII, VIII, IX, X, XI, XIII, XIV, XV, XVI, XVII, XIX and XX of Reg. 7 from the State's May 31, 2017, May 14, 2018 and May 10, 2019 submittals as shown in Table 4, except for those revisions we are not acting on as represented in Table 5. We are proposing to approve Colorado's determination that the above rules constitute RACT for the specific categories addressed in Tables 1 and 2, except for aerospace, for which we are proposing conditional approval.

Finally, the EPA proposes to correct regulatory text and IBR published in the **Federal Register** on July 3, 2018.⁶²

A comprehensive summary of the revisions in Colorado's Reg. 7 organized by EPA's proposed rule action, reason for proposed "no action" and submittal date are provided in Tables 4 and 5.

TABLE 4—LIST OF COLORADO REVISIONS TO REG. 7 THAT THE EPA PROPOSES TO APPROVE

Revised Sections in May 31, 2017, May 14, 2018 and May 10, 2019 Submittals Proposed for Approval

May 31, 2017 submittal:

X., X.A.1, X.A.2.b.-j., X.B.1.d.(ii), X.D.1.a.(i), X.E., X.E.1., X.E.1.a.-c., X.E.2., X.E.2.a.-c., X.E.3., X.E.3.a., X.E.3.a.(i)-(iv), X.E.3.b., X.E.3.b.(i)-(iii), X.E.3.b.(iii)(A)-(B), X.E.4., X.E.4.b., X.E.4.b.(i)-(xi), X.E.4.c., X.E.4.c.(i)-(ii), XVI.D., XVI.D.2., XVI.D.2.a.-f.(ii), XVI.D.4., XVI.D.4.a.-b., XIX., XIX.D., XIX.D.1-12., XIX.F. and G.

May 14, 2018 submittal:

I.A.1.c., I.B.1.c., I.B.2.c., I.B.2.e., I.B.2.g., I.B.2.h., II.A.9., II.A.10., II.D.2., III.C., V.B., VI.B.1.a., VI.B.1.b., VI.B.2.a.(i)(C), VI.B.2.a.(i)(E), VI.B.2.a.(iii)(B), VI.B.2.a.(iii)(C), VI.B.2.c.(i)(B)(1), VI.B.2.c.(i)(B)(2), VI.B.2.c.(ii)(B), VI.B.2.c.(ii)(B)(1), VI.B.2.c.(ii)(C)(2), VI.B.2.c.(iii)(A), VI.B.2.c.(iii)(B)(1), VI.B.3.a., VI.B.3.b., VI.B.3.b.(i), VI.B.3.h., VI.C.1., VI.C.2.a., VI.C.2.b., VI.C.2.c., VI.C.3.a.-c., VI.C.3.c.(iii), VI.C.3.d.-f., VI.D.1.a.-b., VI.D.2.a., VI.D.2.a.(i)-(ii), VI.D.2.a.(ii)(A)-(C), VI.D.2.b.(i), VI.D.2.b.(ii)(B), VI.D.3.a., VI.D.3.b., VI.D.4.a.-VI.D.4.c., VI.D.4.c.(ii), VI.D.4.d.(i), VI.D.4.d.(iv), VI.D.4.e., VII.A.2., VII.B.-C., VIII.A.2.a.(i)-(iii), VIII.A.2.a.(iii)(A), VIII.B.6., VIII.C.1., VIII.C.1.b., VIII.C.2.a.(i)-(v), VIII.C.2.a.(vi)(A)-(B), VIII.C.2.c.(iii), VIII.C.4.a.(i)(A), VIII.C.4.a.(i)(A)(6), VIII.C.4.a.(i)(B), VIII.C.4.a.(i)(E), VIII.C.4.a.(ii)-(iii), VIII.C.4.b.(i)(J), VIII.C.4.c.(ii), IX.A.3.c.-e., IX.A.5., IX.A.5.a.-d., IX.A.5.e., IX.A.6.a.-b., IX.A.8.b., IX.A.9.a.(1), IX.A.10.b., IX.A.11., IX.A.12.a., IX.A.12.a.(iv), IX.A.12.a.(vi), IX.A.12.a.(ix), IX.A.12.a.(x), IX.B.2.-5., IX.C.2., IX.D.2., IX.E.2., IX.F.2., IX.G.2., IX.H.1.b., IX.H.2., IX.I.2., IX.J.1.a., IX.J.2., IX.K.1., IX.K.2., IX.L.1.a., IX.L.1.b.(i)-(ii), IX.L.1.c., IX.L.2.a.-c., IX.L.2.c.(iii)-(vi), IX.M.2., IX.M.3.a., IX.N.3.a.(i)(A), IX.N.4.a.(ii), IX.N.5.-6., X.A.5., X.B.1.d.(ii), X.C.1.c.(i), X.C.2.d., X.E.3.b.(i), X.E.4.a.(i), XI.A.1., XI.B.3., XI.C., XIII.A.1.a, XIII.A.3.a.(iii), XIII.A.3.a.(v)-(vi), XIII.A.3.c.-d., XIII.A.4., XIII.B.5.a.-b., XIII.B.5.c., XIV.C.1., XV.B.1.d., XV.B.2.a., XVI.C., XVI.C.1., XVI.C.3.-4., XVII.E.3.a.(i), XVII.E.3.a.(i)(A)-(C).

May 10, 2019 submittal—RACT for combustion sources:

XVI., XVI.D., XVI.D.1.-XVI.D.4.a.(ii), XVI.4.b.(ii)-(iii), XVI.D.4.c., XVI.D.4.e.-XVI.D.5.a.(iv), XVI.D.6. (renumbering), XVI.D.6.a., XVI.D.6.b.-XVI.D.6.b.(vi)(B) (renumbering), XVI.D.6.c., XVI.D.6.c.(i)-(ii) (renumbering), XVI.D.7.-XVI.D.8.b.(i), XIX.A. (renumbering).

May 10, 2019 submittal—RACT for brewing related activities and wood furniture surface coating operations:

I.B.2.f.-g., I.E., II.A.17., VI.B.2.a.(i)(D), VI.B.3.i., VI.C.2.d.-e., VI.D.3.c., VI.D.4.d.(v), VIII.A.2.a.(iii)(B), VIII.B.7., VIII.C.3., IX.A.1., IX.A.3.a., IX.A.9.a.(i), IX.A.9.a.(ii), IX.A.10.b., IX.A.11., IX.L.2.c.(vi), IX.N.7., IX.O.-IX.O.5.a.(v), X.D.2.a., X.E.3.b.(iii)(A)-(B), X.E.4.a., X.E.4.c.-IX., XIII.B.5.c.(iii)(A)-(B), XV.B.1.b., XVI.D.6.b.(vi)(A), XVI.D.6.c.(ii), XVI.D.7.f.(iii), XVII.E.3.a.(i)(B), XIX.B.-C. (renumbering), XX.-XX.A.7.c.

⁶¹ Operators and owners of wood furniture manufacturing operations subject to Section IX.O.

are also subject to requirements in Section IX.A.1.-IX.A.9.

⁶² 83 FR 31068.

TABLE 5—LIST OF COLORADO REVISIONS TO REG. 7 THAT EPA IS PROPOSING TO TAKE NO ACTION ON

Revised section	Reason for proposed “No Action”		
	Superseded by May 10, 2019 submittal	Revision to be made in future rulemaking	Revision never approved into the SIP
<i>May 31, 2017 submittal:</i>			
X.E.4.a	X	.....	.....
X.E.4.a.(i)–(ii)	X	.....	.....
XVI.D.1	X	.....	.....
XVI.D.1.A.–e	X	.....	.....
XVI.D.3	X	.....	.....
XVI.D.3.a.–c	X	.....	.....
XV.I.D.4.c	X	.....	.....
XIX.A.–C	X	.....	.....
XIX.E	X	.....	.....
<i>May 14, 2018 submittal:</i>			
II.B .....	.....	X	.....
Section XII .....	.....	X	.....
XVI.D.2.a.(iv)	X	.....	.....
XVI.D.3.a.(ii)–(iii)	X	.....	.....
XVI.D.4	X	.....	.....
Section XVIII .....	.....	X	.....
<i>May 10, 2019 submittal—RACT for combustion sources:</i>			
XVI.D.4.b.(i) .....	.....	X	.....
XVI.D.4.d .....	.....	X	.....
<i>May 10, 2019 submittal—RACT for brewing related activities and wood furniture surface coating operations:</i>			
X.E.4.a.(i)–(ii) .....	.....	.....	X
XIX.B .....	.....	.....	X
Section XII .....	.....	X	.....
Section XVIII .....	.....	X	.....

VIII. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference Colorado AQCC regulation 7 pertaining to the control of ozone via ozone precursors and control of hydrocarbons via oil and gas emissions discussed in section VI. of this preamble. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IX. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submittal that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submittals, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements

beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and

recordkeeping requirements, Sulfur
oxides, Volatile organic compounds.

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

Dated: September 4, 2020.

Gregory Sopkin,

Regional Administrator, EPA Region 8.

[FR Doc. 2020–20099 Filed 10–5–20; 8:45 am]

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Notices

Federal Register

Vol. 85, No. 194

Tuesday, October 6, 2020

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B-37-2020]

Foreign-Trade Zone (FTZ) 75—Phoenix, Arizona; Authorization of Limited Production Activity; Lucid Motors USA, Inc. (Electric Automobiles and Subassemblies); Casa Grande and Tempe, Arizona

On June 2, 2020, Lucid Motors USA, Inc., submitted a notification of proposed production activity to the FTZ Board for its facilities in Casa Grande and Tempe, Arizona.

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 36375, June 16, 2020). On September 30, 2020, the applicant was notified of the FTZ Board's decision that further review of part of the proposed activity is warranted. The FTZ Board authorized the production activity described in the notification on a limited basis, subject to the FTZ Act and the Board's regulations, including Section 400.14, and further subject to a restriction requiring the following foreign-status components be admitted to the zone in privileged foreign status (19 CFR 146.41): Finished lithium-ion batteries; finished lithium-ion battery packs for electrically powered vehicles; lithium-ion battery cells; lumbar seat bolsters, motor vehicle seat upholstery; carpets; seat belts; seat belt webbing; trunk liners; cargo restraint nets; safety airbags; and, motor vehicle seats.

Dated: September 30, 2020.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2020-22047 Filed 10-5-20; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B-36-2020]

Foreign-Trade Zone (FTZ) 82—Mobile, Alabama; Authorization of Production Activity; Airbus Americas, Inc. (Commercial Passenger Jet Aircraft), Mobile, Irvington and Theodore, Alabama

On June 2, 2020, Airbus Americas, Inc., submitted a notification of proposed production activity to the FTZ Board for its facilities within FTZ 82, in Mobile, Irvington and Theodore, Alabama.

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 35259, June 9, 2020). On September 30, 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 30, 2020.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2020-22049 Filed 10-5-20; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-552-819]

Certain Steel Nails From the Socialist Republic of Vietnam: Final Results of the Expedited First Five-Year Sunset Review of the Countervailing Duty Order

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

SUMMARY: As a result of this sunset review, the Department of Commerce (Commerce) finds that revocation of the countervailing duty (CVD) order on certain steel nails (nails) from the Socialist Republic of Vietnam (Vietnam) would be likely to lead to continuation or recurrence of countervailable subsidies at the levels indicated in the

“Final Results of Review” section of this notice.

DATES: Applicable October 6, 2020.

FOR FURTHER INFORMATION CONTACT: Ian Hamilton, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-4798.

SUPPLEMENTARY INFORMATION:

Background

On June 1, 2020, Commerce published the notice of initiation of the first sunset review, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).¹ Commerce received a notice of intent to participate from Mid Continent Steel & Wire, Inc. (Mid Continent) within the 15-day deadline specified in 19 CFR 351.218(d)(1)(i).² Mid Continent claimed interested party status under section 771(9)(C) of the Act, as a domestic producer of nails in the United States.

Commerce received an adequate substantive response to the notice of initiation from Mid Continent within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).³ We received no substantive response from respondent interested parties.

On July 21, 2020, Commerce notified the U.S. International Trade Commission that it did not receive an adequate substantive response from respondent interested parties.⁴ As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted an expedited (120-day) sunset review of this CVD order.

Scope of the Order

The merchandise covered by this order is nails having a nominal shaft length not exceeding 12 inches.⁵

¹ See *Initiation of Five-Year (Sunset) Reviews*, 85 FR 33088 (June 1, 2020).

² See Mid Continent's Letter, “Certain Steel Nails from the Republic of Korea, the Sultanate of Oman, Malaysia, the Republic of China (“Taiwan”), and the Socialist Republic of Vietnam: Notice of Intent to Participate in Reviews,” dated June 9, 2020.

³ See Mid Continent's Letter, “Certain Steel Nails from the Republic of Korea, the Sultanate of Oman, Malaysia, Taiwan, and the Socialist Republic of Vietnam: Substantive Response to Notice of Initiation of Sunset Reviews,” dated July 1, 2020.

⁴ See Commerce's Letter, “Sunset Reviews Initiated on June 1, 2020,” dated July 21, 2020.

⁵ The shaft length of certain steel nails with flat heads or parallel shoulders under the head shall be

Merchandise covered by the order is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7317.00.55.02, 7317.00.55.03, 7317.00.55.05, 7317.00.55.07, 7317.00.55.08, 7317.00.55.11, 7317.00.55.18, 7317.00.55.19, 7317.00.55.20, 7317.00.55.30, 7317.00.55.40, 7317.00.55.50, 7317.00.55.60, 7317.00.55.70, 7317.00.55.80, 7317.00.55.90, 7317.00.65.30, 7317.00.65.60 and 7317.00.75.00. Nails subject to this order also may be classified under HTSUS subheadings 7907.00.60.00, 8206.00.00.00 or other HTSUS subheadings. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.⁶

Analysis of Comments Received

All issues raised in this sunset review are addressed in the Issues and Decision Memorandum. The Issues and Decision Memorandum is a public document and is on file electronically via the Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. A list of topics discussed in the Issues and Decision Memorandum is included as an appendix to this notice. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Final Results of Sunset Review

Pursuant to sections 751(c)(1) and 752(b) of the Act, Commerce determines that revocation of the CVD order on nails from Vietnam would be likely to lead to continuation or recurrence of countervailable subsidies at the following rates:

Manufacturers/producers/exporters	Net countervailable subsidy (percent)
Region Industries Co., Ltd	288.56

measured from under the head or shoulder to the tip of the point. The shaft length of all other certain steel nails shall be measured overall.

⁶ For a complete description of the scope of the order, see Memorandum, "Issues and Decision Memorandum for the Expedited First Sunset Review of the Countervailing Duty Order on Certain Steel Nails from the Socialist Republic of Vietnam," dated concurrently with, and hereby adopted by this notice (Issues and Decision Memorandum).

Manufacturers/producers/exporters	Net countervailable subsidy (percent)
United Nail Products Co. Ltd	313.97
All Others	301.27

Administrative Protective Order (APO)

This notice also serves as the only reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely 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

We are issuing and publishing the final results and this notice in accordance with sections 751(c), 752(b), and 777(i)(1) of the Act, and 19 CFR 351.218.

Dated: September 29, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. History of the Order
- IV. Scope of the Order
- V. Legal Framework
- VI. Discussion of the Issues
 1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy
 2. Net Countervailable Subsidy Rates Likely To Prevail
 3. Nature of the Subsidies
- VII. Final Results of Sunset Review
- VIII. Recommendation

[FR Doc. 2020-22054 Filed 10-5-20; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-883]

Certain Hot-Rolled Steel Flat Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review and Rescission of Administrative Review, in Part; 2017-2018

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

SUMMARY: The Department of Commerce (Commerce) determines that the producer/exporter individually examined in this administrative review made sales of certain hot-rolled steel flat products (hot-rolled steel) from the Republic of Korea (Korea) at less than normal value during the period of review October 1, 2017 through September 30, 2018.

DATES: Applicable October 6, 2020.

FOR FURTHER INFORMATION CONTACT:

Genevieve Coen, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3251.

SUPPLEMENTARY INFORMATION:

Background

This review covers two producers and/or exporters of the subject merchandise. Commerce selected one mandatory respondent for individual examination: Hyundai Steel Company (Hyundai). We are rescinding the review for the remaining producer/exporter which was not selected for individual examination, POSCO and POSCO Daewoo Corporation (collectively, POSCO). For further discussion, see the "Rescission of Review as to POSCO" section of this notice.

On December 16, 2019, Commerce published the *Preliminary Results*.¹ On January 30, 2020, the petitioners² and Hyundai each timely filed a case brief.³ The petitioners and Hyundai each timely filed a rebuttal brief on February 13, 2020.⁴

On March 12, 2020, Commerce fully extended the deadline for the final results of this review to June 12, 2020.⁵

¹ See *Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2017-2018*, 84 FR 68407 (December 16, 2019) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum.

² The petitioners are ArcelorMittal USA, LLC; AK Steel Corporation; Nucor Corporation; Steel Dynamics, Inc.; SSAB Enterprises, LLC; and United States Steel Corporation.

³ See Petitioners' Letter, "Petitioners' Case Brief Regarding Hyundai Steel," dated January 30, 2020; and Hyundai's Letter, "Certain Hot-Rolled Steel Flat Products from the Republic of Korea, 2017-2018, Case No. A-580-883: Hyundai Steel's Case Brief," dated January 30, 2020.

⁴ See Petitioners' Letter, "Petitioners' Rebuttal Brief," dated February 13, 2020; and Hyundai's Letter, "Certain Hot-Rolled Steel Flat Products from the Republic of Korea, 2017-2018, Case No. A-580-883: Hyundai Steel's Rebuttal Brief," dated February 13, 2020.

⁵ See Memorandum, "Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Extension of Deadline for Final Results of Antidumping Duty Administrative Review, 2017-2018," dated March 12, 2020.

On April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days.⁶ On July 21, 2020, Commerce tolled all deadlines in administrative reviews by an additional 60 days.⁷ The deadline for the final results of this review is now September 30, 2020. Commerce conducted this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The merchandise subject to the order is certain hot-rolled steel flat products.⁸ For a full description of the scope of this order, see the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised by the parties in their case and rebuttal briefs are listed in the appendix to this notice and are addressed in the Issues and Decision Memorandum. 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/index.html>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

In the *Preliminary Results*, we determined that POSCO had "no shipments" of subject merchandise. Further, we assigned a weighted-average dumping margin to POSCO in error in the *Preliminary Results*. For these final results, we are rescinding this review with respect to POSCO because we find that, although POSCO had a shipment of subject merchandise during the POR, POSCO did not have a reviewable sale during the POR. As a result, we are not assigning POSCO a weighted-average

dumping margin in these final results of review.

Additionally, with respect to Hyundai, we made changes to the margin program to eliminate the inadvertent double counting of costs in the *Preliminary Results*. For discussion of these changes, see the Issues and Decision Memorandum.

Rescission of Review as to POSCO

As noted in the *Preliminary Results*, we received a claim of "no reviewable entries, exports or sales" from POSCO.⁹ In the *Preliminary Results*, we preliminarily determined that POSCO had no shipments during the POR. The petitioners and POSCO commented on our preliminary determination of no shipments with respect to POSCO.¹⁰ For these final results, we find that POSCO had no reviewable sales during this POR, and thus we are rescinding our review with respect to POSCO for these final results. For further discussion, see Section V in the Issues and Decision Memorandum.

Final Results of the Review

We are assigning the following weighted-average dumping margin to the firm listed below for the POR October 1, 2017 through September 30, 2018:

Exporter/producer	Weighted-average dumping margin (percent)
Hyundai Steel Company	0.89

Disclosure

We will disclose to interested parties the calculations performed in connection with these final results within five days of the publication of this notice, consistent with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act, and 19 CFR 351.212(b)(1), Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all

appropriate entries of subject merchandise in accordance with the final results of this review.

For Hyundai, because its weighted-average dumping margin is not zero or *de minimis* (i.e., less than 0.5 percent), Commerce has calculated importer-specific antidumping duty assessment rates. We calculated importer-specific antidumping duty assessment rates by aggregating the total amount of dumping calculated for the examined sales of each importer and dividing each of these amounts by the total sales value associated with those sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review where an importer-specific assessment rate is not zero or *de minimis*. Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the importer-specific assessment rate is zero or *de minimis*.

Consistent with Commerce's assessment practice, for entries of subject merchandise during the POR produced by Hyundai, for which Hyundai did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the others rate if there is no rate for the intermediate company(ies) involved in the transaction.¹¹

Because we are rescinding our review as to POSCO, we will instruct CBP to liquidate merchandise entered, or withdrawn from warehouse, for consumption during the POR at the cash deposit rate required at the time of entry.

Commerce intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Hyundai will be the rate shown above; (2) the cash deposit rate for POSCO will remain unchanged from the rate assigned to it in the most recently completed review of that company; (3) for merchandise exported by producers or exporters not

⁶ 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.

⁷ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews," dated July 21, 2020.

⁸ For a complete description of the scope of the order, see Memorandum, "Issues and Decision Memorandum for the Final Results of the 2017–2018 Antidumping Duty Administrative Review of Certain Hot-Rolled Steel Flat Products from the Republic of Korea, and Rescission of Administrative Review, in Part" dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁹ See POSCO's Letters, "Hot-Rolled Steel from the Republic of Korea, Case No. A–580–883: Comments on CBP Entry Documents," dated February 18, 2020; and "Certain Hot-Rolled Steel Flat Products from South Korea, Case No. A–580–883: No Shipment Letter," dated January 10, 2019.

¹⁰ See Petitioners' Letter, "Hot-Rolled Steel Flat Product from the Republic of Korea—Petitioner's Comments on U.S. Customs and Border Protection Entry Documents," dated February 18, 2020; and POSCO's Letter, "Hot-Rolled Steel from the Republic of Korea, Case No. A–580–883: Comments on CBP Entry Documents," dated February 18, 2020.

¹¹ For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

covered in this administrative review but covered in a prior segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment of this proceeding; (4) if the exporter is not a firm covered in this review, a previous review, or the original less-than-fair-value (LTFV) investigation, but the producer is, then the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the subject merchandise; and (5) the cash deposit rate for all other producers or exporters will continue to be 5.55 percent, the all-others rate established in the LTFV investigation.¹² These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as the only 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 review period. 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 Order

In accordance with 19 CFR 351.305(a)(3), 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 the APO, 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 subject to sanction.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(5). Note that Commerce has temporarily modified certain of its requirements for serving documents

containing business proprietary information, until further notice.¹³

Dated: September 30, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Changes Since the Preliminary Results
- V. Rescission of Review as to POSCO
- VI. Discussion of the Issues
 - Comment 1: Whether and How a Cost-Based Particular Market Situation (PMS) Exists
 - Comment 2: Whether Commerce Has the Statutory Authority To Adjust the Cost of Production
 - Comment 3: Calculating the PMS Adjustment
 - Comment 4: Steel Quality Code "43"
 - Comment 5: Hyundai Corporation USA's Indirect Selling Expense Ratio
 - Comment 6: Rate Assigned for POSCO
 - Comment 7: Double Deduction of U.S. Packing and Inventory Carrying Costs
- VII. Recommendation

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DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

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

SUMMARY: The Department of Commerce (Commerce) has received requests to conduct administrative reviews of various antidumping duty (AD) and countervailing duty (CVD) orders and findings with August anniversary dates. In accordance with Commerce's regulations, we are initiating those administrative reviews.

DATES: Applicable October 6, 2020.

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482-4735.

SUPPLEMENTARY INFORMATION:

Background

Commerce has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various AD and CVD orders and findings with August anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by Commerce discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (POR), it must notify Commerce within 30 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at <https://access.trade.gov> in accordance with 19 CFR 351.303.¹ Such submissions are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on Commerce's service list.

Respondent Selection

In the event Commerce limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POR. We intend to place the CBP data on the record within five days of publication of the initiation notice and to make our decision regarding respondent selection within 30 days of publication of the initiation **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted within seven days after the placement of the CBP data on the record of this review. Parties wishing to submit rebuttal comments should submit those comments within five days after the deadline for the initial comments.

In the event Commerce decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act, the following guidelines regarding collapsing of companies for purposes of respondent selection will apply. In general, Commerce has found that

¹² See *Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Final Determination of Sales at Less Than Fair Value*, 81 FR 53419 (August 12, 2016).

¹³ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

¹ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011).

determinations concerning whether particular companies should be “collapsed” (e.g., treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, Commerce will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this AD proceeding (e.g., investigation, administrative review, new shipper review, or changed circumstances review). For any company subject to this review, if Commerce determined, or continued to treat, that company as collapsed with others, Commerce will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, Commerce will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value (Q&V) Questionnaire for purposes of respondent selection, in general, each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where Commerce considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that Commerce may extend this time if it is reasonable to do so. Determinations by Commerce to extend the 90-day deadline will be made on a case-by-case basis.

Deadline for Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of a particular market situation (PMS) for purposes of

constructed value under section 773(e) of the Act.² Section 773(e) of the Act states that “if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.” When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of initial responses to section D of the questionnaire.

Separate Rates

In proceedings involving non-market economy (NME) countries, Commerce begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is Commerce’s policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, Commerce analyzes each entity exporting the subject merchandise. In accordance with the separate rates criteria, Commerce assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

² See Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, Commerce requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on Commerce’s website at <https://enforcement.trade.gov/nme/nme-sep-rate.html> on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the “Instructions for Filing the Certification” in the Separate Rate Certification. Separate Rate Certifications are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding³ should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,⁴ should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Application will be available on Commerce’s website at <https://enforcement.trade.gov/nme/nme-sep-rate.html> on the date of publication of this **Federal Register** notice. In

³ Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (e.g., an ongoing administrative review, new shipper review, etc.) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

⁴ Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

responding to the Separate Rate Application, refer to the instructions contained in the application. Separate Rate Applications are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Application applies equally to NME-owned firms, wholly foreign-owned

firms, and foreign sellers that purchase and export subject merchandise to the United States.

For exporters and producers who submit a Separate Rate Application or Certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the

questionnaire as mandatory respondents.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following AD and CVD orders and findings. We intend to issue the final results of these reviews not later than August 31, 2021.

	Period to be reviewed
AD Proceedings	
INDIA: Finished Carbon Steel Flanges, A-533-871	8/1/19-7/31/20
Adinath International	
Aditya Forge Limited	
Allena Group	
Alloyed Steel	
Balkrishna Steel Forge Pvt. Ltd.	
Bansidhar Chiranjilal	
Bebitz Flanges Works Private Limited	
C. D. Industries	
CHW Forge	
CHW Forge Pvt. Ltd.	
Citizen Metal Depot	
Corum Flange	
DN Forge Industries	
Echjay Forgings Limited	
Falcon Valves and Flanges Private Limited	
Heubach International	
Hindon Forge Pvt. Ltd.	
Jai Auto Pvt. Ltd.	
Kinnari Steel Corporation	
Mascot Metal Manufacturers	
M F Rings and Bearing Races Ltd.	
Munish Forge Private Limited	
Norma (India) Ltd.	
OM Exports	
Punjab Steel Works	
Raaj Sagar Steels	
Ravi Ratan Metal Industries	
R. D. Forge	
R.N. Gupta & Co. Ltd.	
Rolex Fittings India Pvt. Ltd.	
Rollwell Forge Engineering Components and Flanges	
Rollwell Forge Pvt. Ltd.	
SHM (ShinHeung Machinery)	
Siddhagiri Metal & Tubes	
Sizer India	
Steel Shape India	
Sudhir Forgings Pvt. Ltd.	
Tirupati Forge Pvt. Ltd.	
Uma Shanker Khandelwal & Co.	
Umashanker Khandelwal Forging Limited	
USK Export Private Limited	
JAPAN: Tin Mill Products, A-588-854	8/1/19-7/31/20
Hanwa Co., Ltd.	
Hitachi Metals, Ltd.	
JFE Shoji Trade Corporation	
Mitsui & Co., Ltd.	
Nippon Steel Trading Corporation	
Sanyo Electric Co., Ltd.	
Sumisho Metalex Corporation	
Sumitomo Corporation Global Metals Co., Ltd.	
Toyota Tsusho Corporation	
MALAYSIA: Polyethylene Retail Carrier Bags, A-557-813	8/1/19-7/31/20
Euro SME Sdn Bhd	
MEXICO: Light-Walled Rectangular Pipe and Tube, A-201-836	8/1/19-7/31/20
Aceros Cuatro Caminos S.A. de C.V.	
Arco Metal S.A. de C.V.	
Fabricaciones y Servicios de Mexico	
Galvak, S.A. de C.V.	
Grupo Estructuras y Perfiles	
Industrias Monterrey S.A. de C.V.	

	Period to be reviewed
Internacional de Aceros, S.A. de C.V. Maquilacero S.A. de C.V. Nacional de Acero S.A. de C.V. PEASA-Productos Especializados de Acero Perfiles LM, S.A. de C.V. Productos Laminados de Monterrey S.A. de C.V. Regiomontana de Perfiles y Tubos S.A. de C.V. Regiomontana de Perfiles y Tubos S. de R.L. de C.V. Talleres Acero Rey S.A. de C.V. Ternium Mexico S.A. de C.V. Tuberias Aspe S.A de C.V. Tuberia Laguna, S.A. de C.V. Tuberias y Derivados S.A. de C.V.	
REPUBLIC OF KOREA: Dioctyl Terephthalate, A-580-889	8/1/19-7/31/20
Aekyung Petrochemical LG Chem, Ltd.	
REPUBLIC OF KOREA: Large Power Transformers, A-580-867	8/1/19-7/31/20
Hyosung Heavy Industries Corporation Hyundai Electric & Energy Systems Co., Ltd. ILJIN Iljin Electric Co., Ltd. LSIS Co., Ltd.	
REPUBLIC OF KOREA: Low Melt Polyester Staple Fiber, A-580-895	8/1/19-7/31/20
Toray Advanced Materials Korea, Inc.	
ROMANIA: Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe, A-485-805	8/1/19-7/31/20
ArcelorMittal Tubular Products Roman S.A. SC TMK-Artrom S.A. Kurvers Piping Italy S.R.L. Silcotub S.A.	
SOVIET REPUBLIC OF VIETNAM: Certain Frozen Fish Fillets, A-552-801	8/1/19-7/31/20
An Giang Fisheries Import and Export Joint Stock Company (aka Agifish, AnGiang Fisheries Import and Export, An Giang Fisheries Import & Export Joint Stock Company) Anchor Seafood Corp. An Phat Import-Export Seafood Co., Ltd. (aka An Phat Seafood Co. Ltd. or An Phat Seafood Co., Ltd.) Anvifish Joint Stock Company (aka Anvifish, Anvifish JSC, or Anvifish Co., Ltd.) Asia Pangasius Company Limited (aka ASIA) Basa Joint Stock Company (aka BASACO) Ben Tre Aquaproduct Import and Export Joint Stock Company (aka Bentre Aquaproduct) Bentre Forestry and Aquaproduct Import Export Joint Stock Company (aka Bentre Forestry and Aquaproduct Import and Export Joint Stock Company) Bien Dong Hau Giang Seafood Joint Stock Company (aka Bien Dong HG or Bien Dong Hau Giang Seafood Joint Stock Co.) Bien Dong Seafood Company Ltd. (aka Bien Dong, Bien Dong Seafood, Bien Dong Seafood Co., Ltd., Biendong Seafood Co., Ltd., or Bien Dong Seafood Limited Liability Company) Binh Dinh Import Export Company (aka Binh Dinh) Cadovimex II Seafood Import-Export and Processing Joint Stock Company (aka Cadovimex II) Cafatex Corporation (aka Cafatex) Can Tho Animal Fishery Products Processing Export Enterprise (aka Cafatex) Cantho Import-Export Seafood Joint Stock Company (aka CASEAMEX, Cantho Import Export Seafood Joint Stock Company, Cantho Import-Export Joint Stock Company, Can Tho Import Export Seafood Joint Stock Company, Can Tho Import-Export Seafood Joint Stock Company, or Can Tho Import-Export Joint Stock Company) Colorado Boxed Beef Company (aka CBBC) C.P. Vietnam Corporation Cuu Long Fish Import-Export Corporation (aka CL Panga Fish) Cuu Long Fish Joint Stock Company (aka CL-Fish, CL-FISH CORP, or Cuu Long Fish Joint Stock Company) Dai Thanh Seafoods Company Limited (aka DATHACO) East Sea Seafoods LLC or East Sea Seafoods Limited Liability Company (aka ESS LLC, ESS, ESS JVC, or East Sea Seafoods Joint Venture Co., Ltd.) Europe Joint Stock Company (aka Europe JSC or EJS CO.) Fatifish Company Limited (aka FATIFISH or FATIFISHCO) GF Seafood Corp. Go Dang An Hiep One Member Limited Company Go Dang Ben Tre One Member Limited Liability Company GODACO Seafood Joint Stock Company (aka GODACO, GODACO Seafood, GODACO_SEAFOOD, or GODACO Seafood J.S.C.) Golden Quality Seafood Corporation (aka Golden Quality, GoldenQuality, or GoldenQuality Seafood Corporation) Green Farms Seafood Joint Stock Company (aka Green Farms, Green Farms Seafood JSC, GreenFarm Seafoods Joint Stock Company, or Green Farms Seafoods Joint Stock Company) Hai Huong Seafood Joint Stock Company (aka HHFish, HH Fish, or Hai Huong Seafood) Hoa Phat Seafood Import-Export and Processing J.S.C. (aka HOPAFISH, Hoa Phat Seafood Import-Export and Processing Joint Stock Company, Hoa Phat Seafood Import-Export and Processing JSC) Hoang Long Seafood Processing Company Limited (aka HLS) Hung Vuong Ben Tre Seafood Processing Company Limited (aka Ben Tre, HVBT, or HVBT Seafood Processing)	

	Period to be reviewed
<p>Hung Vuong Corporation (aka HVC or HV Corp.) Hung Vuong Joint Stock Company Hung Vuong Mascato Company Limited Hung Vuong-Mien Tay Aquaculture Corporation (aka HVMT or Hung Vuong Mien Tay Aquaculture Joint Stock Company) Hung Vuong-Sa Dec Co., Ltd. (aka Hung Vuong Sa Dec Company Limited) Hung Vuong Seafood Joint Stock Company Hung Vuong-Vinh Long Co. Ltd. (aka Hung Vuong Vinh Long Company Limited) Indian Ocean One Member Company Limited (aka Indian Ocean Co., Ltd.) International Development & Investment Corporation (aka IDI or International Development and Investment Corporation) Lian Heng Investment Co., Ltd. (aka Lian Heng or Lian Heng Investment) Lian Heng Trading Co., Ltd. (aka Lian Heng or Lian Heng Trading) Nam Viet Corporation (aka NAVICO) Nam Phuong Seafood Co., Ltd. (aka Nam Phuong, or NAFISHCO) New Food Import, Inc. Nha Trang Seafoods, Inc. (aka Nha Trang Seafoods, Nha Trang Seafoods-F89, or Nha Trang Seaproduct Company) NTACO Corporation (aka NTACO) NTSF Seafoods Joint Stock Company (aka NTSF or NTSF Seafoods) PREFCO Distribution, LLC QMC Foods, Inc. QVD Dong Thap Food Co., Ltd. (aka Dong Thap or QVD DT) QVD Food Company Ltd. (aka QVD, QVD Food Co., Ltd., or QVD Aquaculture) Riptide Foods Seafood Joint Stock Company No. 4 (aka SEAPRIEXCO No. 4) Seafood Joint Stock Company No. 4 Branch Dongtam Fisheries Processing Company (aka DOTASEAFOODCO or Seafood Joint Stock Company No. 4—Branch Dong Tam Fisheries Processing Company) Seavina Joint Stock Company (aka Seavina) Southern Fishery Industries Company, Ltd. (aka South Vina) Thanh Binh Dong Thap One Member Company Limited (aka Thanh Binh Dong Thap or Thanh Binh Dong Thap Ltd.) Thanh Hung Co., Ltd. (aka Thanh Hung Frozen Seafood Processing Import Export Co., Ltd.) Thien Ma Seafood Co., Ltd (aka THIMACO) The Great Fish Company, LLC Thuan An Production Trading and Service Co., Ltd. (aka TAFISHCO) Thuan Hung Co., Ltd. (aka THUFICO) To Chau Joint Stock Company (aka TOCHAU, TOCHAU JSC, or TOCHAU Joint Stock Company) Van Duc Food Export Joint Stock Company (aka Van Duc) Van Duc Tien Giang Food Export Company (aka VDTG) Viet Hai Seafood Company Limited (aka Viet Hai) Viet Phu Foods and Fish Corporation (aka Vietphu) Viet Phu Foods & Fish Co., Ltd. Vietnam Seaproducts Joint Stock Company (aka Seaprodex or Vietnam Seafood Corporation—Joint Stock Company) Vinh Hoan Corporation (aka Vinh Hoan, Vinh Hoan Co., or Vinh Hoan Corp.) Vinh Long Import-Export Company (aka Vinh Long) Vinh Quang Fisheries Corporation (aka Vinh Quang, Vinh Quang Fisheries Corp., Vinh Quang Fisheries Joint Stock Company, or Vinh Quang Fisheries Co., Ltd.)</p>	
<p>SPAIN: Ripe Olives, A-469-817</p> <p>Aceitunas Guadalquivir, S.L. Agro Sevilla Aceitunas S.Coop. And. Alimentary Group Dcoop S. Coop. And. Angel Camacho Alimentacion, S.L. Internacional Olivarera, S.A.</p>	8/1/19–7/31/20
<p>THAILAND: Steel Propane Cylinders, A-549-839</p> <p>Sahamitr Pressure Container Plc. (also known as, Sahamitr Pressure Container Public Company Limited)</p>	12/27/18–7/31/20
<p>THE PEOPLE'S REPUBLIC OF CHINA: Certain Passenger Vehicle and Light Truck Tires, A-570-016</p> <p>Giti Radial Tire (Anhui) Company Ltd. Giti Tire (Fujian) Company Ltd. Giti Tire (Hualin) Company Ltd. Giti Tire Global Trading Pte. Ltd. Haohua Orient International Trade Ltd. Prinx Chengshan (Shandong) Tire Company Ltd. Qingdao Fullrun Tyre Tech Corp., Ltd. Qingdao Landwinner Tyre Co., Ltd. Qingdao Lakesea Tyre Co., Ltd. Qingdao Nexen Tire Corporation Qingdao Sentury Tire Co. Ltd. Riversun Industry Limited Safe & Well (HK) International Trading Limited Sailun Group (HongKong) Co., Limited. (Sailun HK), formerly known as Sailun Jinyu Group (Hong Kong) Co., Limited. (Sailun Jinyu HK) Sailun Group Co., Ltd. (Sailun Group), formerly known as Sailun Jinyu Group Co., Ltd. (Sailun Jinyu)</p>	8/1/19–7/31/20

	Period to be reviewed
<p>Sailun Tire Americas Inc., formerly known as SJI North America Inc. Sailun Tire International Corp Shandong Guofeng Rubber Plastics Co., Ltd. Shandong Linglong Tyre Co., Ltd. Shandong New Continent Tire Co., Ltd. Shandong Province Sanli Tire Manufacture Co., Ltd. Shandong Qilun Rubber Co., Ltd Shandong Wanda Boto Tyre Co., Ltd. Shouguang Firemax Tyre Co., Ltd. Sumitomo Rubber (Changshu) Co., Ltd. Sumitomo Rubber (Hunan) Co. Ltd. Windforce Tyre Co., Limited Zhaoqing Junhong Co., Ltd.</p> <p>THE PEOPLE'S REPUBLIC OF CHINA: Certain Steel Nails, A-570-909</p> <p>ARaymond Automotive Fasteners Achbest Company Ltd. Air Tiger Express (Asia) Inc. A-Jax Enterprises Ltd. Alfa Marine (Shanghai) Co., Ltd Alltrade Pacific Co., Ltd. Am Global Shipping Lines Co., Ltd. American Ocean Maritime Inc. Apex Maritime (Ningbo) Co., Ltd. Aplix Shanghai Fasteners Arvid Nilsson Logistics & Trade (Shanghai) Co., Ltd Astrotech Steels Pvt. Ltd. Auto Way Wuxi Casting Industry Co Beijing Catic Industry Limited Beijing Century Joyo Courier Service Beijing Jinheung Co., Ltd Beijing Kang Jie Kong International Cargo Agent Co., Ltd. Beijing MMCC Ltd. Bollere Logistics China Co., Ltd Nanjing Branch Bollere Logistics China Co., Ltd Tianjin Branch Bonuts Hardware Logistics Brilliant Group Logistics Corp. Brilliant Logistics Group Inc. C.H. Robinson Freight Services (China) C.H. Robinson Freight Services China Ltd. Ningbo Branch Caesar Shipping Logistics Co., Ltd. Cana (Rizhao) Hardware Co. Ltd. Cangzhou Xinqiao International Trade Co. Ltd. Cargo Services (Tianjin) Co., Ltd. Carotrans Cas International Co., Ltd Casia Global Logistics Company Ltd. Certified Products International Inc. Cheng Ch International Co., Ltd. China International Freight (China) Ltd. Tianjin Branch China International Freight Co. Ltd. China Mast Forwarders Co., Ltd. China Sea Marine Co., Ltd China Staple Enterprise (Tianjin) Co., Ltd. Chinatrans International Limited Chinatrans International Limited (China) Ltd. Tianjin Branch City Ocean Logistics Co., Ltd. Clearfreight Shanghai Limited CN Worldwide International Freight Forwarding (Shanghai) Ltd. Cosco International Freight Company CRSA Global Logistics (Shanghai) Co. CTS International Logistics Corporation Limited D&F Material Products Ltd. Daejin Steel Co. Ltd. Dalian Dragon Star Imp. & Exp. Co., Ltd Dalian Wanxiang International Trade Co., Ltd Damco China Limited (Dongguan Forta Electronics Co. Ltd.) Damco China Limited Ningbo Branch Damco China Limited Qingdao Branch Damco China Limited Shenzhen Branch Damco Shenzhen De Fasteners Inc. Dezhou Hualude Hardware Products Co DHL Global Forwarding (China) Co., Ltd. Tianjin Branch Doublemoon Hardware Company Ltd</p>	8/1/19-7/31/20

	Period to be reviewed
Dsv Air & Sea Co., Ltd (Tianjin) Dynamic Network Container Line Ltd E Cargoway Logistics Co. Ltd. Eastrong International Logistics Co. Eclat Int'l Co., Ltd. Eco-Friendly Floor Ltd. ECO System Corporation Ejen Brothers Limited ELG Logistic Essentra Plastic Products Ningbo Co. Eternity Int'l Freight Forwarder E-Top Shipping Co., Ltd Eumex Line Shenzhen Limited Evergreen Global Everscene Logistics Company Limited Everstar Logistics Co., Ltd. Faithful Engineering Products Co., Ltd. Fastgrow International Co., Inc. Fastic Shipping Co., Ltd. Fedex International Freight Forest Shipping International Ltd. Foshan Hosontool Development Hardware Fouever International Limited Geekay Wires Limited Gem-Duo Co., Ltd. Gem-Year Industrial Co., Ltd. Global Link (Shanghai) Co., Ltd. Glori-Industry Hongkong Incorporation Grandpac Aviation Shanghai Co. Ltd. GTG Logistics Co., Ltd (Tianjin Branch) Guangdong Meite Mechanical Co., Ltd. Guangzhou Caixuan Cosmetics Co., Ltd. Guangzhou Feixing Trading Co., Ltd. Guangzhou Guanhong Cosmetics Guangzhou Unigel Nails Syst H&H International Forwarders Co., Ltd. Haiyan Sanhuan Fasteners Co., Ltd. Haiyan Yuanyang Standard Piece Co., Ltd. Hangzhou Jiefa Materials Co., Ltd Hebei Airsea Logistics Ltd. Hebei Cangzhou New Century Foreign Trade Co., Ltd. Hebei Chunghwa Star International Trading Company Limited Hebei Five-Star Metal Products Co., Ltd. Hebei Metal Trading Co., Ltd. Hebei Minghao Import &Export Co., Ltd Hebei Minmetals Co., Ltd. Hebei Tianfeng Metal Products Co., Ltd Hecny Shipping Limited Hecny Transportation (Shanghai) Ltd. Hengtuo Metal Products Co., Ltd Hong Kong Yu Xi Co., Ltd. Honour Lane Shipping Limited Honour Lane Shipping Ltd Ningbo Branch Honour Lane Shipping Ltd Qingdao Branch Honour Lane Shipping Ltd. Tianjin Branch Hualin Hydraulic Nantong Co., Ltd. Hualin Ltd. Huanghua Rc Business Co., Ltd Huanghua Yingjin Hardware Products Huiwen Jiahe (Shandong) Trading Co., Ltd. Huzhou Jiehui Import And Export Co. IFI & Morgan Ltd. Interglobo International Freight Co., Ltd. J.Y. Logistics Co., Ltd. Jade Shuttle Enterprise Co. Ltd. JCD Group Company Limited Jeter Shipping Guangzhou Limited Jiangsu Cheda Auto Accessories Co, Ltd. Jiangsu Globe Logistics Ltd., Co. Jiangsu Globe Logistics Ltd., Co., Tianjin Branch Jiangsu Soho Honry Import & Export Co. Jiarong Enterprises Co., Ltd. Jiaxing Haijin Hardware Technology Jiaxing Innofast Trading Co., Ltd.	

	Period to be reviewed
<p> Jiaxing Port Lixin Fasteners Co., Ltd Jiaxing TSR Hardware Inc. Jiele Construction Materials Jinan High Strength Standard Pa Co., Ltd. Jinan Jinbao Plastic Co., Ltd. Jinan Zhongchuan Equipment Co., Ltd. Jinhai Hardware Co., Ltd. Jinheung Steel Corporation Jinsco International Corp. Jushiqiangesen (Tianjin)International K-Apex International Freight (Ningbo) Co., Ltd. K-Apex Logistics (Nanjing) Co., Ltd. K-Apex Logistics (Qingdao) Co., Ltd. K-Apex Logistics (Shanghai) Co., Ltd. K-Apex Logistics (Tianjin) Co., Ltd. King Freight International Corp. Kingshadow Co., Limited Kingteam Precision Technology Co., Ltd. Kintetsu World Express (China) Co. Koram Inc. Koram Steel Co., Ltd. Korea Wire Co., Ltd. Ko's Nail Incorporation Kuehne & Nagel Ltd Kuehne & Nagel Ltd Ningbo Branch Office Kuehne & Nagel Ltd Tianjin Branch Kuraray Magictape Shanghai Co Ltd Lf Logistics (China) Co., Ltd. Li Ya Xuan Furniture Factory Liangmei Furniture Factory Linksworld Logistics Limited Linqing Huawei Bearing Co., Ltd. Linyi Andi Supply Chain Co., Ltd. Linyi Compass Supply Chain Co., Ltd Linyi Flying Arrow Imp. & Exp. Co., Ltd. Linyi Jianchengde Metal Hardware Co. Linyi Vega Trading Co., Ltd. Linyi Wan Gong Industry & Trade Co., Ltd. Lishui Hongda Industry Co., Ltd M+R Forwarding (China) Ltd. M+R Forwarding (China) Ltd. Tianjin Madison Shanghai Trading Co., Ltd. Mallory Alexander (Asia Pacific) Master International Logistics China Co., Ltd. Maxwide Logistics Inc. MB Logistics International Cn Ltd. Mingguang Abundant Hardware Products Co. Ltd. Mingguang Ruifeng Hardware Products Morito Scovill HK Co., Ltd. Nailtech Co. Ltd. Nanjing Caiqing Hardware Co., Ltd Nanjing North Star Intl Freight Forwarder Co Ltd Nanjing Nuochun Hardware Co., Ltd. Nanjing Toua Hardware & Tools Co. Ltd. Nanjing Yuechang Hardware Co., Ltd. Neptune Shipping Limited New Chain Logistics Co., Ltd New Line Industry Company Limited New Pole Power System Co Ltd Nightingale Global Co., Ltd Ningbo Beilun Xiangzi Imp&Exp Co., Ltd. Ningbo Cosmos International Logistics Ningbo Echoes International Trading Co., Ltd. Ningbo Etdz Holdings Ltd Ningbo Giftyland Co., Limited Ningbo Haishu Ling Lang Trade Co., L Ningbo Haitian Holding Group Co., Ltd. Ningbo Hyderon Hardware Co., Ltd Ningbo Kaili International Trading Ningbo Kan Grow Bags Co., Ltd Ningbo Langyi Metal Products Co., Ltd. Ningbo Nd Imp. & Exp., Co., Ltd. Ningbo Panxiang Imp & Exp Co., Ltd. Ningbo Port Southeast Logistics Gro </p>	

	Period to be reviewed
<p> Ningbo Shixun Import & Export Co., Ltd. Ningbo Skycan Mold Manufacturing Ltd. Ningbo Tianqi Ecommerce Co Ltd Ningbo Truepower Import & Export Co., Ltd. Ningbo United Group Import & Export Co., Ltd. Ningbo Wepartner Import & Export Company Limited Ningbo Winjoy Intl Trading Co. Ningbo Winpex Imp & Exp Co., Ltd. Ningbo Yanyi Trade Co Ltd Ningbo Yinzhou Angelstar (International Trading) Co., Ltd. Ningbo Yinzhou Wintie Auto Parts Co Ningbo Zhenda Stationery Co., Ltd. Ninghai Rayguang Horsemanship Products Co., Ltd Ocean Industrial Co Limited Ocean King Industries Limited OEC Logistics (Qingdao) Co., Ltd OEC Logistics (Qingdao) Co., Ltd, Tianjin Branch OEC Logistics (Qingdao) Co., Ltd. (Dalian Branch) One Touch Share Co., Limited Ong Ming Enterprise Co., Ltd. OOCL Logistics (China) Limited Orient Express Container Co., Ltd Orient Express Container Co., Ltd. Shenzhen Branch Orient Star Transport International Oriental Air Transport Service Inc. Oriental Logistics Group Ltd. Pacific Link International Freight Pacific Star Express (China) Co., Ltd. Packcraft Co., Ltd. Panalpina World Transport (Prc) Ltd Pantos Logistics (China) Co., Ltd Parisi Grand Smooth Logistics Ltd. Paslode Fastener (Shanghai) Co., Ltd. Patek Tool Co., Ltd. Peaksight (Shanghai) Technologies Pem China Co., Ltd. Penavico International Logistics, Co., Ltd. Pennengineering Automotive Fasteners Kunshan Co., Ltd. Pilot Logistics China Co., Ltd Pino Industry Co Ltd Prime Shipping International, Inc. Promising Way (Hong Kong) Limited Pro-Team Coil Nail Enterprise Inc. Prym Consumer Ningbo Trading Limited Pudong Prime International Logistics, Inc Pudong Prime Int'l Logistics, Inc. (Qingdao Branch) Qifeng Precision Industry Sci-Tech Corp. Qingdao Ant Hardware Manufacturing Co., Ltd. Qingdao Cheshire Trading Co., Ltd. Qingdao D&L Group Ltd. Qingdao Gold Dragon Co. Ltd. Qingdao Grand Intl Co. Ltd. Qingdao Hailifeng Rigging Co., Ltd Qingdao Hongyuan Nail Industry Co Ltd. Qingdao JCD Machinery Co., Ltd. Qingdao Jisco Co., Ltd. Qingdao Kinghood Tools Co., Ltd Qingdao Meijialucky Industry & Commerce Co., Ltd. Qingdao Mst Industry & Commerce Co. Qingdao Powerful Machinery Co., Ltd. Qingdao Qinhang International Qingdao Shantron International Qingdao Shenghengtong Metal Products Co., Ltd Qingdao Sun Star International Qingdao Tansky International, Ltd. Qingdao Tianshi Logistics Co., Limited Qinhuangdao Ampac Building Products Quick Advance Inc Region Industries Co. Ltd. Region System Sdn. Bhd. RMB Fasteners Limited Shanghai Rep. Office Robertson Inc. (Jiaxing) Rohlig China Limited Shanghai Branch Romp Coil Nail Industries Inc. </p>	

	Period to be reviewed
<p> Safround Logistic Co., Ltd Scanwell Container Line Ltd Schenker China Ltd. Schenker China Ltd. Chengdu Branch SDC International Aust. Pty. Ltd. Seamaster Global Forwarding (China) Limited Tianjin Branch Seamaster Global Forwarding (Shanghai) Seasky Logistics Co. Ltd. Shandong Dinglong Import & Export Co., Ltd. Shandong Guomei Industry Co., Ltd Shandong Intco Recycling Resources Co., Ltd. Shandong Kangrong International Shandong Oriental Cherry Hardware Group., Ltd. Shandong Qingyun Hongyi Hardware Products Co., Ltd Shandong Tengda Fasten Tech. Co. Shanghai Ai Lian International Trade Co., Ltd. Shanghai Amass Freight International Shanghai Autocraft Co., Ltd Shanghai Ba-Shi Yuexin Logistics Development Co., Ltd. Shanghai Cedargreen Imp & Exp Co., Ltd Shanghai Curvet Hardware Products Co., Ltd. Shanghai Danube International Logistics Co., Ltd. Shanghai E-Sky Transportation Co., Ltd Shanghai Finigate Integrated Logistics Shanghai Goldenbridge International Shanghai Goro Conveyor System Components Co Ltd Shanghai Grand Sound International Transportation Co., Ltd Shanghai Hu Nan Foreign Shanghai Hualin Co., Ltd Shanghai International Trade Transportation Co., Ltd. Shanghai Jade Shuttle Hardware Tools Co. Ltd. Shanghai Kaijun Logistics Co., Ltd. (Shenzhen Branch) Shanghai Kaijun Logistics Co. Ltd. Shanghai Landa International Trade Co., Ltd. Shanghai Lead Trans International Ltd. Shanghai March Import Export Company Ltd. Shanghai Nanshi Foreign Economic Co. Shanghai Nanshi Foreign Economic Cooperation Trading Company Ltd. Shanghai Overseas Imp. & Exp Co., Ltd Shanghai Pudong Int'l Transportation Shanghai Seti Enterprise Int'l Co. Ltd. Shanghai Shenda Imp. & Exp. Co., Ltd Shanghai Solex Express Inc. Shanghai Speedier Logistics Co., Ltd Shanghai Sutek Industries Co., Ltd. Shanghai Television & Electronics Import & Export Co., Ltd. Shanghai Textile Raw Materials Co., Ltd. Shanghai Tianshi Logistics Co., Ltd Shanghai Worldtrans Logistics Services Limited Shanghai Xuanming International Shanghai Yueda Nails Industry Co., Ltd. Shantou Wanli Biotechnology Co., Ltd. Shanxi Hairui Trade Co. Ltd. Shanxi Pioneer Hardware Industrial Co., Ltd Shanxi Tianli Industries Co., Ltd Shanxi Yuci Broad Wire Products Co. Shaoxing Bohui Import & Export Co., Ltd. Shaoxing Chengye Metal Producing Co. Ltd. Sheenbow Pigment Technology Co., Ltd Shenzhen Baoyuanxin Trading Co., Ltd. Shenzhen Lucky Logistics Ltd Shenzhen Lucky Logistics Ltd. Guangzhou Branch Shenzhen Pacific-Net Logistics Inc. Shenzhen Pacific-Net Logistics Inc. Shanghai Branch Shenzhen Sea Aerosol Co., Ltd. Shenzhen Sunray Technology Co., Ltd. Shenzhen Xinda Tongyuan Trading Co., Ltd. Shenzhen Xinjintai Hardware Co., Ltd. Shenzhen Yibai Network Technology Shenzhen Zbao Logistics Company Limited Shijiazhuang North Ornamental Casting Products Limited Company Shijiazhuang Shuangming Trade Co., Ltd. Shine International Transportation Ltd. Shipco Transport (Shanghai) Ltd., Shen Zhen Branch </p>	

	Period to be reviewed
<p> Shye Chang Ningbo Precision Electronic Co. Ltd Sino Connections Logistics Inc. S-Mart (Tianjin) Technology Development Co., Ltd Suntec Industries Co., Ltd. Sunwell Industries Co., Ltd Suzhou Jinyuan Fastener Co., Ltd Suzhou Lantai Hardware Products T.H.I. Group (Shanghai) Ltd. Tag Fasteners Sdn Bhd Tangshan Jikuang Mining Supplies Co. Tengzhou Tri-Union Machinery Co. Ltd Tian Heng Xiang Metal Products Co Ltd Tianjin Baisheng Metal Products Co. Ltd. Tianjin Coways Metal Products Co., Ltd Tianjin Dagang Jingang Nail Factory Tianjin Dongjiang Intl. Shipping Exchange Market Tianjin Free Trade Service Co Ltd Tianjin High Wing International Tianjin Hongli Qiangsheng Import & Export Co., Ltd. Tianjin Huixinshangmao Co. Ltd. Tianjin Hweschun Fasteners Manufacturing Tianjin Jin Xin Sheng Long Metal Products Co., Ltd. Tianjin Jinchi Metal Products Co., Ltd. Tianjin Jinghai County Hongli Industry & Business Co. Tianjin Jinyifeng Hardware Co., Ltd Tianjin Lianda Group Co. Ltd. Tianjin Seungil Chem Tech Co., Ltd. Tianjin Star Pet Tech Co., Ltd. Tianjin Universal Machinery Imp. & Exp. Corporation Tianjin Yinghua Arts & Crafts Co., Ltd. Tianjin Zhonglian Metals Ware Co., Ltd Tianjin Zhonglian Times Technology Co., Ltd. Tianshi Logistics Co., Limited Titan ITM (Tianjin) Co, Ltd Toll Global Forwarding (Hong Kong) Topocean Consolidation Service (China) Ltd. Topocean Consolidation Service (China) Ltd. Tianjin Branch Topocean Consolidation Service (China) Ltd., Qingdao Branch Total Glory Logistics Co., Ltd. Trans Knights Inc. Trans Knights Intl Logistics (Shanghai) Co., Ltd. Trans Wagon International China Co., Ltd. Translink Shipping Inc. Translink Shipping Inc Nanjing Branch Translink Shipping Inc., Xiamen Branch Translink Shipping Inc-Qingdao Translink Shipping Lines—Ningbo (China) Co., Ltd. Trans-Union International Logistics Transwell Logistics Co., Ltd. Triumph Link Logistics Limited TTI Freight Forwarder Company Limited U.S. United Logistics (Ningbo) Inc. UBI Logistics (China) Limited Unicorn Fasteners Co., Ltd. Unique Logistics International (H.K.) Ltd. UPS SCS (China) Co., Ltd. Jiangsu UPS SCS (China) Co., Ltd Ningbo Walkbase Rubber Products Co., Ltd. Waxman Technology China Limited Weida Freight System Co., Ltd Weifang Wenhe Pneumatic Tools Co. Ltd Whale Logistics (Shanghai) Company World Jaguar Logistics, Inc. Worldwide Logistics Co., Ltd. Wuhu Diamond Metal Products Co., Ltd Wulian Zhanpeng Metals Co Wuxi Phoenix Artist Materials Co., Ltd. Xi'an Metals and Minerals Imp & Exp Co., Ltd. Xiamen Greeting Logistics Company Ltd Xiamen Jianming Rising Import & Exp Xiamen Universe Solar Technology Co Ltd Xinchang Xinchai Machinery Co., Ltd. Suzhou Xingya Nail Co., Ltd. Senco-Xingya Metal Products (Taicang) Co., Ltd. </p>	

	Period to be reviewed
Hong Kong Yu Xi Co., Ltd. Omnifast Inc. CIP International Group Co, Ltd. Yangzhou Tongxie Weaving Co Ltd Beijing Kang Jie Kong Int'l Cargo Ag Youngwoo (Cangzhou) Fasteners Co., Ltd Youngwoo Fasteners Co., Ltd. Yusen Logistics (Shenzhen) Co., Ltd Zhangjiagang Bo Hong Trade Co., Ltd. Zhangjiagang Bolnut Trade Co., Ltd. Zhangjiagang Chenjun Trade Co., Ltd. Zhangjiagang Double-Whale Bags Mfg Zhangjiagang Lianfeng Metals Products Co. Ltd. Zhangjiagang Longxiang Industries Co. Ltd. Zhaoqing Harvest Nails Co., Ltd Zhejiang Focus-On Imp. Exp. Co., Zhejiang Hatehui Technology Co., Ltd Zhejiang Hengyi Science & Technology Zhejiang Huantai Precision Machinery Co., Ltd. Zhejiang Laibao Precision Technology Zhejiang Longquan Foreign Trade Co., Ltd. Zhejiang Milestone Fastener Manufacturing Co., Ltd. Zhejiang Rongpeng Imp & Exp Co., Ltd. Zhejiang Sanlin Metals Products Co. Zhejiang Yiwu Yongzhou Imp. & Exp. Co., Ltd Zhejiang Yongzhu Casting Technology Co., Ltd. Zhongge International Trading Co.	
THE PEOPLE'S REPUBLIC OF CHINA: Hydrofluorocarbon Blends, A-570-028 Arkema Daikin Advanced Fluorochemicals (Changsu) Co., Ltd. Daikin Fluorochemicals (China) Co., Ltd. Dongyang Weihua Refrigerants Co., Ltd. Jinhua Yonghe Fluorochemical Co., Ltd. PureMann, Inc. (aka Pure Manna) Shandong Huanan New Material Co., Ltd. Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd. SRF Limited T.T. International Co., Ltd. Weitron International Refrigeration Equipment (Kunshan) Co., Ltd. Zhejiang Lantian Environmental Protection Fluoro Material Co. Ltd. Zhejiang Quzhou Lianzhou Refrigerants Co., Ltd. Zhejiang Sanmei Chemical Industry Co., Ltd. Zhejiang Yonghe Refrigerant Co., Ltd. Zhejiang Zhonglan Refrigeration Technology Co., Ltd.	8/1/19-7/31/20
THE PEOPLE'S REPUBLIC OF CHINA: Light-Walled Rectangular Pipe and Tube, A-570-914 Hangzhou Ailong Metal Products Co., Ltd.	8/1/19-7/31/20
THE PEOPLE'S REPUBLIC OF CHINA: Polyethylene Retail Carrier Bags, A-570-886 Crown Polyethylene Products (International) Ltd. Dongguan Nozawa Plastics Products Co., Ltd. and United Power Packaging, Ltd. (collectively Nozawa)	8/1/19-7/31/20
CVD Proceedings	
INDIA: Finished Carbon Steel Flanges, C-533-872 Adinath International Aditya Forge Limited Allena Group Alloyed Steel Balkrishna Steel Forge Pvt. Ltd. Bansidhar Chiranjilal Bebitz Flanges Works Private Limited C. D. Industries CHW Forge CHW Forge Pvt. Ltd. Citizen Metal Depot Corum Flange DN Forge Industries Echjay Forgings Limited Falcon Valves and Flanges Private Limited Heubach International Hindon Forge Pvt. Ltd. Jai Auto Pvt. Ltd. Kinnari Steel Corporation Mascot Metal Manufacturers M F Rings and Bearing Races Ltd. Munish Forge Private Limited Norma (India) Ltd.	1/1/19-12/31/19

	Period to be reviewed
OM Exports Punjab Steel Works Raaj Sagar Steels Ravi Ratan Metal Industries R. D. Forge R.N. Gupta & Co. Ltd. Rolex Fittings India Pvt. Ltd. Rollwell Forge Engineering Components and Flanges Rollwell Forge Pvt. Ltd. SHM (ShinHeung Machinery) Siddhagiri Metal & Tubes Sizer India Steel Shape India Sudhir Forgings Pvt. Ltd. Tirupati Forge Pvt. Ltd. Uma Shanker Khandelwal & Co. Umashanker Khandelwal Forging Limited USK Export Private Limited SPAIN: Ripe Olives, C-469-818	1/1/19-12/31/19
Aceitunas Guadalquivir, S.L. Agro Sevilla Aceitunas S.Coop. And. Alimentary Group Dcoop S. Coop. And. Angel Camacho Alimentación, S.L. Internacional Olivarera, S.A. THE PEOPLE'S REPUBLIC OF CHINA: Certain Passenger Vehicle and Light Truck Tires, C-570-017	1/1/19-12/31/19
Giti Radial Tire (Anhui) Company Ltd. Giti Tire Global Trading Pte. Ltd. Giti Tire (Fujian) Company Ltd.) Giti Tire (Hualin) Company Ltd. Hankook Tire China Co., Ltd. Haohua Orient International Trade Ltd. Jiangsu Hankook Tire Co., Ltd. Prinx Chengshan (Shandong) Tire Company Ltd. Qingdao Fullrun Tyre Tech Corp., Ltd. Qingdao Honghuasheng Trade Co., Ltd. Qingdao Kapsen Trade Co. Qingdao Lakesea Tyre Co., Ltd. Qingdao Landwinner Tyre Co., Ltd. Riversun Industry Limited Safe & Well (HK) International Trading Limited Sailun Group (HongKong) Co., Limited., formerly known as Sailun Jinyu Group (Hong Kong) Co., Limited. Sailun Group Co., Ltd., formerly known as Sailun Jinyu Group Co., Ltd. Sailun Tire Americas Inc., formerly known as SJI North America Inc. Sailun Tire International Corp Shandong Guofeng Rubber Plastics Co., Ltd. Shandong Habilead Rubber Co., Ltd. Shandong Hongsheng Rubber Technology Co., Ltd. Shandong Linglong Tyre Co., Ltd. Shandong New Continent Tire Co., Ltd. Shandong Province Sanli Tire Manufacture Co., Ltd. Shandong Qilun Rubber Co., Ltd Shandong Wanda Boto Tyre Co., Ltd. Shouguang Firemax Tyre Co., Ltd. Sumitomo Rubber (Hunan) Co. Ltd. Triangle Tyre Co., Ltd. Windforce Tyre Co., Limited Zhaoqing Junhong Co., Ltd.	

Suspension Agreements

None

Duty Absorption Reviews

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an AD order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after

sunset review), Commerce, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether AD duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the

exporter or producer for which the inquiry is requested.

Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant "gap" period of the order (*i.e.*, the period following the expiry of

provisional measures and before definitive measures were put into place), if such a gap period is applicable to the POR.

Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with the procedures outlined in Commerce's regulations at 19 CFR 351.305. Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (e.g., the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Factual Information Requirements

Commerce's regulations identify five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). These regulations require any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The regulations, at 19 CFR 351.301, also provide specific time limits for such factual submissions based on the type of factual information being submitted. Please review the *Final Rule*,⁵ available at <https://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt>, prior to submitting factual information in this segment. Note that Commerce has temporarily modified certain of its requirements for serving documents

containing business proprietary information, until further notice.⁶

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information using the formats provided at the end of the *Final Rule*.⁷ Commerce intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable certification requirements.

Extension of Time Limits Regulation

Parties may request an extension of time limits before a time limit established under part 351 expires, or as otherwise specified by Commerce.⁸ In general, an extension request will be considered untimely if it is filed after the time limit established under part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning CBP data; and (5) Q&V questionnaires. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This policy also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which Commerce will grant untimely-filed requests for the extension of time limits. Please review the *Final Rule*, available at <https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to

submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: October 1, 2020.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2020–22178 Filed 10–5–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–874, A–557–816, A–583–854, A–552–818]

Certain Steel Nails From the Republic of Korea, Malaysia, Taiwan, and the Socialist Republic of Vietnam: Final Results of the Expedited First Sunset Reviews of the Antidumping Duty Orders

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

SUMMARY: As a result of these expedited sunset reviews, Commerce finds that revocation of the antidumping duty (AD) orders on certain steel nails (nails) from the Republic of Korea (Korea), Malaysia, Taiwan, and the Socialist Republic of Vietnam (Vietnam) would be likely to lead to the continuation or recurrence of dumping at the levels indicated in the “Final Results of Review” section of this notice.

DATES: Applicable October 6, 2020.

FOR FURTHER INFORMATION CONTACT: Ian Hamilton, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4798.

SUPPLEMENTARY INFORMATION:

Background

On June 1, 2020, Commerce published the notice of initiation of the first sunset review of the AD orders on nails from Korea, Malaysia, Taiwan, and Vietnam pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).¹ On June 9, 2020, Commerce received notices of intent to participate from Mid Continent Steel & Wire, Inc. (Mid Continent) within the 15-day deadline specified in 19 CFR 351.218(d)(1)(i).²

¹ See *Initiation of Five-Year (Sunset) Reviews*, 85 FR 33088 (June 1, 2020).

² See Mid Continent's Letter, “Certain Steel Nails from the Republic of Korea, the Sultanate of Oman,

⁵ See *Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also the frequently asked questions regarding the *Final Rule*, available at https://enforcement.trade.gov/lei/notices/factual_info_final_rule_FAQ_07172013.pdf.

⁶ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19*, 85 FR 41363 (July 10, 2020).

⁷ See section 782(b) of the Act; see also *Final Rule*; and the frequently asked questions regarding the *Final Rule*, available at https://enforcement.trade.gov/lei/notices/factual_info_final_rule_FAQ_07172013.pdf.

⁸ See 19 CFR 351.302.

Mid Continent claimed interested party status under section 771(9)(C) of the Act as a producer of nails in the United States.

On July 1, 2020, Commerce received adequate substantive responses to the notice of initiation from Mid Continent within the 30-day deadline specified in 19 CFR 351.218(d)(1)(i).³ We received no substantive responses from respondent interested parties with respect to any of the orders covered by these sunset reviews.

On July 21, 2020, Commerce notified the U.S. International Trade Commission that it did not receive an adequate substantive response from respondent interested parties.⁴ As a result, pursuant to 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted expedited (120-day) sunset reviews of the AD orders on nails from Korea, Malaysia, Taiwan, and Vietnam.

Scope of the Orders

The merchandise covered by these orders is nails having a nominal shaft length not exceeding 12 inches.⁵ Merchandise covered by the orders is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7317.00.55.02, 7317.00.55.03, 7317.00.55.05, 7317.00.55.07, 7317.00.55.08, 7317.00.55.11, 7317.00.55.18, 7317.00.55.19, 7317.00.55.20, 7317.00.55.30, 7317.00.55.40, 7317.00.55.50, 7317.00.55.60, 7317.00.55.70, 7317.00.55.80, 7317.00.55.90, 7317.00.65.30, 7317.00.65.60 and 7317.00.75.00. Nails subject to these orders also may be classified under HTSUS subheadings 7907.00.60.00, 8206.00.00.00 or other HTSUS subheadings. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these orders is dispositive.⁶

Malaysia, the Republic of China ("Taiwan"), and the Socialist Republic of Vietnam: Notice of Intent to Participate," dated June 9, 2020.

³ See Mid Continent's Letter, "Certain Steel Nails from the Republic of Korea, the Sultanate of Oman, Malaysia, Taiwan, and the Socialist Republic of Vietnam: Substantive Response to the Notice of Initiation of Sunset Reviews," dated July 1, 2020.

⁴ See Commerce's Letter, "Sunset Reviews Initiated on June 1, 2020," dated July 21, 2020.

⁵ The shaft length of certain steel nails with flat heads or parallel shoulders under the head shall be measured from under the head or shoulder to the tip of the point. The shaft length of all other certain steel nails shall be measured overall.

⁶ For a complete description of the scope of these orders, see Memorandum, "Issues and Decision Memorandum for the Expedited First Sunset Reviews of the Antidumping Duty Orders on Certain Steel Nails from the Republic of Korea,

Analysis of Comments Received

A complete discussion of all issues raised in these sunset reviews, including the likelihood of continuation or recurrence of dumping and the magnitude of the dumping margins likely to prevail if the AD orders were revoked, is provided in the Issues and Decision Memorandum. 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 <http://access.trade.gov>. A list of topics discussed in the Issues and Decision Memorandum is included as an appendix to this notice. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Final Results of Reviews

Pursuant to sections 751(c)(1) and 752(c)(1) and (3) of the Act, Commerce determines that revocation of the AD orders on nails from Korea, Malaysia, Taiwan, and Vietnam would be likely to lead to the continuation or recurrence of dumping, and that the magnitude of the dumping margins likely to prevail is up to 11.80 percent for Korea, 39.35 percent for Malaysia, 2.24 percent for Taiwan, and 323.99 percent for Vietnam.

Administrative Protective Order (APO)

This notice also serves as the only reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective orders 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

We are issuing and publishing the final results and this notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act, and 19 CFR 351.218.

Malaysia, Taiwan, and the Socialist Republic of Vietnam," dated concurrently with, and hereby adopted by this notice (Issues and Decision Memorandum).

Dated: September 29, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Orders
- IV. History of the Orders
- V. Legal Framework
- VI. Discussion of the Issues
 - A. Likelihood of Continuation or Recurrence of Dumping
 - B. Magnitude of the Dumping Margins Likely to Prevail
- VII. Final Results of Sunset Reviews
- VIII. Recommendation

[FR Doc. 2020-22046 Filed 10-5-20; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-907]

Ultra-High Molecular Weight Polyethylene From the Republic of Korea: Preliminary Affirmative Determination of Sales at Less Than Fair Value

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that ultra-high molecular weight polyethylene (ultra-high polyethylene) from the Republic of Korea (Korea) is being, or is likely to be, sold in the United States at less than fair value. The period of investigation is January 1, 2019 through December 31, 2019. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable October 6, 2020.

FOR FURTHER INFORMATION CONTACT: Ian Hamilton, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-4798.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation

on March 31, 2020.¹ On July 20, 2020, Commerce postponed the preliminary determination of this investigation, and the revised deadline is now September 30, 2020.² For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum.³ A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://enforcement.trade.gov/frn/summary/korea-south/korea-south-fr.htm>. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is ultra-high polyethylene from Korea. For a complete description of the scope of this investigation, see Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,⁴ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁵ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage and rebuttal comments submitted on the record for this investigation, see the Preliminary Decision Memorandum. Commerce has preliminarily modified the scope language as it appeared in the *Initiation Notice*. See revised scope in Appendix I to this notice.

¹ See *Ultra-High Molecular Weight Polyethylene from the Republic of Korea: Initiation of Less-Than-Fair-Value Investigation*, 85 FR 17861 (March 31, 2020) (*Initiation Notice*).

² See *Ultra-High Molecular Weight Polyethylene from the Republic of Korea: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation*, 85 FR 43813 (July 20, 2020).

³ See Memorandum, "Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Ultra-High Molecular Weight Polyethylene from the Republic of Korea," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁴ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁵ See *Initiation Notice*, 85 FR at 17862.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export price in accordance with section 772(a) of the Act. Normal value is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying the preliminary determination, see the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

Commerce calculated an individual estimated weighted-average dumping margin for Korea Petrochemical Ind. Co., Ltd./KPIC Corporation (collectively, KPIC), the only individually examined exporter/producer in this investigation.⁶ Because the only individually calculated dumping margin is not zero, *de minimis*, or based entirely on facts otherwise available, the estimated weighted-average dumping margin calculated for KPIC is the margin assigned to all other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Estimated weighted-average dumping margin (percent)
Korea Petrochemical Ind. Co., Ltd./KPIC Corporation	7.80
All Others	7.80

⁶ On September 2, 2020, Commerce determined to collapse Korea Petrochemical Ind. Co., Ltd. and KPIC Corporation and treat them as a single entity. See Memorandum, "Antidumping Duty Investigation of Ultra-High Molecular Weight Polyethylene from the Republic of Korea: Korea Petrochemical Ind. Co., Ltd. Preliminary Affiliation and Collapsing Memorandum," dated September 2, 2020.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for the respondent listed above will be equal to the company-specific estimated weighted-average dumping margin determined in this preliminary determination; (2) if the exporter is not the respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of the date of public announcement of this notice in accordance with 19 CFR 351.224(b).

Verification

Commerce is currently unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. Accordingly, we intend to take additional steps in lieu of on-site verification. Commerce will notify interested parties of any additional documentation or information required.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Interested parties will be notified of the timeline for the submission of case briefs and written comments at a later date. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.⁷ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who

⁷ See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements).

submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Parties are reminded that briefs and hearing requests are to be filed electronically using ACCESS and that electronically filed documents must be received successfully in their entirety by 5 p.m. Eastern Time on the due date. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.⁸

Postponement of Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On September 2, 2020, pursuant to 19 CFR 351.210(e), KPIC requested that Commerce postpone the final determination and that provisional

measures be extended to a period not to exceed six months.⁹ On September 8, 2020, the petitioner submitted a letter supporting KPIC's request to postpone the final determination.¹⁰ In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) The preliminary determination is affirmative; (2) KPIC accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination by no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: September 30, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The merchandise covered by the scope is ultra-high molecular weight polyethylene. Ultra-high molecular weight polyethylene is a linear polyethylene, in granular or powder form is defined by its molecular weight, as defined by Margolie's Equation, of greater than 1.0×10^6 g/mol. Ultra-high molecular weight polyethylene may also be defined by its melt mass-flow rate of <0.1 g/10 min, measured at 190 °C and 21.6 kg load, based

on the methods and calculations set forth in the International Organization for Standardization (ISO) standards 21304–1 and 21304–2. Ultra-high molecular weight polyethylene has a Chemical Abstract Service (CAS) registry number of 9002–88–4.

The scope includes all ultra-high molecular weight polyethylene in granular or powder forms meeting the above specifications regardless of additives introduced in the manufacturing process. Ultra-high molecular weight polyethylene blended with other products is included in the scope of this investigation where ultra-high molecular weight polyethylene accounts for more than 50 percent, by actual weight, of the blend and the resulting blend maintains a molecular weight, as defined by Margolie's Equation, of greater than 1.0×10^6 g/mol and/or a melt mass-flow rate of <0.1 g/10 min.

Excluded from the scope of the investigation is medical-grade ultra-high molecular weight polyethylene. Medical grade ultra-high molecular weight polyethylene has a minimum viscosity of 2000 ml/g at a concentration of 0.02% at 135 °C (275 °F) in decahydronaphthalene and an elongational stress of 0.2 MPa or greater. Medical-grade ultra-high molecular weight polyethylene is further defined by its ash and trace element content, which shall not exceed the following maximum quantities as set forth in ISO–5834–1: Ash (125 mg/kg), titanium (40 mg/kg), calcium (5 mg/kg), chlorine (30 mg/kg), and aluminum (20 mg/kg). ISO 5834–1 further defines medical grade ultra-high molecular weight polyethylene by its particulate matter content, which requires that there shall be no more than three particles of contaminant per 300 ± 20 g tested. Each of the above criteria is calculated based on the standards and methods used in ISO 5834–1.

Ultra-high molecular weight polyethylene is classifiable under the HTSUS subheadings 3901.10.1000 and 3901.20.1000. Although the HTSUS subheadings and CAS registry number are provided for convenience and customs purposes, the written description of the scope is dispositive.

Appendix II—List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Scope Comments
- V. Discussion of the Methodology
- VI. Date of Sale
- VII. Product Comparisons
- VIII. Export Price
- IX. Normal Value
- X. Currency Conversion
- XI. Recommendation

[FR Doc. 2020–22060 Filed 10–5–20; 8:45 am]

BILLING CODE 3510–DS–P

⁸ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

⁹ See KPIC's Letter, "Ultra-High Molecular Weight Polyethylene from the Republic of Korea: Request to Postpone Final Determination and Extend Provisional Measures," dated September 2, 2020.

¹⁰ See Petitioner's Letter, "Petitioners {sic} for the Imposition of Antidumping Duties on Imports of Ultra-High Molecular Weight Polyethylene from the Republic of Korea: Petitioner's Consent to Postponement of the Final Determination," dated September 8, 2020.

DEPARTMENT OF COMMERCE**International Trade Administration****[A-588-850]****Certain Large Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (over 4½ inches) From Japan: Rescission of Antidumping Duty Administrative Review; 2019–2020**

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

SUMMARY: The Department of Commerce (Commerce) is rescinding the administrative review of the antidumping duty (AD) order on certain large diameter carbon and alloy seamless standard, line, and pressure pipe (over 4½ inches) from Japan for the period of review (POR) June 1, 2019, through May 31, 2020, based on the timely withdrawal of the request for review.

DATES: Applicable October 6, 2020.

FOR FURTHER INFORMATION CONTACT: Konrad Ptaszynski, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-6187.

SUPPLEMENTARY INFORMATION:**Background**

On June 2, 2020, Commerce published a notice of opportunity to request an administrative review of the AD order on certain large diameter carbon and alloy seamless standard, line, and pressure pipe (over 4½ inches) from Japan for the POR of June 1, 2019 through May 31, 2020.¹ United States Steel Corporation (U.S. Steel) timely filed requests for an administrative review of Nippon Steel Corporation, Kawasaki Steel Corporation, Sumitomo Metal Industries, Ltd., Okaya & Co., Ltd., and Sumitomo Corporation, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b).² Commerce received no other requests for administrative review.

On August 6, 2020, pursuant to these requests and in accordance with 19 CFR

351.221(c)(1)(i), Commerce published a notice initiating an administrative review of the AD order on large diameter carbon and alloy seamless standard, line, and pressure pipe (over 4½ inches) from Japan.³ On September 1, 2020, U.S. Steel withdrew its request for an administrative review with respect to all of the companies for which it had requested a review.⁴

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party or parties that requested a review withdraws the request within 90 days of the publication date of the notice of initiation of the requested review. U.S. Steel withdrew its request for review of all companies within 90 days of the publication date of the notice of initiation. No other parties requested an administrative review of the order. Therefore, in accordance with 19 CFR 351.213(d)(1), we are rescinding the administrative review of the AD order on certain small diameter carbon and alloy seamless standard, line, and pressure pipe (over 4½ inches) from Japan covering June 1, 2019, through May 31, 2020, its entirety.

Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of large diameter carbon and alloy seamless standard, line, and pressure pipe (over 4½ inches) from Japan during the POR. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP 15 days after the date of publication of this notice in the **Federal Register**.

Notification to Importers

This notice serves as a final 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 review period. Failure to

comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to all parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return/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 notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: September 22, 2020.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2020-22050 Filed 10-5-20; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE**International Trade Administration****[A-489-826]****Certain Hot-Rolled Steel Flat Products From the Republic of Turkey: 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 Ereğli Demir ve Çelik Fabrikalari T.A.S. and Iskenderun Iron & Steel Works Co. (collectively, Erdemir Group) had no shipments of certain hot-rolled steel flat products (hot-rolled steel) from the Republic of Turkey (Turkey) to the United States during the period of review (POR), October 1, 2017 through September 30, 2018. Additionally, Commerce continues to determine that certain non-examined producers and exporters made sales of hot-rolled steel to the United States at prices below normal value (NV) during the POR.

DATES: Applicable October 6, 2020.

FOR FURTHER INFORMATION CONTACT: Lingjun Wang, AD/CVD Operations,

¹ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 85 FR 33628 (June 2, 2020).

² See U.S. Steel's Letter, "Carbon and Alloy Seamless Standard Line, and Pressure Pipe (Over 4½ Inches) from Japan: Request for Administrative Review of Antidumping Duty Order," dated June 22, 2020.

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 47731 (August 6, 2020).

⁴ See U.S. Steel's Letter, "Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Over 4.5 Inches) from Japan: Withdrawal of Request for Administrative Review of Antidumping Duty Order," dated September 1, 2020.

Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2316.

SUPPLEMENTARY INFORMATION:

Background

On October 3, 2016, Commerce published an antidumping duty order on hot-rolled steel from Turkey.¹ Commerce published the *Preliminary Results* of the 2017–18 administrative review of the *Order* on December 17, 2019.² We preliminarily determined that the sole mandatory respondent, Colakoglu Metalurji A.S. and Colakoglu Dis Ticaret A.S. (collectively, Colakoglu), sold subject merchandise in the United States at prices below NV, and that the Erdemir Group made no shipments of subject merchandise to the United States during the POR.³

On January 16, 2020, Colakoglu filed a case brief.⁴ On January 21, 2020, ArcelorMittal USA LLC (the petitioner) filed a rebuttal brief.⁵

On April 9, 2020, we extended the time limit for the final results of this review from 120 days to 178 days after publication of the *Preliminary Results*.⁶ On April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days.⁷ Subsequently, on July 21, 2020, Commerce tolled all deadlines in administrative reviews by an additional 60 days.⁸ The deadline for the final

results of this review is now September 30, 2020.

On May 15, 2020, Commerce discontinued this administrative review with respect to Colakoglu, based on the final judgment of the U.S. Court of International Trade (CIT) in the litigation associated with the underlying less-than-fair-value investigation.⁹

The “Final Results of the Review” section lists the companies covered by these final results. Commerce conducted this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The merchandise covered by the order is certain hot-rolled steel flat products from Turkey. For a complete description of the scope of this order, *see the Preliminary Results*.

Analysis of Comments Received

Colakoglu was the sole mandatory respondent in this administrative review, and all issues raised in Colakoglu’s case brief and the petitioner’s rebuttal brief relate to Colakoglu. Because Commerce discontinued this administrative review with respect to Colakoglu, effective April 23, 2020, we have not considered the issues raised in parties’ briefs for these final results, and therefore there is no accompanying Issues and Decision Memorandum.

Changes Since the Preliminary Results

Because this review has been discontinued with respect to Colakoglu, we have not calculated a weighted-average dumping margin for these final results. Therefore, the weighted-average dumping margin determined for each of the non-examined companies is 2.73 percent from the *Amended Final Determination and Amended Order*.

Final Determination of No Shipments

In the *Preliminary Results*, we determined that Erdemir Group had no

shipments.¹⁰ We received no comments with respect to this preliminary determination. As there is no record evidence which would call into question the *Preliminary Results*, we continue to find that the Erdemir Group had no shipments of subject merchandise during the POR. Consistent with our practice, we intend to instruct U.S. Customs and Border Protection (CBP) to liquidate any existing entries of subject merchandise associated with the Erdemir Group consistent with Commerce’s reseller policy.¹¹

Non-Examined Companies

The statute and Commerce’s regulations do not address what rate to apply to companies who are not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a less-than-fair-value (LTFV) investigation, for guidance when calculating the rate for non-examined companies in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally “an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.” However, section 735(c)(5)(B) of the Act states that if the weighted-average dumping margins for all individually examined companies are zero, *de minimis* or based entirely on facts available, then Commerce may use “any reasonable method” for assigning a rate to non-examined companies.

As a result of Colakoglu’s exclusion from the *Order* after the publication of the *Preliminary Results*, and no selection of another company for individual examination, there is no calculated weighted-average dumping margin in these final results which can be used to determine the weighted-average dumping margin for the non-examined companies. Further, after excluding Colakoglu, the only individually calculated rate in any segment of this proceeding is the 2.73 percent rate calculated for Erdemir Group in the LTFV investigation, and assigned as the all-others rate in the *Amended Final Determination and*

¹ See *Certain Hot-Rolled Steel Flat Products from Australia, Brazil, Japan, the Republic of Korea, the Netherlands, the Republic of Turkey, and the United Kingdom: Amended Final Affirmative Antidumping Determinations for Australia, the Republic of Korea, and the Republic of Turkey and Antidumping Duty Orders*, 81 FR 67962 (October 3, 2016) (*Order*).

² See *Certain Hot-Rolled Steel Flat Products from Republic of Turkey: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2017–2018*, 84 FR 68878 (December 17, 2019) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

³ *Id.*

⁴ See Colakoglu’s Letter, “Colakoglu’s Case Brief,” dated January 16, 2020.

⁵ See Petitioner’s Letter, “Petitioner’s Rebuttal Brief Regarding Colakoglu,” dated January 21, 2020.

⁶ See Memorandum, “Certain Hot-Rolled Steel Flat Products from the Republic of Turkey: Extension of Deadline for Final Results of Antidumping Duty Administrative Review; 2017–2018,” dated April 9, 2020.

⁷ 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.

⁸ See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews,” dated July 21, 2020.

⁹ On April 13, 2020, the CIT issued its final judgment sustaining Commerce’s final results of redetermination wherein Colakoglu’s estimated weighted-average dumping margin from the underlying less-than-fair-value investigation changed from 6.77 percent to zero percent. See *Eregli Demir ve Celik Fabrikalari T.A.S. v. United States*, 435 F. Supp. 3d 1378 (CIT 2020). Therefore, we excluded Colakoglu from the *Order* and discontinued this review of Colakoglu during the pendency of the appeals process. See *Certain Hot-Rolled Steel Flat Products from Turkey: Notice of Court Decision Not in Harmony with the Amended Final Determination in the Less-Than-Fair-Value Investigation; Notice of Amended Final Determination, Amended Antidumping Duty Order, Notice of Revocation of Antidumping Duty Order in Part; and Discontinuation of the 2017–18 and 2018–19 Antidumping Duty Administrative Reviews, in Part*, 85 FR 29399 (May 15, 2020) (*Amended Final Determination and Amended Order*).

¹⁰ See *Preliminary Results*, 84 FR 68879, and accompanying PDM at 6.

¹¹ See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Reseller Policy*).

Amended Order.¹² Therefore, we have assigned the 2.73 percent rate for Erdemir Group and all other producers and exporters as the weighted-average dumping margin for the non-examined companies in this administrative review.

Final Results of the Review

Commerce determines that the following weighted-average dumping margins exist for the period October 1, 2017 through September 30, 2018:

Exporter or producer	Weighted-average dumping margin (percent)
Agir Haddecilik A.S	2.73
Cag Celik Demir ve Celik	2.73
Gazi Metal Mamulleri Sanayi Ve Ticaret A.S	2.73
Habas Industrial and Medical Gases Production Industries Inc	2.73
Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi	2.73
MMK Atakas Metalurji	2.73
Ozkan Iron and Steel Ind	2.73
Seametal San ve Dis Tic	2.73
Tosyali Holding (Toscelik Profile and Sheet Ind. Co., Toscelik Profil ve Sac)	2.73

Disclosure

Commerce made no calculations as part of these final results. Consequently, there is no information to disclose to parties as a result of these final results of review.

Assessment

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this administrative review. Commerce intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this administrative review in the **Federal Register**.

For the companies which were not selected for individual review, where a company's weighted-average dumping margin is not zero or *de minimis* (i.e., less than 0.5 percent), we will instruct CBP to assess antidumping duties for that company's entries of subject merchandise during the POR at an *ad valorem* rate equal to the weighted-average dumping margin determined for that company in the final results of this review. For a company where the

weighted-average dumping margin is zero or *de minimis*, we will instruct CBP to liquidate that company's suspended entries of subject merchandise without regard to antidumping duties.

Because we continue to find that the Erdemir Group had no shipments of subject merchandise during the POR, we will instruct CBP to liquidate suspended entries of subject merchandise attributed to the Erdemir Group at the all-others rate from the *Amended Final Determination and Amended Order* if there is no rate for the intermediate company(ies) involved in the transaction.¹³

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) For the companies identified above in the Final Results of Review section, the cash deposit rates will be equal to the company-specific weighted-average dumping margin established in the final results of this review, except that where the weighted-average dumping margin is *de minimis* (i.e., less than 0.5 percent) the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not participating in this administrative review, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a previous review, or the underlying LTFV investigation, but the producer is, then the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of subject merchandise; and (4) the cash deposit rate for all other producers or exporters will be 2.73 percent, the all-others rate established in the *Amended Final Determination and Amended Order*. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review

period. Failure to comply with this requirement could result in the presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

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(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h) and 19 CFR 351.221(b)(5).

Dated: September 30, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2020-22052 Filed 10-5-20; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-851]

Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (under 4½ inches) From Japan: Rescission of Antidumping Duty Administrative Review; 2019–2020

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

SUMMARY: The Department of Commerce (Commerce) is rescinding the administrative review of the antidumping duty (AD) order on certain small diameter carbon and alloy seamless standard, line, and pressure pipe (under 4½ inches) from Japan for the period of review (POR) June 1, 2019, through May 31, 2020, based on the timely withdrawal of the request for review.

DATES: Applicable October 6, 2020.

FOR FURTHER INFORMATION CONTACT: Konrad Ptaszynski, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade

¹² See *Amended Final Determination and Amended Order*, 85 FR at 29400.

¹³ For a full discussion of this practice, see *Reseller Policy*.

Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-6187.

SUPPLEMENTARY INFORMATION:

Background

On June 2, 2020, Commerce published a notice of opportunity to request an administrative review of the AD order on certain small diameter carbon and alloy seamless standard, line, and pressure pipe (under 4½ inches) from Japan for the POR of June 1, 2019 through May 31, 2020.¹ United States Steel Corporation (U.S. Steel) timely filed requests for an administrative review of Nippon Steel Corporation, Kawasaki Steel Corporation, Sumitomo Metal Industries, Ltd., Okaya & Co., Ltd., and Sumitomo Corporation, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b).² Commerce received no other requests for administrative review.

On August 6, 2020, pursuant to these requests and in accordance with 19 CFR 351.221(c)(1)(i), Commerce published a notice initiating an administrative review of the AD order on small diameter carbon and alloy seamless standard, line, and pressure pipe (under 4½ inches) from Japan.³ On September 1, 2020, U.S. Steel withdrew its request for an administrative review with respect to all of the companies for which it had requested a review.⁴

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party or parties that requested a review withdraws the request within 90 days of the publication date of the notice of initiation of the requested review. U.S. Steel withdrew its request for review of all companies within 90 days of the publication date of the notice of initiation. No other parties requested an administrative review of the order. Therefore, in accordance with 19 CFR

351.213(d)(1), we are rescinding the administrative review of the AD order on certain small diameter carbon and alloy seamless standard, line, and pressure pipe (under 4½ inches) from Japan covering June 1, 2019 through May 31, 2020, its entirety.

Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of small diameter carbon and alloy seamless standard, line, and pressure pipe (under 4½ inches) from Japan during the POR. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP 15 days after the date of publication of this notice in the **Federal Register**.

Notification to Importers

This notice serves as a final 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 review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to all parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return/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 notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: September 22, 2020.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2020-22051 Filed 10-5-20; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XA495]

Membership of the National Oceanic and Atmospheric Administration Performance Review Board

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of membership of the NOAA Performance Review Board.

SUMMARY: NOAA announces the appointment of members who will serve on the NOAA Performance Review Board (PRB). The NOAA PRB is responsible for reviewing performance appraisals and ratings of Senior Executive Service (SES), Senior Level (SL), and Scientific and Professional (ST) members and making written recommendations to the appointing authority on retention and compensation matters, including performance-based pay adjustments, awarding of bonuses, and reviewing recommendations for potential Presidential Rank Award nominees. The appointment of members to the NOAA PRB will be for a period of 2 years.

DATES: The effective date of service of the 10 appointees to the NOAA Performance Review Board is October 15, 2020.

FOR FURTHER INFORMATION CONTACT:

James Triem, Director, Executive Resources Division, Office of Human Capital Services, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, (301) 628-1882.

SUPPLEMENTARY INFORMATION: The names and positions of the members for the 2020 NOAA PRB are set forth below:

- Mary S. Wohlgemuth, Chair: Director, National Centers for Environmental Information, National Environmental Satellite Data, and Information Service, NOAA
- Steven Thur, Co-Chair: Director, National Center for Coastal Ocean Services, National Ocean Service, NOAA
- Irene Parker: Assistant Chief Information Officer, National Environmental Satellite, Data, and Information Service, NOAA
- Kevin Kimball: Chief of Staff, National Institute of Standards and Technology
- James A. St. Pierre: Deputy Director, Information Technology Laboratory, National Institute of Standards and Technology

¹ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 85 FR 33628 (June 2, 2020).

² See U.S. Steel's Letter, "Carbon and Alloy Seamless Standard Line, and Pressure Pipe (Under 4 ½ Inches) from Japan: Request for Administrative Review of Antidumping Duty Order," dated June 22, 2020.

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 47731 (August 6, 2020).

⁴ See U.S. Steel's Letter, "Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Under 4.5 Inches) from Japan: Withdrawal of Request for Administrative Review of Antidumping Duty Order," dated September 1, 2020.

- David Holst: Chief Financial Officer, Office of Oceanic and Atmospheric Research, NOAA
- John S. Luce, Jr.: General Counsel, NOAA
- David Michaud: Director, Office of Central Processing, National Weather Service, NOAA
- Donna Whiting: Director, Office of Protected Resources, National Marine Fisheries Service, NOAA
- Deidre Jones: Chief Administrative Officer, Office of the Chief Administrative Officer, NOAA
- Michelle Mainelli-McInerney: Director, Office of Dissemination, National Weather Service, NOAA
- Christopher Oliver: Assistant Administrator for Marine Fisheries, National Marine Fisheries Service, NOAA
- Juliana Blackwell: Director, Office of National Geodetic Survey, National Ocean Services, NOAA
- Gary Matlock: Deputy Assistant Administrator for Services, Oceanic and Atmospheric Research, NOAA

Dated: September 30, 2020.

Sean Clayton,

Director, Office of Human Capital Services, National Oceanic and Atmospheric Administration.

[FR Doc. 2020-22002 Filed 10-5-20; 8:45 am]

BILLING CODE 3510-12-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XA448]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Training Operations at the Marine Corps Air Station Cherry Point Range Complex

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

ACTION: Notice; receipt of application for Letter of Authorization; request for comments and information.

SUMMARY: NMFS has received a request from the U.S. Marine Corp (USMC) for authorization to take bottlenose dolphin incidental to training operations at the Marine Corps Air Station (MCAS) Cherry Point Range Complex over the course of seven years from the date of issuance. Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of the USMC's request for the development and implementation of regulations

governing the incidental taking of marine mammals. NMFS invites the public to provide information, suggestions, and comments on USMC's application and request.

DATES: Comments and information must be received no later than November 5, 2020.

ADDRESSES: Comments on the applications should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Written comments should be submitted via email to ITP.guan@noaa.gov.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-undermarine-mammal-protection-act> without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT:

Shane Guan, Office of Protected Resources, NMFS, (301) 427-8401. An electronic copy of USMC's application may be obtained online at: <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-undermarine-mammal-protection-act>. In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the "take" of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed

incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other "means of effecting the least practicable adverse impact" on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as "mitigation"); and requirements pertaining to the mitigation, monitoring and reporting of the takings are set forth.

The NDAA (Pub. L. 108-136) removed the "small numbers" and "specified geographical region" limitations indicated above and amended the definition of "harassment" as it applies to a "military readiness activity." The activity for which incidental take of marine mammals is being requested addressed here qualifies as a military readiness activity. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

Summary of Request

On August 3, 2020, NMFS received an application from USMC requesting authorization for take of bottlenose dolphin incidental to training operations at the MCAS Cherry Point Range Complex off North Carolina. The requested regulations would be valid for seven years, from May 18, 2021 through May 17, 2028. USMC plans to conduct training activities conducted at the in-water ranges that involve the use of live (explosive) and inert (non-explosive) ordnance, and small boat maneuvers. The proposed action may incidentally expose marine mammals occurring in the vicinity to elevated levels of sound and potential auditory injury in the form of permanent threshold shift, thereby resulting in incidental take, by Level A and Level B harassment. NMFS provided questions and comments to USMC after receiving the initial application regarding the scope of the project and impact analysis. After receiving USMC's responses, NMFS considered the Letter of Authorization application adequate and complete on September 10, 2020.

Specified Activities

USMC's proposed training operations involve the use of live (explosive) and inert (non-explosive) ordnance, and small boat maneuvers. These activities would occur at the in-water bombing targets Brant Island (BT-9) and Rattan Bay (BT-11) located in Pamlico Sound, North Carolina (NC).

Munitions firing training conducted on the water ranges includes air-to-surface (firing from aircraft to surface water targets) and surface-to-surface (firing from ship or boat to surface targets). The number of sorties that conduct these missions may vary from year to year. The deployment of live ordnance would only occur at BT-9; all munitions fired at BT-11 would be inert with the exception of a signal charge in practice bombs.

Surface-to-Surface Firing

Gunnery exercise is the only category of surface-to-surface activity currently conducted at BT-9 and BT-11. During this exercise, a small boat, typically operated by Special Boat Team personnel, uses a machine gun to attack a surface target that simulates another ship, boat, swimmer, floating mine or near-shore land targets. Boats conducting surface-to-surface firing activities will typically use 7.62 millimeter (mm) or .50 caliber (cal) machine guns; 40 mm grenade machine guns; or G911 concussion hand grenades. This exercise is usually a live-fire exercise, but blanks may be used so that the boat crews can practice their ship handling skills. BT-9 is the most common target used for gunnery exercises. A target is not used for the gunnery exercises employing the G911 Concussion grenade, as the goal of this specific training is to learn how to throw the grenade into the water.

Air-to-Surface Firing

There are four categories of air-to-surface activities conducted at the MCAS Cherry Point bombing targets: Mine laying, bombing, gunnery, and rocket exercises.

- **Mine Laying:** These activities involve a fixed-wing aircraft deploying inert mine shapes in an offensive or defensive pattern. Mine laying operations are conducted in the waters around BT-9. Mine laying exercises could include the use of Mark (MK)-62/63, MK-76, BDU-45, or Bomb Dummy Unit (BDU)-48 inert training shapes. Each training shape weighs 500/1000, 25, 500, and 10 (lbs.) (227/454, 11, 227, and 4.5 kg), respectively.

- **Bombing Exercise:** During these exercises, fixed-wing aircraft (two-four

craft) deliver bombs against surface maritime targets with the goal of destroying or disabling enemy ships or boats. These exercises occur during day and night. Air-to-surface bombing exercises employ either unguided or precision-guided munitions. Unguided munitions include MK-76 and BDU-45 inert training bombs, as well as the MK-80 series of inert bombs (no cluster munitions are authorized). Precision-guided munitions consist of laser-guided bombs (inert) and laser-guided training rounds (inert).

- **Gunnery Exercise:** Rotary-wing (and tilt-wing) gunnery exercises involve CH-53, UH-1, CH-46, MV-22, or H-60 rotary-wing aircraft with mounted 7.62 mm or .50 cal machine guns. Each gunner expends approximately 800 rounds of 7.62 mm or 200 rounds of .50 cal ammunition per exercise. Fixed-wing gunnery exercises involve two aircraft that begin descent to the target from an altitude of approximately 914 meters (m) (3,000 feet [ft]) while still several miles away. Within a distance of 1,219 m (4,000 ft) from the target, each aircraft fires a burst of approximately 30 rounds before descending to a minimum altitude of 305 m (1,000 ft) and then breaks off and repositions for another strafing run. This continues until each aircraft expends its exercise ordnance allowance of approximately 250 rounds. Typically fixed-wing gunnery exercises involve F/A-18 with Vulcan M61A1/A2, 20 mm cannon, and AV-8 with GAU-12, 25 mm cannon.

- **Rocket Exercise:** Fixed- and rotary-wing aircraft crews launch rockets at surface maritime targets during rocket exercises with the goal of destroying or disabling enemy ships or boats. Rocket exercises may occur day or night. These operations employ 2.75-inch (in) and 5-inch rockets.

A suite of proposed mitigation and monitoring measures for marine mammals that would be applied during specific training activities includes: (1) Establishing and monitoring exclusion zones for marine mammals, (2) conducting range sweeps during the morning of each exercise day prior to range operations, and (3) conducting a cold pass by an aircraft immediately prior to ordnance delivery at the bombing targets.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning USMC's request (see **ADDRESSES**). NMFS will consider all information, suggestions, and comments related to the request during the development of proposed regulations governing the incidental taking of

marine mammals by the USMC, if appropriate.

Dated: October 1, 2020.

Donna Wieting,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

[FR Doc. 2020-22022 Filed 10-5-20; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XA532]

Marine Mammals; File No. 23807; Correction

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

ACTION: Notice; receipt of application for permit amendment; correction.

SUMMARY: On September 28, 2020, NMFS published a notice in the **Federal Register** announcing that NMFS had received an application for an amendment to Permit No. 23807 from Plimsoll Productions Limited, 51-55 Whiteladies Road, Bristol, BS8 2LY, United Kingdom (Responsible Party: Anuschka Schofield). That document did not reflect that filming may also occur up to 3 miles offshore from Colleton County, SC. This document corrects this error. All other information is unchanged.

FOR FURTHER INFORMATION CONTACT: Erin Markin or Carrie Hubard, (301) 427-8401.

SUPPLEMENTARY INFORMATION: The notice of receipt for a permit amendment (85 FR 60767; September 28, 2020) did not reflect that filming activities will occur up to 3 miles offshore of Colleton County, SC. In fact, the permit holder has requested to film up to 3 miles offshore from Charleston and Colleton Counties.

All other information contained in the document is unchanged.

Correction

In the **Federal Register** of September 28, 2020, in FR Doc. 2020-21334, on page 60767, in the second column, in the second paragraph under the **SUPPLEMENTARY INFORMATION** heading, the third sentence is corrected to read as follows:

In addition, the permit holder is requesting to expand the filming area to up to 3 miles offshore from Charleston and Colleton Counties.

Dated: September 30, 2020.

Julia Marie Harrison,

*Chief, Permits and Conservation Division,
Office of Protected Resources, National
Marine Fisheries Service.*

[FR Doc. 2020–22032 Filed 10–5–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA539]

Marine Mammals; File No. 23802

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that University of Florida, Aquatic Animal Health Program, College of Veterinary Medicine, 2015 SW 16th Avenue, Gainesville, FL 32608 (Responsible Party: Michael Walsh, D.V.M.), has applied in due form for a permit to import, export, and receive marine mammal parts for scientific research.

DATES: Written, telefaxed, or email comments must be received on or before November 5, 2020.

ADDRESSES: The application and related documents are available for review by selecting “Records Open for Public Comment” from the “Features” box on the Applications and Permits for Protected Species (APPS) home page, <https://apps.nmfs.noaa.gov>, and then selecting File No. 23802 from the list of available applications. These documents are also available upon written request via email to NMFS.Pr1Comments@noaa.gov.

Written comments on this application should be submitted via email to NMFS.Pr1Comments@noaa.gov. Please include File No. 23802 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to NMFS.Pr1Comments@noaa.gov. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Shasta McClenahan or Jennifer Skidmore, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and

importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The applicant proposes to receive, import, and export marine mammal parts to (1) analyze diagnostic samples; and (2) discover, investigate, and determine baseline levels for marine mammal health, infectious disease, microbiome, genetics, toxins, contaminants, nutrition, and reproduction. An unlimited number of samples from up to 700 individual cetaceans and 400 individual pinnipeds, excluding walrus, annually, may be received domestically and imported or exported world-wide. The requested duration of the permit is 5 years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: September 30, 2020.

Julia Marie Harrison,

*Chief, Permits and Conservation Division,
Office of Protected Resources, National
Marine Fisheries Service.*

[FR Doc. 2020–22028 Filed 10–5–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Technical Information Service

National Technical Information Service Advisory Board

AGENCY: National Technical Information Service.

ACTION: Notice of open meeting.

SUMMARY: This notice announces the next meeting of the National Technical Information Service (NTIS) Advisory Board (the Advisory Board).

DATES: The Advisory Board will meet on Thursday, November 12, 2020 from 1:00 p.m. to approximately 4:30 p.m., Eastern Time, via teleconference.

ADDRESSES: The Advisory Board meeting will be via teleconference.

Please note attendance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Ramsey, (703) 605–6703, DRamsey@ntis.gov.

SUPPLEMENTARY INFORMATION: The Advisory Board is established by Section 3704b(c) of Title 15 of the United States Code. The charter has been filed in accordance with the requirements of the Federal Advisory Committee Act, as amended (5 U.S.C. App.). The Advisory Board reviews and makes recommendations to improve NTIS programs, operations, and general policies in support of NTIS’ mission to advance Federal data priorities, promote economic growth, and enable operational excellence by providing innovative data services to Federal agencies through joint venture partnerships with the private sector.

The meeting will focus on a review of the progress NTIS has made in implementing its data mission and strategic direction. A final agenda and summary of the proceedings will be posted on the NTIS website as soon as they are available (<http://www.ntis.gov/about/advisorybd.aspx>).

The teleconference will be via controlled access. Members of the public interested in attending via teleconference or speaking are requested to contact Mr. Ramsey at the contact information listed in the **FOR FURTHER INFORMATION CONTACT** section above not later than Friday, November 6, 2020. If there are sufficient expressions of interest, up to one-half hour will be reserved for public oral comments during the session. Speakers will be selected on a first-come, first-served basis. Each speaker will be limited to five minutes. Questions from the public will not be considered during this period.

Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated on the agenda, and those who were unable to attend are invited to submit written statements by emailing Mr. Ramsey at the email address provided in the **FOR FURTHER INFORMATION CONTACT** section above.

Dated: September 24, 2020.

Gregory Capella,

Deputy Director.

[FR Doc. 2020–22024 Filed 10–5–20; 8:45 am]

BILLING CODE 3510–04–P

DEPARTMENT OF ENERGY

Amended Record of Decision for the Long-Term Management and Storage of Elemental Mercury

AGENCY: Office of Environmental Management, U.S. Department of Energy.

ACTION: Amended record of decision.

SUMMARY: The U.S. Department of Energy (DOE) is issuing this Amended Record of Decision (AROD) to amend its Record of Decision (ROD) for the long-term management and storage of elemental mercury published in the **Federal Register** on December 6, 2019. This AROD withdraws the designation of Waste Control Specialists (WCS) pursuant to the Mercury Export Ban Act of 2008 (MEBA) as the DOE facility for long-term management and storage of elemental mercury. DOE has, however, decided to store at WCS certain elemental mercury to which DOE accepts the conveyance of title pursuant to a legal settlement or proceeding.

ADDRESSES: For electronic copies of this Amended Record of Decision, the December 6, 2019 Record of Decision, the *Long-Term Management and Storage of Elemental Mercury Environmental Impact Statement* (DOE/EIS-0423), the *Long-Term Management and Storage of Elemental Mercury Supplemental Environmental Impact Statement* (DOE/EIS-0423-S1), and the *Supplement Analysis of the Final Long-Term Management and Storage of Elemental Mercury Environmental Impact Statement* (DOE/EIS-0423-SA-01), please go to the following website: <https://www.energy.gov/nepa/nepa-documents>. For paper copies, please contact Dave Haught at U.S. Department of Energy, Office of Environmental Management, Office of Waste Disposal (EM-4.22), 1000 Independence Avenue SW, Washington, DC 20585 or at David.Haught@hq.doe.gov.

FOR FURTHER INFORMATION CONTACT: For further information on the management and storage of elemental mercury, please contact Dave Haught at David.Haught@hq.doe.gov or visit <https://www.energy.gov/em/services/waste-management/waste-and-materials-disposition-information/long-term-management-and>. For general information on the Office of Environmental Management's National Environmental Policy Act of 1969 process, please contact Bill Ostrum, at William.Ostrum@hq.doe.gov and at (202) 586-2513.

SUPPLEMENTARY INFORMATION:**Background**

Pursuant to Section 5(a)(1) of the Mercury Export Ban Act of 2008 (Pub. L. 110-414), as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act, (Pub. L. 114-182) (herein referred to as MEBA) (42 U.S.C. 6939f(a)(1)), the U.S. Department of Energy (DOE) was directed to designate a facility or facilities of DOE for the long-term management and storage of elemental mercury generated within the United States.

On January 28, 2011, DOE published a Notice of Availability in the **Federal Register** (76 FR 5145) to notify the public of the issuance of the *Final Long-Term Management and Storage of Elemental Mercury Environmental Impact Statement* (DOE/EIS-0423) (Final Elemental Mercury Storage EIS). In addition to the No Action Alternative, the Final Elemental Mercury Storage EIS evaluated eight locations at seven government and commercial sites for management and storage of elemental mercury: The DOE Grand Junction Disposal Site, Grand Junction, Colorado; the DOE Hanford Site, Richland, Washington; the Hawthorne Army Depot, Hawthorne, Nevada; the Idaho Nuclear Technology and Engineering Center and the Radioactive Waste Management Complex at the DOE Idaho National Laboratory, Idaho Falls, Idaho; the DOE Kansas City Plant, Kansas City, Missouri; the DOE Savannah River Site, Aiken, South Carolina; and the Waste Control Specialists, LLC (WCS) facility, near Andrews, Texas. The Final Elemental Mercury Storage EIS identified the WCS facility as its preferred alternative.

On October 4, 2013, the Environmental Protection Agency (EPA) published a Notice of Availability in the **Federal Register** (78 FR 61844) to notify the public of DOE's issuance of the *Final Long-Term Management and Storage of Elemental Mercury Supplemental Environmental Impact Statement* (DOE/EIS-0423-S1; Final SEIS). The Final SEIS evaluated additional alternatives for a facility at and in the vicinity of the Waste Isolation Pilot Plant near Carlsbad, New Mexico, and updated some of the analyses presented in the Final Elemental Mercury Storage EIS. The Final SEIS did not change the DOE preferred alternative, which remained as the WCS facility near Andrews, Texas.

On June 5, 2019, DOE published a *Supplement Analysis of the Final Long-Term Management and Storage of Elemental Mercury Environmental Impact Statement* (DOE/EIS-0423-SA-

01; SA) to determine whether supplemental or new National Environmental Policy Act of 1969 (NEPA) documentation was required to address the proposal to manage and store elemental mercury. The SA provided an analysis of the potential impacts presented in the Final Elemental Mercury Storage EIS and Final SEIS to determine if there have been substantial changes to the proposal since 2013 or if there are significant new circumstances or information relevant to environmental concerns. The SA was prepared in accordance with the DOE NEPA implementing procedures at 10 CFR 1021.314(c) and concluded that there was not a substantial change to the proposal evaluated in the Final Elemental Mercury Storage EIS or Final SEIS or significant new circumstances or information relevant to environmental concerns that would require preparation of an additional SEIS or new EIS. DOE determined that no further NEPA analysis was required.

Section 5(a)(1) of MEBA directs DOE to designate a facility or facilities of DOE for the long-term management and storage of elemental mercury generated within the United States. As stated in the Final Elemental Mercury Storage EIS, DOE proposed to construct one or more new facilities and/or select one or more existing facilities (including modification as needed) for the long-term management and storage of elemental mercury, as required by Section 5(a)(1) of MEBA. In the Final Elemental Mercury Storage EIS, DOE identified a need to provide such a facility capable of managing an elemental mercury inventory estimated to range up to 10,000 metric tons (11,000 tons) for a 40-year period of analysis. In the SA, DOE updated the projected inventory of elemental mercury to 6,800 metric tons (7,480 tons). Any such facility must comply with applicable requirements of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901 *et seq.*) and other permitting requirements, except as otherwise provided by Section 5(g)(2) of MEBA.

On December 6, 2019, DOE published the ROD in the **Federal Register** (84 FR 66890). Based on consideration of the analyses in the Final Elemental Mercury Storage EIS, Final SEIS, and SA, DOE decided in the ROD to designate the WCS site near Andrews, Texas, as a DOE facility for management and storage of up to 6,800 metric tons (7,480 tons) of elemental mercury pursuant to Section 5(a)(1) of MEBA, and to manage and store the elemental mercury in leased portions of existing buildings, the

Container Storage Building and Bin Storage Unit 1, at the WCS site. This decision was also based on other programmatic, policy, logistic, and cost considerations.

On December 10, 2019, DOE issued a task order for a lease and services agreement with WCS for the storage space. The lease was signed by DOE and WCS on December 13, 2019, and expires on June 4, 2021.

On December 23, 2019, DOE published in the **Federal Register** a final rule to establish a fee for long-term management and storage of elemental mercury in accordance with MEBA (Fee Rule) (84 FR 70402). Section 5(b)(1)(A) of MEBA provides that DOE shall assess and collect a fee at the time of delivery for providing such management and storage of elemental mercury delivered to the facility.

On December 27, 2019, DOE announced that the Texas Commission on Environmental Quality (TCEQ) had approved an application for a modification to the WCS hazardous waste permit. The permit modification added DOE as co-operator for compartments 6, 7, 8, and 9 of the Container Storage Building for the storage of elemental mercury in recognition of its status as a DOE designated facility under MEBA. DOE's December 27, 2019, announcement also stated that DOE had entered into a lease and services agreement with WCS for management and storage of elemental mercury, and that entities wishing to deliver elemental mercury to the DOE-designated facility for long-term management and storage should contact WCS.

Two domestic generators of elemental mercury subsequently filed complaints in United States District Court challenging, among other things, the validity of the Fee Rule and the ROD designating the WCS site as a DOE facility for the long-term management and storage of elemental mercury (*Coeur Rochester, Inc. v. Brouillette et al.*, Case No. 1:19-cv-03860-RJL (D.D.C. filed December 31, 2019)); *Nevada Gold Mines LLC v. Brouillette et al.*, Case No. 1:20-cv-00141-RJL (D.D.C. filed January 17, 2020)).

On August 21, 2020, DOE and Nevada Gold Mines, LLC (NGM) executed a settlement agreement intended to resolve NGM's complaint in its entirety. As the first step in implementing that agreement, on September 3, 2020, DOE filed a motion in the District Court asking the Court to vacate and remand the Fee Rule.

In the motion, DOE acknowledged that it made errors, omissions, and unclear statements in the Fee Rule. In

order to address these legal issues, DOE requested that the Court vacate and remand the Rule to the Department for reconsideration. The District Court granted the motion to vacate and remand the Fee Rule on September 5, 2020.

On remand, the Department will engage in notice-and-comment rulemaking to reconsider the estimates and assumptions used to calculate the fee, obtain updated information, and disclose the documentation necessary to facilitate review and comment by interested parties. The Department will conduct the rulemaking consistent with all applicable laws, Executive Orders, and other rulemaking requirements, and consider comments and information received in developing the final rule to establish the fee.

MEBA Section 5(b)(1)(A) requires DOE to assess and collect a fee at the time that elemental mercury is delivered to the long-term management and storage facility designated under MEBA Section 5(a)(1). In light of the vacatur and remand of the Fee Rule, DOE is presently unable to accept elemental mercury from generators at a facility of the Department of Energy for long-term management and storage. See MEBA Sections 5(a)(1) and 5(b)(1)(A).

Given the rulemaking process required to establish a fee for the long term management and storage of elemental mercury, and the expiration of DOE's current lease with WCS in June 2021, DOE also agreed in the settlement with NGM to withdraw the designation of WCS pursuant to MEBA Section 5(a)(1) as a facility of DOE for the purpose of long-term management and storage of elemental mercury. DOE acknowledges that MEBA's temporary storage provisions remain in effect until such time as DOE designates a facility or facilities of the Department of Energy for long-term management and storage of elemental mercury, and is able to accept elemental mercury shipments at such facility or facilities.¹ At the appropriate time and consistent with the relevant factors set forth in MEBA, DOE will designate a facility or facilities of the Department of Energy for the purpose of long-term management and

storage of elemental mercury generated within the United States.

Section 5(b)(1)(C) of MEBA provides that if the facility designated by DOE for long-term management and storage of elemental mercury is not operational by January 1, 2020, then DOE shall accept the conveyance of title to elemental mercury produced incidentally from the beneficiation or processing of ore or related pollution control activities that has accumulated at certain facilities in accordance with Section 5(g)(2)(D) of MEBA. Section 5(b)(1)(C) of MEBA also provides that DOE shall store or pay the cost of storage of such accumulated elemental mercury in a facility that has been permitted under RCRA. This storage requirement is separate from the requirement under Section 5(a)(1) of MEBA that DOE designate a facility or facilities of DOE for the long-term management and storage of elemental mercury generated within the United States. Under the settlement agreement with NGM, DOE agreed to accept title to and store 112 metric tons of elemental mercury that is currently in temporary storage at NGM facilities in accordance with Section 5(g)(2)(D) of MEBA.

On September 17, 2020, TCEQ issued a permit modification to the WCS hazardous waste permit that authorizes the storage of elemental mercury to which DOE accepts the conveyance of title pursuant to a legal settlement or proceeding. The WCS site thus possesses a RCRA permit for, and is capable of, storing elemental mercury to which DOE accepts the conveyance of title pursuant to a legal settlement or proceeding.

Amended Decision

This AROD reflects DOE's need to revisit the December 23, 2019, (84 FR 70402) final rule establishing a fee for the long-term management and storage of elemental mercury in accordance with MEBA (Fee Rule). This AROD also reflects that both the Fee Rule and DOE's decision to designate WCS as a DOE facility for the long-term management and storage of elemental mercury are the subjects of a settlement agreement between DOE and Nevada Gold Mines, LLC.

The potential environmental impacts of this AROD were analyzed in the *Final Long-Term Management and Storage of Elemental Mercury Environmental Impact Statement* (DOE/EIS-0423; Final Elemental Mercury Storage EIS), the *Final Long-Term Management and Storage of Elemental Mercury Supplemental Environmental Impact Statement* (DOE/EIS-0423-S1; Final SEIS), and the *Supplement Analysis of the Final Long-Term Management and*

¹ Specifically, pursuant to MEBA Section 5(g), elemental mercury stored consistent with MEBA Sections 5(g)(2)(B) or (D) shall not be subject to the storage prohibition of section 3004(j) of the Solid Waste Disposal Act (42 U.S.C. 6924(j)) until such time as DOE (1) designates a facility or facilities of the Department of Energy for long-term management and storage of elemental mercury under MEBA Section 5(a)(1); and (2) is able to accept elemental mercury shipments at such facility or facilities.

Storage of Elemental Mercury Environmental Impact Statement (DOE/EIS-0423-SA-01; SA). The December 6, 2019, ROD announced DOE's decision to designate existing buildings at WCS near Andrews, Texas, as a DOE facility for the purpose of long-term management and storage of up to 6,800 metric tons (7,480 tons) of elemental mercury generated within the United States pursuant to Section 5(a)(1) of the Mercury Export Ban Act of 2008 (Pub. L. 110-414), as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act, (Pub. L. 114-182) (MEBA) (42 U.S.C. 6939f(a)(1)).

DOE has decided to withdraw the designation of WCS as a DOE facility for the long-term management and storage of elemental mercury generated within the United States pursuant to Section 5(a)(1) of MEBA. Therefore, as of the date of this AROD, DOE has not designated a DOE facility for the management and storage of elemental mercury generated within the United States pursuant to MEBA Section 5(a)(1). DOE is presently unable to accept elemental mercury from generators at a facility of the Department of Energy for long-term management and storage. *See* MEBA Sections 5(a)(1) and 5(b)(1)(A). DOE acknowledges that MEBA's temporary storage provisions remain in effect until such time as DOE designates a facility or facilities of the Department of Energy for long-term management and storage of elemental mercury, and is able to accept elemental mercury shipments at such facility or facilities.²

At the appropriate time and consistent with the relevant factors set forth in MEBA, DOE will designate a facility or facilities of the Department of Energy for the purpose of long-term management and storage of elemental mercury generated within the United States pursuant to MEBA Section 5(a)(1).

Based on consideration of the analyses in the EIS, Final SEIS, and SA, DOE has decided to store elemental mercury to which DOE accepts the conveyance of title pursuant to a legal settlement or proceeding at WCS pursuant to MEBA Section 5(b)(1)(C). As noted in the Background section, in December 2019, DOE entered into a

lease and services agreement with WCS to store up to 1,206 MT of elemental mercury in leased portions of the Container Storage Building and Bin Storage Unit 1 at the WCS site. Also in December 2019, the TCEQ approved an application for a modification to the WCS hazardous waste permit that added DOE as co-operator for compartments 6, 7, 8, and 9 of the Container Storage Building for the storage of elemental mercury. On September 17, 2020, TCEQ approved a permit modification to the WCS hazardous waste permit that authorizes the storage of elemental mercury to which DOE accepts the conveyance of title pursuant to a legal settlement or proceeding.

Signing Authority

This document of the Department of Energy was signed on September 30, 2020, by William I. White, Senior Advisor for Environmental Management to the Under Secretary for Science, Office of Environmental Management, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed at Washington DC, on October 1, 2020.

Treena V. Garrett,

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

[FR Doc. 2020-22020 Filed 10-5-20; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP20-503-000]

Northern Natural Gas Company; Notice of Schedule for Environmental Review of the Northern Lights 2021 Expansion Project

On July 31, 2020, Northern Natural Gas Company (Northern) filed an application in Docket No. CP20-503-000 requesting a Certificate of Public Convenience and Necessity and authorization pursuant to Section 7 of the Natural Gas Act to construct, modify, replace, and operate certain

natural gas pipeline facilities in Minnesota. The proposed project is known as the Northern Lights 2021 Expansion Project (Project) and would provide 45,693 dekatherms per day (Dth/day) of incremental winter peak day firm service for residential, commercial, and industrial customers in Northern's Market Area.

On August 12, 2020, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's Environmental Assessment (EA) for the Project. This instant notice identifies the FERC staff's planned schedule for the completion of the EA for the Project.

Schedule for Environmental Review

Issuance of EA—December 15, 2020
90-day Federal Authorization

Decision—Deadline March 15, 2021

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

The Northern Lights 2021 Expansion Project would consist of the following facilities in Minnesota:

- The Willmar D Branch Line Extension (about 0.8 mile of 24-inch-diameter pipeline) in Dakota and Scott counties;
- the Carlton Interconnect Loop (about 0.7 mile of 24-inch-diameter pipeline) in Carlton County;
- replacement of 425 feet of 8-inch-diameter pipeline on the Viking Interconnect Branch Line with a 12-inch-diameter branch line of the same length, in Morrison County;
- a new greenfield natural gas-fired Hinckley Compressor Station in Pine County, which would include one 11,153-horsepower natural gas-fired turbine, one gas heating skid, and one natural gas-fired backup electric generator;
- modification of the Pierz Compressor Station in Morrison County, including a 1,100 horsepower electric motor-driven compressor unit; and
- appurtenant facilities including one new pig¹ receiver and one new pig

¹ A pig is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, or other purposes.

² Specifically, pursuant to MEBA Section 5(g), elemental mercury stored consistent with MEBA Sections 5(g)(2)(B) or (D) shall not be subject to the storage prohibition of section 3004(j) of the Solid Waste Disposal Act (42 U.S.C. 6924(j)) until such time as DOE (1) designates a facility or facilities of the Department of Energy for long-term management and storage of elemental mercury under MEBA Section 5(a)(1); and (2) is able to accept elemental mercury shipments at such facility or facilities.

launcher, and associated piping and valves.

Background

On July 9, 2020, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Planned Northern Lights 2021 Expansion Project and Request for Comments on Environmental Issues* (NOI). The NOI was issued during the pre-filing review of the Project in Docket No. PF20–1–000 and was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. In response to the NOI, the Commission received comments from the U.S. Environmental Protection Agency, the Minnesota Department of Transportation, the Minnesota Pollution Control Agency, City of Hinckley, International Union of Operating Engineers, and two landowners. The primary issues raised by the commentors include compressor station noise and vibration, tree clearing, roadway crossings, water resources and wetlands, farmland, and socioeconomic impacts. All substantive comments will be addressed in the EA.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to <https://www.ferc.gov/ferc-online/overview> to register for eSubscription.

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC website (www.ferc.gov). Using the eLibrary link, select General Search from the eLibrary menu, enter the selected date range and Docket Number excluding the last three digits (*i.e.*, CP20–503), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at FERCOnlineSupport@ferc.gov. The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: September 30, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–22034 Filed 10–5–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. Cp20–48–000]

Iroquois Gas Transmission System, L.P.; Notice of Availability of The Environmental Assessment for the Proposed Enhancement by Compression Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Enhancement by Compression Project (Project), proposed by Iroquois Gas Transmission, L.P. (Iroquois) in the above-referenced docket. Iroquois requests authorization to construct and operate natural gas transmission facilities in New York and Connecticut. The Project is designed to provide a total of 125,000 Dekatherms per day¹ of incremental firm transportation service to two existing customers of Iroquois, Consolidated Edison Company of New York, Inc. and KeySpan Gas East Corporation doing business as National Grid.

The EA assesses the potential environmental effects of the construction and operation of the Project in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed Project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The proposed Project includes the following facilities:

- Athens Compressor Station—installation of one new 12,000 horsepower (hp) turbine (Unit A2) in a new building with associated cooling, filter separators, and other appurtenant facilities, within the existing fenced boundary (Greene County, New York).
- Dover Compressor Station—installation of one new 12,000 hp turbine (Unit A2) in a new building with associated cooling, filter separators, appurtenant facilities, and expansion of the existing fenceline within the property boundary (Dutchess County, New York).

- Brookfield Compressor Station—construction of a control/office building, and addition of two new 12,000 hp turbines (Unit B1 and Unit B2) in a new building with associated cooling, filter separators, and other appurtenant facilities. Additionally, Iroquois would install incremental cooling at Plant 2–A to allow natural gas to be cooled, prior to being compressed at the proposed downstream compressors (Units B1 and B2). Iroquois would also replace turbine stacks on the existing compressor units (Unit-A1 and Unit-A2) and add other noise reduction measures (*e.g.*, louvers, seals) to minimize existing noise at the site. Modifications at this site would require expansion of the existing fenceline within the property boundary (Fairfield County, Connecticut).

- Milford Compressor Station—addition of gas cooling to existing compressor units and associated piping, within the existing fenced boundary (New Haven County, Connecticut).

The Commission mailed a copy of the *Notice of Availability* to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; and newspapers and libraries in the Project area. The EA is only available in electronic format. It may be viewed and downloaded from the FERC's website (www.ferc.gov), on the natural gas environmental documents page (<https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents>). In addition, the EA may be accessed by using the eLibrary link on the FERC's website. Click on the eLibrary link (<https://elibrary.ferc.gov/eLibrary/search>), select General Search and enter the docket number in the Docket Number field, excluding the last three digits (*i.e.* CP20–48). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at FercOnlineSupport@ferc.gov or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

The EA is not a decision document. It presents Commission staff's independent analysis of the environmental issues for the Commission to consider when addressing the merits of all issues in this proceeding. Any person wishing to comment on the EA may do so. Your comments should focus on the EA's disclosure and discussion of potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that the

¹ 1 dekatherm is approximately 1,000 cubic feet.

Commission has the opportunity to consider your comments prior to making its decision on this Project, it is important that we receive your comments in Washington, DC on or before 5:00 p.m. Eastern Time on October 30, 2020.

For your convenience, there are three methods you can use to file your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208-3676 or FercOnlineSupport@ferc.gov. Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the eComment feature on the Commission's website (www.ferc.gov) under the link to FERC Online. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the eFiling feature on the Commission's website (www.ferc.gov) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on eRegister. You must select the type of filing you are making. If you are filing a comment on a particular project, please select "Comment on a Filing"; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the Project docket number (CP20-48-000) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered. Only intervenors have the right to seek rehearing or judicial review of the Commission's decision. At this point in this proceeding, the timeframe for filing timely intervention requests has expired. Any person seeking to become a party to the proceeding must file a motion to intervene out-of-time pursuant to Rule 214(b)(3) and (d) of the Commission's Rules of Practice and Procedures (18 CFR 385.214(b)(3) and (d)) and show good cause why the time limitation should be waived. Motions to

intervene are more fully described at <https://www.ferc.gov/ferc-online/ferc-online/how-guides>.

Additional information about the Project is available from the Commission's Office of External Affairs, at (866) 208-FERC, or on the FERC website (www.ferc.gov) using the eLibrary link. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to <https://www.ferc.gov/ferc-online/overview> to register for eSubscription.

Dated: September 30, 2020.

Kimberly D. Bose,
Secretary.

[FR Doc. 2020-22035 Filed 10-5-20; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC20-102-000.

Applicants: Terra-Gen Power Holdings II, LLC, Golden NA Power Holdings LLC, Energy Capital Partners III, LLC.

Description: Supplement to September 15, 2020 Application for Authorization Under Section 203 of the Federal Power Act, et al. of Terra-Gen Power Holdings II, LLC, et al.

Filed Date: 9/25/20.

Accession Number: 20200925-5073.

Comments Due: 5 p.m. ET 10/6/20.

Docket Numbers: EC20-106-000.

Applicants: Hog Creek Wind Project, LLC, Meadow Lake Wind Farm V LLC, Quilt Block Wind Farm LLC, Redbed Plains Wind Farm LLC, Riverstart Solar Park LLC.

Description: Application for Approval under Section 203 of the Federal Power Act, et al. of Hog Creek Wind Project, LLC, et al.

Filed Date: 9/28/20.

Accession Number: 20200928-5161.

Comments Due: 5 p.m. ET 10/19/20.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER05-1056-011.

Applicants: Bonneville Power Administration.

Description: Bonneville Power Administration submits Report of Payment: Recoupment and Interest_Vistra Intermediate Company, LLC to be effective N/A.

Filed Date: 9/29/20.

Accession Number: 20200929-5199.

Comments Due: 5 p.m. ET 10/20/20.

Docket Numbers: ER10-2881-036; ER10-2882-037; ER10-2883-035; ER10-2884-035; ER16-2509-006; ER17-2400-007; ER17-2401-007; ER17-2403-007; ER17-2404-007.

Applicants: SP Sandhills Solar, LLC, SP Pawpaw Solar, LLC, SP Decatur Parkway Solar, LLC, SP Butler Solar, LLC, Rutherford Farm, LLC, Southern Power Company, Georgia Power Company, Mississippi Power Company, Alabama Power Company.

Description: Notification of Non-Material of Change in Status of Alabama Power Company, et al.

Filed Date: 9/29/20.

Accession Number: 20200929-5171.

Comments Due: 5 p.m. ET 10/20/20.

Docket Numbers: ER17-512-007.

Applicants: Virginia Electric and Power Company.

Description: Compliance filing: VEPCO Informational Filing to be effective N/A.

Filed Date: 9/30/20.

Accession Number: 20200930-5132.

Comments Due: 5 p.m. ET 10/21/20.

Docket Numbers: ER20-2201-001.

Applicants: GridLiance High Plains LLC.

Description: Compliance filing: GridLiance HP Revised Winfield Joint Ownership Agreement to be effective 9/1/2020.

Filed Date: 9/30/20.

Accession Number: 20200930-5166.

Comments Due: 5 p.m. ET 10/21/20.

Docket Numbers: ER20-2471-001.

Applicants: NedPower Mount Storm, LLC.

Description: Tariff Amendment: Response to Deficiency Letter in Docket ER20-2471 to be effective 9/20/2020.

Filed Date: 9/30/20.

Accession Number: 20200930-5145.

Comments Due: 5 p.m. ET 10/21/20.

Docket Numbers: ER20-3026-000.

Applicants: Northern Indiana Public Service Company.

Description: § 205(d) Rate Filing: Filing of Two New Delivery Points to be effective 12/1/2020.

Filed Date: 9/29/20.

Accession Number: 20200929–5147.
Comments Due: 5 p.m. ET 10/20/20.
Docket Numbers: ER20–3027–000.
Applicants: Duke Energy Florida, LLC.
Description: § 205(d) Rate Filing: DEF-Seminole Electric Cooperative, Inc. Amended and Restated NITSA to be effective 12/1/2020.
Filed Date: 9/29/20.
Accession Number: 20200929–5150.
Comments Due: 5 p.m. ET 10/20/20.
Docket Numbers: ER20–3028–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 2451R4 Kansas Electric Power Cooperative, Inc. NITSA NOA to be effective 9/1/2020.
Filed Date: 9/30/20.
Accession Number: 20200930–5028.
Comments Due: 5 p.m. ET 10/21/20.
Docket Numbers: ER20–3029–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3563 ETEC, MISO and Entergy Services Att AO Cancellation to be effective 3/30/2020.
Filed Date: 9/30/20.
Accession Number: 20200930–5032.
Comments Due: 5 p.m. ET 10/21/20.
Docket Numbers: ER20–3030–000.
Applicants: Tenaska Alabama II Partners, L.P.
Description: Tariff Cancellation: Notice of Cancellation of Tenaska Alabama II Partners MBR Tariff to be effective 10/1/2020.
Filed Date: 9/30/20.
Accession Number: 20200930–5075.
Comments Due: 5 p.m. ET 10/21/20.
Docket Numbers: ER20–3031–000.
Applicants: New England Power Pool Participants Committee.
Description: § 205(d) Rate Filing: October 2020 Membership Filing to be effective 10/1/2020.
Filed Date: 9/30/20.
Accession Number: 20200930–5077.
Comments Due: 5 p.m. ET 10/21/20.
Docket Numbers: ER20–3032–000.
Applicants: Ameren Illinois Company, Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2020–09–30_SA 3299 Att A_Ameren IL-Norris Electric-Green Brier Proj. No. 3 to be effective 11/29/2020.
Filed Date: 9/30/20.
Accession Number: 20200930–5078.
Comments Due: 5 p.m. ET 10/21/20.
Docket Numbers: ER20–3033–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: Amended OM&R Agreement Contract

No. 16–DSR–12708—RS No. 508
 WAPA, NVE, LADWP to be effective 10/1/2020.
Filed Date: 9/30/20.
Accession Number: 20200930–5087.
Comments Due: 5 p.m. ET 10/21/20.
Docket Numbers: ER20–3034–000.
Applicants: Midcontinent Independent System Operator, Inc., GridLiance Heartland LLC.
Description: Compliance filing: 2020–09–30_GridLiance Order 864 ADIT Compliance to be effective 12/1/2020.
Filed Date: 9/30/20.
Accession Number: 20200930–5125.
Comments Due: 5 p.m. ET 10/21/20.
Docket Numbers: ER20–3035–000.
Applicants: Georgia Power Company.
Description: Initial rate filing: SR Lumpkin Affected System Construction Agreement Filing to be effective 11/19/2019.
Filed Date: 9/30/20.
Accession Number: 20200930–5126.
Comments Due: 5 p.m. ET 10/21/20.
Docket Numbers: ER20–3036–000.
Applicants: Vopak Industrial Infrastructure Americas.
Description: Baseline eTariff Filing: Application For Market Based Rate Authority to be effective 10/30/2020.
Filed Date: 9/30/20.
Accession Number: 20200930–5127.
Comments Due: 5 p.m. ET 10/21/20.
Docket Numbers: ER20–3037–000.
Applicants: Vopak Industrial Infrastructure Americas.
Description: Baseline eTariff Filing: Application For Market Based Rate Authority to be effective 10/30/2020.
Filed Date: 9/30/20.
Accession Number: 20200930–5128.
Comments Due: 5 p.m. ET 10/21/20.
Docket Numbers: ER20–3038–000.
Applicants: PJM Interconnection, L.L.C., Ohio Power Company, American Electric Power Service Corporation.
Description: § 205(d) Rate Filing: AEP submits ILDSA SA No. 1575 and Genoa Facilities Agreement to be effective 11/30/2020.
Filed Date: 9/30/20.
Accession Number: 20200930–5130.
Comments Due: 5 p.m. ET 10/21/20.
Docket Numbers: ER20–3039–000.
Applicants: Gulf Power Company.
Description: § 205(d) Rate Filing: Revision to Large Generator Interconnection Agreement to be effective 10/1/2020.
Filed Date: 9/30/20.
Accession Number: 20200930–5159.
Comments Due: 5 p.m. ET 10/21/20.
Docket Numbers: ER20–3040–000.
Applicants: Southwestern Electric Power Company.
Description: § 205(d) Rate Filing: Hope PSA to be effective 1/1/2020.

Filed Date: 9/30/20.
Accession Number: 20200930–5170.
Comments Due: 5 p.m. ET 10/21/20.
Docket Numbers: ER20–3041–000.
Applicants: Public Service Company of New Mexico.
Description: § 205(d) Rate Filing: PNM EIM OATT Tariff Changes to be effective 1/10/2021.
Filed Date: 9/30/20.
Accession Number: 20200930–5171.
Comments Due: 5 p.m. ET 10/21/20.
Docket Numbers: ER20–3042–000.
Applicants: Southwestern Electric Power Company.
Description: § 205(d) Rate Filing: Bentonville PSA to be effective 1/1/2020.
Filed Date: 9/30/20.
Accession Number: 20200930–5178.
Comments Due: 5 p.m. ET 10/21/20.
Docket Numbers: ER20–3043–000.
Applicants: Southwestern Electric Power Company.
Description: § 205(d) Rate Filing: ETEC and NTEC PSA to be effective 1/1/2020.
Filed Date: 9/30/20.
Accession Number: 20200930–5182.
Comments Due: 5 p.m. ET 10/21/20.
 Take notice that the Commission received the following electric reliability filings:
Docket Numbers: RR19–7–001.
Applicants: North American Electric Reliability Corporation.
Description: Second Compliance Filing of the North American Electric Reliability Corporation in response to Commission Order on the 5-year Performance Assessment.
Filed Date: 9/28/20.
Accession Number: 20200928–5157.
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 30, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–22036 Filed 10–5–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

September 30, 2020.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Number: PR20–75–000.

Applicants: Mid Continent Market Center, L.L.C.

Description: Tariff filing per 284.123(b)(1)+(g): MCMC 2020 Periodic Rate Review to be effective 10/1/2020 under PR20–75.

Filed Date: 9/28/2020.

Accession Number: 202009285114.

Comments Due: 5 p.m. ET 10/19/2020.

284.123(g) Protests Due: 5 p.m. ET 11/27/2020.

Docket Numbers: RP20–1230–000.

Applicants: Tuscarora Gas Transmission Company.

Description: Compliance filing 2020 Fuel and Line Loss Report.

Filed Date: 9/29/20.

Accession Number: 20200929–5041.

Comments Due: 5 p.m. ET 10/13/20.

Docket Numbers: RP20–1231–000.

Applicants: Stagecoach Pipeline & Storage Company LLC.

Description: § 4(d) Rate Filing: Stagecoach Pipeline & Storage Company LLC—Filing of Negotiated Rate Agreement to be effective 11/1/2020.

Filed Date: 9/29/20.

Accession Number: 20200929–5073.

Comments Due: 5 p.m. ET 10/13/20.

Docket Numbers: RP20–1232–000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: § 4(d) Rate Filing: Negotiated Rate Agreement Update (Conoco Oct 20) to be effective 10/1/2020.

Filed Date: 9/29/20.

Accession Number: 20200929–5079.

Comments Due: 5 p.m. ET 10/13/20.

Docket Numbers: RP20–1234–000.

Applicants: Southern Star Central Gas Pipeline, Inc.

Description: § 4(d) Rate Filing: Vol. 2-Negotiated Rate Agreements—Spotlight, Tenaska, Conexus to be effective 9/29/2020.

Filed Date: 9/29/20.

Accession Number: 20200929–5109.

Comments Due: 5 p.m. ET 10/13/20.

Docket Numbers: RP20–1235–000.

Applicants: Algonquin Gas

Transmission, LLC.

Description: § 4(d) Rate Filing:

Negotiated Rates—Bay State to UGI Releases to be effective 10/1/2020.

Filed Date: 9/29/20.

Accession Number: 20200929–5122.

Comments Due: 5 p.m. ET 10/13/20.

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 date(s). 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 30, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–22037 Filed 10–5–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP20–490–000]

Columbia Gulf Transmission, LLC; Notice of Schedule for Environmental Review of the Mainline 300 Replacement Project

On June 30, 2020, Columbia Gulf Transmission, LLC (Columbia Gulf) filed an application in Docket No. CP20–490–000 requesting a Certificate of Public Convenience and Necessity, pursuant to Sections 7(b) and 7(c) of the Natural Gas Act, to abandon, replace, and operate certain natural gas pipeline facilities. The proposed project is known as the Mainline 300 Replacement Project (Project) and consists of the abandonment and replacement of two segments of the 36-inch-diameter Mainline 300 totaling approximately 775 feet. The Project is located in Menifee and Montgomery Counties, Kentucky. Due to increased

population density in the area along certain discrete sections of Mainline 300, Columbia Gulf is required, pursuant to Part 192 of the U.S. Department of Transportation regulations to replace segments of its existing Mainline 300 pipeline to meet the Class 3 pipeline design requirements.

On July 9, 2020, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's Environmental Assessment (EA) for the Project. This instant notice identifies the FERC staff's planned schedule for the completion of the EA for the Project.

Schedule for Environmental Review

Issuance of EA—January 20, 2021

90-day Federal Authorization Decision

Deadline—April 20, 2021

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

The Project would involve the construction and operation of the following facilities:

- Replacement of approximately 760 feet of existing 36-inch-diameter pipeline, with approximately 760 feet of new, 36-inch-diameter natural gas transmission pipeline from Milepost (MP) 6.8 to MP 6.9; and
- Replacement of approximately 15 feet of existing 36-inch-diameter pipeline, with approximately 15 feet of new, 36-inch-diameter natural gas transmission pipeline from MP 6.9 to MP 6.9.

Background

On July 31, 2020, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Mainline 300 Replacement Project and Request for Comments on Environmental Issues* (NOI). The NOI was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. In response to the NOI, the Commission did not receive any comments.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to <https://www.ferc.gov/ferc-online/overview> to register for eSubscription.

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208-FERC or on the FERC website (www.ferc.gov). Using the eLibrary link, select General Search from the eLibrary menu, enter the selected date range and Docket Number excluding the last three digits (*i.e.*, CP20-490-000), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208-3676, TTY (202) 502-8659, or at FERCOnlineSupport@ferc.gov. The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: September 30, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020-22033 Filed 10-5-20; 8:45 am]

BILLING CODE 6717-01-P

FEDERAL COMMUNICATIONS COMMISSION

[GN Docket No. 18-122; DA 20-1133; FRS 17114]

Wireless Telecommunications Bureau Announces C-Band Relocation Coordinator

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Wireless Telecommunications Bureau (Bureau) announces that RSM US LLP (RSM) satisfies the selection criteria established by the Commission in the 3.7 GHz Band Report and Order and will serve as the Relocation Coordinator for the 3.7-4.2 GHz transition process.

DATES: The Order was released on September 25, 2020.

ADDRESSES: Federal Communications Commission, 445 12th Street SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT:

Anna Gentry of the Wireless Telecommunications Bureau, Mobility Division, at (202) 418-7769 or Anna.Gentry@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Order (DA 20-1133) released on September 25, 2020. The complete text of the Order is available for viewing via the Commission's ECFS website by entering the docket number, GN Docket No. 18-122. The complete text of the Order is also available for public inspection and copying from 8:00 a.m. to 4:30 p.m. Eastern Time (ET) Monday through Thursday or from 8:00 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street SW, Room CY-B402, Washington, DC 20554, telephone 202-488-5300, fax 202-488-5563, or you may contact BCPI at its website: <http://www.BCPIWEB.com>. When ordering documents from BCPI, please provide the appropriate FCC document number, for example, DA 20-998.

Synopsis

On March 3, 2020, the Commission released the *3.7 GHz Band Report and Order* (FCC 20-22), which adopted new rules to make available 280 megahertz of mid-band spectrum for flexible use, plus a 20 megahertz guard band, throughout the contiguous United States by transitioning existing services out of the lower portion and into the upper 200 megahertz of the 3.7-4.2 GHz band (C-band). The *3.7 GHz Report and Order* allowed a search committee of eligible Fixed Satellite Service (FSS) space station operators to select, not later than July 31, 2020, a Relocation Coordinator that will be responsible for managing the overall transition and coordinating relocation actions among eligible FSS space station operators, incumbent FSS earth station operation, and new 3.7 GHz Service flexible-use licensees. The *3.7 GHz Report and Order* required that the Relocation Coordinator "must be able to demonstrate that it has the requisite expertise to perform the duties required, which will include: (1) Coordinating the schedule for clearing the band; (2) performing engineering analysis, as necessary, to determine necessary earth station migration actions; (3) assigning obligations, as necessary, for earth station migrations and filtering; (4) coordinating with overlay licensees throughout the transition process; (5) assessing the completion of the transition in each PEA and determining overlay licensees' ability to commence operations; and (6) mediating scheduling disputes."

On July 31, 2020, eligible space station operators announced that they had selected RSM to serve as the Relocation Coordinator. The search committee determined that RSM has the requisite expertise to fulfill the criteria the Commission adopted in the *3.7 GHz Report and Order* and codified in its rules. In a public notice, the Bureau sought comment on whether RSM satisfies these criteria. In response, the satellite operators submitted a filing describing RSM's qualifications, organizational structure, and plan to satisfy each of the responsibilities set forth in the *3.7 GHz Report and Order*. No commenters opposed RSM's selection.

After reviewing the record regarding RSM and its qualifications, the Bureau finds and announces by this Order that RSM has demonstrated that it has the requisite expertise to perform the duties that section 27.1413(b) of our rules, 47 CFR 27.1413(b), requires a relocation coordinator for the C-band transition to be capable of performing.

Federal Communications Commission.

Amy Brett,

Associate Division Chief, Competition and Infrastructure Policy Division, Wireless Telecommunications Bureau.

[FR Doc. 2020-22086 Filed 10-5-20; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[CG Docket No. 02-278; DA 20-1120; FRS 17108]

Consumer and Governmental Affairs Bureau Seeks To Determine Parties' Continuing Interest in Specific Petitions for Preemption of State Consumer Protection Requirements

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) seeks to assess the Petitioners' continuing interests in certain Petitions that were filed between 2003 and 2005. The FCC plans to dismiss the Petitions with prejudice unless a Petitioner files a letter in the relevant docket specifying that it objects to the dismissal of its Petition and the reasons for such objections.

DATES: Petitioners may file a letter on or before November 20, 2020. Unless Petitioners take action as described, the specified Petitions will be dismissed on November 20, 2020.

ADDRESSES: You may file a letter in CG Docket No. 02–278, by any of the following methods:

- **Federal Communications**

Commission: <https://www.fcc.gov/ecfs/filings>. Follow the instructions for submitting comments.

- **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

- U.S. Postal Service first class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.

- **Effective March 19, 2020, and until further notice,** the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, DA 20–304 (March 19, 2020), <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

- In addition, you should send a copy of your letter to Kristi Thornton of the Consumer and Governmental Affairs Bureau at Kristi.Thornton@fcc.gov.

People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: FCC504@fcc.gov or phone: 202–418–0530 or TTY: 202–418–0432.

FOR FURTHER INFORMATION CONTACT:

Kristi Thornton of the Consumer Policy Division, Consumer and Governmental Affairs Bureau, at (202) 418–2467 or at Kristi.Thornton@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Public Notice, DA 20–1120, CG Docket No. 02–278, released on September 23, 2020. The full text of this document is available online at <https://docs.fcc.gov/public/attachments/DA-20-1120A1.pdf>. To request this document in accessible formats for people with disabilities (e.g., Braille, large print, electronic files, audio format) or to request reasonable accommodations (e.g., accessible format documents, sign language interpreters, CART), send an email to fcc504@fcc.gov or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice).

This matter shall be treated as a “permit-but-disclose” proceeding in

accordance with the Commission's *ex parte* rules. 47 CFR 1.1200 *et seq.* Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. See 47 CFR 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in § 1.1206(b) of the Commission's rules, 47 CFR 1.1206(b).

Synopsis

1. The Consumer and Governmental Affairs Bureau (Bureau) has pending 10 petitions (Petitions) generally asking the Commission to preempt state protections against unwanted robocalls and faxes. The Petitions were filed between 2003 and 2005, with no advocacy for several years. In addition, the relief the Petitions request appears to be moot or otherwise no longer relevant in light of both federal and state regulatory changes that have occurred since the Petitions were filed.

2. As part of the Commission's effort to efficiently manage its dockets and resources, and to reduce backlog, the Bureau seeks to assess the Petitioners' continuing interests in these Petitions. The Bureau will dismiss the Petitions below with prejudice unless a Petitioner files a letter in the relevant docket on or before November 20, 2020, specifying that it objects to the dismissal of its Petition and the reasons for such objections. Upon release of document DA 20–1120, the Bureau will send copies to the Petitioners at the last available mailing address associated with the Petition.

3. These Petitions and related information are provided below:

4. Petitioner Mark Boling, Petition for Declaratory Ruling, CG Docket No. 02–278; Petition filed 8/11/2003.

5. Petitioner Direct Marketing Association, Petition for Reconsideration of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, CG Docket No. 02–278, Report and Order, 18 FCC Rcd 14014 (2003); Petition filed 8/25/2003.

6. Petitioner American Teleservices Association, Inc., Petition for Declaratory Ruling with Respect to Certain Provisions of the New Jersey Consumer Fraud Act and the New Jersey Administrative Code, CG Docket No. 02–278; Petition filed 8/24/2004.

7. Petitioner *FreeEats.com* Inc. (d/b/a ccAdvertising), Petition for Expedited Declaratory Ruling, CG Docket No. 02–278; Petition filed 9/13/2004.

8. Petitioner Consumer Bankers Association (Indiana), Petition for Expedited Declaratory Ruling with Respect to Certain Provisions of the Indiana Revised Statutes and Indiana Administrative Code, CG Docket No. 02–278; Petition filed 11/19/2004.

9. Petitioner Consumer Bankers Association (Wisconsin), Petition for Declaratory Ruling with Respect to Certain Provisions of the Wisconsin Statutes and Wisconsin Administrative Code, CG Docket No. 02–278; Petition filed 11/19/2004.

10. Petitioner National City Mortgage Co., Petition for Expedited Declaratory Ruling with Respect to Certain Provisions of the Florida Statutes, CG Docket No. 02–278; Petition filed 11/22/2004.

11. Petitioner TSA Stores, Inc., Petition for Declaratory Ruling with Respect to Certain Provisions of the Florida laws and regulations, CG Docket No. 02–278; Petition filed 2/1/2005.

12. Petitioner 33 Allied Petitioners, Petition for Declaratory Ruling that the FCC has Exclusive Regulatory Jurisdiction Over Interstate Telemarketing, CG Docket No. 02–278; Petition filed 4/29/2005.

13. Petitioner The Fax Ban Coalition, Petition for Declaratory Ruling of the Fax Ban Coalition, CG Docket No. 02–278; Petition filed 11/7/2005.

Federal Communications Commission.

Gregory Haledjian,

Legal Advisor, Consumer and Governmental Affairs Bureau.

[FR Doc. 2020–22010 Filed 10–5–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[GN Docket No. 17–83; FR No. 17115]

Meeting of the Broadband Deployment Advisory Committee

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the FCC announces and provides an agenda for the next meeting of the Broadband Deployment Advisory Committee (BDAC), which will be held via live internet link.

DATES: October 29 and 30, 2020. The meeting will come to order at 11 a.m. each day.

ADDRESSES: The Meeting will be held via conference call and available to the public via WebEx at <http://www.fcc.gov/live>.

FOR FURTHER INFORMATION CONTACT:

Justin L. Faulb, Designated Federal Authority (DFO) of the BDAC, at justin.faulb@fcc.gov or 202-418-1589; Zachary Ross, Deputy DFO of the BDAC, at Zachary.ross@fcc.gov or 202-418-1033; or Belinda Nixon, Deputy DFO of the BDAC, at 202-418-1382, or Belinda.Nixon@fcc.gov. The TTY number is: (202) 418-0484.

SUPPLEMENTARY INFORMATION:

The BDAC meeting is open to the public on the internet via live feed from the FCC's web page at <http://www.fcc.gov/live>. Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to fcc504@fcc.gov or by calling the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). Such requests should include a detailed description of the accommodation needed. In addition, please include a way for the FCC to contact the requester if more information is needed to fill the request. Please allow at least five days' advance notice for accommodation requests; last minute requests will be accepted, but may not be possible to accommodate. Oral statements at the meeting by parties or entities not represented on the BDAC will be permitted to the extent time permits, at the discretion of the BDAC Chair and the DFO. Members of the public may submit comments to the BDAC in the FCC's Electronic Comment Filing System, ECFS, at www.fcc.gov/ecfs. Comments to the BDAC should be filed in Docket 17-83.

PROPOSED AGENDA: At this meeting, the BDAC will consider and vote on reports and recommendations from the Increasing Broadband Investment in Low-Income Communities, Broadband Infrastructure Deployment Job Skills and Training Opportunities, and Disaster Response and Recovery working groups. This agenda may be modified at the discretion of the BDAC Chair and the Designated Federal Officer (DFO).

Federal Communications Commission.

Pamela Arluk,

Chief, Competition Policy Division, Wireline Competition Bureau.

[FR Doc. 2020-22029 Filed 10-5-20; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL LABOR RELATIONS AUTHORITY**Senior Executive Service Performance Review Board**

AGENCY: Federal Labor Relations Authority.

ACTION: Notice.

SUMMARY: The Federal Labor Relations Authority (FLRA) publishes the names of the persons selected to serve on its SES Performance Review Board (PRB). This notice supersedes all previous notices of the PRB membership.

DATES: Upon publication.

ADDRESSES: Written comments about this notice can be mailed to the Case Intake and Publication Office, Federal Labor Relations Authority, 1400 K Street NW, Washington, DC 20424.

FOR FURTHER INFORMATION CONTACT:

Michael Jeffries, Executive Director, Federal Labor Relations Authority, 1400 K St. NW, Washington, DC 20424, (202) 218-7982, mjeffries@flra.gov.

SUPPLEMENTARY INFORMATION: Section 4314(c) of Title 5, U.S.C. requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more PRBs. The PRB shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any response by the senior executive, and make recommendations to the final rating authority relative to the performance of the senior executive.

The persons named below have been selected to serve on the FLRA's PRB.

Michael Jeffries, Executive Director, FLRA, and PRB Chairman

Kimberly Moseley, Executive Director, Federal Service Impasses Panel

Charlotte Dye, Deputy General Counsel, FLRA

Timothy Curry, Deputy Associate Director, Accountability and Workforce Relations, Employee Services, Office of Personnel Management

Paula Chandler, Director, Human Resources Division (Ex Officio)

Dated: September 30, 2020.

Rebecca Osborne,

Federal Register Liaison, Federal Labor Relations Authority.

[FR Doc. 2020-21991 Filed 10-5-20; 8:45 am]

BILLING CODE 7627-01-P

FEDERAL RESERVE SYSTEM

[Docket No. OP-1716]

Temporary Actions To Support the Flow of Credit to Households and Businesses by Encouraging Use of Intraday Credit; Extension of Expiration Date

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: Due to the extraordinary disruptions from the coronavirus disease 2019 (COVID-19), the Board of Governors of the Federal Reserve System (Board) is extending through March 31, 2021 the temporary actions, announced on April 23, 2020, that encourage healthy depository institutions to utilize intraday credit extended by Federal Reserve Banks (Reserve Banks). The temporary actions were previously scheduled to expire on September 30, 2020.

DATES: These temporary actions will expire on March 31, 2021.

FOR FURTHER INFORMATION CONTACT:

Jason Hinkle, Assistant Director (202-912-7805), Brajan Kola, Senior Financial Institution Policy Analyst (202-736-5683) Division of Reserve Bank Operations and Payment Systems or Evan Winerman, Senior Counsel (202-872-7578), Legal Division, Board of Governors of the Federal Reserve System. For users of Telecommunications Device for the Deaf (TDD) only, please contact 202-263-4869.

SUPPLEMENTARY INFORMATION: The availability of intraday credit from the Reserve Banks supports the smooth functioning of payment systems and the settlement and clearing of transactions across a range of credit markets. The COVID-19 pandemic has disrupted economic activity and financial markets in the United States.

On April 23, 2020, as part of a series of actions to support the flow of credit to households and business aimed at mitigating the disruptions from the COVID-19 pandemic, the Board approved several temporary actions that encourage healthy depository institutions to utilize intraday credit from the Reserve Banks.¹ Specifically, the temporary actions (1) suspend uncollateralized intraday credit limits (net debit caps) and waive daylight overdraft fees for institutions that are

¹ 85 FR 23448 (April 28, 2020). See also *Coronavirus Disease 2019 (COVID-19) Resources*, available at <https://www.federalreserve.gov/covid-19.htm>.

eligible for the primary credit program² and (2) permit a streamlined procedure to request collateralized intraday credit (max caps) for institutions that are eligible only for the secondary credit program.³ The Board also suspended the collection of information under the Annual Daylight Overdraft Capital Report for U.S. Branches and Agencies of Foreign Banks (FR 2225, OMB Number 7100–0216) and the Annual Report of Net Debit Cap (FR 2226, OMB Number 7100–0217).

A number of other Federal Reserve initiatives aimed at mitigating the disruptions from the COVID–19 pandemic are scheduled to remain in effect until March 2021.⁴ In order to complement these ongoing initiatives, the Board is extending the temporary actions until March 31, 2021. The extension of the temporary actions will support the flow of credit to households and business by encouraging healthy depository institutions to utilize intraday credit from Reserve Banks. Extending the temporary actions will also allow Reserve Banks to prioritize operational activities aimed at mitigating the disruptions from the COVID–19 pandemic.

Accordingly, the Board is extending the expiration date of the temporary actions from September 30, 2020 to March 31, 2021.

By order of the Board of Governors of the Federal Reserve System, September 30, 2020.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2020–22005 Filed 10–5–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10346, CMS–10142, 10123/10124]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by December 7, 2020.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to <http://www.regulations.gov>. Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development.

Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at website address at <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html>.

2. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10346 Appeals of Quality Bonus Payment Determinations

CMS–10142 Bid Pricing Tool (BPT) for Medicare Advantage (MA) Plans and Prescription Drug Plans (PDP)

CMS–10123/10124 Fast Track Appeals Notices: NOMNC/DENC

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Extension without change of a currently approved collection; *Title of Information Collection:* Appeals of Quality Bonus Payment Determinations; *Use:* Section 1853(o) of the Social Security Act (the Act) requires CMS to make QBPs to MA organizations that achieve performance rating scores of at least 4 stars under a five-star rating system. While CMS has applied a Star Rating system to MA organizations for a number of years, prior to the QBP

² The Reserve Banks' primary credit program is available to institutions that are in generally sound financial condition. 12 CFR 201.4(a).

³ Secondary credit is a lending program that is available to depository institutions that are not eligible for primary credit. See generally 12 CFR 201.4(b).

⁴ The Commercial Paper Funding Facility will cease purchasing commercial paper on March 17, 2021. Similarly, certain temporary changes related to the supplementary leverage ratio will remain in effect through March 31, 2021. 85 FR 32980 (June 1, 2020). Finally, on July 29, 2020, the Board announced the extension from September 19, 2020 to March 31, 2021 of its temporary U.S. dollar liquidity swap lines and the temporary repurchase agreement facility for foreign and international monetary authorities.

program these Star Ratings were used only to provide additional information for beneficiaries to consider in making their Part C and D plan elections. Additionally, section 1854(b)(1)(C)(v) of the Act, as added by the Affordable Care Act, also requires CMS to change the share of savings that MA organizations must provide to enrollees as the beneficiary rebate specified at § 422.266(a) based on the level of a sponsor's Star Rating for quality performance.

The information collected on the Request for Reconsideration form from MA organizations is considered by the reconsideration official and potentially the hearing officer to review CMS's determination of the organization's eligibility for a QBP. The form asks MA organizations to select the Star Ratings measure(s) they believe was miscalculated or used incorrect data and describe what they believe is the issue. Under § 422.260(c)(3)(ii) these are the only bases for appeals. In conducting the reconsideration, the reconsideration official will review the QBP determination, the evidence and findings upon which it was based, and any other written evidence submitted by the organization with their Request for Reconsideration or by CMS before the reconsideration determination is made.

The administrative review process is a two-step process that includes a request for reconsideration and a request for an informal hearing on the record after CMS has sent the MA organization the reconsideration decision. Both steps are conducted at the contract level. The first step allows the MA organization to request a reconsideration of how its Star Rating for the given measure in question was calculated and/or what data were included in the measure. If the MA organization is dissatisfied with CMS's reconsideration decision, the contract may request an informal hearing to be conducted by a hearing officer designated by CMS. MA organizations will have 10 business days from the time we issue the notice of QBP status to submit a request for reconsideration. MA organizations will have 10 business days after the issuance of the reconsideration determination to request an informal hearing on the record. *Form Number:* CMS-10346 (OMB control number: 0938-1129); *Frequency:* Yearly; *Affected Public:* Private Sector, Business or other for-profits, Not-for-profit institutions; *Number of Respondents:* 20; *Total Annual Responses:* 20; *Total Annual Hours:* 160. (For policy questions regarding this collection contact Joy Binion at 410-786-6567.)

2. Type of Information Collection Request: Revision with change of a currently approved collection; *Title of Information Collection:* Bid Pricing Tool (BPT) for Medicare Advantage (MA) Plans and Prescription Drug Plans (PDP); *Use:* This collection dates back to 2005. Under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), and implementing regulations at 42 CFR, Medicare Advantage organizations (MAO) and Prescription Drug Plans (PDP) are required to submit an actuarial pricing "bid" for each plan offered to Medicare beneficiaries for approval by the Centers for Medicare & Medicaid Services (CMS). MAOs and PDPs use the Bid Pricing Tool (BPT) software to develop their actuarial pricing bid. The competitive bidding process defined by the "The Medicare Prescription Drug, Improvement, and Modernization Act" (MMA) applies to both the MA and Part D programs. It is an annual process that encompasses the release of the MA rate book in April, the bid's that plans submit to CMS in June, and the release of the Part D and RPO benchmarks, which typically occurs in August. *Form Number:* CMS-10142 (OMB control number: 0938-0944); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 555; *Total Annual Responses:* 4,995; *Total Annual Hours:* 149,850. (For policy questions regarding this collection contact Rachel Shevland at 410-786-3026.)

3. Type of Information Collection Request: Extension without change of a currently approved collection; *Title of Information Collection:* Fast Track Appeals Notices: NOMNC/DENC; *Use:* The purpose of the NOMNC is to help a beneficiary/enrollee decide whether to pursue a fast appeal by a Quality Improvement Organization (QIO) and how to file that request. Consistent with §§ 405.1200 and 422.624, SNFs, HHAs, CORFs, and hospices must provide notice to all beneficiaries/enrollees whose Medicare-covered services are ending, no later than two days in advance of the proposed termination of service. This information is conveyed to the beneficiary/enrollee via the NOMNC.

If a beneficiary/enrollee appeals the termination decision, the beneficiary/enrollee and the QIO, consistent with §§ 405.1200(b) and 405.1202(f) for Original Medicare, and §§ 422.624(b) and 422.626(e)(1)-(5) for Medicare health plans, will receive a detailed explanation of the reasons services should end. This detailed explanation is provided to the beneficiary/enrollee using the DENC, the second notice

included in this renewal package. *Form Number:* CMS-10123/10124 (OMB control number: 0938-0953); *Frequency:* Yearly; *Affected Public:* Private Sector, Business or other for-profits, Not-for-profit institutions; *Number of Respondents:* 24,915; *Total Annual Responses:* 5,314,194; *Total Annual Hours:* 1,142,749. (For policy questions regarding this collection contact Janet Miller at Janet.Miller@cms.hhs.gov.)

Dated: October 1, 2020.

William N. Parham, III,
Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2020-22089 Filed 10-5-20; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS-10261 & CMS-10636]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by November 5, 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.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS’ website address at website address at <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html>.

2. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term “collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Revision with change of a previously approved collection; *Title of Information Collection:* Part C Medicare Advantage Reporting Requirements and Supporting Regulations in 42 CFR 422.516(a); *Use:* Section 1852(m) of the Social Security Act (the Act) and CMS regulations at 42 CFR 422.135 allow Medicare Advantage (MA) plans the ability to provide “additional telehealth benefits” to enrollees starting in plan year 2020 and treat them as basic benefits. MA additional telehealth benefits are limited to services for which benefits are available under Medicare Part B but which are not

payable under section 1834(m) of the Act. In addition, MA additional telehealth benefits are services that been identified by the MA plan for the applicable year as clinically appropriate to furnish through electronic information and telecommunications technology (or “electronic exchange”) when the physician (as defined in section 1861(r) of the Act) or practitioner (as defined in section 1842(b)(18)(C) of the Act) providing the service is not in the same location as the enrollee. Per § 422.135(d), MA plans may only furnish MA additional telehealth benefits using contracted providers. The data collected in this measure will provide CMS with a better understanding of the number of organizations utilizing Telehealth per contract and to also capture those specialties used for both in-person and Telehealth. This data will allow CMS to improve its policy and process surrounding Telehealth. In addition, the specialist and facility data we are collecting aligns with some of the provider and facility specialty types that organizations are required to include in their networks and to submit on their HSD tables in the Network Management Module in Health Plan Management System. *Form Number:* CMS–10261 (OMB control number 0938–1054); *Frequency:* Occasionally; *Affected Public:* State, Local, and Tribal Governments; *Number of Respondents:* 759; *Total Annual Responses:* 5,313; *Total Annual Hours:* 224,664 (For policy questions regarding this collection contact Maria Sotirelis at 410–786–0552.)

2. *Type of Information Collection Request:* Revision with change of a previously approved collection; *Title of Information Collection:* Triennial Network Adequacy Review for Medicare Advantage Organizations and 1876 Cost Plans; *Use:* CMS regulations at 42 CFR 417.414, 417.416, 422.112(a)(1)(i), and 422.114(a)(3)(ii) require that all Medicare Advantage organizations (MAOs) offering coordinated care plans, network-based private fee-for-service (PFFS) plans, and as well as section 1876 cost organizations, maintain a network of appropriate providers that is sufficient to provide adequate access to covered services to meet the needs of the population served. To enforce this requirement, CMS developed network adequacy criteria which set forth the minimum number of providers and maximum travel time and distance from enrollees to providers, for required provider specialty types in each county in the United States and its territories.

Organizations must be in compliance with the current CMS network adequacy criteria guidance, which is updated and published annually on CMS’s website. Additional network policy guidance is also located in chapter 4 of the Medicare Managed Care Manual. This collection of information is essential to appropriate and timely compliance monitoring by CMS, in order to ensure that all active contracts offering network-based plans maintain an adequate network.

CMS verifies that organizations are compliant with the CMS network adequacy criteria by performing a contract-level network review, which occurs when CMS requests an organization upload provider and facility Health Service Delivery (HSD) tables for a given contract to the Health Plan Management System (HPMS). CMS reviews networks on a three-year cycle, unless there is an event that triggers an intermediate full network review, thus resetting the organization’s triennial review. The triennial review cycle will help ensure a consistent process for network oversight and monitoring.

Once CMS staff reviews the ACC reports and any Exception Requests and/or Partial County Justifications, CMS then makes its final determination on whether the organization is operating in compliance with current CMS network adequacy criteria. If the organization passes its network review for a given contract, then CMS will take no further action. If the organization fails its network review for a given contract, then CMS will take appropriate compliance actions. CMS has developed a compliance methodology for network adequacy reviews that will ensure a consistent approach across all organizations. *Form Number:* CMS–10636 (OMB control number 0938–1346); *Frequency:* Occasionally; *Affected Public:* State, Local, and Tribal Governments; *Number of Respondents:* 140; *Total Annual Responses:* 1,416; *Total Annual Hours:* 13,372. (For policy questions regarding this collection contact Amber Casserly at 410–786–5530.)

Dated: October 1, 2020.

William N. Parham, III,
Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2020–22090 Filed 10–5–20; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Administration for Children and Families****Proposed Information Collection Activity; Community-Based Family Resource and Support Grants (Name changed to Child Abuse Prevention Program—OIS notified 6/2007) (OMB No.: 0970–0155)**

AGENCY: Children's Bureau, Administration for Children, Youth and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF) is requesting a 3-year extension of the Program Instruction (PI) for the Community-Based Family Resource and Support Grants or the Community-Based Child Abuse Prevention (CBCAP) program (OMB No.: 0970–0155, expiration 3/31/2021), which outlines information collection requirements pursuant to receiving a grant award.

There are no changes requested to the information collection process.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described in this notice.

ADDRESSES: Copies of the proposed collection of information can be obtained and comments may be forwarded by emailing infocollection@acf.hhs.gov. Alternatively, copies can also be obtained by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation (OPRE), 330 C Street, SW, Washington, DC 20201, Attn: ACF Reports Clearance Officer. All requests, emailed or written, should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The PI, prepared in response to the enactment of the CBCAP program, as set forth in Title II of the Child Abuse Prevention and Treatment Reauthorization Act of 2010 (Pub. L.

111–320) or CAPTA, provides direction to the states and territories to accomplish the purposes of (1) supporting community-based efforts to develop, operate, expand, and where appropriate to network, initiatives aimed at the prevention of child abuse and neglect, and to support networks of coordinated resources and activities to better strengthen and support families to reduce the likelihood of child abuse and neglect; and (2) fostering an understanding, appreciation, and knowledge of diverse populations in order to be effective in preventing and treating child abuse and neglect. This PI contains information collection requirements that are found in CAPTA and pursuant to receiving a grant award. The information submitted will be used by the agency to ensure compliance with the statute, complete the calculation of the grant award entitlement, and provide training and technical assistance to the grantee.

Respondents: State governments, quasi-public entities, and non-profit private agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Annual number of respondents	Annual number of responses per respondent	Average burden hours per response	Total annual burden hours
Application	52	1	40	2,080
Annual Report	52	1	24	1,248

Estimated Total Annual Burden Hours: 3,328.

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: The CAPTA Reauthorization Act of 2010; Title II of the CAPTA, Public Law 115–271 (42 U.S.C. 5116 *et seq.*).

John M. Sweet Jr.,
ACF/OPRE Certifying Officer.

[FR Doc. 2020–22087 Filed 10–5–20; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Health Resources and Services Administration****Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Public Comment Request; Information Collection Request Title: Health Workforce Connector, OMB No. 0906–0031—Extension**

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period. OMB may act on

HRSA's ICR only after the 30 day comment period for this notice has closed.

DATES: Comments on this ICR must be received no later than November 5, 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: To request a copy of the clearance requests submitted to OMB for review, email Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at paperwork@hrsa.gov or call (301) 443–1984.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Health Workforce Connector, OMB No. 0906–0031—Extension.

Abstract: More than just a job search portal, the goal of the Health Workforce Connector (HWC) is to help connect skilled professionals to communities in need by allowing approved Site Points of Contact (POCs), including National Health Service Corps (NHSC) and Nurse Corps, to post available opportunities and update site profiles. The HWC provides a central platform to connect participants, including those in both the NHSC and Nurse Corps programs, and facilities that are approved for performance of their NHSC or Nurse Corps service obligation. The HWC has become a resource that engages any health care professional or student interested in providing primary care services in underserved communities and with facilities in need of health care providers. The Health Workforce Connector also allows users to create a profile, search for NHSC and Nurse Corps sites, find job and training opportunities, search for other clinicians who are similarly interested in working with underserved populations, and be searchable by Site POCs. Individuals can use the Health Workforce Connector's search capability with Google Maps.

The initial estimates of burden, as provided in the previous notice, were developed prior to the deployment of the HWC. Those estimates were accurate, as brand new users created accounts and published profiles. Because the HWC is now in a steady state, actual numbers from the last year

allow for projections of comparable numbers for the upcoming year. A more recent data query yielded an estimated burden that is significantly lower due to the total number of users who are estimated to create accounts and publish profiles.

A 60-day notice published in the **Federal Register** on August 12, 2020, vol. 85, No. 156; pp. 48708–09. There was one public comment.

Need and Proposed Use of the Information: Information will be collected from users in the following two ways:

(1) **Account Creation:** Creating an account is optional, but to create an account the user will be required to enter their first name, last name, and email address. Those are the only mandatory fields in the profile account creation process and will be used to send an automated email allowing the user to validate their login credentials. This information will also be used to validate any users who already exist within the Bureau of Health Workforce Management Information Systems Solution (BMISS) database and allow an initial import of existing data at the request of the user.

(2) **Profile Completion:** Users may fill out a profile, but this function will be completely optional and will include fields such as location, discipline, specialty, and languages spoken. The information collected, if 'published' by the user, will allow internal BMISS Site POCs the ability to search for anyone

who may be a potential candidate for health care job opportunities at the site. Users also have the ability to make their profiles searchable by other end users through a security and privacy setting and can make their profiles private at any time. All information collected will be stored within existing secure BMISS databases and will be used internally for report generation on an as-needed basis.

Likely Respondents: Potential users will include individuals searching for a health care job opportunity or an NHSC or Nurse Corps health care facility, and health care facilities searching for potential candidates to fill open health care job opportunities at their sites.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

Total Estimated Annualized burden hours:

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Account Creation	5,008	1	5,008	.08	400.64
Complete Profile	4,164	1	4,164	1.00	4,164.00
Total	15,008	.....	5,008	.....	4,564.64

¹ The 4,164 respondents who complete their profiles are a subset of the 5,008 respondents who create accounts.

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2020-22067 Filed 10-5-20; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

HRSA-Initiated Supplemental Funding to U13 Grant Program Award Recipient

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice of a supplemental award.

SUMMARY: HRSA is providing approximately \$4,900,000 in supplemental funding to the University of Kansas, Medical Center Research

Institute, Inc. (U13HS33878), the sole award recipient under the Reimbursement of Travel and Subsistence Expenses toward Living Organ Donation Program, to provide increased financial support to living organ donors during the period of September 1, 2020, to August 31, 2021.

FOR FURTHER INFORMATION CONTACT:

Please send all written comments to Frank Holloman, Director, Division of Transplantation, Healthcare Systems Bureau, HRSA, 5600 Fishers Lane, Room 08W53A, Rockville, Maryland 20857; telephone (301) 443-7577; or email: donation@hrsa.gov.

SUPPLEMENTARY INFORMATION:

Intended Recipient of the Award: University of Kansas, Medical Research Institute, Inc.

Amount of Award: \$4,900,000.

Project Period: September 1, 2020 to August 31, 2021.

CFDA Number: 93.134.

Authority: Section 377 of the Public Health Service (PHS) Act, as amended (42 U.S.C. 274f.).

Justification: The Reimbursement of Travel and Subsistence Expenses toward Living Organ Donation Program is authorized by section 377 of the Public Health Service (PHS) Act, as amended (42 U.S.C. 274f). The purpose of the program is to provide means-tested reimbursement to living organ donors for travel and subsistence expenses and other incidental nonmedical expenses related to the transplant that the Secretary of HHS may authorize. HRSA currently administers this reimbursement program via a cooperative agreement with the University of Kansas, Medical Center Research Institute, Inc.

On July 10, 2019, the President issued an Executive Order on Advancing American Kidney Health that provides increased support for living organ donors to further the goal of significantly increasing the supply of transplantable kidneys. In the Executive Order, the President directed HHS to propose a regulation to allow living donors to be reimbursed for related lost wages, child-care expenses, and elder-care expenses through HRSA's reimbursement program, and further directed HHS to raise the limit on the income of living donors eligible for reimbursement under the program. HRSA has taken the following actions pursuant to the Executive Order:

- On December 20, 2019, HRSA published a notice of proposed rulemaking in the **Federal Register** to amend 42 CFR part 121, the regulation that implements the reimbursement program. If finalized as proposed, HRSA's rule would expand the scope of reimbursable expenses for living organ donors to include lost wages, and child-care and elder-care expenses. HRSA expects to publish a final rule no later than November 2020.

- On March 31, 2020, HRSA published a **Federal Register** notice requesting public comment on proposed revisions to the Program's eligibility guidelines, including an increase in the income eligibility threshold from 300 to 350 percent of the HHS Poverty Guidelines for eligible participants.

The additional funding to the award recipient will support HRSA's initiatives to implement the President's

Executive Order, which will ultimately allow for an increased number of potential donors to receive financial support while also increasing the number of transplantable organs.

Activities funded under this supplement are consistent with the previously awarded funding opportunity (HRSA-19-047). In addition to continue providing reimbursement of travel and subsistence expenses to qualified living organ donors, as required under the existing award, the award recipient will implement the reimbursement for these additional incidental non-medical expenses that the Secretary has authorized by regulation as also required under the existing award. Rather than conducting a new competition for the newly expanded program, HRSA has opted to supplement the existing award to expedite the expanded support of living organ donors and increase the number of transplant candidates who benefit from living organ donation. HRSA believes that it is more efficient and effective to have the Reimbursement Program administered by one awardee.

Thomas J. Engels,
Administrator.

[FR Doc. 2020-21992 Filed 10-5-20; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request Information Collection Request Title: Faculty Loan Repayment Program OMB No. 0915-0150—Revision

AGENCY: Health Resources and Services Administration, (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than December 7, 2020.

ADDRESSES: Submit your comments to paperwork@hrsa.gov or mail the HRSA Information Collection Clearance Officer, Room 14N136B, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email paperwork@hrsa.gov or call Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at (301) 443-1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the ICR title for reference.

Information Collection Request Title: Faculty Loan Repayment Program OMB No. 0915-0150—Revision.

Abstract: The U.S. Department of Health and Human Services (HHS), HRSA, Bureau of Health Workforce administers the Faculty Loan Repayment Program (FLRP). FLRP provides degree-trained health professionals from disadvantaged backgrounds based on environmental and/or economic factors the opportunity to enter into a contract with the HHS in exchange for the repayment of qualifying educational loans for a minimum of 2 years of service as a full-time or part-time faculty member at eligible health professions schools.

Need and Proposed Use of the Information: The information collected will be used to evaluate applicants' eligibility to participate in FLRP and to monitor FLRP-related activities. For this revised ICR, the FLRP proposes to include a Disadvantaged Background (DB) form to the FLRP application. FLRP applicants are required to provide certification from a health professions school previously attended that identifies the individual as coming from an economically or environmentally disadvantaged background. In the past, applicants provided this information in varying formats. The DB form will not request new information from FLRP applicants but will allow for an easier method for applicants to compete and convey their DB status in addition to standardizing the collection of information. The information collected will be used to evaluate applicants' rank and tier in the FLRP award process.

Likely Respondents: FLRP applicants and institutions providing employment to the applicants.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to

develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing

and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to

transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Eligible Applications	186	1	186	1	186
Institution/Loan Repayment Employment Form	* 186	1	186	1	186
Authorization to Release Information Form	186	1	186	.25	46.5
Disadvantaged Background Form	186	1	186	.20	37.2
Total	744	.....	744	.....	455.70

* Respondent for this form is the institution for the applicant.

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2020-22023 Filed 10-5-20; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: DATA 2000 Waiver Training Payment Program Application for Payment, OMB No. 0906-XXXX—New

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects, as required by the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public

regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than December 7, 2020.

ADDRESSES: Submit your comments to paperwork@hrsa.gov or mail the HRSA Information Collection Clearance Officer, Room 14N136B, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email paperwork@hrsa.gov or call Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at (301) 443-1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: DATA 2000 Waiver Training Payment Program Application for Payment, OMB No. 0906-XXXX—New.

Abstract: The Substance Use—Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act (Pub. L. 115-271), section 6083, added sections 1833(bb) and 1834(o)(3) of the Social Security Act (42 U.S.C. 1395l and 42 U.S.C. 1395m(o)(3)), requiring the Secretary to make payments to Federally Qualified Health Centers (FQHC) and Rural Health Clinics (RHC) to pay the average training costs of eligible physicians and practitioners who obtain Drug Addiction Treatment Act of 2000 (DATA 2000) waivers to furnish opioid use disorder treatment services. To receive payment, FQHCs and RHCs must submit an application to the Secretary. In order to provide HRSA

with information necessary for validation and issuance of accurate payments, the form will require that FQHCs and RHCs provide information identifying the submitting organization, including FQHC or RHC Employer/Tax Identification Number, mailing address, telephone number, email address, Congressional District number, and, if applicable, the facility CMS Certification Number (CCN) and mailing address associated with the CCN. The form also will require the FQHC or RHC to include information regarding each claimed practitioner's name, physician or practitioner type (*e.g.*, physician, physician assistant, nurse practitioner, certified nurse midwife, clinical nurse specialist, certified registered nurse, or anesthetist), National Provider Identifier (NPI) number, Drug Enforcement Administration (DEA) number, state medical license number, length of training, date the training was completed, date of waiver attainment, and DATA 2000 waiver number. Additionally, the form will require the applicant to sign an attestation statement certifying that (1) each practitioner for which the entity is seeking payment under the application is employed by or working under contract for this facility, (2) it is the first time the entity is seeking payment on behalf of the listed practitioner(s), (3) the entity is eligible to seek payment under 42 U.S.C. 1395m(o)(3) or 42 U.S.C. 1395l(bb), (4) each practitioner is furnishing opioid use disorder treatment services, and (5) that the statements herein are true, complete, and accurate to the best of the applicant's knowledge.

Need and Proposed Use of the Information: The SUPPORT for Patients and Communities Act requires FQHCs and RHCs to submit to the Secretary an application for payment at such time, in such manner, and containing such

information as specified by the Secretary in order to receive a payment under section 6083. This form will allow FQHCs and RHCs to apply for such payments based on the average cost of training to obtain DATA 2000 waivers, as determined by the Secretary, for their physicians and practitioners to furnish opioid use disorder treatment services. The form will also provide HRSA with the requisite data to validate qualifying DATA 2000 waiver

possessions for the purpose of ensuring accurate payments to FQHCs and RHCs.

Likely Respondents: Only FQHCs and RHCs are eligible to apply.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose

of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
DATA 2000 Waiver Training Payment Program Application for Payment	1,137	1	1,137	0.5	568.5
Total	1,137	.....	1,137	.....	568.5

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2020-22079 Filed 10-5-20; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Tick-Borne Disease Working Group

AGENCY: Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: As required by the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) is hereby giving notice that the Tick-Borne Disease Working Group (TBDWG) will hold a virtual meeting. The meeting will be open to the public. For this meeting, the TBDWG will review chapters and the template for the 2020 report to the HHS Secretary and Congress. The 2020 report will address ongoing tick-borne disease research, including research related to

causes, prevention, treatment, surveillance, diagnosis, diagnostics, and interventions for individuals with tick-borne diseases; advances made pursuant to such research; federal activities related to tick-borne diseases; and gaps in tick-borne disease research

DATES: The meeting will be held online via webcast on October 27, 2020 from approximately 9:00 a.m. to 5:30 p.m. ET (times are tentative and subject to change). The confirmed times and agenda items for the meeting will be posted on the TBDWG web page at <https://www.hhs.gov/ash/advisory-committees/tickbornedisease/meetings/2020-10-27/index.html> when this information becomes available.

FOR FURTHER INFORMATION CONTACT:

James Berger, Designated Federal Officer for the TBDWG; Office of Infectious Disease and HIV/AIDS Policy, Office of the Assistant Secretary for Health, Department of Health and Human Services, Mary E. Switzer Building, 330 C Street SW, Suite L600, Washington, DC 20024. Email: tickbornedisease@hhs.gov; Phone: 202-795-7608.

SUPPLEMENTARY INFORMATION: The registration link will be posted on the website at <https://www.hhs.gov/ash/advisory-committees/tickbornedisease/meetings/2020-10-27/index.html> when it becomes available. After registering, you will receive an email confirmation with a personalized link to access the webcast on October 27, 2020

The public will have an opportunity to present their views to the TBDWG orally during the meeting's public comment session or by submitting a written public comment. Comments

should be pertinent to the meeting discussion. Persons who wish to provide verbal or written public comment should review instructions at <https://www.hhs.gov/ash/advisory-committees/tickbornedisease/meetings/2020-10-27/index.html> and respond by midnight October 16, 2020 ET. Verbal comments will be limited to three minutes each to accommodate as many speakers as possible during the 30 minute session. Written public comments will be accessible to the public on the TBDWG web page prior to the meeting.

Background and Authority: The Tick-Borne Disease Working Group was established on August 10, 2017, in accordance with Section 2062 of the 21st Century Cures Act, and the Federal Advisory Committee Act, 5 U.S.C. App., as amended, to provide expertise and review federal efforts related to all tick-borne diseases, to help ensure interagency coordination and minimize overlap, and to examine research priorities. The TBDWG is required to submit a report to the HHS Secretary and Congress on their findings and any recommendations for the federal response to tick-borne disease every two years.

Dated: September 25, 2020.

James J. Berger,

Designated Federal Officer, Tick-Borne Disease Working Group, Office of Infectious Disease and HIV/AIDS Policy.

[FR Doc. 2020-22014 Filed 10-5-20; 8:45 am]

BILLING CODE 4150-28-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Computational, Modeling and Biodata Management.

Date: November 4, 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: Allen Richon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6184, MSC 7892, Bethesda, MD 20892, 301-379-9351, allen.richon@nih.hhs.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Shared and High Instruments: Crystallography and NMR.

Date: November 4, 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: Nuria E. Assa-Munt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4164, MSC 7806, Bethesda, MD 20892, (301) 451-1323, assamunu@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Physiology and Pathobiology of the Vascular and Hematological Systems.

Date: November 5, 2020.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Katherine M. Malinda, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140,

MSC 7814, Bethesda, MD 20892, 301-435-0912, Katherine_Malinda@csr.nih.gov.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Infectious Diseases, Reproductive Health, Asthma and Pulmonary Conditions Study Section.

Date: November 5-6, 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: Karen Nieves Lugo, MPH, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301-594-9088, karen.nieveslugo@nih.gov.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neurobiology of Motivated Behavior Study Section.

Date: November 5-6, 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: Janita N. Turchi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, turchij@mail.nih.gov.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Cellular and Molecular Biology of Neurodegeneration Study Section.

Date: November 5-6, 2020.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Laurent Taupenot, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4188, MSC 7850, Bethesda, MD 20892, 301-435-1203, laurent.taupenot@nih.gov.

Name of Committee: Cell Biology Integrated Review Group; Biology of the Visual System Study Section.

Date: November 5-6, 2020.

Time: 10:00 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: Thomas Beres, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7840, Bethesda, MD 20892, 301-435-1175, berestm@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Aging and Development.

Date: November 5, 2020.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Zubaida Rangwalla Saifudeen, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817, 301.827.3029, zubaida.saifudeen@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 30, 2020.

Ronald J. Livingston, Jr.,
Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020-21987 Filed 10-5-20; 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; Integrated Preclinical/Clinical AIDS Vaccine Development Program (IPCAVD) (U19 Clinical Trial Not Allowed).

Date: October 29, 2020.

Time: 1:00 p.m. to 4:00 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 3G11, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Kumud Singh, 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 3G11, Rockville, MD 20852, 301-761-7830, kumud.singh@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 30, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020-22018 Filed 10-5-20; 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; PAR-20-072, NIAID Investigator Initiated Program Project Applications (P01 Clinical Trial Not Allowed).

Date: November 4, 2020.

Time: 10:00 a.m. to 1:00 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 3F30A, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Ellen S. Buczko, 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 3F30A, Bethesda, MD 20892-9823, (240) 669-5028, ebuczko1@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 30, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020-22016 Filed 10-5-20; 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 Clinical Trial Implementation Cooperative Agreement (U01), and NIAID SBIR Phase II Clinical Trial Implementation Cooperative Agreement (U44).

Date: October 28, 2020.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G33 Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Steven F. Santos, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G33, Rockville, MD 20892, 301-761-7049, santossf@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 30, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020-22019 Filed 10-5-20; 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; Emergency Awards: Rapid Investigation of Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2) and Coronavirus Disease 2019 (COVID-19).

Date: October 28-29, 2020.

Time: 9:30 a.m. to 12:00 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 3G22A, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Inka I. Sastalla, 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 3G22A, Rockville, MD 20852, 301-761-6431, inka.sastalla@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 30, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020-22017 Filed 10-5-20; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Solicitation of Nominations for Appointment to the Tick-Borne Disease Working Group

AGENCY: Office of Infectious Disease and HIV/AIDS Policy (OIDP), Office of the Assistant Secretary for Health (OASH), Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This notice will serve to announce that the U.S. Department of Health and Human Services (HHS) is seeking nominations of non-federal public (public) individuals who represent diverse scientific disciplines and views and are interested in being considered for appointment to the Tick-Borne Disease Working Group (TBDWG). Resumes or curricula vitae from qualified individuals who wish to be considered for appointment as a member of the TBDWG are currently being accepted.

DATES: Nominations must be received no later than 5:00 p.m. ET, November 5, 2020.

ADDRESSES: All nominations should be sent to the TBDWG email address at tickbornedisease@hhs.gov. Please indicate "TBDWG Nomination" in the subject line of your email. The COVID-19 pandemic has caused significant disruption of mail addressed to the TBDWG. As such, it is advised that all nominations be submitted electronically.

FOR FURTHER INFORMATION CONTACT: James Berger, MS, MT (ASCP), SBB, Senior Advisor for Blood and Tissue Policy; Telephone: (202) 795-7608; Email address: tickbornedisease@hhs.gov. Website information about activities of the TBDWG, as well as the Charter, can be found at <https://www.hhs.gov/ash/advisory-committees/tickbornedisease/index.html>.

SUPPLEMENTARY INFORMATION: Section 2062 of the 21st Century Cures Act, Public Law 114-255, requires establishment of the TBDWG. The TBDWG is governed by provisions of the Federal Advisory Committee Act, Public Law 92-463, as amended (5 U.S.C. App.), which sets forth standards for the formation and use of federal advisory committees. The 21st Century Cures Act is intended to advance the research and development of new therapies and diagnostics and make substantial federal investments in a wide range of health priorities. The TBDWG is a non-discretionary federal advisory committee.

Objectives and Scope of Activities. The Secretary of HHS is responsible for ensuring the conduct of and support for epidemiological, basic, translational, and clinical research related to vector-borne diseases, including tick-borne diseases. The TBDWG was established to help ensure interagency coordination and to examine the prioritization of such activities and research. The TBDWG membership provides subject matter expertise and reviews efforts

within the federal government related to all tick-borne diseases. The TBDWG is charged to provide a report to the HHS Secretary and Congress biennially on its findings, including advances made and gaps in research, and to make recommendations regarding appropriate changes or improvements to such activities and research.

Membership and Designation. The TBDWG consists of 14 voting members who represent diverse scientific disciplines and views. The composition includes seven public members and seven federal members. Every effort is made to ensure that the TBDWG is a diverse group of individuals with representation from various geographic locations, racial and ethnic minorities, genders, and persons living with disabilities.

The public members consist of representatives of the following categories: (1) Physicians and other medical providers with experience in diagnosing and treating tick-borne diseases; (2) scientists or researchers with expertise; (3) patients and their family members; and (4) nonprofit organizations that advocate for patients with respect to tick-borne disease. The public members are classified as special government employees. The public members may be invited to serve consecutive terms of up to four years total. Terms of more than two years are also contingent upon renewal of the charter of the TBDWG. Any public member who is appointed to fill the vacancy of an unexpired term will be appointed to serve for the remainder of that term. A public member may serve after the expiration of their term until their successor has taken office, but no longer than 180 days.

The federal members consist of one or more representatives of each of the following HHS agencies: OASH, the Food and Drug Administration, the Centers for Disease Control and Prevention, and the National Institutes of Health. Invitations of membership are extended to other federal agencies and offices as the HHS Secretary determines appropriate and beneficial for accomplishing the mission of the TBDWG. Individuals who are appointed to represent federal entities are classified as regular government employees. The federal members are appointed to serve for the duration of time that the TBDWG is authorized to operate. Participation of the appointed federal members is at the discretion of their respective agency head.

Pursuant to advance written agreement, public members of the TBDWG will receive no stipend for the advisory service that they render as

members of the TBDWG. However, public members will receive per diem and reimbursement for travel expenses incurred in relation to performing duties for the TBDWG, as authorized by law under 5 U.S.C. 5703 for persons who are employed intermittently to perform services for the federal government and in accordance with federal travel regulations.

Estimated Number and Frequency of Meetings. The TBDWG will meet not less than twice a year. The meetings will be open to the public, except as determined otherwise by the Secretary, or another official to whom authority has been delegated, in accordance with the guidelines under Government in the Sunshine Act, 5 U.S.C. 552b(c).

Nominations: Nominations of individuals who have demonstrated subject matter expertise will be considered for appointment as public voting members of the TBDWG. Self-nominations are acceptable. All nominations should include the following: (1) A letter of nomination that clearly states the name and affiliation of the nominee, the basis for the nomination, and a statement from the nominee that indicates that the individual is willing to serve as a member of the TBDWG, if selected; (2) the name, address, telephone number, and email address of the nominee; and (3) a current copy of the nominee's curriculum vitae or resume, which must be limited to 10 pages. Only the first 10 pages of resume or CV document will be considered.

All public nominees will be subject to federal ethics requirements for special government employees. As required by the Ethics Reform Act, Public Law 101-194, special government employees must receive annual ethics training and submit a financial disclosure. An ethics review must be conducted to ensure that individuals appointed as public voting members of the TBDWG are not involved in any activity that may pose a potential conflict of interest for the official duties that are to be performed. All federal members of the TBDWG will be governed by the Standards of Ethical Conduct for Employees of the Executive Branch.

Dated: September 21, 2020.

James J. Berger,

Senior Advisor for Blood and Tissue Policy,
Designated Federal Officer, Tick-Borne
Disease Working Group.

[FR Doc. 2020-22062 Filed 10-5-20; 8:45 am]

BILLING CODE 4150-28-P

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****[Docket No. USCG–2020–0320]****Collection of Information under Review by Office of Management and Budget; OMB Control Number 1625–0078****AGENCY:** Coast Guard, DHS.**ACTION:** Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, 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: 1625–0078, Credentialing and Manning Requirements for Officers of Towing Vessels; without change. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: You may submit comments to the Coast Guard and OIRA on or before November 5, 2020.

ADDRESSES: Comments to the Coast Guard should be submitted using the Federal eRulemaking Portal at <https://www.regulations.gov>. Search for docket number [USCG–2020–0320]. Written comments and recommendations to OIRA for the proposed information collection should be sent within 30 days of publication of this notice to <https://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.

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. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2020–0320], and must be received by November 5, 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 to the Coast Guard 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 to the Coast Guard in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020). For more about privacy and submissions to OIRA in response to this document, see the <https://www.reginfo.gov>, comment-submission web page. OIRA posts its decisions on ICRs online at <https://www.reginfo.gov/public/do/PRAMain> after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0078.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (85 FR 45224, July 27, 2020) required by 44 U.S.C. 3506(c)(2). That notice elicited no comments. Accordingly, no changes have been made to the Collection.

Information Collection Request

Title: Credentialing and Manning Requirements for Officers of Towing Vessels.

OMB Control Number: 1625–0078.

Summary: Credentialing and manning requirements ensure that towing vessels operating on the navigable waters of the U.S. are under the control of credentialed officers who meet certain qualification and training standards.

Need: Title 46 Code of Federal Regulations parts 10 and 11 prescribe regulations for the credentialing of maritime personnel. This information collection is necessary to ensure that a mariner’s training information is available to assist in determining his or her overall qualifications to hold certain credentials.

Forms: None.

Respondents: Owners and operators of towing vessels.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has increased from 18,635 hours to 24,152 a year due to an estimated increase in the annual number of respondents.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: October 1, 2020.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2020-22066 Filed 10-5-20; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG-2020-0099]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number 1625-0019

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, 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: 1625-0019, Alternative Compliance for International and Inland Navigation Rules; without change. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: You may submit comments to the Coast Guard and OIRA on or before November 5, 2020.

ADDRESSES: Comments to the Coast Guard should be submitted using the Federal eRulemaking Portal at <https://www.regulations.gov>. Search for docket number [USCG-2020-0099]. Written comments and recommendations to OIRA for the proposed information collection should be sent within 30 days of publication of this notice to <https://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.

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. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG-2020-0099], and must be received by November 5, 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 to the Coast Guard 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 to the Coast Guard in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). For more about privacy and submissions to OIRA in response to this document, see the <https://www.reginfo.gov>, comment-submission web page. OIRA posts its decisions on ICRs online at <https://www.reginfo.gov/public/do/PRAMain> after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625-0019.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (85 FR 44913, July 24, 2020) required by 44 U.S.C. 3506(c)(2). That notice elicited no comments. Accordingly, no changes have been made to the Collection.

Information Collection Request

Title: Alternative Compliance for International and Inland Navigation Rules—33 CFR parts 81 through 89.

OMB Control Number: 1625-0019.

Summary: The information collected provides an opportunity for an owner, operator, builder, or agent of a unique vessel to present their reasons why the vessel cannot comply with existing International/Inland Navigation Rules and how alternative compliance can.

Need: Certain vessels cannot comply with the International Navigation Rules (see 33 U.S.C. 1601 through 1608; 28 U.S.T. 3459, and T.I.A.S. 8587) and Inland Navigation Rules (33 U.S.C. 2071). The Coast Guard thus provides an opportunity for alternative compliance. However, it is not possible to determine whether alternative compliance is appropriate, or what kind of alternative procedures might be necessary, without this collection.

Forms: Not applicable.

Respondents: Vessel owners, operators, builders and agents.

Frequency: One-time application.

Hour Burden Estimate: The estimated burden has decreased from 207 hours to 180 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: October 1, 2020.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2020-22065 Filed 10-5-20; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA-2020-0002; Internal Agency Docket No. FEMA-B-2059]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents

of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Rick Sacibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) patrick.sacibit@fema.dhs.gov; or visit the FEMA Map Information eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood

hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Alabama:						
Baldwin	Town of Loxley (19-04-6434P).	The Honorable Billy Middleton, Mayor, Town of Loxley, P.O. Box 9, Loxley, AL 36551.	Building Department, 1089 South Hickory Lane, Loxley, AL 36551.	https://msc.fema.gov/portal/advanceSearch .	Sep. 28, 2020	010009
St. Clair	City of Springville (19-04-5233P).	The Honorable Butch Isley, Mayor, City of Springville, P.O. Box 919, Springville, AL 35146.	City Hall, 6327 U.S. Highway 11, Springville, AL 35146.	https://msc.fema.gov/portal/advanceSearch .	Sep. 25, 2020	010289

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Colorado: Jefferson.	City of Westminster (20–08–0053P).	The Honorable Herb Atchison, Mayor, City of Westminster, 4800 West 92nd Avenue, Westminster, CO 80031.	City Hall, 4800 West 92nd Avenue, Westminster, CO 80031.	https://msc.fema.gov/portal/advanceSearch .	Dec. 4, 2020	080008
Florida: Lee	City of Fort Myers (20–04–2960P).	Mr. Saeed Kazemi, Manager, City of Fort Myers, 1825 Hendry Street, Suite 101, Fort Myers, FL 33901.	Community Development Department, 1825 Hendry Street, Fort Myers, FL 33901.	https://msc.fema.gov/portal/advanceSearch .	Dec. 18, 2020	125106
Manatee	Unincorporated areas of Manatee County (20–04–3496P).	The Honorable Betsy Benac, Chair, Manatee County Board of Commissioners, 1112 Manatee Avenue West, Bradenton, FL 34205.	Manatee County Administration Building, 1112 Manatee Avenue West, Bradenton, FL 34205.	https://msc.fema.gov/portal/advanceSearch .	Dec. 21, 2020	120153
Palm Beach	Unincorporated areas of Palm Beach County (20–04–1768P).	Ms. Verdenia C. Baker, Palm Beach County Administrator, 301 North Olive Avenue, Suite 1101, West Palm Beach, FL 33401.	Palm Beach County Building Division, 2300 North Jog Road, West Palm Beach, FL 33411.	https://msc.fema.gov/portal/advanceSearch .	Dec. 14, 2020	120192
Polk	Unincorporated areas of Polk County (20–04–3597P).	The Honorable Bill Braswell, Chairman, Polk County Board of Commissioners, P.O. Box 9005, Drawer BC01, Bartow, FL 33831.	Polk County Land Development Division, 330 West Church Street, Bartow, FL 33830.	https://msc.fema.gov/portal/advanceSearch .	Dec. 24, 2020	120261
Seminole	City of Longwood (20–04–2794P).	The Honorable Clint Gioielli, Acting Manager, City of Longwood, 175 West Warren Avenue, Longwood, FL 32750.	City Hall, 175 West Warren Avenue, Longwood, FL 32750.	https://msc.fema.gov/portal/advanceSearch .	Dec. 21, 2020	120292
Oklahoma: Oklahoma.	City of Harrah (20–06–0411P).	The Honorable Larry Fryar, Mayor, City of Harrah, 19625 Northeast 23rd Street, Harrah, OK 73045.	City Hall, 19625 Northeast 23rd Street, Harrah, OK 73045.	https://msc.fema.gov/portal/advanceSearch .	Dec. 14, 2020	400140
Oregon: Washington.	Unincorporated areas of Washington County (19–10–1199P).	The Honorable Kathryn Harrington, Chair, Washington County Board of Commissioners, 155 North 1st Avenue, Suite 300, Hillsboro, OR 97124.	Washington County Land Use and Transportation Department, 1400 Southwest Walnut Street, Hillsboro, OR 97123.	https://msc.fema.gov/portal/advanceSearch .	Jan. 4, 2021	410238
Pennsylvania: Montgomery	Township of Hatfield (20–03–0395P).	The Honorable Tom Zipfel, President, Township of Hatfield Board of Commissioners, 1950 School Road, Hatfield, PA 19440.	Township Hall, 1950 School Road, Hatfield, PA 19440.	https://msc.fema.gov/portal/advanceSearch .	Dec. 28, 2020	420699
Montgomery	Township of Hatfield (20–03–1140P).	The Honorable Tom Zipfel, President, Township of Hatfield Board of Commissioners, 1950 School Road, Hatfield, PA 19440.	Township Hall, 1950 School Road, Hatfield, PA 19440.	https://msc.fema.gov/portal/advanceSearch .	Dec. 18, 2020	420699
Montgomery	Township of Montgomery (20–03–0395P).	The Honorable Tanya C. Bamford, Chair, Township of Montgomery Board of Supervisors, 1001 Stump Road, Montgomeryville, PA 18936.	Planning and Zoning Department, 1001 Stump Road, Montgomeryville, PA 18936.	https://msc.fema.gov/portal/advanceSearch .	Dec. 28, 2020	421226
Texas: Harris	Unincorporated areas of Harris County (20–06–2000P).	The Honorable Lina Hidalgo, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County Permit Office, 10555 Northwest Freeway, Suite 120, Houston, TX 77092.	https://msc.fema.gov/portal/advanceSearch .	Dec. 14, 2020	480287
Kaufman	City of Forney (20–06–1624P).	The Honorable Mary Penn, Mayor, City of Forney, P.O. Box 826, Forney, TX 75126.	City Hall, 101 East Main Street, Forney, TX 75126.	https://msc.fema.gov/portal/advanceSearch .	Feb. 8, 2021	480410

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Kaufman	Unincorporated areas of Kaufman County (20-06-1624P).	The Honorable Hal Richards, Kaufman County Judge, 100 West Mulberry Street, Kaufman, TX 75142.	Kaufman County Development Services Department, 106 West Grove Street, Kaufman, TX 75142.	https://msc.fema.gov/portal/advanceSearch .	Feb. 8, 2021	480411
Rockwall	City of Rockwall (20-06-1071P).	Mr. Richard R. Crowley, Manager, City of Rockwall, 385 South Goliad Street, Rockwall, TX 75087.	Engineering Department, 385 South Goliad Street, Rockwall, TX 75087.	https://msc.fema.gov/portal/advanceSearch .	Dec. 28, 2020	480547
Tarrant	City of Fort Worth (20-06-1449P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 200 Texas Street, Fort Worth, TX 76102.	Department of Transportation and Public Works, Engineering Vault, 200 Texas Street, Fort Worth, TX 76102.	https://msc.fema.gov/portal/advanceSearch .	Dec. 24, 2020	480596
Williamson ...	City of Cedar Park (20-06-1685P).	The Honorable Corbin Van Arsdale, Mayor, City of Cedar Park, 450 Cypress Creek Road, Building 1, Cedar Park, TX 78613.	Engineering Department, 450 Cypress Creek Road, Building 1, Cedar Park, TX 78613.	https://msc.fema.gov/portal/advanceSearch .	Dec. 14, 2020	481282
Virginia: Loudoun	Town of Purcellville (20-03-0501P).	The Honorable Kwasi Fraser, Mayor, Town of Purcellville, 221 South Nursery Avenue, Purcellville, VA 20132.	Planning and Zoning Department, 221 South Nursery Avenue, Purcellville, VA 20132.	https://msc.fema.gov/portal/advanceSearch .	Dec. 7, 2020	510231
Loudoun	Unincorporated areas of Loudoun County (20-03-0501P).	Mr. Tim Hemstreet, Loudoun County Administrator, P.O. Box 7000, Leesburg, VA 20177.	Loudoun County Office of Mapping and Geographic Information, 1 Harrison Street, Southeast, Leesburg, VA 20175.	https://msc.fema.gov/portal/advanceSearch .	Dec. 7, 2020	510090

[FR Doc. 2020-22081 Filed 10-5-20; 8:45 am]

BILLING CODE 9110-12-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA-2020-0002; Internal Agency Docket No. FEMA-B-2060]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected

communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before January 4, 2021.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location <https://www.fema.gov/preliminaryfloodhazarddata> and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

You may submit comments, identified by Docket No. FEMA-B-2060, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472,

(202) 646-7659, or (email) patrick.sacbibit@fema.dhs.gov.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) patrick.sacbibit@fema.dhs.gov; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP

and are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of

experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at https://www.floodsrp.org/pdfs/srp_overview.pdf.

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location <https://>

www.fema.gov/preliminaryfloodhazarddata and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Levy County, Florida, and Incorporated Areas Project: 14-04-A834S Preliminary Date: March 27, 2020	
Town of Bronson	Town Hall, 650 Oak Street, Bronson, FL 32621.
Town of Otter Creek	Town Hall, 555 Southwest 2nd Avenue, Otter Creek, FL 32683.
Unincorporated Areas of Levy County	Levy County Building Department, 622 East Hathaway Avenue, Bronson, FL 32621.
Coahoma County, Mississippi, and Incorporated Areas Project: 14-04-4749S Preliminary Date: November 14, 2018	
Town of Friar's Point	Town Hall, 700 2nd Street, Friar's Point, MS 38631.

[FR Doc. 2020-22083 Filed 10-5-20; 8:45 am]

BILLING CODE 9110-12-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA-2020-0002; Internal Agency Docket No. FEMA-B-2055]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment

regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before January 4, 2021.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location <https://www.fema.gov/preliminaryfloodhazarddata> and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA

Map Service Center at <https://msc.fema.gov> for comparison.

You may submit comments, identified by Docket No. FEMA-B-2055, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) patrick.sacbibit@fema.dhs.gov.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) patrick.sacbibit@fema.dhs.gov; or visit the FEMA Map Information eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that

are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered

an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at https://www.floodsrp.org/pdfs/srp_overview.pdf.

The watersheds and/or communities affected are listed in the tables below.

The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location <https://www.fema.gov/preliminaryfloodhazarddata> and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Louisa County, Iowa and Incorporated Areas Project: 15-07-0720S Revised Preliminary Date: January 31, 2020	
City of Columbus Junction	City Hall, 232 2nd Street, Columbus Junction, IA 52738.
City of Fredonia	Louisa County Courthouse, 117 South Main Street, Wapello, IA 52653.
City of Letts	City Hall, 125 South Cherry Street, Letts, IA 52754.
City of Morning Sun	City Hall, 11 East Division Street, Morning Sun, IA 52640.
City of Oakville	City Hall, 601 2nd Street, Oakville, IA 52646.
City of Wapello	City Hall, 335 North Main Street, Wapello, IA 52653.
Unincorporated Areas of Louisa County	Louisa County Courthouse, 117 South Main Street, Wapello, IA 52653.
Muscatine County, Iowa and Incorporated Areas Project: 16-07-2337S Preliminary Date: August 29, 2018	
City of Atalissa	City Hall, 122 3rd Street, Atalissa, IA 52720.
City of Nichols	City Hall, 429 Ijem Avenue, Nichols, IA 52766.
City of West Liberty	City Hall, 409 North Calhoun Street, West Liberty, IA 52776.

[FR Doc. 2020-22084 Filed 10-5-20; 8:45 am]

BILLING CODE 9110-12-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA-2020-0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs)

and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below. The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The date of February 12, 2021 has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified

flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at <https://msc.fema.gov> by the date indicated above.

FOR FURTHER INFORMATION CONTACT: Rick Sacbabit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) patrick.sacbabit@fema.dhs.gov; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at <https://msc.fema.gov>.

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Scott County, Minnesota and Incorporated Areas Docket Nos.: FEMA-B-1436 and B-1869	
City of Belle Plaine.	City Hall, 218 North Meridian Street, Belle Plaine, MN 56011.
City of Elko New Market.	City Hall, 601 Main Street, Elko New Market, MN 55054.
City of Jordan	City Hall, 210 East First Street, Jordan, MN 55352.
City of Prior Lake.	City Hall, 4646 Dakota Street Southeast, Prior Lake, MN 55372.
City of Savage	City Hall, 6000 McColl Drive, Savage, MN 55378.
City of Shakopee.	City Hall, 485 Gorman Street, Shakopee, MN 55379.
Unincorporated Areas of Scott County.	County Government Center, 200 Fourth Avenue West, Shakopee, MN 55379.

Community	Community map repository address
Archer County, Texas and Incorporated Areas Docket No.: FEMA-B-1959	
City of Archer City.	City Hall, 118 South Sycamore Street, Archer City, TX 76351.
City of Holliday	City Office, 110 West Olive Street, Holliday, TX 76366.
City of Lakeside City.	Lakeside City Map Repository, 199 Bowman Road, Wichita Falls, TX 76308.
City of Megargel.	City Hall, 1302 Cedar Street, Megargel, TX 76370.
City of Scotland.	City Hall, 727 Avenue L, Scotland, TX 76379.
City of Windthorst.	City Sewer Plant, 361 Sewer Plant Road, Windthorst, TX 76389.
Unincorporated Areas of Archer County.	Archer County Courthouse Emergency Management Office, 100 South Center Street, Archer City, TX 76351.

Jack County, Texas and Incorporated Areas Docket No.: FEMA-B-1959	
City of Bryson	City Hall, 102 North Depot Street, Bryson, TX 76427.
City of Jacksboro.	Fire Department, 128 East College Street, Jacksboro, TX 76458.
Unincorporated Areas of Jack County.	Jack County Office, 100 North Main Street, Jacksboro, TX 76458.

[FR Doc. 2020-22085 Filed 10-5-20; 8:45 am]

BILLING CODE 9110-12-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA-2020-0002; Internal Agency Docket No. FEMA-B-2057]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for

the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before January 4, 2021.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location <https://www.fema.gov/preliminaryfloodhazarddata> and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

You may submit comments, identified by Docket No. FEMA-B-2057, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) patrick.sacbibit@fema.dhs.gov.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) patrick.sacbibit@fema.dhs.gov; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be

construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the

flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at https://www.floodsrp.org/pdfs/srp_overview.pdf.

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where

applicable, FIS report for each community are available for inspection at both the online location <https://www.fema.gov/preliminaryfloodhazarddata> and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Somervell County, Texas and Incorporated Areas Project: 20-06-0058S Preliminary Date: June 9, 2020	
City of Glen Rose	City Hall, 201 Northeast Vernon Street, Glen Rose, TX 76043.
Unincorporated Areas of Somervell County	Somervell County Annex Building, 102 Northeast Vine Street, Glen Rose, TX 76043.
Fredericksburg City, Virginia (Independent City) Project: 18-03-0012S Preliminary Date: January 31, 2020	
City of Fredericksburg	City Hall, 715 Princess Anne Street, Room 209, Fredericksburg, VA 22401.
Spotsylvania County, Virginia (All Jurisdictions) Project: 18-03-0011S Preliminary Date: January 31, 2020	
Spotsylvania County Unincorporated Areas	Spotsylvania County Planning and Zoning Department, 9019 Old Battlefield Boulevard, Suite 320, Spotsylvania, VA 22553.

[FR Doc. 2020-22082 Filed 10-5-20; 8:45 am]

BILLING CODE 9110-12-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R2-ES-2020-N119;
FXES111602C0000-201-FF02ENEH00]

Candidate Conservation Agreement With Assurances for the False Spike and Texas Fawnsfoot in the Brazos River Basin

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for public comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received an application from the Brazos River Authority, a special district of the State

of Texas responsible for development and management of the water resources of the Brazos River Basin in Texas. The application is for an enhancement of survival permit under the Endangered Species Act that would authorize incidental take of two candidate mussel species, false spike and Texas fawnsfoot. The application includes a candidate conservation agreement with assurances (CCAA) for freshwater mussel conservation and surface water supply and delivery operations and maintenance activities in the Brazos River Basin in Texas. We have made a preliminary determination that the CCAA is eligible for categorical exclusion under the National Environmental Policy Act (NEPA). The basis for this determination is contained in a low-effect screening form for a categorical exclusion (dCatEx form), which evaluates the impacts of

implementation of the proposed CCAA. The documents available for comment include the low-effect screening form that supports a categorical exclusion under NEPA, the CCAA, and an enhancement of survival permit application.

DATES: To ensure consideration, written comments must be received or postmarked on or before 11:59 p.m. eastern time on November 5, 2020. We may not consider any comments we receive after the closing date in the final decision on this action.

ADDRESSES:

Accessing Documents:

Internet: The dCatEx form, CCAA, and permit application: You may obtain electronic copies of these documents on the Service's website at <https://www.fws.gov/southwest/es/AustinTexas/>.

U.S. Mail: You may obtain the documents at the following addresses. In your request for documents, please reference Brazos River Authority CCAA.

- *dCatEx form and CCAA:* A limited number of CD-ROM and printed copies of the dCatEx form and CCAA are available, by request, from Mr. Adam Zerrenner, Field Supervisor, Austin Ecological Services Field Office, Austin, TX 78758, telephone 512-490-0057.

- *EOS permit application:* The EOS permit application is available by mail from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 6034, Albuquerque, NM 87103, Attention: Environmental Review Branch.

Submitting Comments: Regarding any of the documents available for review, you may submit written comments by one of the following methods. In your comments, please reference Brazos River Authority CCAA.

- *Email:* Submit comments to FW2_HCP_Permits@fws.gov.

- *U.S. Mail:* Field Supervisor, Austin Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, TX 78758.

We request that you send comments by only one of the methods described above.

FOR FURTHER INFORMATION CONTACT:

Adam Zerrenner, Field Supervisor, by mail at U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, TX 78758; via phone at 512-490-0057; or via the Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION: Section 9 of the Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*) and its implementing regulations prohibit the “take” of animal species listed as endangered or threatened. Take is defined under the ESA as to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed animal species, or to attempt to engage in such conduct” (16 U.S.C. 1538). However, under section 10(a) of the ESA, we may issue permits to authorize the enhancement of survival (EOS) of candidate species. “Incidental take” is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing such take of endangered and threatened/ candidate species, respectively, are found in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32.

Background

The Brazos River Authority (BRA) has applied to the U.S. Fish and Wildlife

Service (Service) for an EOS under section 10(a)(1)(A) of the ESA. The requested EOS permit, which would become effective on the date the species may be listed in the future. If the EOS is issued, it would authorize incidental take of the false spike (*Fusconaia mitchelli*) and Texas fawnsfoot (*Truncilla macrodon*), two mussels species listed as candidates under the ESA. The permit would be in effect from the effective date of a listing for the remainder of the 20-year duration of the CCAA. The proposed incidental take would result from activities associated with otherwise lawful activities resulting from implementation of the measures in the CCAA’s conservation strategy, and ongoing and continuing water supply development activities. The CCAA and associated permit would implement a voluntary conservation strategy for freshwater mussels developed by the BRA informed by the National Strategy for the Conservation of Native Freshwater Mussels developed by the National Freshwater Mollusk Conservation Society. The conservation strategy includes avoidance and minimization measures to reduce impacts to candidate mussels and their habitats, a monitoring and adaptive management program, environmental flow standards, and a public outreach and education program about threats affecting the candidate mussels. In addition, it includes development of revised flow standards specific to candidate mussels, in conjunction with development of hydrologic modeling to inform adaptive management. There is also support for development of short-term refugia and research into propagation methods. The expected result of the implementation of the conservation strategy is likely a net conservation benefit to the candidate false spike and candidate Texas fawnsfoot.

The intent of the CCAA and associated permit is to provide the BRA with the opportunity to voluntarily conserve both species and their habitat, while carrying out their existing and ongoing water supply and water delivery operations and providing a net conservation benefit to the species. If approved, the EOS would be for a 20-year period following the signature of the CCAA and would authorize incidental take of the false spike and Texas fawnsfoot, if the species come to be listed under the ESA.

Proposed Action

The proposed action involves the issuance of an EOS by the Service for the covered activities in the permit area, under section 10(a)(1)(A) of the ESA.

The EOS would cover “take” of the covered species associated with implementation of a conservation strategy for freshwater mussels and the operation and maintenance of BRA’s water supply and distribution system within the permit area. An application for an EOS must include a CCAA that describes the conservation measures the applicant has agreed to undertake to minimize and mitigate for the impacts of the proposed taking of covered species to the maximum extent practicable. The applicant will fully implement the CCAA if approved by the Service.

Next Steps

We will evaluate the CCAA and comments we receive to determine whether the EOS application meets the requirements of section 10(a)(1)(A) of the ESA. We will also evaluate whether issuance of a section 10(a)(1)(A) permit would comply with section 7 of the ESA by conducting an intra-Service section 7 consultation. We will also evaluate the comments received to determine if the CCAA is eligible for categorical exclusion under the National Environmental Policy Act (NEPA). We will use the results of the combination of the above findings, in our final analysis to determine whether to issue an EOS. If all necessary requirements are met, we may issue the EOS to the applicant.

Public Availability of Comments

Written comments we receive become part of the public 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.

Authority

We provide this notice under section 10(c) of the ESA and its implementing regulations (50 CFR 17.22 and 17.32) and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its

implementing regulations (40 CFR 1506.6).

Amy L. Lueders,

*Regional Director, Southwest Region,
Albuquerque, New Mexico.*

[FR Doc. 2020–22063 Filed 10–5–20; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[201A2100DD/AAKC001030/A0A51010.
999900]

Land Acquisitions; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Assistant Secretary—Indian Affairs has made a final determination to acquire 9,303.79 acres, more or less, into trust for the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

DATES: This determination was made on May 22, 2019.

FOR FURTHER INFORMATION CONTACT: Ms. Sharlene M. Round Face, Bureau of Indian Affairs, Division of Real Estate Services, 1001 Indian School Road NW, Albuquerque, NM 87104, telephone (505) 563–3132, *Sharlene.roundface@bia.gov*.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by part 209 of the Departmental Manual, and is published to comply with the requirement of 25 CFR 151.12(c)(2)(ii) that notice of the decision to acquire land in trust be promptly published in the **Federal Register**.

On May 22, 2019, the Assistant Secretary—Indian Affairs issued a decision to accept land in trust for the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota under the authority of Section 5 of the Indian Reorganization Act of 1934 (48 Stat. 984).

Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota Dunn and McKenzie Counties, North Dakota Legal Description Containing 9,303.79 Acres, More or Less

Dunn County

Township 148 North, Range 95 West, 5th P.M.

Section 4: Lots 1, 2, 3, 4, 5, S $\frac{1}{2}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$

Section 5: Lots 1, 2, 3, 4, S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$

Section 7: Lots 2, 3, 4, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Lot 1, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$

Section 8: N $\frac{1}{2}$ S $\frac{1}{2}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 9: Lot 4, S $\frac{1}{2}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$

Section 17: SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$

Section 18: Lots 1, 3, 4, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 19: NW $\frac{1}{4}$, Lots 3, 4, E $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$

Section 20: SW $\frac{1}{4}$ SW $\frac{1}{4}$

Section 28: Lots 3, 4, E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$

Section 29: SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, less lands taken by the United States of America, and less a tract of land situated in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ more particularly described as follows: Beginning at a point on the south line of said section 29, said point being 3,301.65 feet west of southeast corner of said section 29, thence westerly along the said south line, 658.35 feet; thence north, 400.00 feet, thence east 300.00 feet, thence southeasterly to the point of beginning.

Section 30: Lot 4, E $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$

Section 30: Lot 5, less a tract more particularly described as follows: Beginning at the southeast corner of lot 5, thence westerly along the south line of said lot 5, 732.95 feet thence northeasterly to a point 455.08 feet north and 400.00 feet west of the said southeast corner, thence easterly parallel with the said south line to the east line of said lot 5; thence southerly along the said east line to the point of beginning.

Section 31: Lot 3, NE $\frac{1}{4}$ NW $\frac{1}{4}$

Section 32: NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ N $\frac{1}{2}$ NE $\frac{1}{4}$, being parts of Lots 1, 2, and 3, less a tract of land in lot 3, more particularly described as follows: Beginning at a point 660.00 feet south and 3,100.00 feet west of the northeast corner of said section 32, thence west 200.00 feet, thence north, to the north line of said lot 3, thence southeasterly to the point of beginning.

Section 33: Lot 1, N $\frac{1}{2}$ NW $\frac{1}{4}$

Township 148 North, Range 96 West, 5th P.M.

Section 1: Lots 1, 2, 3, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$

Section 2: SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 12: NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$

Section 13: SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$

Section 14: SE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 23: N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$

Section 24: NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$

Section 25: E $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$, Lots 1, 2, W $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$

Section 26: Lots 5, 6, 10, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$

McKenzie County

Township 149 North, Range 95 West

Section 25: Lot 4

Section 26: SE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 33: S $\frac{1}{2}$

Section 34: S $\frac{1}{2}$, less all that portion of the S $\frac{1}{2}$ SE $\frac{1}{4}$ of said section 34, lying within a strip of land, said strip being 80 feet wide, lying 40 feet on each side of the following described center line: Beginning at a point on the east line of the said S $\frac{1}{2}$ SE $\frac{1}{4}$ of section 34, 305.2 feet from the SE corner thereof, said point being on the centerline of the state highway as surveyed and staked over and across the said S $\frac{1}{2}$ SE $\frac{1}{4}$, section 34, thence running S 25°31' W 339.8 feet to the south line of the said S $\frac{1}{2}$ SE $\frac{1}{4}$, section 34, excepting all that portion lying within 33 feet of the section line.

Section 35: S $\frac{1}{2}$, less all that portion of the SW $\frac{1}{4}$ of said section 35, lying within a strip of land, said strip being 80 feet wide, lying 40 feet on each side of the following described center line: Beginning at a point on the west line of the said SW $\frac{1}{4}$ of Section 35, 305.2 feet from the SW corner thereof, said point being on the center line of the state highway as surveyed and staked over and across the said SW $\frac{1}{4}$ of Section 35, thence running N 25°31' E 315 feet, excepting all that portion lying within 33 feet of a section line.

Section 35: NE $\frac{1}{4}$

Better described as:

Dunn County

Township 148 North, Range 95 West, 5th Principal Meridian

Section 4: Lots 1, 2, 3, 4, 5, S $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$

Section 5: ALL

Section 6: ALL

Section 7: Lots 2, 3, 4, N $\frac{1}{2}$ NE $\frac{1}{4}$,

SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Lot 1, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$

Section 8: N $\frac{1}{2}$ S $\frac{1}{2}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 9: Lot 4, S $\frac{1}{2}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$

Section 17: SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$

Section 18: Lots 1, 3, 4, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 19: NW $\frac{1}{4}$, Lots 3, 4, E $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$

Section 20: SW $\frac{1}{4}$ SW $\frac{1}{4}$

Section 28: Lots 3, 4, E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$

Section 29: S $\frac{1}{2}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, LOT 1 and the SE $\frac{1}{4}$ SW $\frac{1}{4}$

EXCEPT a tract of land described as follows: Beginning at the Southwest corner of Section 29, thence north on the West line of Lot 1 a distance of 662.13 feet, thence N 89°53'25" E on an assumed bearing a distance of 1317.08 feet to the East line of Lot 1, thence S 0°08'33" E on said East line of Lot 1 for distance of 261.6 feet, thence N 89°52'02" E a distance of 300 feet, thence Southeasterly to a point on the South line of Section 29, said point being 658.35 feet easterly of the W $\frac{1}{16}$ corner common to sections 29 and 32, thence S 89°52'02" W a distance of 658.35 feet to said W $\frac{1}{16}$ corner, thence continue S

89°52'02" W on the Section line a distance of 1316.70 feet to the point of beginning.

Section 30: Lot 4, E $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, Lot 5 EXCEPT a tract more particularly described as follows: Beginning at the Southeast corner of Lot 5, thence North on the East line of Lot 5 a distance of 455.08 feet, thence westerly parallel to the South line of Lot 5 a distance of 400 feet, thence southwesterly to a point on the South line of Lot 5, said point being 732.95 feet westerly of the Southeast corner of Lot 5, thence East along the South line of Lot 5 a distance of 732.95 feet, to the point of beginning.

Section 31: Lot 3, NE $\frac{1}{4}$ NW $\frac{1}{4}$

Section 32: A portion of Lots 1, 2 and 3, more particularly described as follows: Beginning at the Northeast corner of Section 32, thence S 0°31'31" E on an assumed bearing on the East section line a distance of 660.00 feet, thence S 89°50'38" W a distance of 3100.00 feet, thence northwesterly to a point on the North line of Section 32, said point being located 3300 feet westerly of the Northeast corner of Section 32, thence N 89°52'02" E on the north line of Section 32 a distance of 3300.00 feet, to the point of beginning.

Section 33: Lot 1, N $\frac{1}{2}$ NW $\frac{1}{4}$

Township 148 North, Range 96 West, 5th Principal Meridian

Section 1: Lots 1, 2, 3, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$

Section 2: SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 12: ALL

Section 13: SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$

Section 14: SE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 23: N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$

Section 24: NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$

Section 25: E $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$, Lots 1, 2, W $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$

Section 26: Lots 5, 6, 10, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$

McKenzie County

Township 149 North, Range 95 West, 5th Principal Meridian

Section 25: Lot 4

Section 26: SE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 33: S $\frac{1}{2}$

Section 34: S $\frac{1}{2}$ SUBJECT TO a road right of way for McKenzie County Road #53, said right of way being 80 feet wide, lying 40 feet on each side of the centerline of said county road.

Section 35: NE $\frac{1}{4}$ and the S $\frac{1}{2}$ SUBJECT TO a road right of way for McKenzie County Road #53, said right of way being 80 feet wide, lying 40 feet on each side of the centerline of said county road.

Property contains 9,303.79 surface acres, more or less.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2020-22088 Filed 10-5-20; 8:45 am]

BILLING CODE 4337-15-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[20X LLUT912000 L13140000.PP0000]

Notice of Public Meeting, Utah Resource Advisory Council, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act, the Federal Advisory Committee Act, and the Federal Lands Recreation Enhancement Act, the U.S. Department of the Interior, Bureau of Land Management's (BLM) Utah Resource Advisory Council (RAC) will meet as indicated below.

DATES: The Utah RAC is scheduled to meet on Nov. 9–10, 2020. The meeting will take place from 1 p.m. to 5:15 p.m. on Nov. 9, and from 8:30 a.m. to 2:30 p.m. on Nov. 10. A virtual meeting platform and/or teleconference may substitute an in-person meeting.

ADDRESSES: The meeting will be held at the Carbon County Event Center, 450 South Fairgrounds Way, Price, Utah 84501. Written comments to address the Utah RAC may be sent to the BLM Utah State Office, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101, or via email to BLM_UT_External_Affairs@blm.gov with the subject line "Utah RAC Meeting."

FOR FURTHER INFORMATION CONTACT: Lola Bird, Public Affairs Specialist, BLM Utah State Office, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101; phone (801) 539-4033; or email lbird@blm.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at (800) 877-8339 to leave a message or question for the above individual. The FRS is available 24 hours a day, 7 days a week. Replies are provided during normal business hours.

SUPPLEMENTARY INFORMATION: The Utah RAC provides recommendations to the Secretary of the Interior, through the BLM, on a variety of public lands issues. Agenda topics will include: BLM Utah updates and priorities for Fiscal Year 2021; overview of BLM advisory committees in Utah and discussion of the Utah Resource Advisory Council's role regarding other advisory committees; Special Recreation Permit Program overview; 2020 fire season; Color Country District planning updates; Fivemile Pass Recreation Area Business Plan; Manti-La Sal National Forest Recreation Fee Proposals; Lands and Realty Program updates; and other

issues as appropriate. The final agenda and meeting information will be posted on the Utah RAC web page 30 days before the meeting at <https://www.blm.gov/get-involved/resource-advisory-council/near-you/utah/RAC>.

The meeting is open to the public; however, transportation, lodging, and meals are the responsibility of the participating individuals. The Utah RAC will offer two 30-minute public comment periods. Depending on the number of people wishing to comment and the time available, the amount of time for individual oral comments may be limited. Written comments may also be sent to the BLM Utah State Office at the address listed in the **ADDRESSES** section of this notice. All comments received will be provided to the Utah RAC.

Public Disclosure of Comments:

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Detailed meeting minutes for the Utah RAC meeting will be maintained in the BLM Utah State Office and will be available for public inspection and reproduction during regular business hours within 90 days following the meeting. Minutes will also be posted to the Utah RAC web page.

Authority: 43 CFR 1784.4-2.

Gregory Sheehan,
State Director.

[FR Doc. 2020-21999 Filed 10-5-20; 8:45 am]

BILLING CODE 4310-DQ-P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701-TA-660-661 and 731-TA-1543-1545 (Preliminary)]

Utility Scale Wind Towers from India, Malaysia, and Spain; Institution of Anti-Dumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing

duty investigation Nos. 701-TA-660-661 and 731-TA-1543-1545 (Preliminary) pursuant to the Tariff Act of 1930 (“the Act”) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of utility scale wind towers from India, Malaysia, and Spain, provided for in subheadings 7308.20.00 and 8502.31.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value and alleged to be subsidized by the Governments of India and Malaysia. Unless the Department of Commerce (“Commerce”) extends the time for initiation, the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by November 16, 2020. The Commission’s views must be transmitted to Commerce within five business days thereafter, or by November 23, 2020.

DATES: September 30, 2020.

FOR FURTHER INFORMATION CONTACT:

Calvin Chang ((202) 205-3062), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission’s TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<https://www.usitc.gov>). The public record for these investigations may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)), in response to petitions filed on September 30, 2020, by the Wind Tower Trade Coalition (Arcosa Wind Towers Inc. (Dallas, Texas) and Broadwind Towers, Inc. (Manitowoc, Wisconsin)).

For further information concerning the conduct of these investigations and rules of general application, consult the Commission’s Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission’s rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping duty and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission’s rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—In light of the restrictions on access to the Commission building due to the COVID-19 pandemic, the Commission is conducting the staff conference through video conferencing on Wednesday, October 21, 2020. Requests to appear at the conference should be emailed to preliminaryconferences@usitc.gov (DO NOT FILE ON EDIS) on or before October 19, 2020. Please provide an email address for each conference participant in the email. Information on conference procedures will be provided separately and guidance on joining the video conference will be available on the Commission’s Daily Calendar. A nonparty who has testimony that may aid the Commission’s deliberations may request permission to participate by submitting a short statement.

Please note the Secretary’s Office will accept only electronic filings during this time. Filings must be made through the Commission’s Electronic Document Information System (EDIS, <https://edis.usitc.gov>). No in-person paper-based filings or paper copies of any

electronic filings will be accepted until further notice.

Written submissions.—As provided in §§ 201.8 and 207.15 of the Commission’s rules, any person may submit to the Commission on or before October 26, 2020, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference. All written submissions must conform with the provisions of § 201.8 of the Commission’s rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission’s rules. The Commission’s *Handbook on Filing Procedures*, available on the Commission’s website at https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf, elaborates upon the Commission’s procedures with respect to filings.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Certification.—Pursuant to § 207.3 of the Commission’s rules, any person submitting information to the Commission in connection with these investigations must certify that the information is accurate and complete to the best of the submitter’s knowledge. In making the certification, the submitter will acknowledge that any information that it submits to the Commission during these investigations may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of these or related investigations or reviews, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.12 of the Commission’s rules.

By order of the Commission.

Issued: October 1, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020-22026 Filed 10-5-20; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701-TA-458 and 731-TA-1154 (Second Review)]

Kitchen Appliance Shelving and Racks From China

Determinations

On the basis of the record¹ developed in the subject five-year reviews, the United States International Trade Commission ("Commission") determines, pursuant to the Tariff Act of 1930 ("the Act"), that revocation of the antidumping and countervailing duty orders on kitchen appliance shelving and racks from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted these reviews on February 3, 2020 (85 FR 5980) and determined on May 8, 2020 that it would conduct expedited reviews (85 FR 55321, September 4, 2020).

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on September 30, 2020. The views of the Commission are contained in USITC Publication 5123 (September 2020), entitled *Kitchen Appliance Shelving and Racks from China: Investigation Nos. 701-TA-458 and 731-TA-1154 (Second Review)*.

By order of the Commission.

Issued: September 30, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020-22006 Filed 10-5-20; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701-TA-638 and 731-TA-1473 (Final)]

Corrosion Inhibitors From China; Scheduling of the Final Phase of Countervailing Duty and Anti-Dumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping and countervailing duty investigation Nos. 701-TA-638 and 731-TA-1473 (Final) pursuant to the Tariff Act of 1930 ("the Act") to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of corrosion inhibitors from China, provided for in subheading 2933.99.82 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce ("Commerce") to be subsidized and sold at less-than-fair-value.

DATES: September 10, 2020.

FOR FURTHER INFORMATION CONTACT:

Lawrence Jones ((202) 205-3358), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<https://www.usitc.gov>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Scope.—For purposes of these investigations, Commerce has defined the subject merchandise as covered by these investigations is tolyltriazole and benzotriazole. This includes tolyltriazole and benzotriazole of all grades and forms, including their sodium salt forms. Tolyltriazole is technically known as Tolyltriazole IUPAC 4,5 methylbenzotriazole. It can also be identified as 4,5 methyl benzotriazole, tolyltriazole, TTA, and TTZ.

Benzotriazole is technically known as IUPAC 1,2,3-Benzotriazole. It can also be identified as 1,2,3 Benzotriazole, 1,2-Aminozophenylene, 1H-Benzotriazole, and BTA.

All forms of tolyltriazole and benzotriazole, including but not limited to flakes, granules, pellets, prills, needles, powder, or liquids, are included within the scope of these petitions.

The scope includes tolyltriazole/sodium tolyltriazole and benzotriazole/sodium benzotriazole that are combined or mixed with other products. For such combined products, only the tolyltriazole/sodium tolyltriazole and benzotriazole/sodium benzotriazole component is covered by the scope of these investigations. Tolyltriazole and sodium tolyltriazole that have been combined with other products is included within the scope, regardless of whether the combining occurs in third countries.

Tolyltriazole, sodium tolyltriazole, benzotriazole and sodium benzotriazole that is otherwise subject to these investigations is not excluded when commingled with tolyltriazole, sodium tolyltriazole, benzotriazole, or sodium benzotriazole from sources not subject to these investigations. Only the subject merchandise component of such commingled products is covered by the scope of these investigations.

A combination or mixture is excluded from this investigation if the total tolyltriazole or benzotriazole component of the combination or mixture (regardless of the source or sources) comprises less than 5 percent of the combination or mixture, on a dry weight basis.

Notwithstanding the foregoing language, a tolyltriazole or benzotriazole combination or mixture that is transformed through a chemical reaction into another product, such that, for example, the tolyltriazole or benzotriazole can no longer be separated from the other products through a distillation or other process is excluded from this investigation.

Tolyltriazole has the Chemical Abstracts Service ("CAS") registry number 29385-43-1. Tolyltriazole is classified under Harmonized Tariff Schedule of the United States ("HTSUS") statistical reporting number 2933.99.82.20.

Sodium Tolyltriazole has the CAS registry number 64665-57-2 and is classified under HTSUS statistical reporting number 2933.99.82.90. Benzotriazole has the CAS registry number #95-14-7 and is classified under HTSUS statistical reporting number 2933.99.82.10.

¹ The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

Sodium Benzotriazole has the CAS registry number 15217-42-2. Sodium Benzotriazole is classified under HTSUS statistical reporting number 2933.99.82.90.

Although the HTSUS subheadings and CAS registry numbers are provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive.

Background.—The final phase of these investigations is being scheduled pursuant to sections 705(b) and 731(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)), as a result of affirmative preliminary determinations by Commerce that certain benefits which constitute subsidies within the meaning of § 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China of corrosion inhibitors, and that such products are being sold in the United States at less than fair value within the meaning of § 733 of the Act (19 U.S.C. 1673b). The investigations were requested in petitions filed on February 5, 2020, by Wincom Incorporated, Blue Ash, Ohio.

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, <https://edis.usitc.gov>.) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on January 6, 2021, and a public version will be issued thereafter, pursuant to § 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on Thursday, January 21, 2021. Information about the place and form of the hearing, including about how to participate in and/or view the hearing, will be posted on the Commission's website at <https://www.usitc.gov/calendarpad/calendar.html>. Interested parties should check the Commission's website periodically for updates. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before Thursday, January 14, 2021. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on Friday, January 15, 2021. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.23 of the Commission's rules; the deadline for

filing is January 13, 2021. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.25 of the Commission's rules. The deadline for filing posthearing briefs is January 28, 2021. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before January 28, 2021. On February 17, 2021, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before February 19, 2021, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures*, available on the Commission's website at https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf, elaborates upon the Commission's procedures with respect to filings.

Additional written submissions to the Commission, including requests pursuant to § 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

By order of the Commission.

Issued: October 1, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–22027 Filed 10–5–20; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–727]

Bulk Manufacturer of Controlled Substances Application: Halo Pharmaceutical, Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Halo Pharmaceutical, Inc. has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to Supplemental Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before December 7, 2020. Such persons may also file a written request for a hearing on the application on or before December 7, 2020.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on September 3, 2020, Halo Pharmaceutical Inc, 30 North Jefferson Road, Whippany, New Jersey 07981, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substances	Drug codes	Schedule
Dihydromorphine	9145	I
Hydromorphine	9150	II

The company plans to manufacture Hydromorphone (9150) for distribution to its customers. Dihydromorphine (9145) is an intermediate in the manufacture of Hydromorphone and is not for commercial distribution. No other activity for these drug codes is authorized for this registration.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2020–22076 Filed 10–5–20; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–726]

Bulk Manufacturer of Controlled Substances Application: S&B Pharma, LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: S&B Pharma, LLC has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to Supplemental Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before December 7, 2020. Such persons may also file a written request for a hearing on the application on or before December 7, 2020.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on August 25, 2020, S&B Pharma, LLC, 405 South Motor Avenue, Azusa, California 91702, applied to be registered as an bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid	2010	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Amphetamine	1100	II
Methamphetamine	1105	II
Lisdexamfetamine	1205	II
Methylphenidate	1724	II
Pentobarbital	2270	II
4-Anilino-N-phenethyl-4-piperidine (ANPP)	8333	II
Tapentadol	9780	II
Fentanyl	9801	II

The company plans to manufacture the listed controlled substances in bulk for use in product development and for commercial sales to its customers. In reference to drug code 7360 (Marihuana) and 7370 (Tetrahydrocannabinols), the company plans to bulk manufacture both as synthetic substances. No other

activity for these drug codes is authorized for this registration.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2020–22075 Filed 10–5–20; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–725]

Importer of Controlled Substances Application: Wildlife Laboratories, LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Wildlife Laboratories, LLC has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to Supplemental Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before November 5, 2020. Such persons may also file a written request for a hearing on the application on or before November 5, 2020.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrisette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on September 4, 2020, Wildlife Laboratories, LLC, 1230 W Ash Street, Unit D, Windsor, Colorado

80550–4677, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Etorphine HCL	9059	II
Thiafentanil	9729	II

The company plans to import the listed controlled substances for distribution to its customers. No other activity for these drug codes is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of FDA-approved or non-approved finished dosage forms for commercial sale.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2020–22069 Filed 10–5–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–722]

Bulk Manufacturer of Controlled Substances Application: Eli Elsohly Laboratories

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Eli Elsohly Laboratories has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to Supplemental Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before December 7, 2020. Such persons may also file a written request for a hearing on the application on or before December 7, 2020.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on August 17, 2020, Eli Elsohly Laboratories, 5 Industrial Park Drive, Oxford, Mississippi 38655, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substances	Drug code	Schedule
Marihuana Extract	7350	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Dihydromorphone	9145	I
Amphetamine	1100	II
Methamphetamine	1105	II
Cocaine	9041	II
Codeine	9050	II
Dihydrocodeine	9120	II
Oxycodone	9143	II
Hydromorphone	9150	II
Ecgonine	9180	II
Hydrocodone	9193	II
Morphine	9300	II
Thebaine	9333	II
Oxymorphone	9652	II

The company plans to manufacture the listed controlled substances for product development and reference standards. In reference to drug codes 7360 (marihuana) and 7370 (THC), the company plans to isolate these controlled substances from procured 7350 (marihuana extract). In reference to drug code 7360, no cultivation activities are authorized for this registration. No

other activities for these drug codes are authorized for this registration.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2020–22068 Filed 10–5–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Meeting of the Compact Council for the National Crime Prevention and Privacy Compact

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: Meeting notice.

SUMMARY: The purpose of this notice is to announce a meeting of the National Crime Prevention and Privacy Compact Council (Council) created by the National Crime Prevention and Privacy Compact Act of 1998 (Compact).

DATES: The Council will meet virtually, due to Covid-19, from 1:00 p.m. (EST) until 5:00 p.m. (EST) on November 4, 2020 and 1:00 p.m. (EST) until 5:00 p.m. (EST) on November 5, 2020.

ADDRESSES: Due to COVID-19, the meeting will be held virtually. The public will be permitted to provide comments and/or questions related to matters of the Council prior to the meeting, and participate in a listen-only mode upon prior registration. Please see details in the supplemental information.

FOR FURTHER INFORMATION CONTACT: Inquiries may be addressed to Mrs. Chasity S. Anderson, FBI Compact Officer, Biometric Technology Center, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306, telephone 304-625-2803.

SUPPLEMENTARY INFORMATION: Thus far, the Federal Government and 34 states are parties to the Compact which governs the exchange of criminal history records for licensing, employment, immigration and naturalization matters, and similar purposes. The Compact also provides a legal framework for the establishment of a cooperative federal-state system to exchange such records.

The United States Attorney General appointed 15 persons from state and federal agencies to serve on the Council. The Council will prescribe system rules and procedures for the effective and proper operation of the Interstate Identification Index system for noncriminal justice purposes.

Matters for discussion are expected to include:

- (1) Update to the Next Generation Identification (NGI) Noncriminal Justice Rap Back Policy and Implementation Guide Appendix 7
- (2) Proposed Changes to the Security and Management Control Outsourcing Standard for Channelers
- (3) Review of the Colorado Proposal Pursuant to the Council's Fingerprint Submissions Requirements Rule

The meeting will be conducted virtually due to Covid-19. The public may participate in a listen-only mode with registration via email to AGMU@leo.gov. Individuals must provide their name, city, state, phone, and email address. Information regarding the phone access link will be provided prior

to the meeting to all registered individuals.

Any member of the public wishing to file a written statement with the Council or wishing to address this session of the Council should notify the FBI Compact Officer, Mrs. Chasity S. Anderson at compactoffice@fbi.gov, at least 7 days prior to the start of the session. The notification should contain the individual's name and corporate designation, consumer affiliation, or government designation, along with a short statement describing the topic to be addressed and the time needed for the presentation. Individuals will ordinarily be allowed up to 15 minutes to present a topic. The Compact Officer will compile all requests and submit to the Compact Council for consideration.

Individuals requiring special accommodations should contact Ms. Anderson at compactoffice@fbi.gov by no later than October 19, 2020.

Please note all personal registration information may be made publicly available through a Freedom of Information Act request.

Chasity S. Anderson,

FBI Compact Officer, Criminal Justice Information Services Division, Federal Bureau of Investigation.

[FR Doc. 2020-22080 Filed 10-5-20; 8:45 am]

BILLING CODE 4410-02-P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Judgment Under The Resource Conservation and Recovery Act

On September 30, 2020, the Department of Justice lodged a proposed consent judgment with the United States District Court for the Eastern District of New York in the lawsuit entitled *United States of America v. Nassau County, New York*, Case No. 2:20-CV-4648.

The United States filed this lawsuit to seek civil penalties and injunctive relief for violations of the Resource Conservation and Recovery Act, 42 U.S.C. 6991e *et seq.* ("RCRA"). The alleged violations stem from Nassau County's ("Nassau") failure to comply with RCRA's underground storage tank ("UST") regulations and with an EPA administrative order that required Nassau to comply with RCRA requirements regarding USTs owned or operated by Nassau at 48 of its facilities. The Consent Judgment requires Nassau to bring its USTs into compliance with the UST regulations, and to install and operate a centralized monitoring system. The Consent Judgment also requires

Nassau to pay a civil penalty of \$427,500.

The publication of this notice opens a period for public comment on the proposed Consent Judgment. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *Nassau County, New York*, Civil Action No. 2:20-CV-4648, D.J. Ref. No. 90-7-1-11455. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By email	pubcomment-ees.enrd@usdoj.gov .
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

During the public comment period, the Consent Judgment may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the Consent Judgment upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

Please enclose a check or money order for \$8.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Henry Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2020-22040 Filed 10-5-20; 8:45 am]

BILLING CODE 4410-15-P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Technical Advisory Committee; Renewal of the Bureau of Labor Statistics Technical Advisory Committee

The Secretary of Labor is announcing the renewal of a Federal Advisory Committee. In accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, the Secretary of Labor has determined that the renewal of the Bureau of Labor Statistics Technical Advisory Committee (the "Committee") is in the public interest in connection with the performance of duties imposed upon the

Commissioner of Labor Statistics by 29 U.S.C. 1 and 2. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

The Committee presents advice and makes recommendations to the Bureau of Labor Statistics (BLS) on technical aspects of the collection and formulation of economic measures. The Committee functions solely as an advisory body to the BLS, on technical topics selected by the BLS. Important aspects of the Committee's responsibilities include, but are not limited to:

a. Providing comments on papers and presentations developed by BLS research and program staff. The comments will address the technical soundness of the research and whether it reflects best practices in the relevant fields.

b. Identifying research projects that can address technical problems with BLS statistics.

c. Participating in discussions regarding areas where the types or coverage of economic statistics could be expanded or improved and areas where statistics are no longer relevant.

The Committee reports to the Commissioner of Labor Statistics, Bureau of Labor Statistics, U.S. Department of Labor.

The Committee consists of approximately sixteen members who serve as Special Government Employees. Members are appointed by the BLS and are approved by the Secretary of Labor. Committee members are experts in economics, statistics, data science, and survey design. They are prominent experts in their fields and recognized for their professional achievements and objectivity. The Committee will function solely as an advisory body, in compliance with the provisions of the Federal Advisory Committee Act. The Charter will be filed under the Federal Advisory Committee Act.

FOR FURTHER INFORMATION CONTACT: Lisa Fieldhouse, Office of the Commissioner, Bureau of Labor Statistics, telephone: 202-691-5025, email: Fieldhouse.Lisa@bls.gov.

Signed at Washington, DC, this 1st day of October 2020.

Mark Staniorski,

Chief, Division of Management Systems.

[FR Doc. 2020-22045 Filed 10-5-20; 8:45 am]

BILLING CODE 4510-24-P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Renewal of the Bureau of Labor Statistics Data Users Advisory Committee

The Secretary of Labor is announcing the renewal of a Federal Advisory Committee. In accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, the Secretary of Labor has determined that the renewal of the Bureau of Labor Statistics Data Users Advisory Committee (the "Committee") is in the public interest in connection with the performance of duties imposed upon the Commissioner of Labor Statistics by 29 U.S.C. 1 and 2. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

The Committee provides advice to the Bureau of Labor Statistics from the points of view of data users from various sectors of the U.S. economy, including the labor, business, research, academic and government communities, on matters related to the analysis, dissemination, and use of the Bureau's statistics, on its published reports, and on gaps between or the need for new Bureau statistics.

The Committee will function solely as an advisory body to the BLS, on technical topics selected by the BLS.

The Committee is responsible for providing the Commissioner of Labor Statistics: (1) The priorities of data users; (2) suggestions concerning the addition of new programs, changes in the emphasis of existing programs or cessation of obsolete programs; and (3) advice on potential innovations in data analysis, dissemination and presentation.

The Committee reports to the Commissioner of Labor Statistics, Bureau of Labor Statistics, U.S. Department of Labor.

The Committee will not exceed 20 members. Committee members are nominated by the Commissioner of Labor Statistics and approved by the Secretary of Labor. Membership of the Committee will represent a balance of expertise across a broad range of BLS program areas, including employment and unemployment statistics, occupational safety and health statistics, compensation measures, price indexes, and productivity measures; or other areas related to the subject matter of BLS programs. All committee members will have extensive research or practical experience using BLS data.

The Committee will function solely as an advisory body, in compliance with

the provisions of the Federal Advisory Committee Act. The Charter will be filed under the Federal Advisory Committee Act.

FOR FURTHER INFORMATION CONTACT: Lisa Fieldhouse, Office of the Commissioner, Bureau of Labor Statistics, telephone: 202-691-5025, email: Fieldhouse.Lisa@bls.gov.

Signed at Washington, DC, this 30th day of September 2020.

Mark Staniorski,

Chief, Division of Management Systems.

[FR Doc. 2020-22043 Filed 10-5-20; 8:45 am]

BILLING CODE 4510-24-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219-0015]

Proposed Extension of Information Collection; Refuse Piles and Impoundment Structures, Recordkeeping and Reporting Requirements

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Refuse Piles and Impoundment Structures, Recordkeeping and Reporting Requirements.

DATES: All comments must be received on or before December 7, 2020.

ADDRESSES: You may submit comment as follows. Please note that late, untimely filed comments will not be considered.

Electronic Submissions: Submit electronic comments in the following way:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments for docket number MSHA-2020-0027.

Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket, with no changes. Because your comment will be made public, you are 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 your or anyone else's Social Security number or confidential business information.

- 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.

Written/Paper Submissions: Submit written/paper submissions in the following way:

- **Mail/Hand Delivery:** Mail or visit DOL-MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202-5452.
- MSHA will post your comment as well as any attachments, except for information submitted and marked as confidential, in the docket at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Roslyn Fontaine, Deputy Director, Office of Standards, Regulations, and Variances, MSHA, at MSHA.information.collections@dol.gov (email); (202) 693-9440 (voice); or (202) 693-9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811, authorizes the Secretary of Labor to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines.

Title 30 CFR part 77, subpart C, sets forth standards for surface installations to prevent accidents and injuries to miners. More specifically, section 77.215 addresses refuse piles and section 77.216 addresses impoundments. Refuse piles are deposits of coal mine waste (other than overburden or spoil) that are removed during mining operations or separated from mined coal and deposited on the surface. Impoundments are structures that can impound water, sediment, or slurry or any combination of materials. The failure of these structures can have

a devastating effect on mine employees, communities, and nearby areas. To avoid or minimize such failures, MSHA has promulgated standards for the design, construction, and maintenance of these structures; for annual certifications; for certification for hazardous refuse piles; for the frequency of inspections; and the methods of abandonment for impoundments and impounding structures.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Refuse Piles and Impoundment Structures, Recordkeeping and Reporting Requirements. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to 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.

Background documents related to this information collection request are available at <https://regulations.gov> and in DOL-MSHA located at 201 12th Street South, Suite 4E401, Arlington, VA 22202-5452. Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice from the previous collection of information.

III. Current Actions

This information collection request concerns provisions for Refuse Piles and Impoundment Structures, Recordkeeping and Reporting Requirements. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request from the previous information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219-0015.

Affected Public: Business or other for-profit.

Number of Respondents: 548.

Frequency: On occasion.

Number of Responses: 28,047.

Annual Burden Hours: 68,692 hours.

Annual Respondent or Recordkeeper Cost: \$1,449,204.

Comments submitted in response to this notice will be summarized in the request for Office of Management and Budget approval of the proposed information collection request; they will become a matter of public record and will be available at <https://www.reginfo.gov>.

Roslyn B. Fontaine,
Certifying Officer.

[FR Doc. 2020-22013 Filed 10-5-20; 8:45 am]

BILLING CODE 4510-43-P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting; National Science Board

The National Science Board's Committee on National Science and Engineering Policy (SEP), pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n-5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice of the scheduling of a CHANGE in a teleconference for the transaction of National Science Board business, as follows:

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 85 FR 60273, which appeared on September 24, 2020.

PREVIOUSLY ANNOUNCED TIME & DATE OF THE MEETING: Thursday, October 8, 2020 at 1:30-2:30 p.m. EDT.

CHANGES IN THE MEETING: The time of the meeting is now 1:30-2 p.m. on the same date of October 8, 2020. The matters to be considered will include the chair's opening remarks and the discussion of the narrative outlines for the SEI thematic report on innovation. Discussion of the narrative outline for the thematic report on knowledge-and technology-intensive industries has been postponed to a time to be announced later.

CONTACT PERSON FOR MORE INFORMATION:

Point of contact for this meeting is: Chris Blair, cblair@nsf.gov, 703-292-7000. To listen to this teleconference, members of the public must send an email to nationalsciencebrd@nsf.gov at least 24 hours prior to the teleconference. The National Science Board Office will send requesters a toll-

free dial-in number. Meeting information and updates (time, place, subject matter or status of meeting) may be found at <http://www.nsf.gov/nsb/meetings/notices.jsp#sunshine>. Please refer to the National Science Board website www.nsf.gov/nsb for additional information.

Chris Blair,

Executive Assistant to the National Science Board Office.

[FR Doc. 2020-22184 Filed 10-2-20; 4:15 pm]

BILLING CODE P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND DATE: 1:00 p.m., Tuesday, October 20, 2020.

PLACE: Virtual.

STATUS: The one item may be viewed by the public through webcast only.

MATTER TO BE CONSIDERED: 65936 Marine Accident Report: Fire Aboard Small Passenger Vessel Conception, Platts Harbor, Channel Islands National Park, Santa Cruz Island, 21.5 miles Southwest of Santa Barbara, California, September 2, 2019, DCA19MM047.

CONTACT PERSON FOR MORE INFORMATION: Candi Bing at (202) 590-8384 or by email at bingc@ntsb.gov.

Media Information Contact: Eric Weiss by email at eric.weiss@ntsb.gov or at (202) 314-6100.

This meeting will take place virtually. The public may view it through a live or archived webcast by accessing a link under "Webcast of Events" on the NTSB home page at www.ntsb.gov.

There may be changes to this event due to the evolving situation concerning the novel coronavirus (COVID-19). Schedule updates, including weather-related cancellations, are also available at www.ntsb.gov.

The National Transportation Safety Board is holding this meeting under the Government in the Sunshine Act, 5 U.S.C. 552(b).

Dated: Friday, October 2, 2020.

LaSean R. McCray,

Assistant Federal Register Liaison Officer.

[FR Doc. 2020-22156 Filed 10-2-20; 11:15 am]

BILLING CODE 7533-01-P

NEIGHBORHOOD REINVESTMENT CORPORATION

Sunshine Act Meetings; Regular Board of Directors Meeting

TIME AND DATE: 2 p.m., Thursday, October 15, 2020.

PLACE: Via Conference Call.

STATUS: Open (with the exception of Executive Session).

MATTERS TO BE CONSIDERED: The General Counsel of the Corporation has certified that in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552 (b)(2) and (4) permit closure of the following portion(s) of this meeting:

- Executive Session

Agenda

- I. Call to Order
- II. Executive Session: Report from CEO
- III. Executive Session: Report of CFO
- IV. Action Item Approval of Minutes
- V. Discussion Item NeighborWorks Compass Update
- VI. Discussion Item Strategic Planning Process and Timeline
- VII. Discussion Item Review of the Draft FY2021 Scorecard
- VIII. Discussion Item Pandemic Update from the NeighborWorks Network and Staff
- IX. Management Program Background and Updates
- X. Adjournment

CONTACT PERSON FOR MORE INFORMATION: Lakeyia Thompson, Special Assistant, (202) 524-9940; Lthompson@nw.org.

Lakeyia Thompson,
Special Assistant.

[FR Doc. 2020-22175 Filed 10-2-20; 4:15 pm]

BILLING CODE 7570-02-P

NUCLEAR REGULATORY COMMISSION

[NRC-2020-0224]

Biweekly Notice: Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to section 189.a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration (NSHC), notwithstanding

the pendency before the Commission of a request for a hearing from any person. This biweekly notice includes all amendments issued, or proposed to be issued, from September 5, 2020, to September 21, 2020. The last biweekly notice was published on September 22, 2020.

DATES: Comments must be filed by November 5, 2020. A request for a hearing or petitions for leave to intervene must be filed by December 7, 2020.

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

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2020-0224. Address questions about NRC Docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301-287-9127; email: Jennifer.Borges@nrc.gov. For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail comments to:* Office of Administration, Mail Stop: TWFN-7-A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Program Management, Announcements and Editing Staff.

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

FOR FURTHER INFORMATION CONTACT:

Janet Burkhardt, Office of Nuclear Reactor Regulation, telephone: 301-415-1384, email: Janet.Burkhardt@nrc.gov, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2020-0224, facility name, unit number(s), docket number(s), application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2020-0224.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select

“Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room reference staff at 1–800–397–4209, 301–415–4737, or by email to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

B. Submitting Comments

Please include Docket ID NRC–2020–0224, facility name, unit number(s), docket number(s), application date, and subject, in your comment submission.

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

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

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

For the facility-specific amendment requests shown below, the Commission finds that the licensee’s analyses provided, consistent with title 10 of the *Code of Federal Regulations* (10 CFR) section 50.91, is sufficient to support the proposed determination that these amendment requests involve NSHC. Under the Commission’s regulations in 10 CFR 50.92, operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of

publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves NSHC. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final NSHC determination, any hearing will take place after issuance. The Commission expects that the need to take action on an amendment before 60 days have elapsed will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission’s “Agency Rules of Practice and Procedure” in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC’s regulations are accessible electronically from the NRC Library on the NRC’s website at <https://www.nrc.gov/reading-rm/doc-collections/cfr/>. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner’s right to be made a party to the proceeding; (3) the nature and extent of the petitioner’s property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner’s interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the

specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party’s admitted contentions, including the opportunity to present evidence, consistent with the NRC’s regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the “Electronic Submissions (E-Filing)” section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of NSHC, the Commission will make a final determination on the issue of NSHC. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves NSHC, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a

significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR

49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at <https://www.nrc.gov/site-help/e-submittals.html>. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at hearing.docket@nrc.gov, or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at <https://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary

that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals.html>, by email to MSHD.Resource@nrc.gov, or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate

as described above, click “cancel” when the link requests certificates and you will be automatically directed to the NRC’s electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such

information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The table below provides the plant name, docket number, date of

application, ADAMS accession number, and location in the application of the licensee’s proposed NSHC determination. For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC’s PDR. For additional direction on accessing information related to this document, see the “Obtaining Information and Submitting Comments” section of this document.

TABLE 1—LICENSE AMENDMENT REQUEST(S)

Duke Energy Carolinas, LLC; Catawba Nuclear Station, Units 1 and 2; York County, SC, Duke Energy Carolinas, LLC; McGuire Nuclear Station, Units 1 and 2; Mecklenburg County, SC, Duke Energy Carolinas, LLC; Oconee Nuclear Station, Units 1, 2, and 3; Oconee County, SC, Duke Energy Progress, LLC; Brunswick Steam Electric Plant, Units 1 and 2; Brunswick County, NC, Duke Energy Progress, LLC; H.B. Robinson Steam Electric Plant, Unit No. 2; Darlington County, SC, Duke Energy Progress, LLC; Shearon Harris Nuclear Power Plant, Unit 1; Wake and Chatham Counties, NC	
Docket No(s)	50–324, 50–325, 50–413, 50–414, 50–261, 50–369, 50–370, 50–269, 50–270, 50–287, 50–400.
Application Date	September 3, 2020.
ADAMS Accession No	ML20247J468.
Location in Application of NSHC	Pages 68–70 of Enclosure 1; Pages 70–72 of Enclosure 2; Pages 74–76 of Enclosure 3; Pages 69–72 of Enclosure 4; Pages 71–73 of Enclosure 5; and Pages 73–75 of Enclosure 6.
Brief Description of Amendment(s)	The proposed amendments would change the emergency plan for each of the six Duke Energy nuclear power plant sites listed. Specifically, a new fleet common emergency plan with site-specific annexes is proposed. This new emergency plan was developed using NUREG–0654, Revision 2.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Kathryn B. Nolan, Deputy General Counsel, Duke Energy Corporation, 550 South Tryon Street (DEC45A), Charlotte, NC 28202.
NRC Project Manager, Telephone Number	Andrew Hon, 301–415–8480.
Duke Energy Carolinas, LLC; McGuire Nuclear Station, Units 1 and 2; Mecklenburg County, SC, Duke Energy Carolinas, LLC; Catawba Nuclear Station, Units 1 and 2; York County, SC	
Docket No(s)	50–414, 50–413, 50–369, 50–370.
Application Date	August 19, 2020.
ADAMS Accession No	ML20233A258.
Location in Application of NSHC	Pages 6–7 of the Enclosure.
Brief Description of Amendment(s)	The proposed amendments would revise Technical Specification 3.8.1, “AC [Alternating Current] Sources—Operating,” for McGuire Nuclear Station, Units 1 and 2, and Catawba Nuclear Station, Units 1 and 2, to reduce the allowed steady state voltage and reduce the allowed maximum steady state voltage for the emergency diesel generator.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Kathryn B. Nolan, Deputy General Counsel, Duke Energy Corporation, 550 South Tryon Street (DEC45A), Charlotte, NC 28202.
NRC Project Manager, Telephone Number	G. Ed Miller, 301–415–2481.
Nine Mile Point Nuclear Station, LLC and Exelon Generation Company, LLC; Nine Mile Point Nuclear Station, Unit 1; Oswego County, NY	
Docket No(s)	50–220.
Application Date	August 20, 2020.
ADAMS Accession No	ML20233A435.
Location in Application of NSHC	Pages 5–7 of Attachment 1.
Brief Description of Amendment(s)	The proposed amendment would revise Surveillance Requirement 4.3.4c in Nine Mile Point, Unit 1, Technical Specification 3.3.4, “Primary Containment Isolation Valves,” to state that a representative sample of instrument-line flow check valves will be tested in accordance with the Surveillance Frequency Control Program such that each instrument-line flow check valve will be tested at least once every 10 years.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Jason Zorn, Associate General Counsel, Exelon Generation Company, LLC, 101 Constitution Avenue NW, Suite 400, Washington, DC 20001.
NRC Project Manager, Telephone Number	Michael L. Marshall, Jr., 301–415–2871.
Susquehanna Nuclear, LLC and Allegheny Electric Cooperative, Inc.; Susquehanna Steam Electric Station, Units 1 and 2; Luzerne County, PA	
Docket No(s)	50–387, 50–388.
Application Date	September 1, 2020.
ADAMS Accession No	ML20245E192.
Location in Application of NSHC	Pages 5–8 of Enclosure 1.
Brief Description of Amendment(s)	The proposed amendments would adopt Technical Specifications Task Force (TSTF) Traveler, TSTF–582, “RPV WIC [Reactor Pressure Vessel Water Inventory Control] Enhancements,” by revising the Susquehanna, Units 1 and 2, technical specifications related to the reactor pressure vessel water inventory control to incorporate operating experience and to correct errors and omissions in TSTF–542, Revision 2, “Reactor Pressure Vessel Water Inventory Control.”
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Damon D. Obie, Esq, 835 Hamilton St., Suite 150, Allentown, PA 18101.
NRC Project Manager, Telephone Number	Sujata Goetz, 301–415–8004.
Tennessee Valley Authority; Browns Ferry Nuclear Plant, Units 1, 2, and 3; Limestone County, AL	
Docket No(s)	50–259, 50–260, 50–296.

TABLE 1—LICENSE AMENDMENT REQUEST(S)—Continued

Application Date	August 6, 2020.
ADAMS Accession No	ML20219A762.
Location in Application of NSHC	Pages E-7 to E-8 of the Enclosure.
Brief Description of Amendment(s)	The proposed amendments would modify Technical Specification 3.8.6, "Battery Cell Parameters," to clarify the operability requirements for the Unit, Shutdown Board, and Diesel Generator batteries.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Sherry Quirk, Executive VP and General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 6A, Knoxville, TN 37902.
NRC Project Manager, Telephone Number	Michael Wentzel, 301-415-6459.
Tennessee Valley Authority; Watts Bar Nuclear Plant, Units 1 and 2; Rhea County, TN	
Docket No(s)	50-390, 50-391.
Application Date	August 18, 2020.
ADAMS Accession No	ML20234A241.
Location in Application of NSHC	Page E5 of the Enclosure, which cites the NSHC published in the Federal Register on March 19, 2007 (72 FR 12838).
Brief Description of Amendment(s)	The proposed amendments would replace the Watts Bar Nuclear Plant, Units 1 and 2, Technical Specification 3.4.16, "RCS [Reactor Coolant System] Specific Activity," limit on RCS gross specific activity with a new limit on RCS noble gas activity, consistent with Technical Specifications Task Force (TSTF) Traveler TSTF-490, "Deletion of E Bar Definition and Revision to RCS Specific Activity Tech Spec."
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Sherry Quirk, Executive VP and General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 6A, Knoxville, TN 37902.
NRC Project Manager, Telephone Number	Kimberly Green, 301-415-1627.
U.S. Dept of Transportation, Maritime Administration, NS SAVANNAH, Baltimore, MD	
Docket No(s)	50-238.
Application Date	September 4, 2020.
ADAMS Accession No	ML20255A084.
Location in Application of NSHC	Pages 14-15 of Enclosure 1.
Brief Description of Amendment(s)	The proposed amendment would (1) delete duplicate effluent monitoring reporting requirements, (2) delete duplicate access control requirements, and (3) allow removal of draft stripes intended for monitoring the ship's trim when anchored offshore.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Erhard Koehler, Senior Technical Advisor, 1200 New Jersey Avenue SE, Washington, DC 20590.
NRC Project Manager, Telephone Number	Ted Smith, 301-415-6721.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in

10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed NSHC determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental

assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action, see (1) the application for amendment; (2) the amendment; and (3) the Commission's related letter, Safety Evaluation, and/or Environmental Assessment as indicated. All of these items can be accessed as described in the "Obtaining Information and Submitting Comments" section of this document.

TABLE 2—LICENSE AMENDMENT ISSUANCE(S)

Duke Energy Carolinas, LLC; Oconee Nuclear Station, Units 1, 2, and 3; Oconee County, SC, Duke Energy Progress, LLC; Shearon Harris Nuclear Power Plant, Unit 1; Wake and Chatham Counties, NC	
Docket No(s)	50-269, 50-270, 50-287, 50-400.
Amendment Date	September 4, 2020.
ADAMS Accession No	ML20237F435.
Amendment No(s)	417, 419, and 418 (Oconee, Units 1, 2 and 3), 180 (Harris, Unit 1).
Brief Description of Amendment(s)	The amendments revised the technical specification requirements for mode change limitations based on Technical Specifications Task Force (TSTF) Traveler TSTF-359, "Increase Flexibility in Mode Restraints," Revision 9. The availability of TSTF-359 for adoption by licensees was announced in the Federal Register on April 4, 2003 (68 FR 16579), as part of the Consolidated Line Item Improvement Process.

TABLE 2—LICENSE AMENDMENT ISSUANCE(S)—Continued

Duke Energy Progress, LLC; Brunswick Steam Electric Plant, Units 1 and 2; Brunswick County, NC; Duke Energy Carolinas, LLC; Catawba Nuclear Station, Units 1 and 2; York County, SC; Duke Energy Progress, LLC; Shearon Harris Nuclear Power Plant, Unit 1; Wake and Chatham Counties, NC; Duke Energy Carolinas, LLC; McGuire Nuclear Station, Units 1 and 2; Mecklenburg County, NC; Duke Energy Carolinas, LLC; Oconee Nuclear Station, Units 1, 2, and 3; Oconee County, SC; Duke Energy Progress, LLC; H.B. Robinson Steam Electric Plant, Unit No. 2; Darlington County, SC	
Docket No(s)	50–325, 50–324, 50–413, 50–414, 50–400, 50–369, 50–370, 50–269, 50–270, 50–287, 50–261.
Amendment Date	August 12, 2020.
ADAMS Accession No	ML20083F927.
Amendment No(s)	301 and 329 (Brunswick, Units 1 and 2); 307 and 303 (Catawba, Units 1 and 2); 178 (Harris, Unit 1); 317 and 296 (McGuire, Units 1 and 2); 416, 418, and 417 (Oconee, Units 1, 2, and 3); and 268 (Robinson, Unit No. 2).
Brief Description of Amendment(s)	The amendments revised the technical specifications (TS) for each of these facilities to relocate the unit/facility/plant staff qualification requirements (<i>e.g.</i> , American Nuclear Standards Institute (ANSI) N18.1–1971, “Selection and Training of Nuclear Power Plant Personnel”) currently located in the TS to the Duke Energy Quality Assurance Program Description.
Exelon Generation Company, LLC; Braidwood Station, Units 1 and 2, Will County, IL; Byron Station, Unit Nos. 1 and 2, Ogle County, IL; Exelon Generation Company, LLC; Exelon Generation Company, LLC; Calvert Cliffs Nuclear Power Plant, Units 1 and 2; Calvert County, MD	
Docket No(s)	50–456, 50–457, 50–454, 50–455, 50–317, 50–318.
Amendment Date	August 20, 2020.
ADAMS Accession No	ML20010C416.
Amendment No(s)	214 and 214 (Braidwood, Units 1 and 2), 218 and 218 (Byron, Unit Nos. 1 and 2), 315 and 337 (Calvert Cliffs, Units 1 and 2).
Brief Description of Amendment(s)	The amendments revised the technical specifications and the operating license to adopt Technical Specification Task Force (TSTF) Traveler TSTF–569, Revision 2, “Revise Response Time Testing Definition.”
Exelon Generation Company, LLC; Braidwood Station, Units 1 and 2, Will County, IL; Byron Station, Unit Nos. 1 and 2, Ogle County, IL; Exelon Generation Company, LLC; R.E. Ginna Nuclear Power Plant; Wayne County, New York	
Docket No(s)	50–244, 50–454, 50–455, 50–456, 50–457.
Amendment Date	September 11, 2020.
ADAMS Accession No	ML20167A007.
Amendment No(s)	216 and 216 (Braidwood, Units 1 and 2), 220 and 220 (Byron, Unit Nos. 1 and 2), 143 (Ginna).
Brief Description of Amendment(s)	The amendments revised the technical specifications to adopt Technical Specifications Task Force (TSTF) Traveler TSTF–567, “Add Containment Sump TS [Technical Specifications] to Address GSI [Generic Safety Issue]–191 Issues.”
Exelon Generation Company, LLC; Braidwood Station, Units 1 and 2, Will County, IL; Byron Station, Unit Nos. 1 and 2, Ogle County, IL	
Docket No(s)	50–454, 50–455, 50–456, 50–457.
Amendment Date	September 10, 2020.
ADAMS Accession No	ML20149K698.
Amendment No(s)	215 and 215 (Braidwood, Units 1 and 2), 219 and 219 (Byron, Unit Nos. 1 and 2).
Brief Description of Amendment(s)	The amendments revised Technical Specification 5.5.16, “Containment Leakage Rate Testing Program,” by replacing the existing reference with a reference to Nuclear Energy Institute (NEI) Topical Report NEI 94–01, “Industry Guideline for Implementing Performance-Based Option of 10 CFR part 50, Appendix J,” Revision 3–A, and the conditions and limitations specified in NEI 94–01, Revision 2–A, as the documents used to implement the performance-based containment leakage testing program in accordance with Option B of 10 CFR part 50, Appendix J.
Exelon Generation Company, LLC; Braidwood Station, Units 1 and 2, Will County, IL; Byron Station, Unit Nos. 1 and 2, Ogle County, IL	
Docket No(s)	50–454, 50–455, 50–456, 50–457.
Amendment Date	September 18, 2020.
ADAMS Accession No	ML20163A046.
Amendment No(s)	217 and 217 (Braidwood, Units 1 and 2), 221 and 221 (Braidwood, Unit Nos. 1 and 2).
Brief Description of Amendment(s)	The amendments revised Technical Specification 5.6.6, “Reactor Coolant System (RCS) Pressure and Temperature Limits Report (PTLR),” to allow use of AREVA NP Topical Report BAW–2308, Revisions 1–A and 2–A, “Initial RTNDD [Reference Temperature Nil Ductility] of Linde 80 Weld Materials.”
Exelon Generation Company, LLC; Byron Station, Unit No. 1; Ogle County, IL; Exelon Generation Company, LLC; Byron Station, Unit No. 2; Ogle County, IL	
Docket No(s)	50–454, 50–455
Amendment Date	September 21, 2020.
ADAMS Accession No	ML20246G865.
Amendment No(s)	222 (Unit No. 1) and 222 (Unit No. 2).
Brief Description of Amendment(s)	The amendment to Byron Station, Unit No. 1, changed the amendment number to 222 because it has common technical specifications (TS) with Byron Station, Unit No. 2. The amendment to Byron Station, Unit No. 2, revised TS 5.5.9, “Steam Generator (SG) Program,” to allow deferral of the required inspections until the next Byron Station, Unit No. 2, refueling outage.

TABLE 2—LICENSE AMENDMENT ISSUANCE(S)—Continued

Northern States Power Company; Monticello Nuclear Generating Plant; Wright County, MN, Northern States Power Company—Minnesota; Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2; Goodhue County, MN	
Docket No(s)	50–263, 50–282, 50–306.
Amendment Date	September 8, 2020.
ADAMS Accession No	ML20210M014.
Amendment No(s)	204 (Monticello); 231 and 219 (Prairie Island, Unit Nos. 1 and 2).
Brief Description of Amendment(s)	The amendments revised the technical specification (TS) requirements in TS Sections 1.3 and 3.0 regarding Limiting Condition for Operation and Surveillance Requirement usage consistent with Technical Specifications Task Force (TSTF) Traveler TSTF–529, “Clarify Use and Application Rules,” Revision 4.
Pacific Gas and Electric Company; Diablo Canyon Power Plant, Units 1 and 2; San Luis Obispo County, CA	
Docket No(s)	50–275, 50–323.
Amendment Date	September 11, 2020.
ADAMS Accession No	ML20218A276.
Amendment No(s)	237 (Unit 1) and 239 (Unit 2).
Brief Description of Amendment(s)	The amendments relocated Diablo Canyon Nuclear Power Plant, Units 1 and 2, Technical Specification 5.3, “Unit Staff Qualifications,” to the Updated Final Safety Analysis Report.
Southern Nuclear Operating Company, Inc.; Edwin I Hatch Nuclear Plant, Units 1 and 2; Appling County, GA	
Docket No(s)	50–321, 50–366.
Amendment Date	September 15, 2020.
ADAMS Accession No	ML20202A005.
Amendment No(s)	306 (Unit 1) and 251 (Unit 2).
Brief Description of Amendment(s)	The amendment changed Technical Specification (TS) 3.6.3.2, “Primary Containment Oxygen Concentration.” The changes simplify and clarify the applicability statements, which if misapplied, could conflict with the corresponding required actions. The changes also remove the undefined term “scheduled plant shut-down” and provide adequate terminal actions. The amendments are based on Technical Specifications Task Force (TSTF) Traveler TSTF–568, Revision 2, “Revise Applicability of BWR/4 TS 3.6.2.5 and TS 3.6.3.2” (ADAMS Accession No. ML19141A122).
Southern Nuclear Operating Company, Inc.; Edwin I Hatch Nuclear Plant, Units 1 and 2; Appling County, GA	
Docket No(s)	50–321, 50–366.
Amendment Date	September 18, 2020.
ADAMS Accession No	ML20254A067.
Amendment No(s)	307 (Unit 1) and 252 (Unit 2).
Brief Description of Amendment(s)	The amendments revised Technical Specification (TS) 3.8.1, “AC [Alternating Current] Sources—Operating,” to provide a one-time extension of the completion time of Required Action B.4 for Hatch Unit 1 TS and Required Actions B.4 and C.4 for Hatch Unit 2 TS for each Hatch, Unit 1, emergency diesel generator (EDG) and the swing EDG from 14 days to 19 days.

IV. Previously Published Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual

notices. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving NSHC.

For details, including the applicable notice period, see the individual notice in the **Federal Register** on the day and page cited.

TABLE 3—LICENSE AMENDMENT REQUEST(S)—REPEAT OF INDIVIDUAL FEDERAL REGISTER NOTICE

Energy Northwest; Columbia Generating Station; Benton County, WA	
Docket No(s)	50–397.
Application Date	September 4, 2020.
ADAMS Accession No	ML20242A002.
Brief Description of Amendment(s)	The amendment added a one-time extension to the completion time of Technical Specification 3.8.7, “Distribution Systems—Operating,” Condition A, from 8 hours to 16 hours, specifically associated with Division 2 alternating current electrical power distribution inoperability caused by inoperability of 120/240-volt power panel E–PP–8AE during repairs on its supply transformer E–TR–8A/1.
Date & Cite of Federal Register Individual Notice	September 16, 2020; 85 FR 57885–57887.
Expiration Dates for Hearing Requests	November 16, 2020.

Dated: September 25, 2020.

For the Nuclear Regulatory Commission.

Gregory F. Suber,

Deputy Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2020-21610 Filed 10-5-20; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2020-0165]

Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of revised format.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is notifying the public of its revised format for applications and amendments to facility operating licenses and combined licenses involving proposed no significant hazards considerations and containing sensitive unclassified non-safeguards information (SUNSI) and order imposing procedures for access to SUNSI information.

DATES: The revised format described in this document takes effect on November 3, 2020.

ADDRESSES: Please refer to Docket ID NRC-2020-0165 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-2020-0165. Address questions about NRC docket IDs 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: Eva Brown, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-2315, email: Eva.Brown@nrc.gov.

SUPPLEMENTARY INFORMATION: Section 189a.(2)(A) of the Atomic Energy Act of 1954, as amended (the Act), grants the Commission the authority to issue and make immediately effective any amendment to an operating license or any amendment to a combined construction and operating license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person. Section 189a.(2)(B) of the Act, as amended, requires that the Commission periodically (but not less frequently than once every 30 days) publish notice of any amendments issued, or proposed to be issued pursuant to section 189a.(2)(A). To fulfill this requirement, the NRC periodically issues a document entitled, "Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information," in the **Federal Register**.

Instead of quoting each licensee's amendment application, as is done under the current format, the revised format will provide tables that state the proposed no significant hazards considerations determination and provide the location of the NRC's rationale for each determination for each of the listed applications. The revised format will also use tables to provide notice of license amendments issued. This streamlined format will provide efficiency to the public and interested stakeholders in locating pertinent information and will provide a government cost savings in time and print expenses. The public and interested stakeholders can still access all the information provided in each licensee's amendment application by going to the ADAMS accession numbers that will be provided in the tables. The revised format will be utilized in **Federal Register** notices commencing November 3, 2020.

Dated: September 29, 2020.

For the Nuclear Regulatory Commission.

Craig G. Erlanger,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2020-21919 Filed 10-5-20; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2020-0164]

Biweekly Notices: Applications and Amendments to Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of revised schedule and title change.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is notifying the public of its revised schedule and title change for Biweekly Notices of Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations.

DATES: The revised scheduled and title change described in this document takes effect on November 3, 2020.

ADDRESSES: Please refer to Docket ID NRC-2020-0164 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-2020-0164. Address questions about NRC docket IDs 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: Eva Brown, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-

0001, telephone: 301-415-2315, email: Eva.Brown@nrc.gov.

SUPPLEMENTARY INFORMATION: Section 189a.(2)(A) of the Atomic Energy Act of 1954, as amended (the Act), grants the Commission the authority to issue and make immediately effective any amendment to an operating license or any amendment to a combined construction and operating license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person. Section 189a.(2)(B) of the Act, as amended, requires that the Commission periodically (but not less frequently than once every 30 days) publish notice of any amendments issued, or proposed to be issued pursuant to section 189a.(2)(A). To fulfill this requirement, the NRC periodically issues a document entitled, "Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations," in the **Federal Register**.

Instead of publishing Biweekly Notices every 14 days, the NRC will publish a notice approximately every 4 weeks (every 28 days). The new title for this publication will be "Monthly

Notice; Applications and Amendments to Licenses Involving No Significant Hazards Considerations." This streamlined publication schedule will provide efficiency to the public and stakeholders locating pertinent information and will provide a government cost savings in time and print expenses.

Dated: September 29, 2020.

For the Nuclear Regulatory Commission.

Craig G. Erlanger,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2020-21918 Filed 10-5-20; 8:45 am]

BILLING CODE 7590-01-P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: This notice identifies Schedule A, B, and C appointing authorities applicable to a single agency that were established or revoked from February 1, 2020 to February 29, 2020.

FOR FURTHER INFORMATION CONTACT: Julia Alford, Senior Executive Resources

Services, Senior Executive Services and Performance Management, Employee Services, 202-606-2246.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 213.103, Schedule A, B, and C appointing authorities available for use by all agencies are codified in the Code of Federal Regulations (CFR). Schedule A, B, and C appointing authorities applicable to a single agency are not codified in the CFR, but the Office of Personnel Management (OPM) publishes a notice of agency-specific authorities established or revoked each month in the **Federal Register** at www.gpo.gov/fdsys/. OPM also publishes an annual notice of the consolidated listing of all Schedule A, B, and C appointing authorities, current as of June 30, in the **Federal Register**.

Schedule A

No Schedule A Authorities to report during February 2020.

Schedule B

No Schedule B Authorities to report during February 2020.

Schedule C

The following Schedule C appointing authorities were approved during February 2020.

Agency name	Organization name	Position title	Authorization number	Effective date
DEPARTMENT OF AGRICULTURE DEPARTMENT OF COMMERCE ...	Rural Business Service	Confidential Assistant	DA200047	02/12/2020
	Office of Business Liaison	Deputy Director, Office of Business Liaison.	DC200016	02/03/2020
	Office of Policy and Strategic Planning.	Strategic Advisor	DC200077	02/26/2020
	Office of the Chief of Staff	Deputy Chief of Staff for Strategic Initiatives.	DC200062	02/11/2020
DEPARTMENT OF DEFENSE	Confidential Assistant\ .....	.....	DC200007	02/19/2020
	Office of the General Counsel	Confidential Assistant	DC200046	02/12/2020
	Office of Under Secretary	Senior Advisor	DC200058	02/25/2020
	Office of the Assistant Secretary of Defense (Legislative Affairs).	Special Assistant	DD200075	02/12/2020
	Office of the Assistant to the Secretary of Defense (Public Affairs).	Special Assistant	DD200117	02/26/2020
	Office of the Chief Management Officer.	Special Assistant	DD200105	02/14/2020
	Office of the Deputy Under Secretary for Policy.	Special Assistant	DD200121	02/28/2020
	Office of the Secretary of Defense	Defense Fellow	DD200074	02/12/2020
DEPARTMENT OF EDUCATION ...	Office of the Under Secretary of Defense (Personnel and Readiness).	Special Assistant	DD200078	02/06/2020
	Office of Postsecondary Education	Special Assistant	DB200035	02/05/2020
DEPARTMENT OF ENERGY	Office for Civil Rights	Confidential Assistant	DB200037	02/06/2020
	Office of the Assistant Secretary for Congressional and Intergovernmental Affairs.	Legislative Affairs Advisor	DE200075	02/10/2020
ENVIRONMENTAL PROTECTION AGENCY.	Office of the Associate Administrator for Congressional and Intergovernmental Relations.	Principal Deputy Associate Administrator for the Office of Congressional and Intergovernmental Relations.	EP200037	02/10/2020

Agency name	Organization name	Position title	Authorization number	Effective date
GENERAL SERVICES ADMINISTRATION.	Rocky Mountain Region	Assistant Deputy Associate Administrator for Intergovernmental Affairs.	EP200045	02/27/2020
		Regional Administrator	GS200028	02/25/2020
DEPARTMENT OF HEALTH AND HUMAN SERVICES.	Northwest/Arctic Region	Regional Administrator	GS200029	02/25/2020
	Office of the Administrator	Special Assistant	GS200031	02/28/2020
	Office of the Assistant Secretary for Public Affairs.	Director of Communication Strategy and Campaigns.	DH200019	02/05/2020
	Agency for Healthcare Research and Quality.	Advisor	DH200071	02/07/2020
	Office of the Assistant Secretary for Health.	Executive Director, Presidents Council on Sports, Fitness, and Nutrition.	DH200079	02/25/2020
DEPARTMENT OF HOMELAND SECURITY.	Office of the Chief of Staff	Deputy White House Liaison	DM200142	02/05/2020
DEPARTMENT OF JUSTICE	Office of Legal Policy	Counsel	DJ200070	02/05/2020
DEPARTMENT OF LABOR	Office of Congressional and Intergovernmental Affairs.	Case Officer	DL200057	02/10/2020
	Office of the Assistant Secretary for Policy.	Senior Counselor for Compliance Initiatives.	DL200072	02/12/2020
	Office of the Secretary	Special Assistant (2)	DL200055	02/06/2020
			DL200075	02/10/2020
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.	Office of the Administrator	Executive Assistant	NN200028	02/06/2020
OFFICE OF NATIONAL DRUG CONTROL POLICY.	Office of Public Affairs	Public Affairs Specialist	QQ200002	02/11/2020
OVERSEAS PRIVATE INVESTMENT CORPORATION.	Office of the Director	Special Advisor	QQ200003	02/28/2020
	Overseas Private Investment Corporation.	Confidential Assistant	PQ200008	02/04/2020
SMALL BUSINESS ADMINISTRATION.	Office of Communications and Public Liaison.	Speechwriter	SB200008	02/14/2020
DEPARTMENT OF STATE	Bureau of African Affairs	Special Envoy for the Sahel Region of Africa.	DS200044	02/25/2020
	Bureau of Education and Cultural Affairs.	Special Advisor	DS200047	02/14/2020
	Office of the Counselor	Special Assistant	DS200053	02/26/2020
	Office of the Secretary	Senior Advisor	DS200048	02/14/2020
		Staff Assistant	DS200050	02/25/2020
DEPARTMENT OF TRANSPORTATION.	Office of the Administrator	Special Advisor	DS200040	02/28/2020
		Governmental and Legislative Affairs Officer.	DT200076	02/11/2020
	Office of Government and Industry	Senior Policy Advisor	DT200080	02/27/2020
		Governmental Affairs and External Outreach Advisor.	DT200078	02/12/2020
	Office of the Secretary	Special Assistant for Advance Operations.	DT200074	02/11/2020

The following Schedule C appointing authorities were revoked during February 2020.

Agency name	Organization name	Position title	Request number	Date vacated
DEPARTMENT OF AGRICULTURE	Office of Communications	Speechwriter	DA170174	02/01/2020
	Farm Service Agency	State Executive Director, North Carolina.	DA180070	02/29/2020
	Office of the Assistant Secretary for Congressional Relations.	Associate Director	DA190061	02/15/2020
	Office of the Secretary	Advanced Lead	DA190187	02/01/2020
DEPARTMENT OF COMMERCE ...	Office of the Under Secretary for Rural Development.	Confidential Assistant	DA190114	02/01/2020
	Rural Utilities Service	Confidential Assistant	DA190201	02/01/2020
	Bureau of Industry and Security	Special Advisor	DC170158	02/01/2020
	Office of International Trade Administration.	Special Assistant	DC180189	02/01/2020
	Office of Business Liaison	Special Advisor (2)	DC180166	02/01/2020
			DC180183	02/01/2020
	Office of Executive Secretariat	Confidential Assistant	DC190101	02/29/2020

Agency name	Organization name	Position title	Request number	Date vacated
OFFICE OF THE SECRETARY OF DEFENSE.	Office of Policy and Strategic Planning.	Deputy Director, Office of Policy and Strategic Planning.	DC190073	02/29/2020
	Office of White House Liaison	Deputy Director, Office of White House Liaison.	DC190069	02/01/2020
	Office of the Secretary of Defense	Confidential Assistant	DC190104	02/29/2020
		Defense Fellow	DD190027	02/21/2020
DEPARTMENT OF EDUCATION ...	Office of the Under Secretary of Defense (Comptroller).	Special Assistant	DD180055	02/29/2020
	Office for Civil Rights	Confidential Assistant for Policy	DB190040	02/28/2020
	Office of the Assistant Secretary for Congressional and Intergovernmental Affairs.	Special Advisor	DE190013	02/15/2020
		Special Assistant	DE190053	02/15/2020
DEPARTMENT OF ENERGY	Office of the Assistant Secretary for Electricity Delivery and Energy Reliability.	Senior Advisor	DE190016	02/15/2020
		Senior Advisor	DE190085	02/28/2020
	Office of the Assistant Secretary for Fossil Energy.	Senior Advisor	DE180156	02/15/2020
	Office of the Assistant Secretary for International Affairs.	Director for the Office of Global Energy Security.	DE190166	02/15/2020
DEPARTMENT OF HEALTH AND HUMAN SERVICES.	Office of Policy	Principal Deputy Director	DE190118	02/01/2020
	Office of Public Affairs	Special Assistant	DE180104	02/12/2020
		Digital Director	DE190071	02/14/2020
		Special Advisor	DE190132	02/14/2020
DEPARTMENT OF HEALTH AND HUMAN SERVICES.	Office of the Under Secretary of Energy.	Chief of Staff	DE180012	02/15/2020
	Centers for Medicare and Medicaid Services.	Senior Counselor	DH170220	02/01/2020
	Office for Civil Rights	Senior Advisor for Conscience Protection.	DH180065	02/01/2020
	Office of the Assistant Secretary for Health.	Chief of Staff	DH190235	02/29/2020
DEPARTMENT OF HOMELAND SECURITY.	Office of the Secretary	Special Assistant	DH190164	02/01/2020
		White House Liaison for Political Personnel, Boards and Commissions.	DH190200	02/29/2020
	Office of the United States Citizenship and Immigration Services.	Special Assistant	DM190235	02/15/2020
	Office of the Deputy Secretary	Deputy White House Liaison	DU180088	02/03/2020
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.	Office of Congressional and Intergovernmental Relations.	Senior Advisor	DU190091	02/29/2020
	Office of Civil Division	Counsel	DJ170154	02/22/2020
	Office of Justice Programs	Counsel	DJ190157	02/25/2020
	Office of Public Affairs	Press Assistant	DJ180150	02/25/2020
DEPARTMENT OF LABOR	Office of Congressional and Intergovernmental Affairs.	Case Officer	DL190094	02/01/2020
		Intergovernmental Officer	DL190096	02/15/2020
	Office of Public Liaison	Deputy Director, Office of Public Liaison.	DL190029	02/29/2020
	Office of the Chief of Protocol	Protocol Officer (Gifts)	DS190110	02/18/2020
DEPARTMENT OF STATE	Office of the Deputy Secretary	Senior Advisor	DY180079	02/01/2020
	Secretary of the Treasury	Advance Representative	DY200009	02/01/2020
	Office of the Assistant Secretary (Economic Policy).	Special Advisor	DY200011	02/06/2020
	Office of the Administrator	Governmental Affairs Officer	DT190099	02/15/2020
DEPARTMENT OF THE TREASURY.	Office of the Assistant Secretary for Transportation Policy.	Director of Public Affairs	DT200023	02/17/2020
		Director of Governmental Affairs ...	DT190062	02/29/2020
	Office of Government and Industry	Director of Governmental Affairs ...	DT190090	02/15/2020
		Special Assistant	DT200065	02/22/2020
DEPARTMENT OF TRANSPORTATION.	Office of the Associate Administrator for Highway Policy and Governmental Affairs.	Special Assistant for Governmental Affairs.	DT190069	02/15/2020
	Office of the Secretary	Associate Administrator	DT200003	02/01/2020
		Special Assistant for Advance	DT190024	02/15/2020
		Deputy for Scheduling and Advance Operations.	DT190124	02/28/2020

Agency name	Organization name	Position title	Request number	Date vacated
ENVIRONMENTAL PROTECTION AGENCY.	Office of the Executive Secretariat	Attorney-Advisor (General)	EP190056	02/01/2020
		Special Advisor	EP180088	02/01/2020
	Office of the Assistant Administrator for Chemical Safety and Pollution Prevention.	Associate Deputy Assistant Administrator for New Chemicals.	EP190115	02/15/2020
		Senior Advisor for Strategic Initiatives.	EP190005	02/29/2020
		Special Advisor to the Deputy Chief of Staff for Operations.	EP200028	02/29/2020
		Deputy Associate Administrator for the Office of Congressional and Intergovernmental Relations.	EP190070	02/29/2020
	Office of the Associate Administrator for Congressional and Intergovernmental Relations.	Director of Intergovernmental Affairs.	EP190012	02/29/2020
		Congressional Policy Analyst (3) ...	GS190014	02/01/2020
	Office of Congressional and Intergovernmental Affairs.		GS190008	02/01/2020
			GS200025	02/28/2020
GENERAL SERVICES ADMINISTRATION.	Northwest/Arctic Region	Senior Advisor to the Regional Administrator.	GS190015	02/29/2020
	Office of the Administrator	White House Liaison and Senior to the Chief of Staff.	GS190038	02/29/2020
		Special Assistant to the Regional Administrator.	GS180006	02/29/2020
	Office of the Director	Special Assistant	BO200002	02/14/2020
		Legislative Analyst	BO180027	02/15/2020
OFFICE OF MANAGEMENT AND BUDGET.	Office of Legislative Affairs	Public Affairs Specialist (Press Secretary).	QQ190001	02/15/2020
	Office of Public Affairs	Special Advisor to the Director and Director of Operations.	QQ180006	02/29/2020
OFFICE OF NATIONAL DRUG CONTROL POLICY.	Office of the Director	White House Liaison	PM190039	02/25/2020
	Office of the Director	Attorney-Advisor (General)	PM190037	02/28/2020
OFFICE OF PERSONNEL MANAGEMENT.	Office of the General Counsel	Confidential Assistant	PM190047	02/29/2020
	Office of Communications	Deputy Social Secretary	RV190001	02/07/2020
OFFICIAL RESIDENCE OF THE VICE PRESIDENT.	Official Residence of the Vice President.			
	Office of Administration	Special Assistant	SB190028	02/01/2020
SMALL BUSINESS ADMINISTRATION.	Office of Investment and Innovation.	Senior Advisor	SB180037	02/01/2020

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218.

Office of Personnel Management.

Stephen Hickman,

Deputy Executive Secretary.

[FR Doc. 2020–22008 Filed 10–5–20; 8:45 am]

BILLING CODE 6325–39–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2020–259 and CP2020–289; MC2020–260 and CP2020–290]

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 8, 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)*: MC2020–259 and CP2020–289; *Filing Title*: USPS Request to Add Priority Mail Contract 666 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: September 30, 2020; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative*: Kenneth R. Moeller; *Comments Due*: October 8, 2020.

2. *Docket No(s)*: MC2020–260 and CP2020–290; *Filing Title*: USPS Request to Add Priority Mail Contract 667 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: September 30, 2020; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative*: Kenneth R. Moeller; *Comments Due*: October 8, 2020.

This Notice will be published in the **Federal Register**.

Erica A. Barker,
Secretary.

[FR Doc. 2020–22056 Filed 10–5–20; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IA–5602]

Notice of Intention To Cancel Registration Pursuant to Section 203(H) of The Investment Advisers Act of 1940

September 30, 2020.

Notice is given that the Securities and Exchange Commission (the “Commission”) intends to issue an order, pursuant to Section 203(h) of the Investment Advisers Act of 1940 (the “Act”), cancelling the registration of Sagent Wealth Management [File No. 801–69446], hereinafter referred to as the “registrant.”

Section 203(h) provides, in pertinent part, that if the Commission finds that any person registered under Section 203, or who has pending an application for registration filed under that section, is no longer in existence, is not engaged in business as an investment adviser, or is prohibited from registering as an investment adviser under section 203A, the Commission shall by order, cancel the registration of such person.

The registrant indicated on its most recent Form ADV filing that it does not have regulatory assets under management of at least \$100 million and is not eligible for registration with the Commission. Accordingly, the Commission believes that reasonable grounds exist for a finding that this registrant is no longer eligible to be registered with the Commission as an investment adviser and that the registration should be cancelled pursuant to section 203(h) of the Act.

Notice is also given that any interested person may, by October 26, 2020, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the cancellation, accompanied by a statement as to the nature of his or her interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, and he or she may request that he or she be notified if the Commission should order a hearing thereon. Any such communication should be emailed to the Commission's Secretary at *Secretarys-Office@sec.gov*.

At any time after October 26, 2020, the Commission may issue an order cancelling the registration, upon the basis of the information stated above, unless an order for a hearing on the cancellation shall be issued upon request or upon the Commission's own motion. Persons who requested a hearing, or who requested to be advised as to whether a hearing is ordered, will

receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. Any adviser whose registration is cancelled under delegated authority may appeal that decision directly to the Commission in accordance with rules 430 and 431 of the Commission's rules of practice (17 CFR 201.430 and 431).

ADDRESSES: The Commission:
Secretarys-Office@sec.gov.

FOR FURTHER INFORMATION CONTACT:
Aaron Russ, Senior Counsel at 202–551–5783; SEC, Division of Investment Management, Investment Adviser Regulation Office, 100 F Street NE, Washington, DC 20549–8549.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.¹

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2020–21989 Filed 10–5–20; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Senior Executive Service and Senior Level: Performance Review Board Members

AGENCY: U.S. Small Business Administration.

ACTION: Notice of members for the performance review board.

SUMMARY: The following individuals have been designated to serve on the PRB for the U.S. Small Business Administration.

Members:

1. Barbara Carson (Chair), Deputy Associate Administrator, Office of Government Contracting and Business Development
2. Allen Gutierrez, Associate Administrator, Office of Entrepreneurial Development
3. Christopher Gray, Deputy Chief of Staff, Office of the Administrator
4. Delorice Ford, Assistant Administrator, Office of Hearings and Appeals
5. Larry Stubblefield, Associate Administrator, Office of Veterans Business Development
6. Michael Hershey, Associate Administrator, Office of Congressional and Legislative Affairs
7. Tami Perriello, Chief Financial Officer, Office of Performance Management and Chief Financial Officer

¹ See Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

¹ 17 CFR 200.30–5(e)(2).

8. Victor Parker, Deputy Associate Administrator, Office of Field Operations

SUPPLEMENTARY INFORMATION: Title 5 U.S.C. 4314(c) (4) requires each agency to publish notification of the appointment of individuals who may serve as members of that agency's Performance Review Board (PRB).

Jovita Carranza,
Administrator.

[FR Doc. 2020-21915 Filed 10-5-20; 8:45 am]

BILLING CODE 8026-03-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16685 and #16686; Florida Disaster Number FL-00158]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Florida

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Florida (FEMA-4564-DR), dated 09/23/2020.

Incident: Hurricane Sally.

Incident Period: 09/14/2020 and continuing.

DATES: Issued on 09/23/2020.

Physical Loan Application Deadline Date: 11/23/2020.

Economic Injury (EIDL) Loan Application Deadline Date: 06/23/2021.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT:

A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 09/23/2020, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Escambia

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Non-Profit Organizations With Credit Available Elsewhere ...	2.750
Non-Profit Organizations Without Credit Available Elsewhere	2.750
<i>For Economic Injury:</i>	
Non-Profit Organizations Without Credit Available Elsewhere	2.750

The number assigned to this disaster for physical damage is 166858 and for economic injury is 166860. (Catalog of Federal Domestic Assistance Number 59008)

Cynthia Pitts,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2020-22015 Filed 10-5-20; 8:45 am]

BILLING CODE 8026-03-P

DEPARTMENT OF STATE

[Public Notice: 11224]

Notice of Shipping Coordination Committee Meeting in Preparation for International Maritime Organization Meeting

The Department of State will conduct a public meeting of the Shipping Coordination Committee at 10:00 a.m. on Thursday, October 29, 2020, by way of teleconference. Members of the public may participate up to the capacity of the teleconference phone line, which will handle 500 participants. To access the teleconference line, participants should call (202) 475-4000 and use Participant Code: 415 533 25#.

The primary purpose of the meeting is to prepare for the 102nd session of the International Maritime Organization's (IMO) Maritime Safety Committee to be held remotely, November 4 to 11, 2020.

The agenda items to be considered include:

- Adoption of the agenda; report on credentials
- Decisions of other IMO bodies
- Consideration and adoption of amendments to mandatory instruments
- Goal-based new ship construction standards
- Human element, training and watchkeeping (report of the sixth session of the Sub-Committee)
- Implementation of IMO instruments (report of the sixth session of the Sub-Committee)
- Carriage of cargoes and containers (report of the sixth session of the Sub-Committee)

- Navigation, communications and search and rescue (report of the seventh session of the Sub-Committee)
- Ship design and construction (report of the seventh session of the Sub-Committee)
- Pollution prevention and response (matters emanating from the seventh session of the Sub-Committee)
- Ship systems and equipment (urgent matters emanating from the seventh session of the Sub-Committee)
- Any other business (only matters related to the COVID-19 pandemic)
- Consideration of the report of the Committee on its 102nd session

Please note: The Committee may, on short notice, adjust the MSC 102 agenda to accommodate the constraints associated with the virtual meeting format. Although no changes to the agenda are anticipated, if any are necessary they will be provided to those who RSVP.

Those who plan to participate may contact the meeting coordinator, LT Jessica Anderson, by email at Jessica.P.Anderson@uscg.mil, by phone at (202) 372-1376, or in writing at 2703 Martin Luther King Jr. Ave. SE, Stop 7509, Washington DC 20593-7509.

Additional information regarding this and other IMO public meetings may be found at: <https://www.dco.uscg.mil/IMO>.

Jeremy M. Greenwood,

Coast Guard Liaison Officer, Office of Ocean and Polar Affairs, Department of State.

[FR Doc. 2020-22078 Filed 10-5-20; 8:45 am]

BILLING CODE 4710-09-P

DEPARTMENT OF STATE

[Public Notice: 11225]

Notice of Shipping Coordination Committee Meeting in Preparation for International Maritime Organization Meeting

The Department of State will conduct a public meeting of the Shipping Coordination Committee at 10:00 a.m. on Thursday, November 12, 2020, by way of teleconference. Members of the public may participate up to the capacity of the teleconference phone line, which will handle 500 participants. To access the teleconference line, participants should call (202) 475-4000 and use Participant Code: 415 533 25#.

The primary purpose of the meeting is to prepare for the 75th session of the International Maritime Organization's (IMO) Marine Environment Protection Committee to be held remotely, November 16 to 20, 2020.

The agenda items to be considered include:

- Adoption of the agenda
- Decisions of other bodies
- Consideration and adoption of amendments to mandatory instruments
- Harmful aquatic organisms in ballast water
- Air pollution prevention
- Energy efficiency of ships
- Reduction of GHG emissions from ships
- Follow-up work emanating from the Action Plan to address marine plastic litter from ships
- Identification and protection of Special Areas, ECAs and PSSAs
- Pollution prevention and response
- Reports of other sub-committees
- Technical cooperation activities for the protection of the marine environment
- Capacity-building for the implementation of new measures
- Work programme of the Committee and subsidiary bodies
- Application of the Committees' Method of Work
- Any other business
- Consideration of the report of the Committee

Please note: The Committee may, on short notice, adjust the MEPC 75 agenda to accommodate the constraints associated with the virtual meeting format. Although no changes to the agenda are anticipated, if any are necessary they will be provided to those who RSVP.

Those who plan to participate may contact the meeting coordinator, LT Jessica Anderson, by email at Jessica.P.Anderson@uscg.mil, by phone at (202) 372-1376, or in writing at 2703 Martin Luther King Jr. Ave. SE, Stop 7509, Washington, DC 20593-7509.

Additional information regarding this and other IMO public meetings may be found at: <https://www.dco.uscg.mil/IMO>.

Jeremy M. Greenwood,

Coast Guard Liaison Officer, Office of Ocean and Polar Affairs, Department of State.

[FR Doc. 2020-22074 Filed 10-5-20; 8:45 am]

BILLING CODE 4710-09-P

SURFACE TRANSPORTATION BOARD

Release of Waybill Data

The Surface Transportation Board has received a request from Harvard University (WB20-44—9/3/20) for permission to use data from the Board's 1996–2018 Unmasked Carload Waybill Samples. A copy of this request may be

obtained from the Board's website under docket no. WB20-44.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

Contact: Alexander Dusenberry, (202) 245-0319

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2020-22048 Filed 10-5-20; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2020-0379]

Agency Information Collection Activities: Requests for Comments; Clearance of a New Approval of Information Collection: Operational Waivers for Small Unmanned Aircraft Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval for a new information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on April 10, 2010. The FAA proposes collecting information about requests for waivers from certain operational rules that apply to small unmanned aircraft systems (sUAS). The FAA will use the collected information to make determinations whether to authorize or deny the requested operations of sUAS. The proposed information collection is necessary to issue such authorizations or denials consistent with the FAA's mandate to ensure safe and efficient use of national airspace.

DATES: Written comments should be submitted by November 5, 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.

FOR FURTHER INFORMATION CONTACT:

Jeremy Grogan by email at: jeremy.grogan@faa.gov; phone: (405) 666-1187.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

OMB Control Number: 2120-XXXX.

Title: Operational Waivers for Small Unmanned Aircraft Systems.

Form Numbers: N/A (online portal).

Type of Review: New.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on April 10, 2020 (85 FR 20333). The FAA has seen increased operations of small unmanned aircraft systems (sUAS) flying under 14 CFR part 107. Under 14 CFR 107.205, operators of small UAS may seek waivers from certain operational rules. The FAA is updating and modernizing the process for applying for such waivers using the DroneZone website. These improvements will facilitate the process of collecting and submitting the information required as part of a waiver application. The reporting burdens for operational waiver applications are currently covered by Information Collection Request (ICR) 2120-0768. As part of this effort, the FAA is creating a new ICR just for operational waiver applications. In order to process operational waiver requests, the FAA requires the operator's name, the operator's contact information, and information related to the date, place, and time of the requested small UAS operation. Additional information is required related to the proposed waiver and any necessary mitigations. The FAA will use the requested information to determine if the proposed UAS operation can be conducted safely. This information is necessary for the FAA to meet its statutory mandate of maintaining a safe and efficient national airspace. See 49 U.S.C. 40103, 44701 and 44708.

Respondents: sUAS Operators: 8,034 per year.

Frequency: On occasion. For requests for operational waivers, a respondent

will need to provide the information once at the time of the request for the waiver. If granted, operational waivers may be valid for up to four (4) years.

Estimated Average Burden per Response: 30 minutes. The FAA estimates 1.3 responses per respondent.

Estimated Total Annual Burden: 0.65 hours per respondent, for a total of 5,222 hours.

Issued in Washington, DC, on September 30, 2020.

Dwayne C. Morris,

*Project Manager, Flight Standards Service,
General Aviation and Commercial Division.*

[FR Doc. 2020-22003 Filed 10-5-20; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2019-0095; NHTSA-2019-0134; Notice 1]

Specialty Tires of America, Inc., Receipt of Petitions for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petitions.

SUMMARY: Specialty Tires of America, Inc. (STA) has determined that certain STA light truck tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 119, *New Pneumatic Tires for Motor Vehicles with a GVWR of More than 4,536 kilograms (10,000 pounds) and Motorcycles*, or FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles*. STA filed noncompliance reports dated August 27, 2019, November 15, 2019, and November 18, 2019. STA also petitioned NHTSA on September 16, 2019, and December 13, 2019, and later amended the former on March 3, 2020, for a decision that the subject noncompliances are inconsequential as they relate to motor vehicle safety. This document announces receipt of STA's petitions.

DATES: The closing date for comments on the petitions is November 5, 2020.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on these petitions. Comments must refer to the docket number and notice number cited in the title of this notice and may be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-

30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal Holidays.

- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.

- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petitions are granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at <https://www.regulations.gov/> by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000, (65 FR 19477-78).

SUPPLEMENTARY INFORMATION:

I. Overview

STA has determined that certain STA light truck tires do not fully comply with paragraph S6.5(f) of FMVSS No. 119, *New Pneumatic Tires for Motor Vehicles with a GVWR of More than 4,536 kilograms (10,000 pounds) and Motorcycles* (49 CFR 571.119) or paragraphs S5.5(e) and (f) of FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles* (49 CFR 571.139). STA filed noncompliance reports dated August 27, 2019, November 15, 2019, and November 18, 2019, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. STA also petitioned NHTSA on September 16, 2019, and December 13, 2019, and later amended the former on March 3, 2020, 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*.

This notice of receipt, of STA's petitions, is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercises of judgment concerning the merits of the petitions.

II. Tires Involved

Approximately 5,489 of the following STA light truck tires, manufactured between January 1, 2009, and October 27, 2019, and certified to FMVSS No. 119, are potentially involved:

- 8-17.5 LT STA Super Traxion
- 8-17.5 STA Super Transport
- 8-14.5LT G/14 STA Super Transport
- 8-14.5LT F 12 STA Super Transport
- 7.50-18 STA Super Traxion
- 7.50-17 STA Super Transport
- 10.00-20 STA Super Transport

Approximately 2,887 of the following STA light truck tires, manufactured between February 2, 2014, and September 1, 2019, and certified to FMVSS No. 139, are potentially involved:

- 37x12.50R20LT Interco SSR
- 37x12.50R17LT Interco SSR
- 35x12.50-16LT Interco Thornbird
- 33x13.50R17LT Interco Irok

III. Noncompliance

STA explains that in both cases, the noncompliance is that the sidewalls of the subject tires incorrectly state the ply material and number of plies and, therefore, do not meet the applicable requirement specified in either paragraph S6.5 of FMVSS No. 119 or paragraphs S5.5(e) and (f) of FMVSS No.

139. Specifically, the subject tires were incorrectly marked in the following ways:

- 8–17.5LT STA Super Traxion
Sidewall marked as Tread: 6 Ply Nylon, Sidewall: 4 Ply Nylon
Correct marking should be Tread: 4 Ply Nylon, Sidewall: 4 Ply Nylon
- 8–17.5 STA Super Transport
Sidewall marked as Tread: 6 Ply Nylon, Sidewall: 4 Ply Nylon
Correct marking should be Tread: 4 Ply Nylon, Sidewall: 4 Ply Nylon
- 8–14.5LT G/14STA Super Transport
Sidewall marked as Tread: 6 Ply Nylon, Sidewall: 6 Ply Nylon
Correct marking should be Tread: 8 Ply Nylon, Sidewall: 6 Ply Nylon
- 8–14.5LT F 12 STA Super Transport
Sidewall marked as Tread: 6 Ply Nylon, Sidewall: 6 Ply Nylon
Correct marking should be Tread: 8 Ply Nylon, Sidewall: 6 Ply Nylon
- 7.50–18 STA Super Traxion
Sidewall marked as Tread: 4 Ply Nylon, Sidewall: 4 Ply Nylon
Correct marking should be Tread: 6 Ply Nylon, Sidewall: 4 Ply Nylon
- 7.50–17 STA Super Transport
Sidewall marked as Tread: 4 Ply Nylon, Sidewall: 4 Ply Nylon
Correct marking should be Tread: 6 Ply Nylon, Sidewall: 6 Ply Nylon
- 10.00–20 STA Super Transport
Sidewall marked as Tread: 10 Ply Nylon, Sidewall: 10 Ply Nylon
Correct marking should be Tread: 8 Ply Nylon, Sidewall: 6 Ply Nylon
- 37x12.50R20LT Interco SSR
Sidewall marked as Tread: 3 Poly + 2 Steel + 1 Nylon, Sidewall: 3 Poly + 2 Steel + 2 Nylon, Sidewall: 2 Poly
- 37x12.50R17LT Interco SSR
Sidewall marked as Tread: 3 Poly + 2 Steel + 1 Nylon, Sidewall: 3 Poly + 2 Steel + 2 Nylon, Sidewall: 2 Poly
- 35x12.50–16LT Interco Thornbird
Sidewall marked as Tread: 4 Ply Nylon, Sidewall: 4 Ply Nylon
Correct marking should be Tread: 4 Poly + 2 Nylon, Sidewall: 4 Ply Poly
- 33x13.50R17LT Interco Irok
Sidewall marked as Tread: 3 Poly + 2 Steel + 1 Nylon, Sidewall: 3 Poly + 2 Steel + 1 Nylon, Sidewall: 2 Poly

IV. Rule Requirements

Paragraph S6.5(f) of FMVSS No. 119 and paragraphs S5.5(e) and (f) of FMVSS No. 139 include the requirements relevant to these petitions. Paragraph S6.5(f) of FMVSS 119

requires that each tire shall be marked on each sidewall with the actual number of plies and the composition of the ply cord material in the sidewall and, if different, in the tread area. Paragraphs 5.5(e) and (f) of FMVSS No. 139 require that each tire must be marked on one sidewall with the generic name of each cord material used in the plies (both sidewall and tread area) of the tire, the actual number of plies in the sidewall, and the actual number of plies in the tread area, if different.

V. Summary of STA's Petitions

The following views and arguments presented in this section, "V. Summary of STA's Petitions," are the views and arguments provided by STA. They have not been evaluated by the Agency and do not reflect the views of the Agency.

STA described the subject noncompliances and stated that the noncompliances are inconsequential as they relate to motor vehicle safety. In support of its petitions, STA offers the following reasoning:

1. The subject tires were manufactured as designed and meet or exceed all other marking and performance requirements of FMVSS No. 119 or 139, as applicable.
2. The noncompliance is not a safety concern, having no effect on operation of the tire and no impact on the retreading, repairing, or recycling industries.
3. All the tires in inventory and the mold information are being corrected and all future production and sales by STA of these tires will have the correct information on both sidewalls.
4. STA stated that they are not aware of any warranty claims, adjustments, field reports, customer complaints, legal claims, or any incidents, accidents, or injuries related to the subject condition.
5. STA says that NHTSA has granted a number of similar petitions relating to incorrectly identifying the actual number of plies in the tread area. STA went on to cite the following petitions in which the Agency has previously granted:

a. Continental Tire the Americas, LLC, Grant of Petition for Decision of Inconsequential noncompliance, 83 FR 36668 (July 30, 2018).

b. Sumitomo Rubber Industries, Ltd., Grant of Petition for Decision of Inconsequential Noncompliance, 83 FR 13002 (March 26, 2018).

c. Bridgestone Americas Tire Operations, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 78 FR 47049 (August 2, 2013).

d. Goodyear Tire & Rubber Co. Grant of Petition for Decision of Inconsequential Noncompliance, 74 FR 10804 (March 12, 2009).

e. Nitto Tire U.S.A., Inc., Grant of Petition for Decision of Inconsequential Noncompliance, 81 FR 17764 (March 30, 2016).

f. Hankook Tire America Corp., Grant of Petition for Decision of Inconsequential Noncompliance, 79 FR 30688 (May 28, 2014).

STA concludes by again contending that the subject noncompliances are inconsequential as they relate to motor vehicle safety, and that its petitions to be exempted from providing notification of the noncompliances, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, be granted.

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, any decision on these petitions only apply to the subject tires that STA no longer controlled at the time it determined that the noncompliances existed. However, any decision on these petitions does not relieve tire distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after STA notified them that the subject noncompliances 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. 2020-22021 Filed 10-5-20; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF THE TREASURY

Interest Rate Paid on Cash Deposited To Secure U.S. Immigration and Customs Enforcement Immigration Bonds

AGENCY: Departmental Offices, Treasury.
ACTION: Notice.

SUMMARY: For the period beginning October 1, 2020, and ending on December 31, 2020, the U.S. Immigration and Customs Enforcement Immigration Bond interest rate is 0.11 per centum per annum.

DATES: Rates are applicable October 1, 2020 to December 31, 2020.

ADDRESSES: Comments or inquiries may be mailed to Will Walcutt, Supervisor, Funds Management Branch, Funds Management Division, Fiscal Accounting, Bureau of the Fiscal Services, Parkersburg, West Virginia 26106-1328.

You can download this notice at the following internet addresses: <<http://www.treasury.gov>> or <<http://www.federalregister.gov>>.

FOR FURTHER INFORMATION CONTACT:

Ryan Hanna, Manager, Funds Management Branch, Funds Management Division, Fiscal Accounting, Bureau of the Fiscal Service, Parkersburg, West Virginia

261006-1328 (304) 480-5120; Will Walcutt, Supervisor, Funds Management Branch, Funds Management Division, Fiscal Accounting, Bureau of the Fiscal Services, Parkersburg, West Virginia 26106-1328, (304) 480-5117.

SUPPLEMENTARY INFORMATION: Federal law requires that interest payments on cash deposited to secure immigration bonds shall be “at a rate determined by the Secretary of the Treasury, except that in no case shall the interest rate exceed 3 per centum per annum.” 8 U.S.C. 1363(a). Related Federal regulations state that “Interest on cash deposited to secure immigration bonds will be at the rate as determined by the Secretary of the Treasury, but in no case will exceed 3 per centum per annum or

be less than zero.” 8 CFR 293.2.

Treasury has determined that interest on the bonds will vary quarterly and will accrue during each calendar quarter at a rate equal to the lesser of the average of the bond equivalent rates on 91-day Treasury bills auctioned during the preceding calendar quarter, or 3 per centum per annum, but in no case less than zero. [FR Doc. 2015-18545] In addition to this Notice, Treasury posts the current quarterly rate in Table 2b—Interest Rates for Specific Legislation on the TreasuryDirect website.

Gary Grippo,

Deputy Assistant Secretary for Public Finance.

[FR Doc. 2020-22073 Filed 10-5-20; 8:45 am]

BILLING CODE 4810-25-P



FEDERAL REGISTER

Vol. 85

Tuesday,

No. 194

October 6, 2020

Part II

Federal Communications Commission

47 CFR Parts 0, 1 and 76

Procedural Streamlining of Administrative Hearings; Final Rule

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Parts 0, 1, and 76****[EB Docket No. 19–214; FCC 20–125; FRS 17090]****Procedural Streamlining of Administrative Hearings****AGENCY:** Federal Communications Commission.**ACTION:** Final rule.

SUMMARY: In this document, the Commission adopts changes to its procedural rules governing administrative hearings under the Communications Act of 1934, as amended. To streamline the hearing process and otherwise update the Commission's rules relating to administrative hearings, the Commission amends its rules to codify and expand the use of a process that relies on written testimony and documentary evidence in lieu of live testimony and cross-examination; authorize Commission staff to act as a case manager to supervise development of the written hearing record when the Commission designates itself as the presiding officer at a hearing; and dispense with the preparation of an initial opinion whenever the record of a proceeding can be certified to the Commission for final decision. Many of the changes that the Commission adopts are designed to supplement the Commission's current formal hearing processes to enable the Commission to select the personnel and procedures that are best suited to the issues raised in a particular case and that will achieve the purposes of that hearing without undue cost or delay.

DATES: Effective November 5, 2020.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Lisa Boehley of the Market Disputes Resolution Division, Enforcement Bureau, at Lisa.Boehley@fcc.gov or (202) 418–7395.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, FCC 20–125, EB Docket No. 19–214, adopted on September 11, 2020, and released on September 14, 2020. The full text of this document is available for public inspection online at <https://ecfsapi.fcc.gov/file/0914158859549/FCC-20-125A1.pdf>. To request this document in accessible formats for people with disabilities (e.g., Braille, large print, electronic files, audio format, etc.) or to request reasonable accommodations (e.g., accessible format documents, sign

language interpreters, CART, etc.), send an email to fcc504@fcc.gov or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

1. In this Report and Order, we adopt changes to procedural rules governing administrative hearings under the Communications Act of 1934, as amended (Communications Act or Act). We also adopt changes to the procedural rules governing administrative hearings under the Equal Access to Justice Act, 5 U.S.C. 504. Currently, many administrative hearings under the Act are conducted like trials in civil litigation and include, among other things, live testimony before an administrative law judge, cross-examination of witnesses, and an initial decision by the administrative law judge that is subject to review by the Commission. The Commission has observed that such trial-type hearings are costly and impose significant burdens and delays on both applicants and the agency that may not be necessary.

2. To streamline the hearing process and otherwise update our rules relating to administrative hearings, we amend our rules to: (1) Codify and expand the use of a process that relies on written testimony and documentary evidence in lieu of live testimony and cross-examination; (2) authorize Commission staff to act as a case manager to supervise development of the written hearing record when the Commission designates itself as the presiding officer at a hearing; and (3) dispense with the preparation of an initial opinion whenever the record of a proceeding can be certified to the Commission for final decision. Many of the changes we adopt are designed to supplement the Commission's current formal hearing processes to enable the Commission to select the personnel and procedures that are best suited to the issues raised in a particular case and that will achieve the purposes of that hearing without undue cost or delay. These changes will expedite and simplify the Commission's hearing processes consistent with the requirements of the Communications Act and the Administrative Procedure Act (APA) while safeguarding the rights of parties to a full and fair hearing. We also update and make conforming edits to the Commission's rules relating to administrative hearings.

3. Several provisions of the Communications Act require or permit the Commission to conduct an adjudicatory hearing to resolve a matter, but those provisions generally do not

identify particular procedures that the Commission must follow. As a result, the Commission has applied a variety of processes in these hearings. For example, the Commission has generally relied upon formal hearings before an administrative law judge where the Act requires designation of a matter for hearing under section 309. These formal hearings use procedures similar to the formal adjudication provisions of the APA. In contrast, the Commission has traditionally resolved section 204 hearings on the lawfulness of tariffs on a written record and has delegated authority to the Enforcement Bureau to conduct hearings on section 208 complaints, in which all issues are resolved on a written record.

4. Over the years, the Commission has taken steps to streamline its hearing procedures. In 1981, the Commission adopted an abridged process for evaluating competing initial cellular applications under section 309(e) on a written record. More recently, the Commission ruled that certain license renewal proceedings may be resolved in a written hearing proceeding administered by the Commission itself in lieu of an administrative law judge when there are no substantial issues of material fact or credibility issues. The Commission has likewise required parties to certain broadcast proceedings to submit all or a portion of their affirmative direct cases in writing where the presiding officer determines that doing so “will contribute significantly to the disposition of the proceeding.” The Commission also adopted expedited procedures under section 309(j)(5) permitting “employees other than [administrative law judges] to preside at the taking of written evidence.” Relatedly, the Commission has delegated authority to particular operating Bureaus to act on certain licensing and permitting applications when the relevant Bureau determines that the application raises no “substantial and material questions of fact.”

5. In the Notice of Proposed Rulemaking (Notice), we explained the factual and legal foundation for resolving hearings under the Communications Act on a written record. We also sought comment on proposed rules related to: (i) Written hearing proceedings, (ii) the role of presiding officers, (iii) the role of case managers, and (iv) procedural and evidentiary rules governing hearing proceedings. Finally, we sought comment on the relevant legal standards governing the streamlining procedures proposed in the Notice.

6. Six parties filed comments in response to the Notice. The Administrative Conference of the United States (ACUS) filed a comment calling to the Commission's attention recently updated ACUS publications and thanking the Commission for "drawing upon ACUS recommendations and reports in preparing [the proposed rules]." ACUS did not provide specific comment on the Notice or the proposed rules. No one filed reply comments.

7. Based on our observation that, in many cases, conducting trial-type hearings imposes unnecessary costs, burdens, and delays on applicants and the Commission, we amend our rules to allow the Commission to select the personnel and procedures that are best suited to the issues raised in each case and that will achieve a full, fair, and efficient resolution of each hearing proceeding. We also update and make conforming edits to the Commission's rules relating to administrative hearings.

8. To those ends, we adopt and incorporate by reference in this Report and Order all of the proposed rules described in the Notice, with minor modifications. The minor modifications include revising section 0.111(b) to more accurately describe the Enforcement Bureau's role in hearing proceedings subject to part 1, subpart B; adding a new paragraph (t) to section 0.51 in order to give the International Bureau the same authority as the Wireline Competition Bureau to issue revocation orders and cease-and-desist orders in section 214 proceedings where the presiding officer has issued a certification order to the Commission that the carrier has waived its opportunity for a hearing under that section; and adopting minor changes to sections 1.51(a), 1.210, and 1.314(a)(3)–(a)(4) to clarify the procedures for filing written materials containing confidential information. We also adopt and incorporate by reference and further elaborate the legal arguments and justifications presented in the Notice in support of the rules that we adopt in the Report and Order.

9. Legal Authority for Written Hearing Proceedings. Federal courts have recognized agencies' legitimate interest in streamlining their proceedings to avoid the time and expense associated with administrative trials. Agencies must adhere to the formal hearing procedures in APA sections 554, 556, and 557 only in cases of "adjudication required by statute to be determined on the record after opportunity for an agency hearing." Where an agency's enabling statute does not expressly require an "on the record" hearing and instead calls simply for a "hearing," a

"full hearing," or uses similar terminology, the statute does not trigger the APA formal adjudication procedures absent clear evidence of congressional intent to do so.

10. With one noteworthy exception, the hearing provisions in the Communications Act neither expressly require an "on the record" hearing nor include other language unambiguously evincing congressional intent to impose the full panoply of trial-type procedures of a formal hearing. The exception is section 503 of the Act, which authorizes the Commission to impose a forfeiture penalty on a person after "a hearing before the Commission or an administrative law judge thereof in accordance with section 554 of" the APA. Since Congress did not include similar language in other hearing provisions in the Act, we conclude that Commission hearings under the Communications Act generally are subject only to the APA's informal adjudication requirements. The formal adjudication requirements of the APA also apply to administrative hearings under the Equal Access to Justice Act.

11. The "Communications Act gives the Commission the power of ruling on facts and policies in the first instance." In exercising that power, the Commission may resolve disputes of fact in an informal hearing proceeding on a written record. And the Commission may reach any decision that is supported by substantial evidence in the record.

12. Accordingly, we amend our rules to codify and expand the use of a written hearing process that can be used in most adjudicative proceedings, including those conducted by an administrative law judge, whenever factual disputes can be adequately resolved on a written record. The revisions to our part 1, subpart B general hearing procedures are not intended to supplant more specific procedural rules that govern particular adjudicatory proceedings, such as our formal complaint, pole attachment complaint, and tariff investigation procedures. One commenter, NCTA, "generally supports the use of written hearings and agrees that written hearings could expedite the resolution of proceedings[.]" but notes that "there may be instances in which a live hearing is more appropriate" depending upon "the subject matter or circumstances of a particular proceeding, or the parties involved." We agree. Our revisions to sections 1.248, 1.370, and 1.376 of the Commission's rules establish that the Commission or the presiding officer (if other than the Commission) may order that a hearing be conducted on a written record

whenever material factual disputes can be adequately resolved in this manner. To determine whether due process requires live testimony in a particular case, the presiding officer will apply the three-part test the Supreme Court adopted in *Mathews v. Eldridge*.

13. Three commenters oppose the expanded use of written hearings, only two of which provide legal analysis or support for their views. NCLA argues that the Commission is compelled to conduct formal, trial-like hearings in every case in which the Communications Act requires the Commission to conduct a hearing. NCLA principally relies upon the 1950 Supreme Court decision in *Wong Yang Sung* to argue that the APA presumptively requires formal processes whenever an agency is compelled to conduct a hearing. We disagree. As chronicled in the Notice, four decades of post-*Wong* jurisprudence, unchallenged by NCLA, defeats any assertion of such a presumption. NCLA also argues that courts of appeals cases such as *Marathon Oil* and *Seacoast Anti-Pollution* support its view that a statutory reference to a "hearing," without more specific guidance from Congress, reflects a congressional intent to require formal APA procedures. We disagree in light of Supreme Court precedent to the contrary and because more recent cases have expressly rejected the rationale of those and other similar decisions based on that precedent.

14. David Gutierrez and NCLA contend that "sole reliance on" written hearings constitutes a violation of parties' statutory and/or constitutional rights to a "full" hearing that necessarily includes "live testimony and cross examination." These arguments ignore that the revised rules merely give the Commission an option to designate a matter for hearing on a written record. When all outcome-determinative facts in dispute can be adequately resolved on a written record, the Commission (or a presiding officer other than the Commission) may decide to conduct a hearing on a written record. Alternatively, the Commission will order a hearing with live testimony and/or cross-examination when it is appropriate. The point here is that the Commission should be able to exercise its broad discretion, based on the specific issues and the evidence before it, to determine when the disadvantages of such an often-lengthy process outweigh any advantages to the agency and to the parties. This view is consistent with *Mathews v. Eldridge* and the Commission's well-established authority to "conduct its proceedings in

such manner as will best conduce to the proper dispatch of business and to the ends of justice.”

15. Finally, the suggestion that a hearing based on a written record is somehow less than a “full” hearing is belied by our longstanding practice of conducting hearings in section 208 complaint proceedings on a written record and is at odds with the substantial procedural protections that will be afforded parties to written hearing proceedings under our new rules. In addition, the Commission’s rules will allow parties in written hearing proceedings to take depositions, which will enable parties to examine witnesses in real time in a live setting. Indeed, revised section 1.254 of our rules makes clear that “any” hearing (whether written or oral) “shall be a full hearing in which the applicant and all other parties in interest shall be permitted to participate.”

16. We reject NCTA’s proposal that, upon a showing that “the interests of justice” would be served, parties should be able to move “early in a proceeding” to convert a hearing “from written to live.” New section 1.376 of our rules provides that when the Commission designates a matter for hearing on a written record, a party may file a motion requesting an oral hearing only after the affirmative, responsive, and reply pleadings have been filed. We find that at that time the presiding officer will be in the best position to reasonably assess whether there is a genuine dispute about an outcome-determinative fact that cannot be adequately resolved on a written record. We also conclude that NCTA’s proposal to grant such a motion upon a showing that “the interests of justice” would be served provides parties insufficient guidance as to when an oral hearing proceeding is necessary notwithstanding that the Commission initially designated the matter for hearing on a written record. We conclude that the standard in section 1.376 better defines the core of the issue (*i.e.*, oral hearing proceedings will be allowed when needed to resolve a genuine dispute as to an outcome-determinative fact and limited to testimony and cross-examination necessary to resolve that dispute). Although NCTA argues that parties also should be entitled to file a motion to convert a hearing from “live to written,” it provides no explanation regarding the necessity for such a rule, including when or why such a situation is likely to arise. Accordingly, we conclude that the record is insufficient to allow us to make a determination regarding this issue.

17. Finally, we reject NCLA’s proposal to give parties the choice of a live versus a written hearing in every case. We conclude that routinely accommodating requests for oral testimony or cross-examination would unnecessarily prolong the resolution of hearings, without weighing the costs associated with such a procedure, and thereby undermine the efficiency of the Commission’s written hearings process.

18. Role of the Presiding Officer. The Commission’s current hearing rules provide that “[h]earings will be conducted by the Commission, by one or more commissioners, or by a law judge designated pursuant to section 11 of the [APA].” As proposed in the Notice, we conclude that each hearing designation order will indicate whether the Commission itself, one or more Commissioners, or an administrative law judge will serve as the presiding officer. We also adopt our tentative conclusion that “the selection of a presiding officer should take into consideration who would most fairly and reasonably accommodate the proper dispatch of the Commission’s business and the ends of justice in each case.”

19. NCTA acknowledges that current Commission rules allow the Commission itself, one or more Commissioners, or an administrative law judge to serve as the presiding officer, but nevertheless argues that only administrative law judges should conduct hearings. NCTA asserts that, unlike the Commission and individual Commissioners, who are necessarily focused on other agency matters, administrative law judges are “non-political officials who have expertise in the administrative hearing process” and can “focus solely” on the agency hearings before them. We disagree that only administrative law judges should conduct hearings. The Commission is well suited to serve as presiding officer, particularly in cases involving primarily interpretations of law, policy determinations, or other exercises of administrative discretion. To the extent the press of other business or experience conducting a hearing is a concern, the Commission may appoint a case manager to oversee development of the written record for decision. In addition, given that the Commission currently has only one administrative law judge, designating the Commission itself to serve as an additional presiding officer in appropriate cases could help to avert or alleviate a possible backlog of cases by making available additional qualified personnel to conduct hearings.

20. Finally, we reject any claim that the independence and objectivity of the presiding officer can be assured only if

an administrative law judge serves as the presiding officer. Federal rules prohibit members of the Commission from participating in proceedings when it has been determined that they have an appearance of a loss of impartiality. Moreover, an administrative law judge’s initial decision is subject to *de novo* review by the Commission. Whether the Commission issues an order on review of an administrative law judge’s initial decision or at the conclusion of a hearing in which the Commission itself is the presiding officer, the Commission ultimately decides the outcome. All Commission orders are subject to judicial review wherein the reviewing court may overturn any decision of the Commission that is arbitrary or capricious.

21. Role of the Case Manager. We conclude that when the Commission designates itself as the presiding officer in a written hearing proceeding, it may delegate authority to a case manager to develop the record in that hearing. We anticipate that the appointment of a case manager for this purpose will significantly expedite our hearing processes. The Commission will identify the specific functions that a case manager will perform in the order appointing that individual. Such functions may include, *inter alia*, issuing scheduling orders, ruling on discovery motions and other interlocutory matters, administering the intake of evidence, holding conferences in order to settle or simplify the issues, and certifying the record for decision by the Commission promptly after the hearing record is closed. We do not agree with commenters who argue for a more circumscribed role for case managers under our new rules. Although a case manager’s responsibilities may include one or more of the duties typically performed by the presiding officer, a case manager shall have no authority to (i) resolve any new or novel issues, (ii) issue an order on the merits resolving any issue designated for hearing in a case, (iii) issue an order on the merits of any motion for summary decision filed under section 1.251 of the Commission’s rules, or (iv) perform any other functions that the Commission reserves to itself in the order appointing the case manager. In addition, revised section 1.301 of our rules sets forth the procedures by which a party that believes that it is aggrieved by the ruling of a case manager may appeal such ruling. These limitations appropriately reserve to the Commission the essential functions of the presiding officer.

22. NCLA raises a concern that delegation of authority to designated

Commission staff to serve as case managers may implicate the Appointments Clause of the Constitution “to the extent that the proposal to elevate FCC staff to manage record development could make them inferior officers of the United States” under the Supreme Court’s ruling in *Lucia v. SEC*. Under our new rule, however, case managers will only be appointed by the Commission, thereby satisfying the constitutional requirement for inferior officers. We therefore need not resolve whether the case managers’ functions render them inferior officers within the meaning of *Lucia*.

23. We conclude that Commission staff serving as a case manager must have substantial training and expertise to successfully perform this role. We also limit the selection of case managers to Commission staff who qualify as “neutrals” under 5 U.S.C. 571 and 573. In order to ensure the neutrality of Commission staff members serving as the case manager, we conclude that the following individuals may not serve as the case manager: Staff who participated in identifying the specific issues designated for hearing; staff who take an active part in investigating, prosecuting, or advocating in a case (either before or after designation for hearing); and staff who are expected to investigate and act upon petitions to deny (including administrative challenges thereto).

24. Finally, as proposed in the Notice, we conclude that any Commission staff serving as a case manager in a case should be considered “decision-making personnel” for purposes of our *ex parte* rules. In doing so, we retain the existing definition of “*ex parte* presentation” in section 1.1202 of our rules. In the Notice, we sought comment on whether “other or additional measures [than those proposed in the Notice] are needed to ensure the impartiality of staff serving as the case manager.” No commenters responded to this request.

25. Procedural and Evidentiary Rules Governing Hearing Proceedings. Dispensing with Initial Decision When Appropriate. Section 409(a) of the Communications Act generally requires that the presiding officer prepare an initial, tentative, or recommended decision. With limited exceptions, the Commission’s current rules likewise state that “the presiding officer shall prepare an initial (or recommended) decision” at the close of a hearing. However, upon agreement of the parties to waive the issuance of an initial or recommended decision by the presiding officer, the Commission may issue a final decision “if such action will best conduce to the proper dispatch of business and to the ends of justice.”

Furthermore, where the Commission finds “that due and timely execution of its functions imperatively and unavoidably so requires, the Commission may direct that the record in a pending proceeding be certified to it for initial or final decision.”

26. We conclude that the Commission should dispense with the preparation of an initial decision whenever the Commission serves as the presiding officer at a hearing, or in cases in which the Commission directs that the record of the proceeding be certified to it for decision. Initial decisions have no apparent utility when the Commission is the presiding officer. We do not construe the requirement of an “initial” or “recommended” decision in section 409(a) to apply when the Commission itself is serving as the presiding officer, and neither our rules nor our prior practice have ever imposed such a requirement. Indeed, that provision seems to presuppose a person other than the Commission is serving as the presiding officer because that provision says an initial, tentative, or recommended decision is not needed “where the Commission finds upon the record that due and timely execution of its functions imperatively and unavoidably require that the record be certified to the Commission for initial or final decision.” 47 U.S.C. 409(a). We conclude that dispensing with initial decisions under these circumstances would greatly promote efficient resolution of disputes. We also note that parties may seek reconsideration of any orders issued by the Commission while serving as presiding officer. No commenters addressed this issue.

27. Evidentiary Rules. The Commission’s current hearing rules provide that the Federal Rules of Evidence (28 U.S.C. Rules 101–1103) govern Commission hearings, but that these rules may be “relaxed if the ends of justice will be better served by so doing.” In practice, however, the Federal Rules of Evidence are not necessarily applied and instead serve merely as guidelines in determining the admissibility of evidence. In the Notice, we observed that this lack of clarity as to the relevant evidentiary standard has the potential to cause confusion for parties and to lead to evidentiary disputes between those who expect the Federal Rules of Evidence to apply and those who seek to avoid their application in a particular case.

28. Based on our review of this issue, we amend section 1.351 of our rules to adopt the evidentiary standard in the formal APA hearing requirements, which states, in relevant part, that “the agency as a matter of policy shall

provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence.” NCTA, the only commenter addressing this issue, opposes this change. Although NCTA contends that the Federal Rules of Evidence are “widely adopted,” “familiar to parties,” and help to “ensure consistency” in the conduct of hearings, we find the conclusions of the 2019 Asimow Report more persuasive. In particular, the 2019 Asimow Report recommends the more lenient standard in 5 U.S.C. 556(d) based on its view that this standard will result in fewer time-consuming disputes over “esoteric rules of evidence, such as the many exceptions to the hearsay rule,” and will be simpler for self-represented parties to navigate. We agree and we therefore revise section 1.351 to incorporate this standard. Parties remain free to make evidentiary arguments based on the Federal Rules of Evidence.

29. Electronic Filing of Documents. As proposed in the Notice, we require that all pleadings filed in a hearing proceeding, as well as all letters, documents, or other written submissions, excluding confidential material, be filed using the Commission’s Electronic Comment Filing System (ECFS) and designate ECFS as the repository for records of actions taken in a hearing proceeding, excluding confidential material, by a presiding officer. We agree with the 2019 Asimow Report that the use of electronic filing in hearing proceedings will yield “significant efficiency benefits for both the agency and outside parties.” No commenters addressed this issue.

30. Confidentiality. As proposed in the Notice, we establish procedures that parties and third-parties must use if they wish to designate information that is produced or exchanged in a hearing proceeding as confidential. These procedures are modeled after those that the Commission established for use in formal complaint proceedings. No commenters addressed this issue.

31. Final Regulatory Flexibility Act Certification. The Regulatory Flexibility Act, as amended (RFA), requires that a regulatory flexibility analysis be prepared for notice-and-comment rule making proceedings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning

as the term “small business concern” under the Small Business Act. A “small business concern” is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

32. An Initial Regulatory Flexibility Certification (IRFC) was incorporated in the Notice in this proceeding reflecting the Commission’s analysis that there would be no significant economic impact on small entities by the implementation of the policies and rules proposed therein. In the Notice, the Commission proposed rule changes in response to longstanding criticisms of the Commission’s current trial-type hearings as costly and burdensome for parties and for the Commission. The proposed changes were designed to supplement the Commission’s current hearing processes by allowing the Commission to select the personnel and procedures that are best suited to the issues raised in a particular case and that will achieve the purposes of that hearing without undue cost or delay. In the Notice, the Commission noted that only a small percentage of matters before the Commission necessitate a hearing and, as such, the number of small entities impacted would not be substantial for RFA purposes. In addition, because the proposed modifications did not include substantive new responsibilities and were expected to reduce costs and burdens currently shouldered by parties to certain hearing proceedings, including those of small entities, the Commission certified that the proposals would not have a significant economic impact on a substantial number of small entities.

33. In this Report and Order, the Commission adopts the rules as proposed in the Notice, with minor modifications to ensure that the final rules conform to those published in the **Federal Register**. We also adopt minor revisions to section 0.111(b) that differ from those proposed in the Notice in order to more accurately describe the Enforcement Bureau’s role in hearing proceedings subject to part 1, subpart B; we add a new paragraph (t) to section 0.51, in order to give the International Bureau the same authority as the Wireline Competition Bureau to issue revocation orders and cease-and-desist orders in section 214 proceedings where the presiding officer has issued a certification order to the Commission that the carrier has waived its opportunity for a hearing under that section; and we adopt minor changes to sections 1.51(a), 1.210, and 1.314(a)(3)–

(a)(4) to clarify the procedures for filing written materials containing confidential information. The Commission continues to expect that the number of small entities impacted by these rules will not be substantial for RFA purposes and that these rules will reduce costs and burdens currently shouldered by parties, including small entities, to certain hearing proceedings. Therefore, we certify that the rules adopted in this Report and Order will not have a significant economic impact on a substantial number of small entities.

34. The Report and Order and this final certification will be sent to the Chief Counsel for Advocacy of the SBA and will be published in the **Federal Register**.

35. Paperwork Reduction Act Analysis. This document does not contain any new information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

36. Congressional Review Act. The Commission will not send a copy of this Report and Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the adopted rules are rules of agency organization, procedure, or practice that do not “substantially affect the rights or obligations of non-agency parties.”

37. Accordingly, *it is ordered* that, pursuant to the authority found in sections 1, 4(i), 4(j), 5, 9, 214, 303, 309, 312, 316, and 409 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 155, 159, 214, 303, 309, 312, 316, and 409, this Report and Order *is adopted* and *will become effective* 30 days after publication in the **Federal Register**.

38. *It is further ordered* that parts 0, 1, and 76 of the Commission’s rules *are amended* as set forth in Appendix A and the rule changes to parts 0, 1, and 76 adopted herein *will become effective* 30 days after the date of publication in the **Federal Register**.

39. *It is further ordered* that the Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Report and Order, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Parts 0, 1, and 76

Administrative practice and procedure.

Federal Communications Commission.

Marlene Dortch,
Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 0, 1, and 76 as follows:

PART 0—COMMISSION ORGANIZATION

■ 1. The authority citation for part 0 is revised to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, and 409, unless otherwise noted.

Subpart A—[Amended]

■ 2. The authority citation for subpart A is revised to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, and 409, unless otherwise noted.

■ 3. Amend § 0.5 by revising paragraph (c) to read as follows:

§ 0.5 General description of Commission organization and operations.

* * * * *

(c) *Delegations of authority to the staff.* Pursuant to section 5(c) of the Communications Act, the Commission has delegated authority to its staff to act on matters which are minor or routine or settled in nature and those in which immediate action may be necessary. See subpart B of this part. Actions taken under delegated authority are subject to review by the Commission, on its own motion or on an application for review filed by a person aggrieved by the action. Except for the possibility of review, actions taken under delegated authority have the same force and effect as actions taken by the Commission. The delegation of authority to a staff officer, however, does not mean that the staff officer will exercise that authority in all matters subject to the delegation. The staff is at liberty to refer any matter at any stage to the Commission for action, upon concluding that it involves matters warranting the Commission’s consideration, and the Commission may instruct the staff to do so.

* * * * *

■ 4. Amend § 0.51 by adding paragraph (t) to read as follows:

§ 0.51 Functions of the Bureau.

* * * * *

(t) Issue orders revoking a common carrier’s operating authority pursuant to

section 214 of the Act, and issue orders to cease and desist such operations, in cases where the presiding officer has issued a certification order to the Commission that the carrier has waived its opportunity for hearing under that section.

■ 5. Amend § 0.91 by adding paragraph (q) to read as follows:

§ 0.91 Functions of the Bureau.

* * * * *

(q) Issue orders revoking a common carrier's operating authority pursuant to section 214 of the Act, and issue orders to cease and desist such operations, in cases where the presiding officer has issued a certification order to the Commission that the carrier has waived its opportunity for hearing under that section.

■ 6. Amend § 0.111 by revising paragraphs (a)(18) and (b) to read as follows:

§ 0.111 Functions of the Bureau.

(a) * * *

(18) Issue or draft orders taking or recommending appropriate action in response to complaints or investigations, including, but not limited to, admonishments, damage awards where authorized by law or other affirmative relief, notices of violation, notices of apparent liability and related orders, notices of opportunity for hearing regarding a potential forfeiture, hearing designation orders, orders designating licenses or other authorizations for a revocation hearing and consent decrees. Issue or draft appropriate orders after a hearing proceeding has been terminated by the presiding officer on the basis of waiver. Issue or draft appropriate interlocutory orders and take or recommend appropriate action in the exercise of its responsibilities.

* * * * *

(b) Serve as a party in hearing proceedings conducted pursuant to 47 CFR part 1, subpart B.

* * * * *

■ 7. Revise § 0.151 to read as follows:

§ 0.151 Functions of the Office.

The Office of Administrative Law Judges consists of as many Administrative Law Judges qualified and appointed pursuant to the requirements of 5 U.S.C. 3105 as the Commission may find necessary. It is responsible for hearing and conducting adjudicatory cases designated for hearing other than those designated to be heard by the Commission en banc, or by one or more commissioners. The Office of Administrative Law Judges is

also responsible for conducting such other hearing proceedings as the Commission may assign.

Subpart B—[Amended]

■ 8. The authority citation for subpart B is revised to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, and 409.

■ 9. Amend § 0.201 by revising paragraph (a)(2) and removing the note to paragraph (a)(2).

The revision reads as follows:

§ 0.201 General provisions.

(a) * * *

(2) *Delegations to rule on interlocutory matters in hearing proceedings.* Delegations in this category are made to any person, other than the Commission, designated to serve as the presiding officer in a hearing proceeding pursuant to § 1.241.

* * * * *

■ 10. Revise § 0.341 to read as follows:

§ 0.341 Authority of Administrative Law Judges and other presiding officers.

(a) After a presiding officer (other than the Commission) has been designated to conduct a hearing proceeding, and until he or she has issued an initial decision or certified the record to the Commission for decision, or the proceeding has been transferred to another presiding officer, all motions, petitions and other matters that may arise during the proceeding shall be acted upon by such presiding officer, except those which are to be acted upon by the Commission. *See* § 1.291(a)(1) of this chapter.

(b) Any question which would be acted upon by the presiding officer if it were raised by the parties to the proceeding may be raised and acted upon by the presiding officer on his or her own motion.

(c) Any question which would be acted upon by the presiding officer (other than the Commission) may be certified to the Commission on the presiding officer's own motion.

(d) Except for actions taken during the course of a hearing and upon the record thereof, actions taken by a presiding officer pursuant to the provisions of this section shall be recorded in writing and filed in the official record of the proceeding.

(e) The presiding officer may waive any rule governing the conduct of Commission hearings upon motion or upon the presiding officer's own motion for good cause, subject to the provisions of the Administrative Procedure Act and the Communications Act of 1934, as amended.

(f) The presiding officer may issue such orders and conduct such proceedings as will best conduce to the proper dispatch of business and the ends of justice.

(g)(1) For program carriage complaints filed pursuant to § 76.1302 of this chapter that the Chief, Media Bureau refers to a presiding officer for an initial decision, the presiding officer shall release an initial decision in compliance with one of the following deadlines:

(i) 240 calendar days after a party informs the presiding officer that it elects not to pursue alternative dispute resolution as set forth in § 76.7(g)(2) of this chapter; or

(ii) If the parties have mutually elected to pursue alternative dispute resolution pursuant to § 76.7(g)(2) of this chapter, within 240 calendar days after the parties inform the presiding officer that they have failed to resolve their dispute through alternative dispute resolution.

(2) The presiding officer may toll these deadlines under the following circumstances:

(i) If the complainant and defendant jointly request that the presiding officer toll these deadlines in order to pursue settlement discussions or alternative dispute resolution or for any other reason that the complainant and defendant mutually agree justifies tolling; or

(ii) If complying with the deadline would violate the due process rights of a party or would be inconsistent with fundamental fairness; or

(iii) In extraordinary situations, due to a lack of adjudicatory resources available at the time.

■ 11. Revise § 0.347 to read as follows:

§ 0.347 Record of actions taken.

The record of actions taken by a presiding officer, including initial and recommended decisions and actions taken pursuant to § 0.341, is available through the Commission's Electronic Comment Filing System (ECFS). ECFS serves as the repository for records in the Commission's docketed proceedings from 1992 to the present. The public may use ECFS to retrieve all such records, as well as selected pre-1992 documents. The Office of the Secretary maintains copies of documents that include nonpublic information.

§§ 0.351 and 0.357 [Removed and Reserved]

■ 12. Remove the undesignated center heading "Chief Administrative Law Judge" remove and reserve §§ 0.351 and 0.357.

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461, unless otherwise noted.

Subpart A—General Rules of Practice and Procedure

- 14. Amend § 1.21 by revising paragraph (d) to read as follows:

§ 1.21 Parties.

* * * * *

(d) Except as otherwise expressly provided in this chapter, a duly authorized corporate officer or employee may act for the corporation in any matter which has not been designated for hearing and, in the discretion of the presiding officer, may appear and be heard on behalf of the corporation in a hearing proceeding.

- 15. Amend § 1.49 by revising paragraphs (f)(1)(vii) and (viii) and adding paragraph (f)(1)(ix) to read as follows:

§ 1.49 Specifications as to pleadings and documents.

* * * * *

(f)(1) * * *

(vii) Domestic section 214

discontinuance applications pursuant to § 63.63 and/or § 63.71 of this chapter;

(viii) Notices of network change and associated certifications pursuant to § 51.325 *et seq.* of this chapter; and

(ix) Hearing proceedings under §§ 1.201 through 1.377.

* * * * *

- 16. Amend § 1.51 by revising paragraph (a) to read as follows:

§ 1.51 Submission of pleadings, briefs, and other papers.

(a) In hearing proceedings, all pleadings, letters, documents, or other written submissions, shall be filed using the Commission's Electronic Comment Filing System, excluding confidential material as set forth in § 1.314 of these rules. Each written submission that includes confidential material shall be filed as directed by the Commission, along with an additional courtesy copy transmitted to the presiding officer.

* * * * *

- 17. Amend § 1.80 by revising paragraphs (g) introductory text and (g)(1) and (3) to read as follows:

§ 1.80 Forfeiture proceedings.

* * * * *

(g) *Notice of opportunity for hearing.* The procedures set out in this paragraph apply only when a formal hearing under

section 503(b)(3)(A) of the Communications Act is being held to determine whether to assess a forfeiture penalty.

(1) Before imposing a forfeiture penalty, the Commission may, in its discretion, issue a notice of opportunity for hearing. The formal hearing proceeding shall be conducted by an administrative law judge under procedures set out in subpart B of this part, including procedures for appeal and review of initial decisions. A final Commission order assessing a forfeiture under the provisions of this paragraph is subject to judicial review under section 402(a) of the Communications Act.

* * * * *

(3) Where the possible assessment of a forfeiture is an issue in a hearing proceeding to determine whether a pending application should be granted, and the application is dismissed pursuant to a settlement agreement or otherwise, and the presiding judge has not made a determination on the forfeiture issue, the presiding judge shall forward the order of dismissal to the attention of the full Commission. Within the time provided by § 1.117, the Commission may, on its own motion, proceed with a determination of whether a forfeiture against the applicant is warranted. If the Commission so proceeds, it will provide the applicant with a reasonable opportunity to respond to the forfeiture issue (see paragraph (f)(3) of this section) and make a determination under the procedures outlined in paragraph (f) of this section.

* * * * *

- 18. Revise § 1.85 to read as follows:

§ 1.85 Suspension of operator licenses.

Whenever grounds exist for suspension of an operator license, as provided in § 303(m) of the Communications Act, the Chief of the Wireless Telecommunications Bureau, with respect to amateur and commercial radio operator licenses, may issue an order suspending the operator license. No order of suspension of any operator's license shall take effect until 15 days' notice in writing of the cause for the proposed suspension has been given to the operator licensee, who may make written application to the Commission at any time within the said 15 days for a hearing upon such order. The notice to the operator licensee shall not be effective until actually received by the operator licensee, and from that time the operator licensee shall have 15 days in which to mail the said application. In the event that physical conditions

prevent mailing of the application before the expiration of the 15-day period, the application shall then be mailed as soon as possible thereafter, accompanied by a satisfactory explanation of the delay. Upon receipt by the Commission of such application for hearing, said order of suspension shall be designated for hearing and said suspension shall be held in abeyance until the conclusion of the hearing proceeding. If the license is ordered suspended, the operator shall send his, her, or its operator license to the Mobility Division, Wireless Telecommunications Bureau, in Washington, DC, on or before the effective date of the order, or, if the effective date has passed at the time notice is received, the license shall be sent to the Commission forthwith.

- 19. Amend § 1.87 by revising paragraphs (e), (f), and (g) introductory text to read as follows:

§ 1.87 Modification of license or construction permit on motion of the Commission.

* * * * *

(e) In any case where a hearing proceeding is conducted pursuant to the provisions of this section, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Commission except that, with respect to any issue that pertains to the question of whether the proposed action would modify the license or permit of a person filing a protest pursuant to paragraph (c) of this section, such burdens shall be as described by the Commission.

(f) In order to use the right to a hearing and the opportunity to give evidence upon the issues specified in any order designating a matter for hearing, any licensee, or permittee, itself or by counsel, shall, within the period of time as may be specified in that order, file with the Commission a written appearance stating that it will present evidence on the matters specified in the order and, if required, appear before the presiding officer at a date and time to be determined.

(g) The right to file a protest or the right to a hearing proceeding shall, unless good cause is shown in a petition to be filed not later than 5 days before the lapse of time specified in paragraph (a) or (f) of this section, be deemed waived:

* * * * *

- 20. Amend § 1.91 by revising paragraphs (b), (c), and (d) to read as follows:

§ 1.91 Revocation and/or cease and desist proceedings; hearings.

* * * * *

(b) An order to show cause why an order of revocation and/or a cease and desist order should not be issued will designate for hearing the matters with respect to which the Commission is inquiring and will call upon the person to whom it is directed (the respondent) to file with the Commission a written appearance stating that the respondent will present evidence upon the matters specified in the order to show cause and, if required, appear before a presiding officer at a time and place to be determined, but no earlier than thirty days after the receipt of such order. However, if safety of life or property is involved, the order to show cause may specify a deadline of less than thirty days from the receipt of such order.

(c) To avail themselves of such opportunity for a hearing, respondents, personally or by counsel, shall file with the Commission, within twenty days of the mailing of the order or such shorter period as may be specified therein, a written appearance stating that they will present evidence on the matters specified in the order and, if required, appear before the presiding officer at a time and place to be determined. The presiding officer in his or her discretion may accept a late-filed appearance. However, a written appearance tendered after the specified time has expired will not be accepted unless accompanied by a petition stating with particularity the facts and reasons relied on to justify such late filing. Such petition for acceptance of a late-filed appearance will be granted only if the presiding officer determines that the facts and reasons stated therein constitute good cause for failure to file on time.

(d) Hearing proceedings on the matters specified in such orders to show cause shall accord with the practice and procedure prescribed in this subpart and subpart B of this part, with the following exceptions:

(1) In all such revocation and/or cease and desist hearings, the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Commission; and

(2) The Commission may specify in a show cause order, when the circumstances of the proceeding require expedition, a time less than that prescribed in §§ 1.276 and 1.277 within which the initial decision in the proceeding shall become effective, exceptions to such initial decision must be filed, parties must file requests for oral argument, and parties must file

notice of intention to participate in oral argument.

* * * * *

■ 21. Amend § 1.92 by revising paragraphs (a) and (c) to read as follows:

§ 1.92 Revocation and/or cease and desist proceedings; after waiver of hearing.

(a) After the issuance of an order to show cause, pursuant to § 1.91, designating a matter for hearing, the occurrence of any one of the following events or circumstances will constitute a waiver of such hearing and the proceeding thereafter will be conducted in accordance with the provisions of this section.

(1) The respondent fails to file a timely written appearance as prescribed in § 1.91(c) indicating that the respondent will present evidence on the matters specified in the order and, if required by the order, that the respondent will appear before the presiding officer.

(2) The respondent, having filed a timely written appearance as prescribed in § 1.91(c), fails in fact to present evidence on the matters specified in the order or appear before the presiding officer in person or by counsel at the time and place duly scheduled.

(3) The respondent files with the Commission, within the time specified for a written appearance in § 1.91(c), a written statement expressly waiving his or her rights to a hearing.

* * * * *

(c) Whenever a hearing is waived by the occurrence of any of the events or circumstances listed in paragraph (a) of this section, the presiding officer shall, at the earliest practicable date, issue an order reciting the events or circumstances constituting a waiver of hearing and terminating the hearing proceeding. A presiding officer other than the Commission also shall certify the case to the Commission. Such order shall be served upon the respondent.

* * * * *

■ 22. Amend § 1.93 by revising paragraph (a) to read as follows:

§ 1.93 Consent orders.

(a) As used in this subpart, a “consent order” is a formal decree accepting an agreement between a party to an adjudicatory hearing proceeding held to determine whether that party has violated statutes or Commission rules or policies and the appropriate operating Bureau, with regard to such party’s future compliance with such statutes, rules or policies, and disposing of all issues on which the proceeding was designated for hearing. The order is

issued by the officer designated to preside at the hearing proceeding.

* * * * *

■ 23. Amend § 1.94 by revising paragraphs (d) and (g) to read as follows:

§ 1.94 Consent order procedures.

* * * * *

(d) If agreement is reached, it shall be submitted to the presiding officer, who shall either sign the order, reject the agreement, or suggest to the parties that negotiations continue on such portion of the agreement as the presiding officer considers unsatisfactory or on matters not reached in the agreement. If the presiding officer signs the consent order, the record shall be closed. If the presiding officer rejects the agreement, the hearing proceeding shall continue. If the presiding officer suggests further negotiations and the parties agree to resume negotiating, the presiding officer may, in his or her discretion, decide whether to hold the hearing proceeding in abeyance pending the negotiations.

* * * * *

(g) Consent orders, pleadings relating thereto, and Commission orders with respect thereto shall be served on parties to the proceeding. Public notice will be given of orders issued by the Commission or by the presiding officer. Negotiating papers constitute work product, are available to parties participating in negotiations, but are not routinely available for public inspection.

■ 24. Amend § 1.104 by revising paragraph (a) to read as follows:

§ 1.104 Preserving the right of review; deferred consideration of application for review.

(a) The provisions of this section apply to all final actions taken pursuant to delegated authority, including final actions taken by members of the Commission’s staff on nonhearing matters. They do not apply to interlocutory actions of a presiding officer in hearing proceedings, or to orders designating a matter for hearing issued under delegated authority. See §§ 1.106(a) and 1.115(e).

* * * * *

■ 25. Amend § 1.115 by revising the final sentence of paragraph (d), revising paragraph (e), and revising the fourth and final sentences of paragraph (f).

The revisions read as follows:

§ 1.115 Application for review of action taken pursuant to delegated authority.

* * * * *

(d) * * * Except as provided in paragraph (e)(1) of this section, replies to oppositions shall be filed within 10

days after the opposition is filed and shall be limited to matters raised in the opposition.

(e)(1) Applications for review of an order designating a matter for hearing that was issued under delegated authority shall be deferred until exceptions to the initial decision in the case are filed, unless the presiding officer certifies such an application for review to the Commission. A matter shall be certified to the Commission if the presiding officer determines that the matter involves a controlling question of law as to which there is substantial ground for difference of opinion and that immediate consideration of the question would materially expedite the ultimate resolution of the litigation. A request to certify a matter to the Commission shall be filed with the presiding officer within 5 days after the designation order is released. A ruling refusing to certify a matter to the Commission is not appealable. Any application for review authorized by the presiding officer shall be filed within 5 days after the order certifying the matter to the Commission is released or such a ruling is made. Oppositions shall be filed within 5 days after the application for review is filed. Replies to oppositions shall be filed only if they are requested by the Commission. Replies (if allowed) shall be filed within 5 days after they are requested. The Commission may dismiss, without stating reasons, an application for review that has been certified, and direct that the objections to the order designating the matter for hearing be deferred and raised when exceptions in the initial decision in the case are filed.

(2) Applications for review of final staff decisions issued on delegated authority in formal complaint proceedings on the Enforcement Bureau's Accelerated Docket (see, *e.g.*, § 1.730) shall be filed within 15 days of public notice of the decision, as that date is defined in § 1.4(b). These applications for review oppositions and replies in Accelerated Docket proceedings shall be served on parties to the proceeding by hand or facsimile transmission.

* * * *

(f) * * * When permitted (see paragraph (e)(1) of this section), reply pleadings shall not exceed 5 double-spaced typewritten pages. * * * When permitted (see paragraph (e)(1) of this section), replies to the opposition(s) to the application for review shall be served on the person(s) opposing the application for review and on parties to the proceeding.

* * * *

Subpart B—Hearing Proceedings

■ 26. Amend § 1.201 by redesignating the note as note 2 to § 1.201, adding note 1 to § 1.201, and revising the newly redesignated note 2 to § 1.201 to read as follows:

§ 1.201 Scope.

* * * *

Note 1 to § 1.201: For special provisions relating to hearing proceedings under this subpart that the Commission determines shall be conducted and resolved on a written record, see §§ 1.370 through 1.377.

Note 2 to § 1.201: For special provisions relating to AM broadcast station applications involving other North American countries see § 73.23.

■ 27. Revise § 1.202 to read as follows:

§ 1.202 Official reporter; transcript.

The Commission will designate an official reporter for the recording and transcribing of hearing proceedings as necessary. Transcripts will be transmitted to the Secretary for inclusion in the Commission's Electronic Comment Filing System.

■ 28. Revise § 1.203 to read as follows:

§ 1.203 The record.

The evidence submitted by the parties, together with all papers and requests filed in the proceeding and any transcripts, shall constitute the exclusive record for decision. Where any decision rests on official notice of a material fact not appearing in the record, any party shall on timely request be afforded an opportunity to show the contrary.

(5 U.S.C. 556; 47 U.S.C. 154, 159, 208, 209, 214, 309, 312, 316, and 409)

■ 29. Revise § 1.209 to read as follows:

§ 1.209 Identification of responsible officer in caption to pleading.

Each pleading filed in a hearing proceeding shall indicate in its caption whether it is to be acted upon by the Commission or, if the Commission is not the presiding officer, by the presiding officer. Unless it is to be acted upon by the Commission, the presiding officer shall be identified by name.

■ 30. Add § 1.210 to read as follows:

§ 1.210 Electronic filing.

All pleadings filed in a hearing proceeding, as well as all letters, documents, or other written submissions, shall be filed using the Commission's Electronic Comment Filing System, excluding confidential material as set forth in § 1.314. A courtesy copy of all submissions shall be contemporaneously provided to the

presiding officer, as directed by the Commission.

■ 31. Amend § 1.221 by revising paragraphs (b) through (e), removing paragraphs (f) and (g), redesignating paragraph (h) as paragraph (f) and revising it, and revising the authority citation.

The revisions read as follows:

§ 1.221 Notice of hearing; appearances.

* * * *

(b) The order designating an application for hearing shall be mailed to the applicant and the order, or a summary thereof, shall be published in the **Federal Register**. Reasonable notice of hearing will be given to the parties in all proceedings.

(c) In order to avail themselves of the opportunity to be heard, applicants or their attorney shall file, within 20 days of the mailing of the order designating a matter for hearing, a written appearance stating that the applicant will present evidence on the matters specified in the order and, if required by the order, appear before the presiding officer at a date and time to be determined. Where an applicant fails to file such a written appearance within the time specified, or has not filed prior to the expiration of that time a petition to dismiss without prejudice, or a petition to accept, for good cause shown, such written appearance beyond expiration of said 20 days, the application will be dismissed with prejudice for failure to prosecute.

(d) The Commission will on its own motion name as parties to the hearing proceeding any person found to be a party in interest.

(e) In order to avail themselves of the opportunity to be heard, any persons named as parties pursuant to paragraph (d) of this section shall, within 20 days of the mailing of the order designating them as parties to a hearing proceeding, file personally or by attorney a written appearance that they will present evidence on the matters specified in the order and, if required by the order, appear before the presiding officer at a date and time to be determined. Any persons so named who fail to file this written appearance within the time specified, shall, unless good cause for such failure is shown, forfeit their hearing rights.

(f)(1) For program carriage complaints filed pursuant to § 76.1302 of this chapter that the Chief, Media Bureau refers to a presiding officer, each party, in person or by attorney, shall file a written appearance within five calendar days after the party informs the presiding officer that it elects not to pursue alternative dispute resolution

pursuant to § 76.7(g)(2) of this chapter or, if the parties have mutually elected to pursue alternative dispute resolution pursuant to § 76.7(g)(2) of this chapter, within five calendar days after the parties inform the presiding officer that they have failed to resolve their dispute through alternative dispute resolution. The written appearance shall state that the party will appear for hearing and present evidence on the issues specified in the hearing designation order.

(2) If the complainant fails to file a written appearance by this deadline, or fails to file prior to the deadline either a petition to dismiss the proceeding without prejudice or a petition to accept, for good cause shown, a written appearance beyond such deadline, the presiding officer shall dismiss the complaint with prejudice for failure to prosecute.

(3) If the defendant fails to file a written appearance by this deadline, or fails to file prior to this deadline a petition to accept, for good cause shown, a written appearance beyond such deadline, its opportunity to present evidence at hearing will be deemed to have been waived. If the hearing is so waived, the presiding officer shall expeditiously terminate the proceeding and certify to the Commission the complaint for resolution based on the existing record. When the Commission has designated itself as the presiding officer, it shall expeditiously terminate the proceeding and resolve the complaint based on the existing record.

(5 U.S.C. 554; 47 U.S.C. 154, 159, 208, 209, 214, 309, 312, 316, and 409)

■ 32. Revise § 1.223 to read as follows:

§ 1.223 Petitions to intervene.

(a) Where the order designating a matter for hearing has failed to notify and name as a party to the hearing proceeding any person who qualifies as a party in interest, such person may acquire the status of a party by filing, under oath and not more than 30 days after the publication in the **Federal Register** of the hearing issues or any substantial amendment thereto, a petition for intervention showing the basis of its interest. Where the person's status as a party in interest is established, the petition to intervene will be granted.

(b) Any other person desiring to participate as a party in any hearing proceeding may file a petition for leave to intervene not later than 30 days after the publication in the **Federal Register** of the full text or a summary of the order designating the matter for hearing or any substantial amendment thereto. The

petition must set forth the interest of petitioner in the proceedings, must show how such petitioner's participation will assist the Commission in the determination of the issues in question, must set forth any proposed issues in addition to those already designated for hearing, and must be accompanied by the affidavit of a person with knowledge as to the facts set forth in the petition. The presiding officer, in his or her discretion, may grant or deny such petition or may permit intervention by such persons limited to a particular stage of the proceeding.

(c) Any person desiring to file a petition for leave to intervene later than 30 days after the publication in the **Federal Register** of the full text or a summary of the order designating the matter for hearing or any substantial amendment thereto shall set forth the interest of petitioner in the proceeding, show how such petitioner's participation will assist the Commission in the determination of the issues in question, must set forth any proposed issues in addition to those already designated for hearing, and must set forth reasons why it was not possible to file a petition within the time prescribed by paragraphs (a) and (b) of this section. If, in the opinion of the presiding officer, good cause is shown for the delay in filing, the presiding officer may in his or her discretion grant such petition or may permit intervention limited to particular issues or to a particular stage of the proceeding.

(Sec. 309, 48 Stat. 1085, as amended; 47 U.S.C. 309)

■ 33. Amend § 1.225 by revising paragraphs (b) and (c) to read as follows:

§ 1.225 Participation by non-parties; consideration of communications.

* * * * *

(b) No persons shall be precluded from giving any relevant, material, and competent testimony because they lack a sufficient interest to justify their intervention as parties in the matter.

(c) No communication will be considered in determining the merits of any matter unless it has been received into evidence. The admissibility of any communication shall be governed by the applicable rules of evidence in § 1.351, and no communication shall be admissible on the basis of a stipulation unless Commission counsel as well as counsel for all of the parties shall join in such stipulation.

■ 34. Revise § 1.227 to read as follows:

§ 1.227 Consolidations.

The Commission, upon motion or upon its own motion, may, where such

action will best conduce to the proper dispatch of business and to the ends of justice, consolidate in a hearing proceeding any cases that involve the same applicant or substantially the same issues, or that present conflicting claims.

■ 35. Amend § 1.229 by:

- a. Revising paragraphs (a) and (b);
- b. Removing paragraph (e); and
- c. Redesignating paragraph (f) as paragraph (e) and revising it.

The revisions read as follows:

§ 1.229 Motions to enlarge, change, or delete issues.

(a) A motion to enlarge, change or delete the issues may be filed by any party to a hearing proceeding. Except as provided for in paragraph (b) of this section, such motions must be filed within 15 days after the full text or a summary of the order designating the case for hearing has been published in the **Federal Register**.

(b)(1) For program carriage complaints filed pursuant to § 76.1302 of this chapter that the Chief, Media Bureau refers to a presiding officer, such motions shall be filed within 15 calendar days after the deadline for submitting written appearances pursuant to § 1.221(f), except that persons not named as parties to the proceeding in the designation order may file such motions with their petitions to intervene up to 30 days after publication of the full text or a summary of the designation order in the **Federal Register**. (See § 1.223).

(2) Any person desiring to file a motion to modify the issues after the expiration of periods specified in paragraphs (a) and (b)(1) of this section shall set forth the reason why it was not possible to file the motion within the prescribed period. Except as provided in paragraph (c) of this section, the motion will be granted only if good cause is shown for the delay in filing. Motions for modifications of issues which are based on new facts or newly discovered facts shall be filed within 15 days after such facts are discovered by the moving party.

* * * * *

(e) In any case in which the presiding officer grants a motion to enlarge the issues to inquire into allegations that an applicant made misrepresentations to the Commission or engaged in other misconduct during the application process, the enlarged issues include notice that, after hearings on the enlarged issue and upon a finding that the alleged misconduct occurred and warrants such penalty, in addition to or in lieu of denying the application, the applicant may be liable for a forfeiture

of up to the maximum statutory amount. See 47 U.S.C. 503(b)(2)(A).

■ 36. Revise § 1.241 to read as follows:

§ 1.241 Designation of presiding officer.

(a) Hearing proceedings will be conducted by a presiding officer. The designated presiding officer will be identified in the order designating a matter for hearing. Only the Commission, one or more commissioners, or an administrative law judge designated pursuant to 5 U.S.C. 3105 may be designated as a presiding officer. Unless otherwise stated, the term *presiding officer* will include the Commission when the Commission designates itself to preside over a hearing proceeding.

(b) If a presiding officer becomes unavailable during the course of a hearing proceeding, another presiding officer will be designated.

(5 U.S.C. 556; 47 U.S.C. 154, 159, 208, 209, 214, 309, 312, 316, and 409)

■ 37. Add § 1.242 to read as follows:

§ 1.242 Appointment of case manager when Commission is the presiding officer.

When the Commission designates itself as the presiding officer in a hearing proceeding, it may delegate authority to a case manager to develop the record in a written hearing (see §§ 1.370 through 1.377). The case manager must be a staff attorney who qualifies as a neutral under 5 U.S.C. 571 and 573. The Commission shall not designate any of the following persons to serve as case manager in a case, and they may not advise or assist the case manager: Staff who participated in identifying the specific issues designated for hearing; staff who have taken or will take an active part in investigating, prosecuting, or advocating in the case; or staff who are expected to investigate and act upon petitions to deny (including challenges thereto). A case manager shall have authority to perform any of the functions generally performed by the presiding officer, except that a case manager shall have no authority to resolve any new or novel issues, to issue an order on the merits resolving any issue designated for hearing in a case, to issue an order on the merits of any motion for summary decision filed under § 1.251, or to perform any other functions that the Commission reserves to itself in the order appointing a case manager.

■ 38. Amend § 1.243 by revising the introductory text, paragraphs (g), (i) through (l), adding paragraphs (m) and (n), and revising the authority citation to read as follows:

§ 1.243 Authority of presiding officer.

From the time the presiding officer is designated until issuance of the presiding officer's decision or the transfer of the proceeding to the Commission or to another presiding officer, the presiding officer shall have such authority as granted by law and by the provisions of this chapter, including authority to:

(g) Require the filing of memoranda of law and the presentation of oral argument with respect to any question of law upon which the presiding officer or the Commission is required to rule during the course of the hearing proceeding;

(i) Dispose of procedural requests and ancillary matters, as appropriate;

(j) Take actions and make decisions in conformity with governing law;

(k) Act on motions to enlarge, modify or delete the hearing issues;

(l) Act on motions to proceed in forma pauperis pursuant to § 1.224;

(m) Decide a matter upon the existing record or request additional information from the parties; and

(n) Issue such orders and conduct such proceedings as will best conduce to the proper dispatch of business and the ends of justice.

(5 U.S.C. 556; 47 U.S.C. 154, 159, 208, 209, 214, 309, 312, 316, and 409)

■ 39. Revise § 1.244 to read as follows:

§ 1.244 Designation of a settlement officer.

(a) Parties may request that the presiding officer appoint a settlement officer to facilitate the resolution of the case by settlement.

(b) Where all parties in a case agree that such procedures may be beneficial, such requests may be filed with the presiding officer no later than 15 days prior to the date scheduled for the commencement of hearings or, in hearing proceedings conducted pursuant to §§ 1.370 through 1.377, no later than 15 days before the date set as the deadline for filing the affirmative case. The presiding officer shall suspend the procedural dates in the case pending action upon such requests.

(c) If, in the discretion of the presiding officer, it appears that the appointment of a settlement officer will facilitate the settlement of the case, the presiding officer shall appoint a "neutral" as defined in 5 U.S.C. 571 and 573 to act as the settlement officer.

(1) The parties may request the appointment of a settlement officer of their own choosing so long as that person is a "neutral" as defined in 5 U.S.C. 571 and 573.

(2) The appointment of a settlement officer in a particular case is subject to the approval of all the parties in the proceeding.

(3) Neither the Commission, nor any sitting members of the Commission, nor the presiding officer shall serve as the settlement officer in any case.

(4) Other members of the Commission's staff who qualify as neutrals may be appointed as settlement officers. The presiding officer shall not appoint a member of the Commission's staff as a settlement officer in any case if the staff member's duties include, or have included, drafting, reviewing, and/or recommending actions on the merits of the issues designated for hearing in that case.

(d) The settlement officer shall have the authority to require parties to submit their written direct cases for review. The settlement officer may also meet with the parties and/or their counsel, individually and/or at joint conferences, to discuss their cases and the cases of their competitors. All such meetings will be off-the-record, and the settlement officer may express an opinion as to the relative merit of the parties' positions and recommend possible means to resolve the proceeding by settlement. The proceedings before the settlement officer shall be subject to the confidentiality provisions of 5 U.S.C. 574. Moreover, no statements, offers of settlement, representations or concessions of the parties or opinions expressed by the settlement officer will be admissible as evidence in any Commission proceeding.

■ 40. Amend § 1.245 by revising paragraphs (a), (b)(1) through (3), and the authority citation to read as follows:

§ 1.245 Disqualification of presiding officer.

(a) In the event that a presiding officer (other than the Commission) deems himself or herself disqualified and desires to withdraw from the case, the presiding officer shall immediately so notify the Commission.

(b) * * *

(1) The person seeking disqualification shall file with the presiding officer an affidavit setting forth in detail the facts alleged to constitute grounds for disqualification.

(2) The presiding officer may file a response to the affidavit; and if the presiding officer believes he or she is not disqualified, he or she shall so rule and continue with the hearing proceeding.

(3) The person seeking disqualification may appeal a ruling denying the request for withdrawal of

the presiding officer, and, in that event, shall do so within five days of release of the presiding officer's ruling. Unless an appeal of the ruling is filed at this time, the right to request withdrawal of the presiding officer shall be deemed waived.

* * * * *

(5 U.S.C. 556; 47 U.S.C. 154, 159, 208, 209, 214, 309, 312, 316, and 409)

■ 41. Revise § 1.248 to read as follows:

§ 1.248 Status conferences.

(a) The presiding officer may direct the parties or their attorneys to appear at a specified time and place for a status conference during the course of a hearing proceeding, or to submit suggestions in writing, for the purpose of considering, among other things, the matters set forth in paragraph (c) of this section. Any party may request a status conference at any time after release of the order designating a matter for hearing. During a status conference, the presiding officer may issue rulings regarding matters relevant to the conduct of the hearing proceeding including, *inter alia*, procedural matters, discovery, and the submission of briefs or evidentiary materials.

(b) The presiding officer shall schedule an initial status conference promptly after written appearances have been submitted under § 1.91 or § 1.221. At or promptly after the initial status conference, the presiding officer shall adopt a schedule to govern the hearing proceeding. If the Commission designated a matter for hearing on a written record under §§ 1.370 through 1.376, the scheduling order shall include a deadline for filing a motion to request an oral hearing in accordance with § 1.376. If the Commission did not designate the matter for hearing on a written record, the scheduling order shall include a deadline for filing a motion to conduct the hearing on a written record. Except as circumstances otherwise require, the presiding officer shall allow a reasonable period prior to commencement of the hearing for the orderly completion of all prehearing procedures, including discovery, and for the submission and disposition of all motions.

(c) In status conferences, the following matters, among others, may be considered:

- (1) Clarifying, amplifying, or narrowing issues designated for hearing;
- (2) Scheduling;
- (3) Admission of facts and of the genuineness of documents (see § 1.246), and the possibility of stipulating with respect to facts;
- (4) Discovery;

- (5) Motions;
- (6) Hearing procedure;
- (7) Settlement (see § 1.93); and
- (8) Such other matters that may aid in resolution of the issues designated for hearing.

(d) Status conferences may be conducted in person or by telephone conference call or similar technology, at the discretion of the presiding officer. An official transcript of all status conferences shall be made unless the presiding officer and the parties agree to forego a transcript, in which case any rulings by the presiding officer during the status conference shall be promptly memorialized in writing.

(e) The failure of any attorney or party, following reasonable notice, to appear at a scheduled status conference may be deemed a waiver by that party of its rights to participate in the hearing proceeding and shall not preclude the presiding officer from conferring with parties or counsel present.

■ 42. Revise § 1.249 to read as follows:

§ 1.249 Presiding officer statement.

The presiding officer shall enter upon the record a statement reciting all actions taken at a status conference convened under § 1.248 and incorporating into the record all of the stipulations and agreements of the parties which were approved by the presiding officer, and any special rules which the presiding officer may deem necessary to govern the course of the proceeding.

■ 43. Revise § 1.250 to read as follows:

§ 1.250 Discovery and preservation of evidence; cross-reference.

For provisions relating to prehearing discovery and preservation of admissible evidence in hearing proceedings under this subpart B, see §§ 1.311 through 1.325.

■ 44. Amend § 1.251 by revising paragraphs (a) and (d) through (f) to read as follows:

§ 1.251 Summary decision.

(a)(1) Any party to an adjudicatory proceeding may move for summary decision of all or any of the issues designated for hearing. The motion shall be filed at least 20 days prior to the date set for commencement of the hearing or, in hearing proceedings conducted pursuant to §§ 1.370 through 1.377, at least 20 days before the date that the presiding officer sets as the deadline for filing the affirmative case. See § 1.372. The party filing the motion may not rest upon mere allegations or denials but must show, by affidavit or by other materials subject to consideration by the presiding officer, that there is no

genuine issue of material fact for determination in the hearing proceeding.

(2) A party may file a motion for summary decision after the deadlines in paragraph (a)(1) of this section only with the presiding officer's permission, or upon the presiding officer's invitation. No appeal from an order granting or denying a request for permission to file a motion for summary decision shall be allowed. If the presiding officer authorizes a motion for summary decision after the deadlines in paragraph (a)(1) of this section, proposed findings of fact and conclusions of law on those issues which the moving party believes can be resolved shall be attached to the motion, and any other party may file findings of fact and conclusions of law as an attachment to pleadings filed by the party pursuant to paragraph (b) of this section.

(3) Motions for summary decision should be addressed to the Commission in any hearing proceeding in which the Commission is the presiding officer and it has appointed a case manager pursuant to § 1.242. The Commission, in its discretion, may defer ruling on any such motion until after the case manager has certified the record for decision by the Commission pursuant to § 1.377.

* * * * *

(d) The presiding officer may, in his or her discretion, set the matter for argument and may call for the submission of proposed findings, conclusions, briefs or memoranda of law. The presiding officer, giving appropriate weight to the nature of the proceeding, the issue or issues, the proof, and the need for cross-examination, if any, may grant a motion for summary decision to the extent that the pleadings, affidavits, materials obtained by discovery or otherwise, admissions, or matters officially noticed, show that there is no genuine issue as to any material fact and that a party is otherwise entitled to summary decision. If it appears from the affidavits of a party opposing the motion that the party cannot, for good cause shown, present by affidavit or otherwise facts essential to justify the party's opposition, the presiding officer may deny the motion, may order a continuance to permit affidavits to be obtained or discovery to be had, or make such other order as is just.

(e) If all of the issues (or a dispositive issue) are determined on a motion for summary decision, the hearing proceeding shall be terminated. When a presiding officer (other than the Commission) issues a Summary

Decision, it is subject to appeal or review in the same manner as an Initial Decision. See §§ 1.271 through 1.282. If some of the issues only (including no dispositive issue) are decided on a motion for summary decision, or if the motion is denied, the presiding officer will issue a memorandum opinion and order, interlocutory in character, and the hearing proceeding will continue on the remaining issues. Appeal from interlocutory rulings is governed by § 1.301.

(f) The presiding officer may take any action deemed necessary to assure that summary decision procedures are not abused. The presiding officer may rule in advance of a motion that the proceeding is not appropriate for summary decision, and may take such other measures as are necessary to prevent any unwarranted delay.

(1) Should it appear to the satisfaction of the presiding officer that a motion for summary decision has been presented in bad faith or solely for the purpose of delay, or that such a motion is patently frivolous, the presiding officer will enter a determination to that effect upon the record.

(2) If, on making such determination, the presiding officer concludes that the facts warrant disciplinary action against an attorney, the matter, together with any findings and recommendations, will be referred to the Commission for consideration under § 1.24.

(3) If, on making such determination, the presiding officer concludes that the facts warrant a finding of bad faith on the part of a party to the proceeding, the presiding officer will certify the matter to the Commission, with findings and recommendations, for a determination as to whether the facts warrant the addition of an issue to the hearing proceeding as to the character qualifications of that party.

■ 45. Revise § 1.253 to read as follows:

§ 1.253 Time and place of hearing.

The presiding officer shall specify the time and place of oral hearings. All oral hearings will take place at Commission Headquarters unless the presiding officer designates another location.

■ 46. Revise § 1.254 to read as follows:

§ 1.254 Nature of the hearing proceeding; burden of proof.

Any hearing upon an application shall be a full hearing proceeding in which the applicant and all other parties in interest shall be permitted to participate but in which both the burden of proceeding with the introduction of evidence upon any issue specified by the Commission, as well as the burden of proof upon all such

issues, shall be upon the applicant except as otherwise provided in the order of designation.

(Sec. 309, 48 Stat. 1085, as amended; 47 U.S.C. 309)

§ 1.258 [Removed and Reserved]

■ 47. Remove and reserve § 1.258.

§ 1.260 [Removed and Reserved]

■ 48. Remove and reserve § 1.260.

■ 49. Revise § 1.261 to read as follows:

§ 1.261 Corrections to transcript.

At any time during the course of the proceeding, or as directed by the presiding officer, but not later than 10 days after the transmission to the parties of the transcript of any oral conference or hearing, any party to the proceeding may file with the presiding officer a motion requesting corrections to the transcript, which motion shall be accompanied by proof of service thereof upon all other parties to the proceeding. Within 5 days after the filing of such a motion, other parties may file a pleading in support of or in opposition to such motion. Thereafter, the presiding officer shall, by order, specify the corrections to be made in the transcript, and a copy of the order shall be served upon all parties and made a part of the record. The presiding officer may *sua sponte* specify corrections to be made in the transcript on 5 days' notice.

■ 50. Amend § 1.263 by revising paragraph (a) and the authority citation to read as follows:

§ 1.263 Proposed findings and conclusions.

(a) The presiding officer may direct any party to file proposed findings of fact and conclusions, briefs, or memoranda of law. If the presiding officer does not so order, any party to the proceeding may seek leave to file proposed findings of fact and conclusions, briefs, or memoranda of law. Such proposed findings of fact, conclusions, briefs, and memoranda of law shall be filed within the time prescribed by the presiding officer.

(5 U.S.C. 557; 47 U.S.C. 154, 159, 208, 209, 214, 309, 312, 316, and 409)

■ 51. Add § 1.265 to read as follows:

§ 1.265 Closing the record.

At the conclusion of hearing proceedings, the presiding officer shall promptly close the record after the parties have submitted their evidence, filed any proposed findings and conclusions under § 1.263, and submitted any other information required by the presiding officer. After the record is closed, it shall be certified

by the presiding officer and filed in the Office of the Secretary. Notice of such certification shall be served on all parties to the proceedings.

■ 52. Amend § 1.267 by revising paragraphs (a) and (c) to read as follows:

§ 1.267 Initial and recommended decisions.

(a) Except as provided in §§ 1.94, 1.251, and 1.274, when the proceeding is terminated on motion, or when the presiding officer is the Commission, the presiding officer shall prepare an initial (or recommended) decision, which shall be transmitted to the Secretary of the Commission. In the case of rate making proceedings conducted under sections 201–205 of the Communications Act, the presumption shall be that the presiding officer shall prepare an initial or recommended decision. The Secretary will make the decision public immediately and file it in the docket of the case.

* * * * *

(c) When the Commission is not the presiding officer, the authority of the presiding officer over the proceedings shall cease when the presiding officer has filed an Initial or Recommended Decision, or if it is a case in which the presiding officer is to file no decision, when they have certified the case for decision: *Provided*, however, That the presiding officer shall retain limited jurisdiction over the proceeding for the purpose of effecting certification of the record and corrections to the transcript, as provided in §§ 1.265 and 1.261, respectively, and for the purpose of ruling initially on applications for awards of fees and expenses under the Equal Access to Justice Act.

* * * * *

■ 53. Revise § 1.273 to read as follows:

§ 1.273 Waiver of initial or recommended decision.

When the Commission serves as the presiding officer, it will not issue an initial or recommended decision. When the Commission is not the presiding officer, at any time before the record is closed all parties to the proceeding may agree to waive an initial or recommended decision, and may request that the Commission issue a final decision or order in the case. If the Commission has directed that its review function in the case be performed by a commissioner or a panel of commissioners, the request shall be directed to the appropriate review authority. The Commission or such review authority may in its discretion grant the request, in whole or in part, if such action will best conduce to the

proper dispatch of business and to the ends of justice.

■ 54. Revise § 1.274 to read as follows:

§ 1.274 Certification of the record to the Commission for decision when the Commission is not the presiding officer; presiding officer unavailability.

(a) When the Commission is not the presiding officer, and where the Commission finds upon the record that due and timely execution of its functions imperatively and unavoidably so requires, the Commission may direct that the record in a pending proceeding be certified to it for decision.

(b) When a presiding officer becomes unavailable to the Commission after the taking of evidence has been concluded, the Commission shall direct that the record be certified to it for decision. In that event, the Commission shall designate a new presiding officer in accordance with § 1.241 for the limited purpose of certifying the record to the Commission.

(c) In all other circumstances when the Commission is not the presiding officer, the presiding officer shall prepare and file an initial or recommended decision, which will be released in accordance with § 1.267.

(d) When a presiding officer becomes unavailable to the Commission after the taking of evidence has commenced but before it has been concluded, the Commission shall designate another presiding officer in accordance with § 1.241 to continue the hearing proceeding. Oral testimony already introduced shall not be reheard unless observation of the demeanor of the witness is essential to the resolution of the case.

(Sec. 409, 48 Stat. 1096, as amended; 47 U.S.C. 409)

■ 55. Revise § 1.279 to read as follows:

§ 1.279 Limitation of matters to be reviewed.

(a) Upon review of any initial decision, the Commission may, in its discretion, limit the issues to be reviewed to those findings and conclusions to which exceptions have been filed, or to those findings and conclusions specified in the Commission's order of review issued pursuant to § 1.276(b).

(b) No party may file an exception to the presiding officer's ruling that all or part of the hearing be conducted and resolved on a written record, unless that party previously filed an interlocutory motion to request an oral hearing in accordance with § 1.376.

■ 56. Revise § 1.291 to read as follows:

§ 1.291 General provisions.

(a)(1) The Commission acts on petitions to amend, modify, enlarge or delete the issues in hearing proceedings which involve rule making matters exclusively.

(2) All other interlocutory matters in hearing proceedings are acted on by the presiding officer.

(3) Each interlocutory pleading shall identify the presiding officer in its caption. Unless the pleading is to be acted upon by the Commission, the presiding officer shall be identified by name.

(b) All interlocutory pleadings shall be submitted in accordance with the provisions of §§ 1.4, 1.44, 1.47, 1.48, 1.49, 1.50, 1.51, and 1.52.

(c)(1) Procedural rules governing interlocutory pleadings are set forth in §§ 1.294 through 1.298.

(2) Rules governing appeal from, and reconsideration of, interlocutory rulings made by the presiding officer are set forth in § 1.301.

(3) Petitions requesting reconsideration of an interlocutory ruling will not be entertained.

(d) No initial decision shall become effective under § 1.276(e) until all interlocutory matters pending before the Commission in the proceeding at the time the initial decision is issued have been disposed of and the time allowed for appeal from interlocutory rulings of the presiding officer has expired.

(Secs. 4(i), 303(r) and 5(c)(1) of the Communications Act of 1934, as amended; 47 CFR 0.61 and 0.283)

■ 57. Revise § 1.294 to read as follows:

§ 1.294 Oppositions and replies.

(a) Any party to a hearing proceeding may file an opposition to an interlocutory request filed in that proceeding.

(b) Except as provided in paragraph (c) of this section or as otherwise ordered by the presiding officer, oppositions to interlocutory requests shall be filed within 4 days after the original pleading is filed, and replies to oppositions will not be entertained.

(c) Additional pleadings may be filed only if specifically requested or authorized by the person(s) who is to make the ruling.

■ 58. Amend § 1.298 by revising paragraph (b) to read as follows:

§ 1.298 Rulings; time for action.

* * * * *

(b) In the discretion of the presiding officer, rulings on interlocutory matters may be made orally to the parties. The presiding officer may, in his or her discretion, state reasons therefor on the

record if the ruling is being transcribed, or may promptly issue a written statement of the reasons for the ruling, either separately or as part of an initial decision.

■ 59. Amend § 1.301 by revising the section heading and paragraphs (a), (b), and (c)(1) to read as follows:

§ 1.301 Appeal from interlocutory rulings by a presiding officer, other than the Commission, or a case manager; effective date of ruling.

(a) *Interlocutory rulings which are appealable as a matter of right.* Rulings listed in this paragraph are appealable as a matter of right. An appeal from such a ruling may not be deferred and raised as an exception to the initial decision.

(1) If a ruling denies or terminates the right of any person to participate as a party to a hearing proceeding, such person, as a matter of right, may file an appeal from that ruling.

(2) If a ruling requires testimony or the production of documents, over objection based on a claim of privilege, the ruling on the claim of privilege is appealable as a matter of right.

(3) If a ruling denies a motion to disqualify the presiding officer or case manager, the ruling is appealable as a matter of right.

(4) A ruling removing counsel from the hearing is appealable as a matter of right, by counsel on his own behalf or by his client. (In the event of such ruling, the presiding officer will adjourn the hearing proceeding for such period as is reasonably necessary for the client to secure new counsel and for counsel to become familiar with the case).

(b) *Other interlocutory rulings.* Except as provided in paragraph (a) of this section, appeals from interlocutory rulings shall be filed only if allowed by the presiding officer. Any party desiring to file an appeal shall first file a request for permission to file appeal. The request shall be filed within 5 days after the order is released or (if no written order) after the ruling is made.

Pleadings responsive to the request shall be filed only if they are requested by the presiding officer. If the presiding officer made the ruling, the request shall contain a showing that the appeal presents a new or novel question of law or policy and that the ruling is such that error would be likely to require remand should the appeal be deferred and raised as an exception. If a case manager made the ruling, the request shall contain a showing that the appeal presents a question of law or policy that the case manager lacks authority to resolve. The presiding officer shall determine whether the showing is such

as to justify an interlocutory appeal and, in accordance with his determination, will either allow or disallow the appeal or modify the ruling. Such ruling is final: *Provided, however*, That the Commission may, on its own motion, dismiss an appeal allowed under this section on the ground that objection to the ruling should be deferred and raised after the record is certified for decision by the Commission or as an exception to an initial decision.

(1) If an appeal is not allowed, or is dismissed by the Commission, or if permission to file an appeal is not requested, objection to the ruling may be raised after the record is certified for decision by the Commission or on review of the initial decision.

(2) If an appeal is allowed and is considered on its merits, the disposition on appeal is final. Objection to the ruling or to the action on appeal may not be raised after the record is certified for decision by the Commission or on review of the initial decision.

(3) If the presiding officer modifies their initial ruling, any party adversely affected by the modified ruling may file a request for permission to file appeal, pursuant to the provisions of this paragraph.

(c) * * *

(1) Unless the presiding officer orders otherwise, rulings made shall be effective when the order is released or (if no written order) when the ruling is made. The Commission may stay the effect of any ruling that comes before it for consideration on appeal.

* * * * *

■ 60. Amend § 1.302 by revising the section heading to read as follows:

§ 1.302 Appeal from final ruling by presiding officer other than the Commission; effective date of ruling.

* * * * *

■ 61. Amend § 1.311 by revising the introductory text and paragraphs (a) and (c), removing paragraph (d), and redesignating paragraph (e) as paragraph (d) and revising it.

The revisions read as follows:

§ 1.311 General.

Sections 1.311 through 1.325 provide for taking the deposition of any person (including a party), for interrogatories to parties, and for orders to parties relating to the production of documents and things and for entry upon real property. These procedures may be used for the discovery of relevant facts, for the production and preservation of evidence for use in a hearing proceeding, or for both purposes.

(a) *Applicability.* For purposes of discovery, these procedures may be

used in any case of adjudication (as defined in the Administrative Procedure Act) which has been designated for hearing. For the preservation of evidence, they may be used in any case which has been designated for hearing and is conducted under the provisions of this subpart (see § 1.201).

* * * * *

(c) *Schedule for use of the procedures.* (1) Except as provided by special order of the presiding officer, discovery may be initiated after the initial conference provided for in § 1.248(b) of this part.

(2) In all proceedings, the presiding officer may at any time order the parties or their attorneys to appear at a conference to consider the proper use of these procedures, the time to be allowed for such use, and/or to hear argument and render a ruling on disputes that arise under these rules.

(d) *Stipulations regarding the taking of depositions.* If all of the parties so stipulate in writing and if there is no interference to the conduct of the proceeding, depositions may be taken before any person, at any time (subject to the limitation below) or place, upon any notice and in any manner, and when so taken may be used like other depositions. A copy of the stipulation shall be filed using the Commission's Electronic Comment Filing System, and a copy of the stipulation shall be served on the presiding officer or case manager at least 3 days before the scheduled taking of the deposition.

■ 62. Add § 1.314 to read as follows:

§ 1.314 Confidentiality of information produced or exchanged.

(a) Any information produced in the course of a hearing proceeding may be designated as confidential by any parties to the proceeding, or third parties, pursuant to § 0.457, § 0.459, or § 0.461 of these rules. Any parties or third-parties asserting confidentiality for such materials must:

(1) Clearly mark each page, or portion thereof, for which a confidential designation is claimed. The parties or third parties claiming confidentiality should restrict their designations to encompass only the specific information that they assert is confidential. If a confidential designation is challenged, the party or third party claiming confidentiality shall have the burden of demonstrating, by a preponderance of the evidence, that the materials designated as confidential fall under the standards for nondisclosure enunciated in the FOIA and that the designation is narrowly tailored to encompass only confidential information.

(2) File with the Commission, using the Commission's Electronic Comment

Filing System, a public version of the materials that redacts any confidential information and clearly marks each page of the redacted public version with a header stating "Public Version." The Public Version shall be machine-readable whenever technically possible. Where the document to be filed electronically contains metadata that is confidential or protected from disclosure by a legal privilege (including, for example, the attorney-client privilege), the filer may remove such metadata from the Public Version before filing it electronically.

(3) File an unredacted version of the materials containing confidential information, as directed by the Commission. Each page of the unredacted version shall display a header stating "Confidential Version." The unredacted version must be filed on the same day as the Public Version.

(4) Serve one copy of the Public Version and one copy of the Confidential Version on the attorney of record for each party to the proceeding or on a party if not represented by an attorney, either by hand delivery, overnight delivery, or email, together with a proof of such service in accordance with the requirements of § 1.47(g). A copy of the Public Version and Confidential Version shall also be served on the presiding officer, as directed by the Commission.

(b) An attorney of record for any party or any party that receives unredacted materials marked as confidential may disclose such materials solely to the following persons, only for use in prosecuting or defending a party to the hearing proceeding, and only to the extent necessary to assist in the prosecution or defense of the case:

(1) Employees of counsel of record representing the parties in the hearing proceeding;

(2) Officers or employees of the receiving party who are directly involved in the prosecution or defense of the case;

(3) Consultants or expert witnesses retained by the parties; and

(4) Court reporters and stenographers in accordance with the terms and conditions of this section.

(c) The individuals identified above in paragraph (b) shall not disclose information designated as confidential to any person who is not authorized under this section to receive such information, and shall not use the information in any activity or function other than the prosecution or defense in the hearing proceeding. Each such individual who is provided access to the information shall sign a declaration or affidavit stating that the individual has

personally reviewed the Commission's rules and understands the limitations they impose on the signing party.

(d) Parties may make copies of materials marked confidential solely for use by the Commission or persons designated in paragraph (b) of this section. Each party shall maintain a log recording the number of copies made of all confidential material and the persons to whom the copies have been provided.

(e) The presiding officer may adopt a protective order as appropriate.

(f) Upon final termination of a hearing proceeding, including all appeals and applications for review, the parties shall ensure that all originals and reproductions of any confidential materials, along with the log recording persons who received copies of such materials, shall be provided to the producing party. In addition, upon final termination of the proceeding, any notes or other work product derived in whole or in part from the confidential materials of an opposing or third party shall be destroyed.

■ 63. Amend § 1.315 by revising paragraph (a) introductory text and removing paragraph (e).

The revision reads as follows:

§ 1.315 Depositions upon oral examination—notice and preliminary procedure.

(a) *Notice.* A party to a hearing proceeding desiring to take the deposition of any person upon oral examination shall give a minimum of 21 days' notice to every other party, to the person to be examined, and to the presiding officer or case manager. A copy of the notice shall be filed with the Secretary of the Commission for inclusion in the Commission's Electronic Comment Filing System. Related pleadings shall be served and filed in the same manner. The notice shall contain the following information:

* * * * *

§ 1.316 [Removed and Reserved]

■ 64. Remove and reserve § 1.316.

■ 65. Amend § 1.319 by revising the first sentence in each of paragraphs (c)(2) and (3) to read as follows:

§ 1.319 Objections to the taking of depositions.

* * * * *

(c) * * *

(2) If counsel cannot agree on the proper limits of the examination the taking of depositions shall continue on matters not objected to and counsel shall, within 24 hours, either jointly or individually, provide statements of their positions to the presiding officer, together with the telephone numbers at

which they and the officer taking the depositions can be reached, or shall otherwise jointly confer with the presiding officer.

(3) The presiding officer shall promptly rule upon the question presented or take such other action as may be appropriate under § 1.313, and shall give notice of his ruling, expeditiously, to counsel who submitted statements and to the officer taking the depositions. The presiding officer shall thereafter reduce his ruling to writing.

* * * * *

■ 66. Amend § 1.321 by revising the section heading and paragraphs (b) introductory text and (d)(3) to read as follows:

§ 1.321 Use of depositions in hearing proceedings.

* * * * *

(b) Except as provided in this paragraph and in § 1.319, objection may be made to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

* * * * *

(d) * * *

(3) The deposition of any witness, whether or not a party, may be used by any party for any lawful purpose.

* * * * *

■ 67. Amend § 1.323 by revising paragraph (a) introductory text to read as follows:

§ 1.323 Interrogatories to parties.

(a) *Interrogatories.* Any party may serve upon any other party written interrogatories to be answered in writing by the party served or, if the party served is a public or private corporation, partnership, association, or similar entity, by any officer or agent, who shall furnish such information as is available to the party. Copies of the interrogatories, answers, and all related pleadings shall be filed with the Commission and served on the presiding officer and all other parties to the hearing proceeding.

* * * * *

■ 68. Amend § 1.325 by revising paragraph (a)(1) to read as follows:

§ 1.325 Discovery and production of documents and things for inspection, copying, or photographing.

(a) * * *

(1) Copies of the request shall be filed with the Commission and served on the presiding officer and all other parties to the hearing proceeding.

* * * * *

■ 69. Revise § 1.331 to read as follows:

§ 1.331 Who may sign and issue.

Subpenas requiring the attendance and testimony of witnesses, and subpenas requiring the production of any books, papers, schedules of charges, contracts, agreements, and documents relating to any matter under investigation or hearing, may be signed and issued by the presiding officer.

■ 70. Amend § 1.338 by revising paragraph (a) to read as follows:

§ 1.338 Subpena forms.

(a) Subpena forms are available on the Commission's internet site, www.fcc.gov, as FCC Form 766. These forms are to be completed and submitted with any request for issuance of a subpoena.

* * * * *

■ 71. Revise § 1.351 to read as follows:

§ 1.351 Rules of evidence.

In hearings subject to this subpart B, any oral or documentary evidence may be adduced, but the presiding officer shall exclude irrelevant, immaterial, or unduly repetitious evidence.

■ 72. Revise § 1.362 to read as follows:

§ 1.362 Production of statements.

After a witness is called and has given direct testimony in an oral hearing, and before he or she is excused, any party may move for the production of any statement of such witness, or part thereof, pertaining to his or her direct testimony, in possession of the party calling the witness, if such statement has been reduced to writing and signed or otherwise approved or adopted by the witness. Such motion shall be directed to the presiding officer. If the party declines to furnish the statement, the testimony of the witness pertaining to the requested statement shall be stricken.

■ 73. Add an undesignated center heading and §§ 1.370 through 1.377 to read as follows:

Hearings on a Written Record

Sec.

- 1.370 Purpose.
- 1.371 General pleading requirements.
- 1.372 The affirmative case.
- 1.373 The responsive case.
- 1.374 The reply case.
- 1.375 Other written submissions.
- 1.376 Oral hearing or argument.
- 1.377 Certification of the written hearing record to the Commission for decision.

Hearings on a Written Record

§ 1.370 Purpose.

Hearings under this subpart B that the Commission or one of its Bureaus,

acting on delegated authority, determines shall be conducted and resolved on a written record are subject to §§ 1.371 through 1.377. If an order designating a matter for hearing does not specify whether those rules apply to a hearing proceeding, and if the proceeding is not subject to 5 U.S.C. 554, the presiding officer may, in their discretion, conduct and resolve all or part of the hearing proceeding on a written record in accordance with §§ 1.371 through 1.377.

§ 1.371 General pleading requirements.

Written hearings shall be resolved on a written record consisting of affirmative case, responsive case, and reply case submissions, along with all associated evidence in the record, including stipulations and agreements of the parties and official notice of a material fact.

(a) All pleadings filed in any proceeding subject to these written hearing rules must be submitted in conformity with the requirements of §§ 1.4, 1.44, 1.47, 1.48, 1.49, 1.50, 1.51(a), and 1.52.

(b) Pleadings must be clear, concise, and direct. All matters should be pleaded fully and with specificity.

(c) Pleadings shall consist of numbered paragraphs and must be supported by relevant evidence. Assertions based on information and belief are prohibited unless made in good faith and accompanied by a declaration or affidavit explaining the basis for the party's belief and why the party could not reasonably ascertain the facts from any other source.

(d) Legal arguments must be supported by appropriate statutory, judicial, or administrative authority.

(e) Opposing authorities must be distinguished.

(f) Copies must be provided of all non-Commission authorities relied upon which are not routinely available in national reporting systems, such as unpublished decisions or slip opinions of courts or administrative agencies. In addition, copies of state authorities relied upon shall be provided.

(g) Parties are responsible for the continuing accuracy and completeness of all information and supporting authority furnished in a pending proceeding. Information submitted, as well as relevant legal authorities, must be current and updated as necessary and in a timely manner before a decision is rendered on the merits.

(h) Pleadings shall identify the name, address, telephone number, and email address for either the filing party's attorney or, where a party is not represented by an attorney, the filing

party. Pleadings may be signed by a party's attorney.

(i) Attachments to any pleading shall be Bates-stamped or otherwise identifiable by party and numbered sequentially. Parties shall cite to Bates-stamped or otherwise identifiable page numbers in their pleadings.

(j) Unless a schedule is specified in the order designating a matter for hearing, at the initial status conference under § 1.248(b), the presiding officer shall adopt a schedule for the sequential filing of pleadings required or permitted under these rules.

(k) Pleadings shall be served on all parties to the proceeding in accordance with § 1.211 and shall include a certificate of service. All pleadings shall be served on the presiding officer or case manager, as identified in the caption.

(l) Each pleading must contain a written verification that the signatory has read the submission and, to the best of their knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law; and that it is not interposed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of the proceeding. If any pleading or other submission is signed in violation of this provision, the Commission may upon motion or upon its own initiative impose appropriate sanctions.

(m) Any party to the proceeding may file a motion seeking waiver of any of the rules governing pleadings in written hearings. Such waiver may be granted for good cause shown.

(n) Any pleading that does not conform with the requirements of the applicable rules may be deemed defective. In such case, the presiding officer may strike the pleading or request that specified defects be corrected and that proper pleadings be filed with the Commission and served on the presiding officer or case manager and all parties within a prescribed time as a condition to being made a part of the record in the proceeding.

(o) Any party that fails to respond to official correspondence, a request for additional information, or an order or directive from the presiding officer or case manager may be subject to appropriate sanctions.

§ 1.372 The affirmative case.

(a) Within 30 days after the completion of the discovery period as determined by the presiding officer, unless otherwise directed by the

presiding officer, any party to the proceeding with the burden of proof shall file a pleading entitled "affirmative case" that fully addresses each of the issues designated for hearing. The affirmative case submission shall include:

(1) A statement of relevant material facts, supported by sworn statements based on personal knowledge, documentation, or by other materials subject to consideration by the presiding officer, and a full legal analysis of each of the issues designated for hearing;

(2) Citation to relevant sections of the Communications Act or Commission regulations or orders; and

(3) The relief sought.

(b) The affirmative case submission shall address all factual and legal questions designated for hearing, and state in detail the basis for the response to each such question. Responses based on information and belief are prohibited unless made in good faith and accompanied by a declaration or affidavit explaining the basis for the party's belief and why the party could not reasonably ascertain the facts. When a party intends in good faith to deny only part of a designated question in the affirmative case, that party shall specify so much of it as is true and shall deny only the remainder.

(c) Failure to address in an affirmative case submission all factual and legal questions designated for hearing may result in inferences adverse to the filing party.

§ 1.373 The responsive case.

(a) Any other party may file a responsive case submission in the manner prescribed under this section within 30 calendar days of the filing of the affirmative case submission, unless otherwise directed by the presiding officer. The responsive case submission shall include:

(1) A statement of relevant material facts, supported by sworn statements based on personal knowledge, documentation, or by other materials subject to consideration by the presiding officer, and a full legal analysis of any issues designated for hearing.

(2) Citation to relevant sections of the Communications Act or Commission regulations or orders; and

(3) Any relief sought.

(b) The responsive case submission shall respond specifically to all material allegations made in the affirmative case submission. Every effort shall be made to narrow the issues for resolution by the presiding officer.

(c) Statements of fact or law in an affirmative case filed pursuant to § 1.372

are deemed admitted when not rebutted in a responsive case submission.

§ 1.374 The reply case.

(a) Any party who filed an affirmative case may file and serve a reply case submission within 15 days of the filing of any responsive case submission, unless otherwise directed by the presiding officer.

(b) The reply case submission shall contain statements of relevant material facts, supported by sworn statements based on personal knowledge, documentation, or by other materials subject to consideration by the presiding officer, and a full legal analysis that responds only to the factual allegations and legal arguments made in any responsive case. Other allegations or arguments will not be considered by the presiding officer.

(c) Failure to submit a reply case submission shall not be deemed an admission of any allegations contained in any responsive case.

§ 1.375 Other written submissions.

(a) The presiding officer may require or permit the parties to file other written submissions such as briefs, proposed findings of fact and conclusions of law, or other supplementary documents or pleadings. The presiding officer may limit the scope of any such pleadings to certain subjects or issues.

(b) The presiding officer may require the parties to submit any additional information deemed appropriate for a full, fair, and expeditious resolution of the proceeding.

§ 1.376 Oral hearing or argument.

(a) Notwithstanding any requirement in the designation order that the hearing be conducted and resolved on a written record, a party may file a motion to request an oral hearing pursuant to § 1.291. Any such motion shall be filed after the submission of all the pleadings but no later than the date established in the scheduling order. *See* §§ 1.248 and 1.372 through 1.374. The motion shall contain a list of genuine disputes as to outcome-determinative facts that the movant contends cannot adequately be resolved on a written record and a list of witnesses whose live testimony would be required to resolve such disputes. The motion also shall contain supporting legal analysis, including citations to relevant authorities and parts of the record. If the presiding officer finds that there is a genuine dispute as to an outcome-determinative fact that cannot adequately be resolved on a written record, the presiding officer shall conduct an oral hearing limited to

testimony and cross-examination necessary to resolve that dispute.

(b) The presiding officer may, on his or her own motion following the receipt of all written submissions, conduct an oral hearing to resolve a genuine dispute as to an outcome-determinative fact that the presiding officer finds cannot adequately be resolved on a written record. Any such oral hearing shall be limited to testimony and cross-examination necessary to resolve that dispute.

(c) Oral argument shall be permitted only if the presiding officer determines that oral argument is necessary to resolution of the hearing.

§ 1.377 Certification of the written hearing record to the Commission for decision.

When the Commission is the presiding officer and it has appointed a case manager under § 1.242, the case manager shall certify the record for decision to the Commission promptly after the hearing record is closed. Notice of such certification shall be served on all parties to the proceeding.

Subpart H—Ex Parte Communications

■ 74. Amend § 1.1202 by revising paragraphs (c) and (e) to read as follows:

§ 1.1202 Definitions.

* * * * *

(c) *Decision-making personnel.* Any member, officer, or employee of the Commission, or, in the case of a Joint Board, its members or their staffs, who is or may reasonably be expected to be involved in formulating a decision, rule, or order in a proceeding. Any person who has been made a party to a proceeding or who otherwise has been excluded from the decisional process shall not be treated as a decision-maker with respect to that proceeding. Thus, any person designated as part of a separate trial staff shall not be considered a decision-making person in the designated proceeding. Unseparated Bureau or Office staff shall be considered decision-making personnel with respect to decisions, rules, and orders in which their Bureau or Office participates in enacting, preparing, or reviewing. Commission staff serving as the case manager in a hearing proceeding in which the Commission is the presiding officer shall be considered decision-making personnel with respect to that hearing proceeding.

* * * * *

(e) *Matter designated for hearing.* Any matter that has been designated for hearing before a presiding officer.

Subpart I—Procedures Implementing the National Environment Policy Act of 1969

■ 75. Amend § 1.1319 by revising paragraph (a) to read as follows:

§ 1.1319 Consideration of the environmental impact statements.

(a) If the action is designated for hearing:

(1) In rendering an initial decision, the presiding officer (other than the Commission) shall use the FEIS in considering the environmental issues, together with all other non-environmental issues.

(2) When the Commission serves as the presiding officer or upon its review of an initial decision, the Commission will consider and assess all aspects of the FEIS and will render its decision, giving due consideration to the environmental and nonenvironmental issues.

* * * * *

Subpart K—Implementation of the Equal Access to Justice Act (EAJA) in Agency Proceedings

■ 76. Amend § 1.1504 by revising paragraph (f) to read as follows:

§ 1.1504 Eligibility of applicants.

* * * * *

(f) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. Any individual, corporation or other entity that directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or any corporation or other entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest, will be considered an affiliate for purposes of this part, unless the presiding officer, as defined in 47 CFR 1.241, determines that such treatment would be unjust and contrary to the purposes of the EAJA in light of the actual relationship between the affiliated entities. In addition, the presiding officer may determine that financial relationships of the applicant other than those described in this paragraph constitute special circumstances that would make an award unjust.

* * * * *

■ 77. Amend § 1.1506 by revising paragraph (c) introductory text to read as follows:

§ 1.1506 Allowable fees and expenses.

* * * * *

(c) In determining the reasonableness of the fee sought for an attorney, agent

or expert witness, the presiding officer shall consider the following:

* * * * *

■ 78. Amend § 1.1512 by revising the last sentence of paragraph (a) and by revising paragraph (b) to read as follows:

§ 1.1512 Net worth exhibit.

(a) * * * The presiding officer may require an applicant to file additional information to determine its eligibility for an award.

(b) Ordinarily, the net worth exhibit will be included in the public record of the proceeding. However, an applicant that objects to public disclosure of information in any portion of the exhibit and believes there are legal grounds for withholding it from disclosure may submit that portion of the exhibit directly to the presiding officer in a sealed envelope labeled “Confidential Financial Information”, accompanied by a motion to withhold the information from public disclosure. The motion shall describe the information sought to be withheld and explain, in detail, why it falls within one or more of the specific exemptions from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552(b)(1) through (9), why public disclosure of the information would adversely affect the applicant, and why disclosure is not required in the public interest. The material in question shall be served on Bureau counsel, but need not be served on any other party to the proceeding. If the presiding officer finds that the information should not be withheld from disclosure, it shall be placed in the public record of the proceeding. Otherwise, any request to inspect or copy the exhibit shall be disposed of in accordance with the Commission’s established procedures under the Freedom of Information Act, §§ 0.441 through 0.466 of this chapter.

■ 79. Amend § 1.1513 by revising the last sentence to read as follows:

§ 1.1513 Documentation of fees and expenses.

* * * The presiding officer may require the applicant to provide vouchers, receipts, or other substantiation for any expenses claimed.

■ 80. Amend § 1.1514 by revising paragraph (c)(1) to read as follows:

§ 1.1514 When an application may be filed.

* * * * *

(c) * * *

(1) The date on which an initial decision or other recommended disposition of the merits of the proceeding by a presiding officer (other

than the Commission) becomes administratively final;

* * * * *

■ 81. Amend § 1.1522 by revising the second sentence of paragraph (b) to read as follows:

§ 1.1522 Answer to application.

* * * * *

(b) * * * The filing of this statement shall extend the time for filing an answer for an additional 30 days, and further extensions may be granted by the presiding officer upon request by Bureau counsel and the applicant.

* * * * *

■ 82. Amend § 1.1524 by revising the second sentence to read as follows:

§ 1.1524 Comments by other parties.

* * * A commenting party may not participate further in proceedings on the application unless the presiding officer determines that the public interest requires such participation in order to permit full exploration of matters raised in the comments.

■ 83. Amend § 1.1525 by revising the last sentence to read as follows:

§ 1.1525 Settlement.

* * * If a presiding officer (other than the Commission) approves the proposed settlement, it shall be forwarded to the Commission for final determination. If the Commission is the presiding officer, it shall approve or deny the proposed settlement.

■ 84. Amend § 1.1526 by revising the second sentence of paragraph (a) and revising paragraph (b) to read as follows:

§ 1.1526 Further proceedings.

(a) * * * However, on request of either the applicant or Bureau counsel, or on her own initiative, the presiding officer may order further proceedings, such as an informal conference, oral argument, additional written submissions or, as to issues other than excessive demand or substantial justification, an evidentiary hearing.

* * *

(b) A request that the presiding officer order further proceedings under this section shall specifically identify the information sought or the disputed issues and shall explain why the additional proceedings are necessary to resolve the issues.

■ 85. Amend § 1.1527 by revising the section heading and the first sentence and adding a new last sentence to read as follows:

§ 1.1527 Initial decision.

A presiding officer (other than the Commission) shall issue an initial

decision on the application as soon as possible after completion of proceedings on the application. * * * When the Commission is the presiding officer, the Commission may, but is not required to, issue an initial or recommended decision.

■ 86. Amend § 1.1528 by revising the last sentence to read as follows:

§ 1.1528 Commission review.

* * * If review is taken, the Commission will issue a final decision on the application or remand the application to the presiding officer (other than the Commission) for further proceedings.

Subpart L—Random Selection Procedures for Mass Media Services

■ 87. Amend § 1.1604 by revising paragraphs (b) and (c) to read as follows:

§ 1.1604 Post-selection hearings.

* * * * *

(b) If, after such hearing proceeding as may be necessary, the Commission determines that the “tentative selectee” has met the requirements of § 73.3591(a) it will make the appropriate grant. If the Commission is unable to make such a determination, it shall order that another random selection be conducted from among the remaining mutually exclusive applicants, in accordance with the provisions of this subpart.

(c) If, on the basis of the papers before it, the Commission determines that a substantial and material question of fact exists, it shall designate that question for hearing. Hearing proceedings shall be conducted by a presiding officer. See § 1.241.

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

■ 88. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 338, 339, 340, 341, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

■ 89. Amend § 76.7 by revising paragraph (g)(2) to read as follows:

§ 76.7 General special relief, waiver, enforcement, complaint, show cause, forfeiture, and declaratory ruling procedures.

* * * * *

(g) * * *

(2) Before designation for hearing, the staff shall notify, either orally or in writing, the parties to the proceeding of its intent to so designate, and the parties shall be given a period of ten (10) days

to elect to resolve the dispute through alternative dispute resolution procedures, or to proceed with an adjudicatory hearing. Such election shall be submitted in writing to the Commission.

* * * * *

■ 90. Amend § 76.1302 by revising paragraph (i)(2) to read as follows:

§ 76.1302 Carriage agreement proceedings.

* * * * *

(i) * * *

(2) For program carriage complaints that the Chief, Media Bureau refers to an administrative law judge for an initial decision, the deadlines set forth in § 0.341(g) of this chapter apply.

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