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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Document Number AMS–SC–17–0076, SC–18–327]

U.S. Standards for Grades of Grapefruit (Texas and States Other Than Florida, California, and Arizona) and U.S. Standards for Grades of Oranges (Texas and States Other Than Florida, California, and Arizona)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) of the U.S. Department of Agriculture (USDA) is revising the U.S. Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona) and the U.S. Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona). The revision will convert the Acceptable Quality Level (AQL) tables from showing the acceptable number of allowable defective fruit in each grade to showing the percentage of defects permitted in each grade; revise the minimum sample size to 25 fruit; update size classifications; remove references to Temple oranges from the orange standards for grade; and more closely align terminology in both grade standards with Florida and California citrus standards.

DATES: Effective November 30, 2020.

FOR FURTHER INFORMATION CONTACT: Olivia L. Banks, USDA, Specialty Crops Inspection Division, 100 Riverside Parkway, Suite 101, Fredericksburg, VA 22406; by phone (540) 361–1120; fax (540) 361–1199; or, email *olivia.banks@usda.gov.* Copies of the revised U.S. Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona) and U.S. Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona) are available at *https://www.ams.usda.gov/grades-standards/fruits.*

SUPPLEMENTARY INFORMATION: The changes convert the AQL tables in the U.S. Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona) and the U.S. Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona) from showing the acceptable number of allowable defective fruit in each grade to showing the percentage of defects permitted in each grade, revise minimum sample size to 25 fruit, update size classifications, remove reference to Temple orange in the orange standards for grade, and more closely align terminology in both grade standards with Florida and California citrus standards. These revisions also affect the grade requirements under the marketing order (Order) Oranges and Grapefruit Grown in Lower Rio Grande Valley in Texas, 7 CFR part 906, issued under the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601–674) and applicable imports.

Executive Orders 12866, 13771, and 13563

This rule falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017). Executive 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, and distributive impacts and equity. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

Executive Order 13175

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

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

Background

AMS continuously reviews fruit and vegetable grade standards to assess their effectiveness in the industry and to modernize language. On September 20, 2016, AMS received a request from the TVCC to modernize the language of and clarify the Texas citrus standards by removing outdated AQL tables. The standards were last revised in September 2003. AMS worked closely with the TVCC throughout the development of the proposed revisions, soliciting their comments and suggestions about the standards through discussion drafts that outlined the conversion from AQL tables to a defined percentage of defects permitted in each grade. The revised percentages correspond to those currently allowed in the AQL tables and more closely align with California and Florida orange and grapefruit standards.

Additional revisions to the Texas grapefruit standard include adding size 64 to the size classifications to align with sizes in the Order; changing the minimum sample size from 33 to 25 fruit; and changing the scoring basis for defects from a 70-size fruit to a 4⅛-inch grapefruit. Revisions to the Texas orange standard also include adding size 163 to the size classifications to align with sizes in the Order; changing the minimum sample size from 50 to 25 fruit; changing the scoring basis for defects from a 200-size fruit to a 2⅞-inch orange; and removing Temple oranges from the standard.

AMS also conducted a grapefruit shape survey with the TVCC to identify areas of the standards for revision in

order to more closely align the Texas citrus standards with those of Florida and California. On May 23, 2018, AMS met with the TVCC to review the proposed revisions. These efforts culminated with the TVCC submitting a petition to AMS on June 12, 2018 to revise the U.S. standards for Texas oranges and grapefruit as discussed and approved at the May 2018 meeting. The revisions more closely align terminology related to defects and grade requirements with the Florida citrus grade standards as requested by the TVCC and align the standards with current industry practices.

Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

This rule will revise the U.S. Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona) and U.S. Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona) that were issued under the Agricultural Marketing Act of 1946. Standards issued under the 1946 Act are voluntary.

There are approximately 170 producers of grapefruit and oranges in the production area and 22 handlers subject to regulation under the Order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts less than $1,000,000, and small agricultural service firms are defined as those whose annual receipts are less than $30,000,000 (13 CFR 121.201).

According to Texas Valley Citrus Committee (TVCC) data, the average price for Texas citrus during the 2018–19 season prices ranged from $11.69 to $25.78 per carton. The average price was $22.23 per carton ($11.69 plus $25.78 equals $37.47, divided by 2 equals $18.74 per carton) and total shipments were 6.6 million cartons. Using the average price, shipment information, and number of handlers, and assuming a normal distribution, the majority of handlers would have average annual receipts of less than $30,000,000 ($22.23 per carton times 6.6 million cartons equals $123.7 million, divided by 22 equals $5.6 million per handler).

In addition, based on National Agricultural Statistics Service information, the average Free on Board (f.o.b.) price for Texas citrus during the 2018–19 season was approximately $33.27 per carton. Using the average f.o.b. price, shipment information, and the number of producers, and assuming a normal distribution, the majority of producers would have annual receipts of $1.3 million, which is more than $1,000,000 ($33.27 per carton times 6.6 million cartons equals $219.6 million, divided by 170 equals $1.3 million per producer). Thus, the majority of producers of Texas citrus may be classified as large entities, while the majority of handlers of Texas citrus may be classified as small entities.

This rule will convert the AQL Tables from showing the acceptable number of allowable defective fruit in each grade to a percentage of defects permitted in each grade, revise minimum sample size to 25 fruit, update size classifications, remove references to Temple orange from the orange standards for grade, and more closely align terminology in both standards for grade with Florida and California citrus standards.

This action will make the standards more consistent with current marketing trends and practices. This action will not impose any additional reporting or recordkeeping requirements on small or large orange or grapefruit producers or handlers. USDA has not identified any Federal rules that duplicate, overlap, or conflict with this rule. However, there are marketing programs that regulate the handling of oranges and grapefruit under 7 CFR part 906. Oranges and grapefruit subject to the Order must meet certain requirements set forth in the grade standards for oranges and grapefruit.

On March 10, 2020, AMS published a Proposed Rule in the **Federal Register** (85 FR 13833) soliciting comments on revisions to the U.S. Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona) and U.S. Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona). One comment was submitted by May 11, 2020, the closing date of the public comment period.

The comment fully supported the revisions and commended the USDA for taking steps to bring standardization to the grading system used for Texas citrus, putting Texas in line with systems used in other citrus production areas of the United States.

Based on the information gathered, AMS is revising the U.S. Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona), and U.S. Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona).

List of Subjects in 7 CFR Part 51

Food grades and standards, Fruits, Nuts, Reporting and recordkeeping requirements, Vegetables.

For reasons set forth in the preamble, 7 CFR part 51 is amended as follows:

PART 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION, AND STANDARDS)

■ 1. The authority citation for part 51 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

SUBPART D—APPLICATION OF TOLERANCES

■ 2. Revise the heading for subpart D to read as set forth above:

■ 3. Revise § 51.620 to read as follows:

§ 51.620 U.S. Fancy.

''U.S. Fancy'' consists of grapefruit which meet the following requirements:

(a) Basic requirements:

(1) Discoloration: Not more than one-tenth of the surface, in the aggregate, may be affected by discoloration. (See § 51.638.);

(2) Firm;

(3) Mature;

(4) Similar varietal characteristics;

(5) Smooth texture;

(6) Well formed; and

(7) Well colored.

(b) Free from:

(1) Ammoniation;

(2) Bruises;

(3) Buckskin;

(4) Decay;

(5) Growth cracks;

(6) Scab;

(7) Skin breakdown;

(8) Sprayburn;

(9) Unhealed skin breaks; and

(10) Wormy fruit.

(c) Free from injury caused by:

(1) Green spots;

(2) Hail;

(3) Oil spots;

(4) Scale;

(5) Scars; and

(6) Thorn scratches.

(d) Free from damage caused by:

(1) Dryness or mushy condition;

(2) Insects;

(3) Sprouting;

(4) Sunburn; and

(5) Other means.

(e) For tolerances see § 51.628.

■ 4. Revise § 51.621 to read as follows:

§ 51.621 U.S. No. 1.

''U.S. No. 1'' consists of grapefruit which meet the following requirements:

(a) Basic requirements:
(1) Discoloration: Not more than one-half of the surface, in the aggregate, may be affected by discoloration. (See § 51.638.);
(2) Fairly smooth texture;
(3) Fairly well colored;
(4) Fairly well formed;
(5) Firm;
(6) Mature; and
(7) Similar varietal characteristics.
(b) Free from:
(1) Bruises;
(2) Caked melanose;
(3) Decay;
(4) Growth cracks;
(5) Sprayburn;
(6) Unhealed skin breaks; and
(7) Wormy fruit.
(c) Free from damage caused by:
(1) Ammoniation;
(2) Buckskin;
(3) Caked melanose;
(4) Dryness or mushy condition;
(5) Green spots;
(6) Hail;
(7) Oil spots;
(8) Scab;
(9) Scale;
(10) Scars;
(11) Skin breakdown;
(12) Sprayburn;
(13) Sprouting;
(14) Sunburn;
(15) Thorn scratches; and
(16) Other means.
(d) For tolerances see § 51.628.

■ 5. Revise § 51.623 to read as follows:

§ 51.623 U.S. No. 1 Bronze.

The requirements for this grade are the same as for U.S. No. 1 except that all fruit must show some discoloration and at least 10 percent, by count, of the fruit shall have more than one-half of their surface, in the aggregate, affected by discoloration. The predominating discoloration on each of these fruits shall be of rust mite type. For tolerances see § 51.628.

■ 6. Revise § 51.624 to read as follows:

§ 51.624 U.S. Combination.

''U.S. Combination'' consists of a combination of U.S. No. 1 and U.S. No. 2 grapefruit: *Provided,* That at least 55 percent, by count, meet the requirements of U.S. No. 1 grade for defects, *And provided further,* That the lot meets the basic requirement for discoloration as specified in the U.S. No. 2 grade. For tolerances see § 51.628.

■ 7. Revise § 51.625 to read as follows:

§ 51.625 U.S. No. 2.

''U.S. No. 2'' consists of grapefruit which meet the following requirements:
(a) Basic requirements:
(1) Discoloration: Not more than two-thirds of the surface, in the aggregate, may be affected by discoloration. (See § 51.638.);
(2) Fairly firm;
(3) Mature;
(4) Not more than slightly misshapen;
(5) Not more than slightly rough texture;
(6) Slightly colored; and
(7) Similar varietal characteristics.
(b) Free from:
(1) Bruises;
(2) Decay;
(3) Growth cracks;
(4) Unhealed skin breaks; and
(5) Wormy fruit.
(c) Free from serious damaged caused by:
(1) Ammoniation;
(2) Buckskin;
(3) Caked melanose;
(4) Dryness or mushy condition;
(5) Green spots;
(6) Hail;
(7) Oil spots;
(8) Scab;
(9) Scale;
(10) Scars;
(11) Skin breakdown;
(12) Sprayburn;
(13) Sprouting;
(14) Sunburn;
(15) Thorn scratches; and
(16) Other means.
(d) For tolerances see § 51.628.

■ 8. Revise § 51.626 to read as follows:

§ 51.626 U.S. No. 2 Russet.

The requirements for this grade are the same as for U.S. No. 2 except that at least 10 percent of the fruit shall have more than two-thirds of their surface, in the aggregate, affected by any type of discoloration. For tolerances see § 51.628.

■ 9. Revise § 51.627 to read as follows:

§ 51.627 U.S. No. 3.

''U.S. No. 3'' consists of grapefruit which meet the following requirements:
(a) Basic requirements:
(1) Mature;
(2) May be misshapen;
(3) May be slightly spongy;
(4) May have rough texture;
(5) May be poorly colored. Not more than 25 percent of the surface may be of a solid dark green color;
(6) Not seriously lumpy or cracked; and
(7) Similar varietal characteristics.
(b) Free from:
(1) Decay;
(2) Unhealed skin breaks; and
(3) Wormy fruit.
(c) Free from very serious damage caused by:
(1) Ammoniation;
(2) Buckskin;
(3) Caked melanose;
(4) Dryness or mushy condition;
(5) Green spots;
(6) Hail;
(7) Oil spots;
(8) Scab;
(9) Scale;
(10) Scars;
(11) Skin breakdown;
(12) Sprayburn;
(13) Sprouting;
(14) Sunburn;
(15) Thorn scratches; and
(16) Other means.
(d) For tolerances see § 51.628.

■ 10. Revise § 51.628 to read as follows:

§ 51.628 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, based on a minimum 25 count sample, are provided as specified. No tolerance shall apply to wormy fruit.

(a) Defects—(1) *U.S. Fancy, U.S. No. 1, U.S. No. 1 Bright, U.S. No. 1 Bronze, U.S. No. 2, and U.S. No. 2 Russet*—(i) *For defects at shipping point.*[1] Not more than 10 percent of the fruit in any lot may fail to meet the requirements of the specified grade: *Provided,* That included in this amount not more than 5 percent shall be allowed for defects causing very serious damage, including in this latter amount not more than 1 percent for decay.

(ii) *For defects en route or at destination.* Not more than 12 percent of the fruit in any lot may fail to meet the requirements of the specified grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:
(A) 10 percent for fruit having permanent defects; or
(B) 7 percent for defects causing very serious damage, including therein not more than 5 percent for very serious damage by permanent defects and not more than 3 percent for decay.

(2) *U.S. Combination*—(i) *For defects at shipping point.*[1] Not more than 10 percent of the fruit in any lot may fail to meet the requirements of the U.S. No. 2 grade: *Provided,* That included in this amount not more than 5 percent shall be allowed for defects causing very serious damage, included in this latter amount not more than 1 percent for decay.

(ii) *For defects en route or at destination.* Not more than 12 percent of the fruit in any lot may fail to meet the requirements of the U.S. No. 2 grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:
(A) 10 percent for fruit having permanent defects; or
(B) 7 percent for defects causing very serious damage, including therein not

more than 5 percent for very serious damage by permanent defects and not more than 3 percent for decay.

(iii) *For defects at shipping point*[1] *and en route or at destination.* No part of any tolerance shall be allowed to reduce, for the lot as a whole, the 55 percent of U.S. No. 1 fruit required in the U.S. Combination grade, but individual samples may have not more than 15 percent less than the required percentage for the grade: *Provided,* That the entire lot averages within the percentage required.

(3) *U.S. No. 3*—(i) *For defects at shipping point.*[1] Not more than 10 percent of the fruit in any lot may fail to meet the requirements of the grade: *Provided,* That included in this amount not more than 1 percent for decay.

(ii) *For defects en route or at destination.* Not more than 12 percent of the fruit in any lot may fail to meet the requirements of the grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:

(A) 10 percent for fruit having permanent defects; or

(B) 3 percent for decay.

(b) *Discoloration*—(1) *U.S. No. 1, U.S. No. 1 Bright, U.S. Combination, and U.S. No. 2.* Not more than 10 percent of the fruit in any lot may fail to meet the requirements relating to discoloration as specified in each grade; No sample may have more than 20 percent of the fruit with excessive discoloration: *Provided,* That the entire lot averages within the percentage specified.

(2) *U.S. No. 1 Bronze.* At least 10 percent of the fruit shall have more than one-half of the surface, in the aggregate, affected by discoloration, and no part of any tolerance shall be allowed to reduce this percentage: *Provided,* That the entire lot averages within the percentage specified. No tolerance is provided for fruit showing no discoloration.

(3) *U.S. No. 2 Russet.* At least 10 percent of the fruit shall have more than two-thirds of the surface, in the aggregate, affected by discoloration, and no part of any tolerance shall be allowed to reduce this percentage: *Provided,* That the entire lot averages within the percentage specified.

[1] Shipping point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States.

■ 11. Revise the undesignated center heading before § 51.629 to read as follows:

Application of Tolerances

■ 12. Revise § 51.629 to read as follows:

§ 51.629 Application of tolerances.

Individual samples are subject to the following limitations, unless otherwise specified in § 51.628. Individual samples shall have not more than one and one-half times a specified tolerance of 10 percent or more, and not more than double a specified tolerance of less than 10 percent: *Provided,* That at least one decayed fruit may be permitted in any sample: *And provided further,* That the averages for the entire lot are within the tolerances specified for the grade.

■ 13. Revise § 51.630 to read as follows:

§ 51.630 Standard pack.

(a) Fruits shall be fairly uniform in size, unless specified as uniform in size. When packed in approved containers, fruit shall be arranged according to approved and recognized methods.

(b) ''Fairly uniform in size'' means that not more than 10 percent of fruit in any lot, and not more than double that amount in any sample, are outside the ranges of diameters given in Table 1 to this section:

TABLE 1 TO § 51.630 TO PARAGRAPH (b)—7/10 BUSHEL CARTON

Pack size/Number of grapefruit	Diameter in inches	
	Minimum	Maximum
18	4-15/16	5-9/16
23	4-5/16	5
27	4-2/16	4-12/16
32	3-15/16	4-8/16
36	3-13/16	4-5/16
40	3-10/16	4-2/16
48	3-9/16	3-14/16
56	3-5/16	3-10/16
64	3	3-8/16

(c) ''Uniform in size'' means that not more than 10 percent of fruit in any lot, and not more than double that amount in any sample, may vary more than the following amounts:

(1) 32 size and smaller—not more than six-sixteenths inch in diameter; and

(2) 27 size and larger—not more than nine-sixteenths inch in diameter.

(d) In order to allow for variations, other than sizing, incident to proper packing, not more than 5 percent of the packages in any lot may fail to meet the requirements of standard pack.

■ 14. Revise § 51.637 to read as follows:

§ 51.637 Injury.

Injury means any specific defect described in Table 1 to § 51.652; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which slightly detracts from the appearance, or the edible or marketing quality of the fruit.

■ 15. Revise § 51.642 to read as follows:

§ 51.642 Damage.

Damage means any specific defect described in Table 1 to § 51.652; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the fruit.

■ 16. Revise § 51.646 to read as follows:

§ 51.646 Serious damage.

Serious damage means any specific defect described in Table 1 to § 51.652; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance, or the edible or marketing quality of the fruit.

■ 17. Revise § 51.650 to read as follows:

§ 51.650 Very serious damage.

Very serious damage means any specific defect described in Table 1 to § 51.652; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which very seriously detracts from the appearance, or the edible or marketing quality of the fruit.

■ 18. Revise § 51.652 to read as follows:

§ 51.652 Classification of defects.

All references to area or aggregate area, or length in this standard are based on a grapefruit 4⅛ inches in diameter, allowing proportionately greater areas on larger fruit and lesser areas on smaller fruit.

TABLE 1 TO § 51.652

Factor	Injury	Damage	Serious damage	Very serious damage
Ammoniation		Not occurring as light speck type.	Scars are cracked or dark and aggregating more than a circle ¾ inch in diameter.	Aggregating more than 25 percent of the surface.
Buckskin		Aggregating more than a circle 1¼ inches in diameter.	Aggregating more than 25 percent of the surface.	Aggregating more than 50 percent of the surface.
Caked melanose			Aggregating more than a circle 1 inch in diameter.	Aggregating more than 25 percent of the surface.
Dryness or mushy condition.		Affecting all segments more than ¼ inch at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.	Affecting all segments more than ½ inch at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.	Affecting all segments more than ¾ inch at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.
Green spots or oil spots	More than slightly affecting appearance.	Aggregating more than a circle 1 inch in diameter.	Aggregating more than a circle 1½ inches in diameter..	
Hail	Not well healed, or aggregating more than a circle ⅜ inch in diameter.	Not well healed, or aggregating more than a circle ½ inch in diameter.	Not well healed, or aggregating more than a circle ⅝ inch in diameter.	Not well healed, or aggregating more than a circle 1 inch in diameter.
Scab		Materially detracts from the shape or texture, or aggregating more than a circle ¾ inch in diameter.	Seriously detracts from the shape or texture, or aggregating more than a circle 1 inch in diameter.	Aggregating more than 25 percent of the surface.
Scale	More than a few adjacent to the "button" at the stem end, or more than 6 scattered on other portions of the fruit.	Blotch aggregating more than a circle ¾ inch in diameter, or occurring as a ring more than a circle 1¼ inches in diameter.	Blotch aggregating more than a circle 1 inch in diameter, or occurring as a ring more than a circle 1½ inches in diameter.	Aggregating more than 25 percent of the surface.
Scars	Depressed, not smooth, or detracts from appearance more than the amount of discoloration permitted in the grade.	Very deep or very rough aggregating more than a circle ½ inch in diameter; deep or rough aggregating more than 1 inch in diameter; slightly rough or of slight depth aggregating more than 10 percent of surface.	Very deep or very rough aggregating more than a circle 1 inch in diameter; deep or rough aggregating more than 5 percent of the fruit surface; slight depth or slightly rough aggregating more than 15 percent of surface.	Very deep or very rough or unsightly that appearance is very seriously affected.
Skin Breakdown		Aggregating more than a circle ⅜ inch in diameter.	Aggregating more than a circle ⅝ inch in diameter.	Aggregating more than a circle 1¼ inches in diameter.
Sprayburn			Hard or aggregating more than a circle 1¼ inches in diameter.	Aggregating more than 25 percent of the surface.
Sprouting		More than 6 seeds are sprouted, including not more than 1 sprout extending to the rind, remainder average not over ¼ inch in length.	More than 6 seeds are sprouted, including not more than 2 sprouts extending to the rind, remainder average not over ½ inch in length.	More than 6 seeds are sprouted, including not more than 3 sprouts extending to the rind, remainder average not over ¾ inch in length.
Sunburn		Skin is flattened, dry, darkened, or hard, aggregating more than 25 percent of surface.	Skin is hard, fruit is decidedly one-sided, aggregating more than one-third of surface.	Aggregating more than 50 percent of fruit surface.
Thorn scratches	Not well healed, or more unsightly than discoloration permitted in the grade.	Not well healed, hard concentrated thorn injury aggregating more than a circle ¾ inch in diameter, or slight scratches aggregating more than a circle 1 inch in diameter.	Not well healed, hard concentrated thorn injury aggregating more than a circle ⅞ inch in diameter, or slight scratches aggregating more than a circle 1¼ inches in diameter.	Aggregating more than 25 percent of the surface.

Subpart E—APPLICATION OF TOLERANCES

■ 19. Revise the heading for Subpart E to read as set forth above.

■ 20. Revise § 51.681 to read as follows:

§ 51.681 U.S. Fancy.

''U.S. Fancy'' consists of oranges which meet the following requirements:

(a) Basic requirements:

(1) Discoloration: Not more than one-tenth of the surface, in the aggregate, may be affected by discoloration. (See § 51.700.);

(2) Firm;

(3) Mature;

(4) Similar varietal characteristics;

(5) Smooth texture;

(6) Well colored; and

(7) Well formed.

(b) Free from:

(1) Ammoniation;

(2) Bruises;

(3) Buckskin;

(4) Caked melanose;

(5) Creasing;

(6) Decay;

(7) Growth cracks;

(8) Scab;

(9) Skin breakdown;

(10) Sprayburn;

(11) Undeveloped segments;

(12) Unhealed skin breaks; and

(13) Wormy fruit.

(c) Free from injury caused by:

(1) Green spots;

(2) Hail;

(3) Oil spots;

(4) Rough, wide or protruding navels;

(5) Scale;

(6) Scars;

(7) Split navels; and

(8) Thorn scratches.

(d) Free from damage caused by:

(1) Dirt or other foreign material;

(2) Disease;

(3) Dryness or mushy condition;

(4) Insects;

(5) Sunburn; and

(6) Other means.

(e) For tolerances see § 51.689.

■ 21. Revise § 51.682 to read as follows:

§ 51.682 U.S. No. 1.

''U.S. No. 1'' consists of oranges which meet the following requirements:

(a) Basic requirements:

(1) Color:

(i) Early and midseason varieties shall be fairly well colored.

(ii) For Valencia and other late varieties, not less than 50 percent, by count, shall be fairly well colored and the remainder reasonably well colored.

(2) Discoloration: Not more than one-third of the surface, in the aggregate, may be affected by discoloration. (See § 51.700.);

(3) Firm;

(4) Fairly smooth texture;

(5) Mature;

(6) Similar varietal characteristics; and

(7) Well formed.

(b) Free from:

(1) Bruises;

(2) Caked melanose;

(3) Decay;

(4) Growth cracks;

(5) Sprayburn;

(6) Undeveloped segments;

(7) Unhealed skin breaks; and

(8) Wormy fruit.

(c) Free from damage caused by:

(1) Ammoniation;

(2) Buckskin;

(3) Creasing;

(4) Dirt or other foreign material;

(5) Disease;

(6) Dryness or mushy condition;

(7) Green spots;

(8) Hail;

(9) Insects;

(10) Oil spots;

(11) Scab;

(12) Scale;

(13) Scars;

(14) Skin breakdown;

(15) Split, rough or protruding navels;

(16) Sunburn;

(17) Thorn scratches; and

(18) Other means.

(d) For tolerances see § 51.689.

■ 22. Revise § 51.684 to read as follows:

§ 51.684 U.S. No. 1 Bronze.

The requirements for this grade are the same as for U.S. No. 1 except that all fruit must show some discoloration and at least 10 percent, by count, of the fruit shall have more than one-third of their surface, in the aggregate, affected by discoloration. The predominating discoloration on these fruits shall be of rust mite type. For tolerances see § 51.689.

■ 23. Revise § 51.685 to read as follows:

§ 51.685 U.S. Combination.

''U.S. Combination'' consists of a combination of U.S. No. 1 and U.S. No. 2 oranges: *Provided,* That at least 55 percent, by count, meet the requirements of U.S. No. 1 grade for defects, *And provided further,* That the lot meets the basic requirement for discoloration as specified in the U.S. No. 2 grade. For tolerances see § 51.689.

■ 24. Revise § 51.686 to read as follows:

§ 51.686 U.S. No. 2.

''U.S. No. 2'' consists of oranges which meet the following requirements:

(a) Basic requirements:

(1) Discoloration: Not more than one-half of the surface, in the aggregate, may be affected by discoloration. (See § 51.700.);

(2) Fairly firm;

(3) Mature;

(4) Not more than slightly misshapen;

(5) Not more than slightly rough texture;

(6) Reasonably well colored; and

(7) Similar varietal characteristics.

(b) Free from:

(1) Bruises;

(2) Decay;

(3) Growth cracks;

(4) Unhealed skin breaks; and

(5) Wormy fruit.

(c) Free from serious damaged caused by:

(1) Ammoniation;

(2) Buckskin;

(3) Caked melanose;

(4) Creasing;

(5) Dirt or other foreign material;

(6) Disease;

(7) Dryness or mushy condition;

(8) Green spots;

(9) Hail;

(10) Insects;

(11) Oil spots;

(12) Scab;

(13) Scale;

(14) Scars;

(15) Skin breakdown;

(16) Split, rough or protruding navels;

(17) Sprayburn;

(18) Sunburn;

(19) Thorn scratches; and

(20) Other means.

(d) For tolerances see § 51.689.

■ 25. Revise § 51.687 to read as follows:

§ 51.687 U.S. No. 2 Russet.

The requirements for this grade are the same as for U.S. No. 2 except that at least 10 percent by count of the fruit shall have more than one-half of their surface, in the aggregate, affected by any type of discoloration. For tolerances see § 51.689.

■ 26. Revise § 51.688 to read as follows:

§ 51.688 U.S. No. 3.

''U.S. No. 3'' consists of oranges which meet the following requirements:

(a) Basic requirements:

(1) Mature;

(2) May be misshapen;

(3) May be poorly colored. Not more than 25 percent of the surface may be of a solid dark green color;

(4) May be slightly spongy;

(5) May have rough texture;

(6) Not seriously lumpy or cracked; and

(7) Similar varietal characteristics.

(b) Free from:

(1) Decay;

(2) Unhealed skin breaks; and

(3) Wormy fruit.

(c) Free from very serious damage caused by other means.

(d) For tolerances see § 51.689.

■ 27. Revise § 51.689 to read as follows.

§ 51.689 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, based on a minimum 25 count sample, are provided as specified. No tolerance shall apply to wormy fruit.

(a) *Defects*—(1) *U.S. Fancy, U.S. No. 1, U.S. No. 1 Bright, U.S. No. 1 Bronze, U.S. No. 2, and U.S. No. 2 Russet Grades*—(i) *For defects at shipping point.*[1] Not more than 10 percent of the fruit in any lot may fail to meet the requirements of the specified grade: *Provided,* That included in this amount not more than 5 percent shall be allowed for defects causing very serious damage, including in this latter amount not more than 1 percent for decay.

(ii) *For defects en route or at destination.* Not more than 12 percent of the fruit in any lot may fail to meet the requirements of the specified grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:

(A) 10 percent for fruit having permanent defects; or

(B) 7 percent for defects causing very serious damage, including therein not more than 5 percent for very serious damage by permanent defects and not more than 3 percent for decay.

(2) *U.S. Combination*—(i) *For defects at shipping point.*[1] Not more than 10 percent of the fruit in any lot may fail to meet the requirements of the U.S. No. 2 grade: *Provided,* That included in this amount not more than 5 percent shall be allowed for defects causing very serious damage, including in this latter amount not more than 1 percent for decay.

(ii) *For defects en route or at destination.* Not more than 12 percent of the fruit in any lot may fail to meet the requirements of the U.S. No. 2 grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:

(A) 10 percent for fruit having permanent defects; or

(B) 7 percent for defects causing very serious damage, including therein not more than 5 percent for very serious damage by permanent defects and not more than 3 percent for decay.

(iii) *For defects at shipping point*[1] *and en route or at destination.* No part of any tolerance shall be allowed to reduce for the lot as a whole, the 55 percent of U.S. No. 1 fruit required in the U.S. Combination grade, but individual samples may have not more than 15 percent less than the required percentage for the grade: *Provided,* That the entire lot averages within the percentage required.

(3) *U.S. No. 3*—(i) *For defects at shipping point.*[1] Not more than 10 percent of the fruit in any lot may fail to meet the requirements of the grade: *Provided,* That included in this amount not more than 1 percent for decay.

(ii) *For defects en route or at destination.* Not more than 12 percent of the fruit in any lot may fail to meet the requirements of the grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:

(A) 10 percent for fruit having permanent defects; or

(B) 3 percent for decay.

(b) *Discoloration*—(1) *U.S. No. 1, U.S. No. 1 Bright, U.S. Combination, and U.S. No. 2.* Not more than 10 percent of the fruit in any lot may fail to meet the requirements relating to discoloration as specified in each grade. No sample may have more than 20 percent of the fruit with excessive discoloration: *Provided,* That the entire lot averages within the percentage specified.

(2) *U.S. No. 1 Bronze.* At least 10 percent of the fruit shall have more than one-third of the surface, in the aggregate, affected by discoloration, and no part of any tolerance shall be allowed to reduce this percentage. No sample may have less than 5 percent of the fruit with required discoloration: *Provided,* That the entire lot averages within the percentage specified. No tolerance shall apply to fruit showing no discoloration.

(3) *U.S. No. 2 Russet.* At least 10 percent of the fruit shall have more than one-half of the surface, in the aggregate, affected by discoloration, and no part of any tolerance shall be allowed to reduce this percentage. No sample may have less than 5 percent of the fruit with the required discoloration: *Provided,* That the entire lot averages within the percentage specified.

[1] Shipping point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States.

■ 28. Revise the undesignated center heading before § 51.690 to read as follows:

Application of Tolerances

■ 29. Revise § 51.690 to read as follows:

§ 51.690 Application of tolerances.

Individual samples are subject to the following limitations, unless otherwise specified in § 51.689. Individual samples shall have not more than one and one-half times a specified tolerance of 10 percent or more, and not more than double a specified tolerance of less than 10 percent: *Provided,* That at least one decayed may be permitted in any sample: *And provided further,* That the averages for the entire lot are within the tolerances specified for the grade.

■ 30. Revise § 51.691 to read as follows:

§ 51.691 Standard pack.

(a) Fruit shall be fairly uniform in size. When packed in approved containers, fruit shall be arranged according to approved and recognized methods.

(b) ''Fairly uniform in size'' means that not more than 10 percent of fruit in any lot, and not more than double that amount in any sample, are outside the ranges of diameters given in Table 1.

TABLE 1 TO § 51.691 PARAGRAPH (b)—7/10 BUSHEL CARTON

Pack size/Number of oranges	Diameter in inches	
	Minimum	Maximum
24	3-12/16	5-1/16
32	3-6/16	4-9/16
36	3-4/16	4-6/16
40	3-2/16	4-4/16
48	2-15/16	4
56	2-13/16	3-13/16
64	2-11/16	3-10/16
72	2-9/16	3-8/16
88	2-8/16	3-4/16
113	2-7/16	3
138	2-6/16	2-12/16
163	2-3/16	2-8/16

(c) In order to allow for variations, other than sizing, incident to proper packing, not more than 5 percent of the packages in any lot may fail to meet the requirements of standard pack.

■ 31. Revise § 51.699 to read as follows:

§ 51.699 Injury.

Injury means any specific defect described in Table 1 to § 51.713; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which slightly detracts from the appearance, or the edible or marketing quality of the fruit.

■ 32. Revise § 51.702 to read as follows:

§ 51.702 Damage.

Damage means any specific defect described in Table 1 to § 51.713; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the fruit.

■ 33. Revise § 51.708 to read as follows:

§ 51.708 Serious damage.

Serious damage means any specific defect described in Table 1 to § 51.713; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance, or the edible or marketing quality of the fruit.

■ 34. Revise § 51.711 to read as follows:

§ 51.711 Very serious damage.

Very serious damage means any specific defect described in Table 1 to § 51.713; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which very seriously detracts from the appearance, or the edible or marketing quality of the fruit.

■ 35. Revise § 51.713 to read as follows:

§ 51.713 Classification of Defects.

All references to area or aggregate area, or length in this standard are based on an orange 2⅞ inches in diameter, allowing proportionately greater areas on larger fruit and lesser areas on smaller fruit.

TABLE 1 TO § 51.713

Factor	Injury	Damage	Serious damage	Very serious damage
Ammoniation		Not occurring as light speck type.	Scars are cracked or dark and aggregating more than a circle ¾ inch in diameter or light colored and aggregating more than a circle 1¼ inches in diameter.	Aggregating more than 25 percent of the surface.
Buckskin		Aggregating more than a circle 1 inch in diameter.	Aggregating more than 25 percent of the surface.	Aggregating more than 50 percent of the surface.
Caked melanose			Aggregating more than a circle ¾ inch in diameter.	Aggregating more than 25 percent of the surface.
Creasing		Materially weakens the skin, or extends over more than one-third of the surface.	Seriously weakens the skin, or extends over more than one-half of the surface.	Very seriously weakens the skin, or is distributed over practically the entire surface.
Dryness or mushy condition.		Affecting all segments more than ¼ inch at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.	Affecting all segments more than ½ inch at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.	Affecting all segments more than ¾ inch at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.
Green spots or oil spots	More than slightly affecting appearance.	Aggregating more than a circle ⅞ inch in diameter.	Aggregating more than a circle 1¼ inches in diameter..	
Hail	Not well healed, or aggregating more than a circle ¼ inch in diameter.	Not well healed, or aggregating more than a circle ⅜ inch in diameter.	Not well healed, or aggregating more than a circle ½ inch in diameter.	Not well healed, or aggregating more than a circle ¾ inch in diameter.
Scab		Materially detracts from the shape or texture, or aggregating more than a circle ⅝ inch in diameter.	Seriously detracts from the shape or texture, or aggregating more than a circle ¾ inch in diameter.	Aggregating more than 25 percent of the surface.
Scale	More than a few adjacent to the "button" at the stem end, or more than 6 scattered on other portions of the fruit.	Aggregating more than a circle ⅝ inch in diameter.	Aggregating more than a circle ¾ inch in diameter.	Aggregating more than 25 percent of the surface.
Scars	Depressed, not smooth, or detracts from appearance more than the amount of discoloration permitted in the grade.	Deep, rough or hard aggregating more than a circle ¼ inch in diameter; slightly rough with slight depth aggregating more than a circle ⅞ inch in diameter; smooth or fairly smooth with slight depth aggregating more than a circle 1¼ inches in diameter.	Deep, rough aggregating more than a circle ½ inch in diameter; slightly rough with slight depth aggregating more than a circle 1¼ inches in diameter.	Deep, rough or unsightly that appearance is very seriously affected.
Skin breakdown		Aggregating more than a circle ¼ inch in diameter.	Aggregating more than a circle ⅝ inch in diameter.	Aggregating more than 25 percent of the surface.

TABLE 1 TO § 51.713—Continued

Factor	Injury	Damage	Serious damage	Very serious damage
Sunburn		Skin is flattened, dry, darkened or hard, aggregating more than 25 percent of the surface.	Affecting more than one-third of the surface, hard, decidedly one-sided, or light brown and aggregating more than a circle 1¼ inches in diameter.	Aggregating more than 50 percent of the surface.
Sprayburn			Hard, or aggregating more than a circle 1¼ inches in diameter.	Aggregating more than 25 percent of the surface.
Split, rough or protruding navels.	Split is unhealed; navel protrudes beyond general contour; opening is so wide, growth so folded and ridged that it detracts noticeably from appearance.	Split is unhealed, or more than ¼ inch in length, or more than 3 well healed splits, or navel protrudes beyond the general contour, and opening is so wide, folded or ridged that it detracts materially from appearance.	Split is unhealed, or more than ½ inch in length, or aggregate length of all splits exceed 1 inch, or navel protrudes beyond general contour, and opening is so wide, folded and ridged that it seriously detracts from appearance.	Split is unhealed or fruit is seriously weakened.
Thorn scratches	Not slight, not well healed, or more unsightly than discoloration permitted in the grade.	Not well healed, or hard concentrated thorn injury aggregating more than a circle ⅝ inch in diameter.	Not well healed, or hard concentrated thorn injury aggregating more than a circle ¾ inch in diameter.	Aggregating more than 25 percent of the surface.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2020–21437 Filed 10–28–20; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0625; Product Identifier 2016–SW–007–AD; Amendment 39–21315; AD 2020–22–19]

RIN 2120–AA64

Airworthiness Directives; Various Restricted Category Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for various restricted category helicopters, originally manufactured by Sikorsky Aircraft Corporation (Sikorsky), Model EH–60A, HH–60L, S–70, S–70A, S–70C, S–70C(M), S–70C(M1), and UH–60A. This AD requires initial and recurring inspections of the main rotor (M/R) blade spindle cuff for a crack. This AD was prompted by multiple reports of a cracked M/R blade spindle cuff. These actions are intended to prevent an unsafe condition on these products.

DATES: This AD is effective December 3, 2020.

ADDRESSES: For service information identified in this final rule, contact your local Sikorsky Field Representative or Sikorsky's Service Engineering Group at Sikorsky Aircraft Corporation, 124 Quarry Road, Trumbull, CT 06611; telephone 1–800–946–4337 (1–800–Winged–S); email *wcs_cust_service_eng.gr-sik@lmco.com.* Operators may also log on to the Sikorsky 360 website at *https://www.sikorsky360.com.* You may view the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

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–2020–0625; 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 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: Kristopher Greer, Aerospace Engineer, Boston ACO Branch, Compliance and Airworthiness Division, FAA, 1200 District Avenue, Burlington, Massachusetts 01803; telephone 781–238–7799; email *kristopher.greer@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 various restricted category helicopters, originally manufactured by Sikorsky, Model EH–60A, HH–60L, S–70, S–70A, S–70C, S–70C(M), S–70C(M1), and UH–60A, with an M/R blade spindle cuff part number 70150–09109–041 installed. The NPRM published in the **Federal Register** on July 9, 2020 (85 FR 41221).

The NPRM was prompted by multiple reports of a cracked M/R blade spindle cuff. In 2008, Sikorsky reported an M/R blade spindle cuff on a Model UH–60A helicopter that cracked across the lower inboard bolt holes. Investigation determined the crack was caused by a non-conforming hole edge break, specifically a burr, introduced during an overhaul at a non-Sikorsky overhaul facility. Sikorsky issued Sikorsky Safety Advisory No. SSA–S70–08–002, dated December 11, 2008 (SSA–S70–08–002), for Black Hawk Model H–60– and S–70-series helicopters to inform operators of the incident and recommend compliance with Sikorsky's preventative maintenance inspections. The safety advisory also recommended that operators with M/R blades

overhauled by a non-Sikorsky repair facility contact that facility to verify whether the hole edge radius requirement was met during the overhaul.

In 2015, the FAA received an additional report of an M/R blade spindle cuff on a military model helicopter that cracked. Investigation from this reporting has revealed no anomalies at the crack initiation site. In each instance, a crack initiated at a bolt hole and spread to either an adjacent bolt hole or to the free edge. Due to design similarity, Model EH–60A, HH–60L, S–70, S–70A, S–70C, S–70C(M), S–70C(M1), and UH–60A helicopters are all affected by this unsafe condition.

Accordingly, the NPRM proposed to require initial and recurring inspections of the M/R blade spindle cuff for a crack. The proposed requirements were intended to detect a crack, prevent failure of an M/R blade spindle cuff, loss of an M/R blade, and loss of control of the helicopter.

Comments

The FAA gave the public the opportunity to participate in developing this final rule, but the FAA did not receive any comments on the NPRM or on the determination of the cost to the public.

FAA's Determination

The FAA is issuing this AD after evaluating all known relevant information and determining that an unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

Related Service Information

The FAA reviewed SSA–S70–08–002. This service information recommends, for helicopters with M/R blades overhauled by non-Sikorsky M/R blade repair facilities, contacting the facilities to verify whether the hole edge radius requirement was met during cuff replacement. The safety advisory also recommends operators conduct 10 hour/14 day visual inspections and follow the inspection procedures regarding sudden onset of low frequency vibration or an out of track condition.

The FAA also reviewed Sikorsky Technical Manual Preventative Maintenance Services 10 Hour/14 Day (30 Hour/42 Day) Inspection Checklist TM 1–70–PMS–1, dated December 1, 2014, for Sikorsky Model S–70 helicopters. This service information contains procedures for the 10 hour/14 day and 30 hour/42 day inspections.

Costs of Compliance

The FAA estimates that this AD affects 204 helicopters of U.S. Registry. The FAA estimates that operators may incur the following costs in order to comply with this AD. Labor costs are estimated at $85 per work-hour.

Inspecting the M/R blade spindle cuffs takes about 1 work-hour for an estimated cost of $85 per helicopter and $17,340 for the U.S. fleet. Replacing an M/R blade spindle cuff takes about 175 work-hours and required parts cost about $10,000 for a total estimated replacement cost of $24,875 per M/R blade spindle cuff.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2020–22–19 Various Restricted Category Helicopters: Amendment 39–21315; Docket No. FAA–2020–0625; Product Identifier 2016–SW–007–AD.

(a) Applicability

This airworthiness directive (AD) applies to various restricted category helicopters originally manufactured by Sikorsky Aircraft Corporation, Model EH–60A, HH–60L, S–70, S–70A, S–70C, S–70C(M), S–70C(M1), and UH–60A helicopters with a main rotor (M/R) blade spindle cuff part number 70150–09109–041 installed; type certificate holders include but are not limited to ACE Aeronautics, LLC; BHI H60 Helicopters, LLC; Billings Flying Service Inc.; Carson Helicopters; Delta Enterprise; High Performance Helicopters Corp.; Northwest Rotorcraft LLC; Pickering Aviation, Inc.; PJ Helicopters Inc.; Sikorsky Aircraft Corporation; SixtyHawk TC, LLC; Skydance Blackhawk Operations, LLC; Timberline Helicopters, Inc.; and Unical Aviation, Inc.

(b) Unsafe Condition

This AD defines the unsafe condition as a crack in an M/R blade spindle cuff. This condition could result in failure of an M/R blade spindle cuff, loss of an M/R blade, and loss of control of the helicopter.

(c) Effective Date

This AD becomes effective December 3, 2020.

(d) Compliance

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

(e) Required Actions

Before further flight, unless already done within the last 10 hours time-in-service (TIS), and thereafter at intervals not to exceed 10 hours TIS from the last inspection:

(1) Using 10X or higher power magnification, visually inspect each M/R blade spindle cuff for a crack. Pay particular attention to the area around each bolt hole and the upper and lower surfaces of the leading and trailing edges of each M/R blade spindle cuff.

(2) If there is a crack, replace the M/R blade spindle cuff before further flight.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Boston ACO Branch, FAA, may approve AMOCs for this AD. Send your proposal to: Kristopher Greer, Aerospace Engineer, Boston ACO Branch, Compliance and Airworthiness Division, FAA, 1200 District Avenue, Burlington, Massachusetts 01803; telephone 781–238–7799; email *kristopher.greer@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

Sikorsky Safety Advisory No. SSA–S70–08–002, dated December 11, 2008, and Sikorsky Technical Manual Preventative Maintenance Services 10 Hour/14 Day (30 Hour/42 Day) Inspection Checklist 1–70–PMS–1, dated December 1, 2014, which are not incorporated by reference, contain additional information about the subject of this AD. For service information identified in this AD, contact your local Sikorsky Field Representative or Sikorsky's Service Engineering Group at Sikorsky Aircraft Corporation, 124 Quarry Road, Trumbull, CT 06611; telephone 1–800–946–4337 (1–800–Winged–S); email *wcs_cust_service_eng.gr-sik@lmco.com.* Operators may also log on to the Sikorsky 360 website at *https://www.sikorsky360.com.* You may view a copy of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

Joint Aircraft Service Component (JASC) Code: 6220, Main Rotor Head—Main Rotor Spindle Cuff.

Issued on October 23, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–23929 Filed 10–28–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0592; Project Identifier 2019–NE–19–AD; Amendment 39–21298; AD 2020–22–02]

RIN 2120–AA64

Airworthiness Directives; General Electric Company Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all General Electric Company (GE) CF6–80C2A5F, –80C2B1F, –80C2B2F, –80C2B4F, –80C2B5F, –80C2B6F, –80C2B6FA, –80C2B7F, –80C2B8F, –80C2D1F, –80C2K1F, –80C2L1F, –80E1A2, –80E1A3, –80E1A4, and –80E1A4/B model turbofan engines with a certain hydromechanical unit (HMU) installed. This AD was prompted by a report of fuel coking of the HMU fuel metering valve (FMV) electro-hydraulic servo valves (EHSV) resulting in tailpipe fire. This AD requires removal of the HMU and its replacement 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 December 3, 2020.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of December 3, 2020.

ADDRESSES: For service information identified in this final rule, contact General Electric Company, 1 Neumann Way, Cincinnati, OH 45215; phone: 513–552–3272; email: *aviation.fleetsupport@ae.ge.com.* 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–2019–0592.

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–2019–0592; 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: 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 all GE CF6–80C2A5F, –80C2B1F, –80C2B2F, –80C2B4F, –80C2B5F, –80C2B6F, –80C2B6FA, –80C2B7F, –80C2B8F, –80C2D1F, –80C2K1F, –80C2L1F, –80E1A2, –80E1A3, –80E1A4, and –80E1A4/B model turbofan engines with a certain HMU installed. The NPRM published in the **Federal Register** on September 6, 2019 (84 FR 46896). The NPRM was prompted by a report of fuel coking of the HMU FMV EHSV resulting in tailpipe fire. The NPRM proposed to require the removal of the HMU and its replacement with a part eligible for installation. The FAA is issuing this AD to address the unsafe condition on these products.

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 Applicability To Exclude Engines With Updated Electronic Control Unit (ECU) Software

GE requested that the FAA update paragraph (c), Applicability, of this AD, to include ''For CF6–80E engines that have complied with [GE Service Bulletin (SB)] CF6–80E1 SB 73–0129 'Introduction of ECU Software Version E.1.Q' no action is required.'' GE reasoned that CF6–80E1 ECU Software Version E.1.Q was designed to avoid tailpipe fires caused by the malfunction of the HMU FMV EHSV. There have been no reported tailpipe fires on GE CF6–80E1 model turbofan engines that have installed ECU Software Version E.1.Q.

The FAA disagrees with updating the applicability of this AD to exclude engines with updated ECU Software Version E.1.Q. Although GE CF6–80E1 ECU Software Version E.1.Q addresses the known sequence of tailpipe fires by monitoring the HMU FMV position at low N2 speeds, which may relate to the unsafe condition in this AD, the FAA would need additional data that shows how the ECU software update addresses the potential for this failure to occur at other phases of flight. If the data reveal information relevant to this unsafe condition, the FAA will consider future rulemaking. The FAA did not change this AD.

Request To Allow Modification of the HMU as an Alternative Method of Compliance (AMOC)

An anonymous commenter requested that the FAA consider whether the

modification of the HMU using GE CF6–80C2 SB 73–0378 R00, dated July 14, 2010 (''GE SB 73–0378''), is an AMOC [alternative method of compliance] to this AD. The commenter reasoned that the modification results in an HMU FMV EHSV with a new part number (P/N).

The FAA disagrees. GE SB 73–0378 introduces material properties to the HMU that improves corrosion resistance. GE SB 73–0378 does not, however, require the installation of a new or overhauled HMU FMV EHSV. The HMU with improved corrosion resistance introduced by GE SB 73–0378 is not related to the unsafe condition of this AD. Additionally, although GE SB 73–0378 results in a new HMU P/N after modification of the HMU, this AD still applies to this new P/N.

Request To Change the Compliance Time

Honeywell requested that the FAA reduce the compliance time of paragraph (g), Required Actions, of this AD from 40,000 to 20,000 flight hours (FHs) since new or since last overhaul.

The FAA disagrees. The FAA does not have data to support reducing the removal and replacement of the HMU from 40,000 FHs to 20,000 FHs. According to reports from GE, which were considered by the FAA when preparing the NPRM, the related tailpipe fire incidents occurred in engines with HMUs exceeding 40,000 FHs since new or since the last overhaul. The FAA did not change this AD.

Delta Air Lines (DAL) requested that the FAA increase the initial compliance time to remove and replace the HMU from 180 days to 12 months or to a number of hours or cycles greater than 40,000 FHs, based on the level of risk. DAL stated that they have attempted to purchase additional units to support the compliance time of 40,000 FHs or 180 days proposed in the NPRM; however, there are few spares on the market. Additionally, DAL reasoned that the turnaround time for an overhaul of the HMU has not allowed DAL to progress as fast as required to meet the expected compliance deadline for units in their fleet.

Atlas Air Inc. (Atlas Air) also indicated that the volume of HMUs wherein operators will be unable to determine HMU FMV EHSV compliance will exceed the available compliant spares in the market. The lack of available HMUs will cause the grounding of a significant number of aircraft unless the AD allows for the completed overhaul to count as evidence of compliance (EoC) as documented by FAA Form 8130–3, Authorized Release Certificate, Airworthiness Approval Tag.

The FAA disagrees with increasing the compliance time for the required actions of this AD. The FAA infers that DAL's and Atlas Air's request to increase the compliance time of this AD, while mentioning the lack of spares and delays with the overhaul of the HMU, is the result of the definition of ''an overhaul of the HMU'' in paragraph (h)(2), Definitions, in the NPRM. The concern is that operators do not track usage time on the HMU FMV EHSV separately from the HMU and, therefore, would need to replace the complete HMU in all scenarios within 180 days. The FAA changed the definition of ''an overhaul of the HMU'' in this AD to clarify the methods that an HMU may be overhauled.

Request To Require Complete Overhaul of HMU

Honeywell requested that the FAA revise the definition of ''an overhaul of the HMU'' in the Definitions, paragraph (h)(2), of this AD, to clarify that an overhaul of the HMU is a ''complete overhaul'' of the HMU rather than just an overhaul of HMU FMV EHSV.

Based on its requested change to the definition, Honeywell also requested that the FAA add additional estimated costs to the Cost of Compliance section of this AD to include the estimated costs of a complete HMU overhaul.

The FAA agrees that performing a complete overhaul of the HMU addresses the unsafe condition of this AD. The FAA disagrees with requiring a complete overhaul of the HMU as only an overhaul of the HMU FMV EHSV is required to prevent fuel coking or fuel deposits in the HMU FMV EHSV. The FAA, however, changed the definition of ''an overhaul of the HMU'' to include either overhaul of the HMU (complete) or overhaul of the HMU FMV EHSV. The FAA added an estimate for the cost of a complete HMU overhaul since this is an acceptable means of complying with the requirements of this AD.

Request To Clarify the Definition of an Overhaul of the HMU

Several commenters requested clarification, as described below, of the definition of ''an overhaul of the HMU'' provided in paragraph (h)(2) of this AD.

Clarification of Other FAA-Approved Methods

FedEx Express (FedEx) and United Airlines (UAL) requested that the FAA clarify overhauled by ''other FAA-approved methods.'' FedEx asked what is the intended scope of this phrase and if it includes accomplishment of earlier revisions of GE SB CF6–80C2 SB 73–0436, as well as work performed using the applicable component maintenance manual (CMM) which was classified as an overhaul in block 11 of FAA Form 8130–3, Authorized Release Certificate, Airworthiness Approval Tag (or equivalent). UAL also asked if ''other FAA-approved methods'' included work accomplished using the CMM for the HMU FMV EHSV.

The FAA agrees ''other FAA-approved methods'' was unclear and has removed it from the definition for ''an overhaul of the HMU.'' The FAA added a credit for previous actions paragraph to provide credit for the initial removal and replacement required actions contained in paragraph (g)(1) of this AD if the HMU FMV EHSV was overhauled before the effective date of this AD using GE SB CF6–80C2 SB 73–0436 R01, dated May 14, 2019, or GE SB CF6–80C2 73–0142 R01, dated May 14, 2019. The FAA also changed the definition of ''an overhaul of the HMU'' in this AD to clarify that an HMU may be overhauled using Honeywell-approved maintenance procedures.

Clarification of Approved Facility

DAL, Kalitta Air Group (Kalitta Air), and United Parcel Service (UPS) requested that an overhaul of the HMU at an FAA or Honeywell-approved facility be considered an overhaul of the HMU that resets the 40,000 FHs requirement.

The FAA agrees and clarified the definition of ''an overhaul of the HMU'' in this AD to include ''An overhaul of the HMU (complete) using Honeywell-approved maintenance procedures.''

Clarification That HMU Overhaul Includes HMU EHSVs

All Nippon Airways (ANA) asked if an overhaul of the HMU includes overhauling all HMU EHSVs.

The FAA agrees that the overhaul of the HMU includes overhauling all HMU EHSVs. The FAA changed the definition of ''an overhaul of the HMU'' to include either overhaul of the HMU (complete) or overhaul of the HMU FMV EHSV. The FAA notes, however, that complete overhaul of the HMU is not required by this AD.

Clarification of Tracking of HMU FMV EHSVs

ANA, Atlas Air, DAL, FedEx, Kalitta Air, Thai Airways, and UPS stated that the HMU EHSVs are sub-assemblies of the HMU and repair or overhaul of these sub-components is not typically tracked separately from the HMU at an engine shop visit level. Therefore, overhaul of

the HMU FMV EHSV is not recorded by most operators in a separate maintenance program record. The commenters reasoned that they received FAA Form 8130–3, Authorized Release Certificate, Airworthiness Approval Tag, documenting the HMU approval for return to service, but FAA Form 8130–3 does not include information about the EHSVs within the HMU. Atlas Air suggested that if the time since the most recent replacement of the HMU FMV EHSVs cannot be determined, then the time since overhaul (TSO) based on FAA Form 8130–3 be used as EoC to the AD for HMUs overhauled before the effective date of this AD.

The FAA acknowledges that the HMU FMV EHSVs are not typically tracked separately from the HMU. The FAA agrees that in cases where the overhaul of the HMU FMV EHSV cannot be determined, the TSO can be used as EoC to the AD for HMUs overhauled before the effective date of this AD. The FAA changed the definition of ''an overhaul of the HMU'' to include either overhaul of the HMU (complete) or overhaul of the HMU FMV EHSV.

Request To Clarify Previous Compliance With the AD

DAL stated that paragraph (f) of this AD states, ''Comply with this AD within the compliance times specified, unless already done.'' Yet, the NPRM does not address what constitutes previous compliance.

The FAA notes that ''unless already done,'' as used in this AD, means performing the actions in paragraph (g), Required Actions, before the effective date of this AD.

Request To Clarify if This AD Affects SAIB NE–09–25R2

An anonymous commenter asked if this AD affects the following statements in SAIB NE–09–25R2: ''The FAA has determined that the performance properties of aviation turbine fuel are not impacted with up to 50 mg/kg of FAME [fatty acid methyl ester] under continuous usage . . .'' and ''At high enough concentrations, FAME can impact the thermal stability of the fuel that could lead to coke deposits in the fuel system.''

While FAME can impact the thermal stability of the fuel, leading to coke deposits in the fuel system, the HMU FMV EHSV fuel coking and fuel deposits of this AD is not related to FAME. The HMU FMV EHSV fuel coking and fuel deposits unsafe condition of this AD neither substantiates nor refutes SAIB NE–09–25R2. Therefore, this AD does not affect the SAIB guidance.

Support for the AD

The Boeing Company and The Air Line Pilots Association, International, expressed support for the AD as written.

An anonymous commenter disagreed with Honeywell's suggestion to remove the HMU for a complete overhaul before reaching 20,000 FHs considering the root cause analysis is identified as high-time wear failure of the HMU FMV EHSV. The FAA infers that this comment represents 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 also determined that these changes will not increase the economic burden on any operator or increase the scope of this final rule.

Service Information Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed GE SB CF6–80C2 SB 73–0436 R02, dated August 15, 2019, and GE SB CF6–80E1 SB 73–0142 R02, dated August 15, 2019. The SBs provide instructions, differentiated by the turbofan engine model, for repetitive overhauls of the HMU FMV EHSVs. 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 573 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
Removal and replacement of HMU	5 work-hours × $85 per hour = $425	$0	$425	$243,525

The FAA estimates the following costs to do any necessary overhaul. The FAA has no way of determining the number of aircraft that might perform the overhaul of the HMU FMV EHSV or overhaul of the complete HMU:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Overhaul HMU FMV EHSV	5 work-hours × $85 per hour = $425	$4,000	$4,425
Overhaul HMU (complete)	25 work-hours × $85 per hour = $2,125	92,875	95,000

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.

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):

2020–22–02 General Electric Company: Amendment 39–21298; Docket No. FAA–2019–0592; Project Identifier 2019–NE–19–AD.

(a) Effective Date

This AD is effective December 3, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all General Electric Company (GE) CF6–80C2A5F, –80C2B1F, –80C2B2F, –80C2B4F, –80C2B5F, –80C2B6F, –80C2B6FA, –80C2B7F, –80C2B8F, –80C2D1F, –80C2K1F, –80C2L1F, –80E1A2, –80E1A3, –80E1A4, and –80E1A4/B model turbofan engines with a hydromechanical unit (HMU) with a part number (P/N) listed in paragraph 1.A., Table 1, of GE Service Bulletin (SB) CF6–80C2 SB 73–0436 R02, dated August 15, 2019; or paragraph 1.A., Table 1, of GE SB CF6–80E1 SB 73–0142 R02, dated August 15, 2019; installed.

(d) Subject

Joint Aircraft System Component (JASC) Code 7300, Engine Fuel and Control.

(e) Unsafe Condition

This AD was prompted by a report of fuel coking of the HMU fuel metering valve (FMV) electro-hydraulic servo valve (EHSV) resulting in tailpipe fire. The FAA is issuing this AD to prevent fuel coking or fuel deposits in the HMU FMV EHSV. The unsafe condition, if not addressed, could result in failure of the HMU, engine fire, and damage to the airplane.

(f) Compliance

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

(g) Required Actions

(1) Remove the HMU and replace with a part eligible for installation before reaching 40,000 flight hours (FHs) since new or since the last overhaul, or within 180 days after the effective date of this AD, whichever is later. If the FHs since new or last overhaul are unknown and unable to be determined, replace the HMU with a part eligible for installation within 180 days after the effective date of this AD.

(2) Thereafter, remove the HMU before reaching 40,000 FHs since new or since the last overhaul and replace with a part eligible for installation.

(h) Definitions

(1) For the purpose of this AD, a ''part eligible for installation'' is an HMU that has fewer than 40,000 FHs since new or fewer than 40,000 FHs since an overhaul of the HMU.

(2) For the purpose of this AD, ''an overhaul of the HMU'' is one of the following:

(i) An overhaul of the HMU (complete) using Honeywell-approved maintenance procedures; or

(ii) An overhaul of the HMU FMV EHSV using the Accomplishment Instructions, paragraph 3.C.(3), of GE SB CF6–80C2 SB 73–0436 R02, dated August 15, 2019, or paragraph 3.C.(3), of GE SB CF6–80E1 SB 73–0142 R02, dated August 15, 2019.

(i) Credit for Previous Action

You may take credit for the initial removal and replacement of the HMU required by paragraph (g)(1) of this AD if the HMU FMV EHSV was overhauled before the effective date of this AD using GE SB CF6–80C2 SB 73–0436 R01, dated May 14, 2019, or GE SB CF6–80C2 73–0142 R01, dated May 14, 2019.

(j) 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 certification office, send it to the attention of the person identified in paragraph (k) 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.

(k) Related Information

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.*

(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) General Electric (GE) Service Bulletin (SB) CF6–80C2 SB 73–0436 R02, dated August 15, 2019.

(ii) GE SB CF6–80E1 SB 73–0142 R02, dated August 15, 2019.

(3) For GE service information identified in this AD, contact General Electric Company, 1 Neumann Way, Cincinnati, OH 45215; phone: 513–552–3272; email: *aviation.fleetsupport@ae.ge.com.*

(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 October 13, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–23947 Filed 10–28–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No.: FAA–2020–0874; Amdt. No. 91–359]

RIN 2120–AL49

Prohibition Against Certain Flights in the Tehran Flight Information Region (FIR) (OIIX)

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

ACTION: Final rule.

SUMMARY: This action prohibits certain flight operations in the Tehran Flight Information Region (FIR) (OIIX) by all: U.S. air carriers; U.S. commercial operators; persons exercising the privileges of an airman certificate issued by the FAA, except when such persons are operating U.S.-registered aircraft for a foreign air carrier; and operators of U.S.-registered civil aircraft, except when the operator of such aircraft is a foreign air carrier. The FAA finds this action to be necessary to address hazards to persons and aircraft engaged in such flight operations due to heightened military activities and increased political tensions in the Middle East, which present an inadvertent risk to U.S. civil aviation operations due to the potential for miscalculation or misidentification. This action incorporates the flight prohibition contained in Notice to Airmen (NOTAM) KICZ A0002/20 into the Code of Federal Regulations (CFR). This action also sets forth the approval process and exemption information for this Special Federal Aviation Regulation (SFAR), consistent with other recently published flight prohibition SFARs.

DATES: This final rule is effective on October 29, 2020.

FOR FURTHER INFORMATION CONTACT: Stephen Moates, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone 202–267–8166; email *bill.petrak@faa.ov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

This action prohibits certain flight operations in the Tehran FIR (OIIX) by all: U.S. air carriers; U.S. commercial operators; persons exercising the privileges of an airman certificate issued by the FAA, except when such persons are operating U.S.-registered aircraft for a foreign air carrier; and operators of U.S.-registered civil aircraft, except when the operator of such aircraft is a foreign air carrier. This action incorporates NOTAM KICZ A0002/20 into title 14 of the CFR. Consistent with other recently published flight prohibition SFARs, this action provides information about how to seek relief from this SFAR through the approval and exemption processes, as applicable.

II. Legal Authority and Good Cause

A. Legal Authority

The FAA is responsible for the safety of flight in the U.S. and for the safety of U.S. civil operators, U.S.-registered civil aircraft, and U.S.-certificated airmen throughout the world. Sections 106(f) and (g) of title 49, U.S. Code (U.S.C.), subtitle I, establish the FAA Administrator's authority to issue rules on aviation safety. Subtitle VII of title 49, Aviation Programs, describes in more detail the scope of the agency's authority. Section 40101(d)(1) provides that the Administrator shall consider in the public interest, among other matters, assigning, maintaining, and enhancing safety and security as the highest priorities in air commerce. Section 40105(b)(1)(A) requires the Administrator to exercise this authority consistently with the obligations of the U.S. Government under international agreements.

The FAA issues flight prohibition NOTAMs for airspace managed by other countries pursuant to 49 U.S.C. 40113(a), 44701(a)(5), and 46105(c). Subsection 46105(c) authorizes the FAA Administrator, when he is of the opinion that an emergency exists related to safety in air commerce and requires immediate action, to prescribe regulations and issue orders immediately to meet the emergency, with or without notice and without regard to Part A, Air Commerce and Safety, of Subtitle VII, Aviation Programs, of title 49 U.S.C. and subchapter II of chapter 5 of title 5, the Administrative Procedure Act. However, subsection 46105(c) requires the FAA Administrator to ''begin a proceeding immediately about an emergency under this subsection and give preference, when practicable, to the proceeding.'' Where there are continuing significant hazards to the safety of U.S. civil aviation operations in airspace managed by another country, the appropriate follow-up proceeding is a rulemaking action to issue a flight prohibition SFAR.

The FAA is promulgating this rulemaking under the authority described in 49 U.S.C. 44701, General requirements. Under that section, the FAA is charged broadly with promoting safe flight of civil aircraft in air commerce by prescribing, among other things, regulations and minimum standards for practices, methods, and procedures the Administrator finds necessary for safety in air commerce and national security. This regulation is within the scope of the FAA's authority because it prohibits the persons described in paragraph (a) of SFAR No. 117, 14 CFR 91.1617, from conducting flight operations in the Tehran FIR (OIIX) due to the hazards to the safety of U.S. civil flight operations, as described in the preamble to this final rule.

B. Good Cause for Immediate Adoption

Section 553(b)(3)(B) of title 5, U.S. Code, authorizes agencies to dispense with notice and comment procedures for rules when the agency for ''good cause'' finds those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Section 553(d) also authorizes agencies to forgo the delay in the effective date of the final rule for good cause found and published with the rule. In this instance, the FAA finds good cause exists to forgo notice and comment because notice and comment would be impracticable and contrary to the public interest. In addition, it is contrary to the public interest to delay the effective date of this SFAR.

The risk environment for U.S. civil aviation in airspace other countries manage with respect to safety of flight is fluid due to the risks posed by weapons capable of targeting, or otherwise negatively affecting, U.S. civil aviation, as well as other hazards to U.S. civil aviation associated with fighting, extremist or militant activity, or heightened tensions. This fluidity and the need for the FAA to rely upon classified information in assessing these risks make issuing notice and seeking comments impracticable and contrary to the public interest. With respect to the impracticability of notice and comment procedures, the potential for rapid changes in the risks to U.S. civil aviation significantly limits how far in advance of a new or amended flight prohibition the FAA can usefully assess the risk environment. Furthermore, to the extent these rules and any amendments to them are based upon classified information, the FAA is not legally permitted to share such information with the general public, who cannot meaningfully comment on information to which they are not legally allowed access.

Under these conditions, public interest considerations favor not

providing notice and seeking comment for this rule. While there is a public interest in having an opportunity for the public to comment on agency action, there is a greater public interest in having the FAA's flight prohibitions, and any amendments thereto, reflect the agency's most current understanding of the risk environment for U.S. civil aviation. This allows the FAA to protect the safety of U.S. operators' aircraft and the lives of their passengers and crews without over-restricting U.S. operators' routing options.

The FAA has determined the incorporation into the CFR of the flight prohibition for U.S. civil aviation operations in the Tehran FIR (OIIX) contained in NOTAM KICZ A0002/20 is necessary due to safety-of-flight hazards associated with heightened military activities and increased political tensions in the Middle East. These hazards continue to present an inadvertent risk to U.S. civil aviation operations resulting from the potential for miscalculation or misidentification. This preamble further describes these hazards, which tragically resulted in the accidental shoot down by Iranian air defense forces of Ukraine International Airlines Flight 752 (PS 752) just hours after the FAA issued NOTAM KICZ A0002/20.

In addition to the reasons identified in the forgoing discussion, it is also contrary to the public interest to delay the effective date of this final rule because it makes no changes to the boundaries of an existing FAA flight prohibition for U.S. civil aviation operations. Also, delaying the effective date would not change the compliance obligations of U.S. operators and airmen, who are already prohibited from operating in the Tehran FIR (OIIX) by NOTAM KICZ A0002/20.

Accordingly, the FAA finds good cause to forgo notice and comment and any delay in the effective date for this rule.

III. Background

Between April 2007 and January 2020, the FAA had flight advisory NOTAMs in place for the Tehran FIR (OIIX) due to Iranian military capabilities; various military activities occurring in, emanating from, or transiting the Tehran FIR (OIIX); and difficulties associated with de-conflicting those activities with civil air traffic. In addition, Iran had publicly threatened U.S. military operations in the region and possessed a wide variety of anti-aircraft-capable weapons, including surface-to-air missile systems (SAMs), man-portable air defense systems (MANPADS) and fighter aircraft capable of conducting aircraft interception operations. Some anti-aircraft-capable weapons had ranges encompassing key international air routes over the Persian Gulf and the Gulf of Oman. In early 2019, Iran conducted a military exercise in the region, demonstrating their unmanned aircraft system (UAS) capabilities. The FAA also determined Iran could increase its use of Global Positioning System (GPS) jammers and other communication jamming capabilities, which might affect U.S. civil aviation operating in the Tehran FIR (OIIX) and in overwater airspace over the Persian Gulf and the Gulf of Oman.

After the United States withdrew from the Joint Comprehensive Plan for Action (hereinafter, the ''Iran Nuclear Agreement'') in May 2018 and designated Iran's Islamic Revolutionary Guard Corps (IRGC) as a Foreign Terrorist Organization (FTO) in April 2019, Iran began posturing military capabilities on its southern coast to project strength and influence in the Persian Gulf and Gulf of Oman region. Additionally, the United States assessed Iran to have been responsible for sabotage attacks on multiple merchant vessels in the region in May 2019. On June 19, 2019, IRGC elements shot down a U.S. military Global Hawk unmanned aircraft operating in airspace over the Gulf of Oman with a SAM system. The successful intercept of the unmanned aircraft followed a June 13, 2019, failed intercept attempt of a U.S.-operated unmanned aircraft conducting observation of damaged oil tankers in the Gulf of Oman.

Although Iran likely had no intention to target civil aircraft, the FAA determined the presence and demonstrated use of long-range, advanced anti-aircraft-capable weapons during heightened tensions and in close proximity to heavily flown international air routes posed an unacceptable level of risk to U.S. civil flights in the overwater portions of the Tehran FIR (OIIX) above the Persian Gulf and the Gulf of Oman. Iran possessed and continues to possess a wide variety of anti-aircraft-capable weapons, including SAMs, MANPADs, and fighter aircraft capable of conducting aircraft interception operations. Some of Iran's anti-aircraft-capable weapons have ranges encompassing certain heavily flown international air routes over the Persian Gulf and the Gulf of Oman. The FAA was concerned Iranian air defense forces might inadvertently engage a civil aircraft due to miscalculation or misidentification.

In response to this unacceptable level of inadvertent risk to U.S. civil aviation, the FAA issued NOTAM KICZ A0019/19 on June 21, 2019, UTC, to prohibit operations in the overwater area of the Tehran FIR (OIIX) above the Persian Gulf and Gulf of Oman by: All U.S. air carriers; U.S. commercial operators; persons exercising the privileges of an airman certificate issued by the FAA, except when such persons are operating U.S.-registered aircraft for a foreign air carrier; and operators of U.S.-registered civil aircraft, except when the operator of such aircraft is a foreign air carrier.

IV. Discussion of the Final Rule

After issuing NOTAM KICZ A0019/19, the FAA continued to monitor regional tensions closely as they further escalated. Iran continued its elevated military posturing on its southern coast, projecting air defense coverage beyond the boundaries of the Tehran FIR (OIIX). In mid-September 2019, the United States assessed Iranian forces to have been responsible for conducting a complex attack using UAS and missiles to target Saudi Aramco's energy infrastructure. In late-December 2019, Iranian-backed Shia militia groups conducted a rocket attack targeting U.S. forces located at a coalition base near Kirkuk, Iraq, resulting in casualties and precipitating U.S. retaliatory airstrikes on Shia militia-associated facilities in Iraq and Syria. This series of events further heightened regional tensions.

On January 2, 2020, UTC, U.S. forces conducted an airstrike near Baghdad International Airport (ORBI) in Iraq, which killed IRGC Quds Force commander Qassem Soleimani. In a televised address, Iranian Supreme Leader Ali Khamenei stated Iran would engage in ''harsh retaliation'' for Soleimani's death. On January 7, 2020, UTC Iran conducted retaliatory ballistic missile strikes targeting U.S. air bases in Iraq. Due to the heightened military activities, including heightened alert status of Iranian military forces, including Iranian air defense forces, and increased political tensions in the Middle East, including the potential for further escalation, the FAA determined an unacceptable risk to U.S. civil aviation existed in the Baghdad FIR (ORBB), the Tehran FIR (OIIX), and the overwater areas of the Persian Gulf and the Gulf of Oman due to the potential for miscalculation or misidentification.

To address these immediate safety-of-flight hazards, on January 7, 2020, UTC, the FAA issued KICZ NOTAMs A0001/20, A0002/20, and A0003/20, which prohibited civil flight operations in the Baghdad FIR (ORBB), the Tehran FIR (OIIX), and the overwater airspace above the Persian Gulf and the Gulf of Oman, respectively, by: All U.S. air carriers;

U.S. commercial operators; persons exercising the privileges of an airman certificate issued by the FAA, except when such persons are operating U.S.-registered aircraft for a foreign air carrier; and operators of U.S.-registered civil aircraft, except when the operator of such aircraft is a foreign air carrier. This rulemaking action is limited in scope to the Tehran FIR (OIIX).

Tragically, within hours after the FAA issued NOTAM KICZ A0002/20, Iranian air defense forces accidentally shot down Ukraine International Airlines Flight 752 (PS 752), shortly after its departure from Tehran Imam Khomeini International Airport (OIIE). These forces apparently misidentified the aircraft, which was conducting a regularly scheduled passenger flight, as a missile threat. There were no survivors out of the 176 passengers and crew.

The FAA is also concerned about the wide array of military activities occurring in, emanating from, or transiting the Tehran FIR (OIIX), in an environment of heightened regional tensions. There is the potential for Iranian ballistic missile fire from western Iran targeting Islamic State of Iraq and ash-Sham (ISIS) and Kurdish opposition groups located in the region, as occurred in September 2018 and June 2017. Since 2017, Iran has also conducted multiple ballistic missile test launches in the Tehran FIR (OIIX), with the latest medium-range ballistic missile launch taking place in late December 2019. To the FAA's knowledge, Iran did not issue a NOTAM or other aeronautical information to warn civil aircraft operators of the potential hazard to their operations prior to the missile launch. Additionally, a potential inadvertent risk to U.S. civil aviation operations in the Tehran FIR (OIIX) from Iranian-fielded GPS and communication jammers continues to exist. These circumstances further contribute to the unacceptable risk environment for U.S. civil aviation in the Tehran FIR (OIIX).

Codifying the flight prohibition pursuant to this final rule is critical for U.S. civil aviation safety, given the uncertainty about how long the above-described hazards to civil aviation will persist; whether Iran will be transparent in its investigation into the downing of PS 752; and whether Iran will implement changes in its air defense command and control procedures, airspace de-confliction processes, and rules of engagement for air defense engagements to prevent further tragedies sufficient to allow for safe U.S. civil aviation operations in the Tehran FIR (OIIX). As a result, this new SFAR incorporates the flight prohibition contained in the NOTAM KICZ A0002/20 into the CFR.

The FAA will continue to monitor the situation and evaluate the extent to which U.S. civil operators and airmen might be able to operate safely in the Tehran FIR (OIIX). Amendments to SFAR No. 117, § 91.1617, could be appropriate if the risk to aviation safety and security changes. The FAA may amend or rescind SFAR No. 117, § 91.1617, as necessary, prior to its expiration date.

The FAA also is publishing the details concerning the approval and exemption processes in Sections V and VI of this preamble to enable interested persons to refer to this final rule for all relevant information about seeking relief from SFAR No. 117, § 91.1617.

V. Approval Process Based on a Request From a Department, Agency, or Instrumentality of the United States Government

A. Approval Process Based on an Authorization Request From a Department, Agency, or Instrumentality of the United States Government

In some instances, U.S. Government departments, agencies, or instrumentalities may need to engage U.S. civil aviation to support their activities in the Tehran FIR (OIIX). If a department, agency, or instrumentality of the U.S. Government determines it has a critical need to engage any person described in SFAR No. 117, § 91.1617, including a U.S. air carrier or commercial operator, to conduct a charter to transport civilian or military passengers or cargo or other operations in the Tehran FIR (OIIX), that department, agency, or instrumentality may request the FAA to approve persons described in SFAR No. 117, § 91.1617, to conduct such operations.

The requesting department, agency, or instrumentality of the U.S. Government must submit the request for approval to the FAA's Associate Administrator for Aviation Safety in a letter signed by an appropriate senior official of the requesting department, agency, or instrumentality.[1] The FAA will not accept or consider requests for approval from anyone other than the requesting department, agency, or instrumentality. In addition, the senior official signing the letter requesting FAA approval on behalf of the requesting department, agency, or instrumentality must be sufficiently positioned within the organization to demonstrate the senior leadership of the requesting department, agency, or instrumentality supports the request for approval and is committed to taking all necessary steps to minimize operational risks to the proposed flights. The senior official must also be in a position to: (1) Attest to the accuracy of all representations made to the FAA in the request for approval, and (2) ensure any support from the requesting U.S. Government department, agency, or instrumentality described in the request for approval is in fact brought to bear and is maintained over time. Unless justified by exigent circumstances, requests for approval must be submitted to the FAA no less than 30 calendar days before the date on which the requesting department, agency, or instrumentality wishes the proposed operation(s) to commence.

The requestor must send the request to the Associate Administrator for Aviation Safety, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591. Electronic submissions are acceptable, and the requesting entity may request the FAA notify it electronically as to whether the approval request is granted. If a requestor wishes to make an electronic submission to the FAA, the requestor should contact the Air Transportation Division, Flight Standards Service, at (202) 267–8166, to obtain the appropriate email address. A single letter may request approval from the FAA for multiple persons described in SFAR No. 117, § 91.1617, or for multiple flight operations. To the extent known, the letter must identify the person(s) expected to be covered under the SFAR on whose behalf the U.S. Government department, agency, or instrumentality is seeking FAA approval, and it must describe—

- The proposed operation(s), including the nature of the mission being supported;
- The service to be provided by the person(s) covered by the SFAR;
- To the extent known, the specific locations in the Tehran FIR (OIIX) where the proposed operation(s) will be conducted, including, but not limited to, the flight path and altitude of the aircraft while it is operating in the Tehran FIR (OIIX) and the airports, airfields, or landing zones at which the aircraft will take-off and land; and
- The method by which the department, agency, or instrumentality will provide, or how the operator will

[1] This approval procedure applies to U.S. Government departments, agencies, or instrumentalities; it does not apply to the public. The FAA describes this procedure in the interest of providing transparency with respect to the FAA's process for interacting with U.S. Government departments, agencies, or instrumentalities that seek to engage U.S. civil aviation to operate within the area in which this SFAR prohibits their operations.

otherwise obtain, current threat information and an explanation of how the operator will integrate this information into all phases of the proposed operations (*i.e.,* pre-mission planning and briefing, in-flight, and post-flight phases).

The request for approval must also include a list of operators with whom the U.S. Government department, agency, or instrumentality requesting FAA approval has a current contract(s), grant(s), or cooperative agreement(s) (or its prime contractor has a subcontract(s)) for specific flight operations in the Tehran FIR (OIIX). Additional operators may be identified to the FAA at any time after the FAA approval is issued. Both the operators listed in the original request and any operators that the requestor subsequently seeks to add to the approval must be identified to the FAA, and obtain an Operations Specification (OpSpec) or Letter of Authorization (LOA) from the FAA, as appropriate, for operations in the Tehran FIR (OIIX), before such operators commence operations. The approval conditions discussed below apply to all operators, whether included in the original list or subsequently added to the approval. Updated lists should be sent to the email address to be obtained from the Air Transportation Division by calling (202) 267–8166.

If an approval request includes classified information, requestors may contact Aviation Safety Inspector Stephen Moates for instructions on submitting it to the FAA. His contact information is listed in the **FOR FURTHER INFORMATION CONTACT** section of this final rule.

FAA approval of an operation under SFAR No. 117, § 91.1617, does not relieve persons subject to this SFAR of their responsibility to comply with all other applicable FAA rules and regulations. Operators of civil aircraft must comply with the conditions of their certificate, OpSpecs, and LOAs, as applicable. Operators must also comply with all rules and regulations of other U.S. Government departments or agencies that may apply to the proposed operation(s), including, but not limited to, regulations issued by the Transportation Security Administration.

B. Approval Conditions

If the FAA approves the request, the FAA's Aviation Safety organization will send an approval letter to the requesting department, agency, or instrumentality informing it that the FAA's approval is subject to all of the following conditions:

(1) The approval will stipulate those procedures and conditions that limit, to the greatest degree possible, the risk to the operator, while still allowing the operator to achieve its operational objectives.

(2) Before any approval takes effect, the operator must submit to the FAA:

(a) A written release of the U.S. Government from all damages, claims, and liabilities, including without limitation legal fees and expenses, relating to any event arising out of or related to the approved operations in the Tehran FIR (OIIX); and

(b) The operator's written agreement to indemnify the U.S. Government with respect to any and all third-party damages, claims, and liabilities, including without limitation legal fees and expenses, relating to any event arising from or related to the approved operations in the Tehran FIR (OIIX).

(3) Other conditions the FAA may specify, including those that may be imposed in OpSpecs or LOAs, as applicable.

The release and agreement to indemnify do not preclude an operator from raising a claim under an applicable non-premium war risk insurance policy issued by the FAA under chapter 443 of title 49, U.S. Code.

If the FAA approves the proposed operation(s), the FAA will issue an OpSpec or LOA, as applicable, to the operator(s) identified in the original request authorizing them to conduct the approved operation(s), and will notify the department, agency, or instrumentality that requested the FAA's approval of any additional conditions beyond those contained in the approval letter.

VI. Information Regarding Petitions for Exemption

Any operations not conducted under an approval issued by the FAA through the approval process set forth previously must be conducted under an exemption from SFAR No. 117, § 91.1617. A petition for exemption must comply with 14 CFR part 11. The FAA will consider whether exceptional circumstances exist beyond those contemplated by the approval process described in the previous section. To determine whether a petition for exemption from the prohibition this SFAR establishes fulfills the standard of 14 CFR 11.81, the FAA consistently finds necessary the following information:

- The proposed operation(s), including the nature of the operation;
- The service to be provided by the person(s) covered by the SFAR;
- The specific locations in the Tehran FIR (OIIX) where the proposed operation(s) will occur, including, but not limited to, the flight path and altitude of the aircraft while it is operating in the Tehran FIR (OIIX) and the airports, airfields and/or landing zones at which the aircraft will take-off and land;
- The method by which the operator will obtain current threat information and an explanation of how the operator will integrate this information into all phases of its proposed operations (*i.e.,* the pre-mission planning and briefing, in-flight, and post-flight phases); and
- The plans and procedures the operator will use to minimize the risks, identified in this preamble, to the proposed operations, so that granting the exemption would not adversely affect safety or would provide a level of safety at least equal to that provided by this SFAR. The FAA has found comprehensive, organized plans and procedures of this nature to be helpful in facilitating the agency's safety evaluation of petitions for exemption from flight prohibition SFARs.

The FAA includes, as a condition of each such exemption it issues, a release and agreement to indemnify, as described previously.

The FAA recognizes that, with the support of the U.S. Government, the governments of other countries may plan operations that SFAR No. 117, § 91.1617, affects. While the FAA will not permit these operations through the approval process, the FAA will consider exemption requests for such operations on an expedited basis and prior to other exemption requests.

If a petition for exemption includes security-sensitive or proprietary information, requestors may contact Aviation Safety Inspector Stephen Moates for instructions on submitting it to the FAA. His contact information is listed in the **FOR FURTHER INFORMATION CONTACT** section of this final rule.

VII. Regulatory Notices and Analyses

Changes to Federal regulations must undergo several economic analyses. First, 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. 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). 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 final rule has benefits that justify its costs. This rule is a significant regulatory action, as defined in section 3(f) of Executive Order 12866, as it raises novel policy issues contemplated under that Executive Order. This rule also complies with the requirements of the Department of Transportation's administrative rule on rulemaking at 49 CFR part 5. 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.

A. Regulatory Evaluation

This rule prohibits U.S. civil flights in the Tehran FIR (OIIX) by incorporating the flight prohibition contained in NOTAM KICZ A0002/20 into the CFR as a result of the significant risks to U.S. civil aviation detailed in the preamble of this final rule. U.S. Government departments, agencies, and instrumentalities may take advantage of the approval process on behalf of U.S. operators and airmen with whom they have a contract, grant, or cooperative agreement, or with whom their prime contractor has a subcontract. U.S. operators and airmen whose operations in the Tehran FIR (OIIX) are not conducted under any of the foregoing types of arrangements with the U.S. Government may petition for exemption from this rule.

The FAA acknowledges this flight prohibition may result in additional costs to some U.S. operators, such as increased fuel costs and other operational-related costs. However, the FAA expects the benefits of this action exceed the costs because it will result in the avoidance of risks of fatalities, injuries, and property damage that could result from a U.S. operator's aircraft being shot down (or otherwise damaged) while operating in the Tehran FIR (OIIX). The FAA will continue to monitor the situation actively.

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 is to protect the safety of U.S. civil aviation from risks to aircraft operations in the Tehran FIR (OIIX), a location outside the U.S. Therefore, this final rule is in compliance 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. The FAA has determined that there is no new requirement for information collection associated with this final rule.

F. International Compatibility and Cooperation

In keeping with U.S. obligations under the Convention on International Civil Aviation, the FAA's policy is to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to this regulation. The FAA finds that this action is fully consistent with the obligations under 49 U.S.C. 40105(b)(1)(A) to ensure that the FAA exercises its duties consistently with the obligations of the United States under international agreements.

While the FAA's flight prohibition does not apply to foreign air carriers, DOT codeshare authorizations prohibit foreign air carriers from carrying a U.S. codeshare partner's code on a flight segment that operates in airspace for which the FAA has issued a flight prohibition. In addition, foreign air carriers and other foreign operators may choose to avoid, or be advised or directed by their civil aviation authorities to avoid, airspace for which the FAA has issued a flight prohibition.

G. Environmental Analysis

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. 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), FAA has prepared a memorandum for the record stating the reason(s) for this determination and has placed it in the docket for this rulemaking.

VIII. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this rule under the principles and criteria of Executive Order 13132, Federalism. The agency has determined that this action would 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, would not have federalism implications.

B. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. The agency has determined that it would not be a ''significant energy action'' under the executive order and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

C. 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. 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.

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

This rule is not subject to the requirements of Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs, because it is issued with respect to a national security function of the United States.

IX. Additional Information

A. Availability of Rulemaking Documents

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

- Searching the docket for this rulemaking at *https://www.regulations.gov;*
- Visiting the FAA's Regulations and Policies web page at *https://www.faa.gov/regulations_policies;* or
- Accessing the Government Publishing Office's website at *https://www.govinfo.gov.*

Copies may also be obtained by sending a request (identified by 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.

Except for classified material, all documents the FAA considered in developing this rule, including economic analyses and technical reports, may be accessed from the internet through the docket for this rulemaking.

B. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (Pub. L. 104–121) (set forth as a note to 5 U.S.C. 601) 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 persons listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the internet, visit *http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.*

List of Subjects in 14 CFR Part 91

Air traffic control, Aircraft, Airmen, Airports, Aviation safety, Freight, Iran.

The Amendment

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

PART 91—GENERAL OPERATING AND FLIGHT RULES

■ 1. 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).

■ 2. Add § 91.1617 to subpart M of part 91 to read as follows:

§ 91.1617 Special Federal Aviation Regulation No. 117—Prohibition Against Certain Flights in the Tehran Flight Information Region (FIR) (OIIX).

(a) *Applicability.* This Special Federal Aviation Regulation (SFAR) applies to the following persons:

(1) All U.S. air carriers and U.S. commercial operators;

(2) All persons exercising the privileges of an airman certificate issued by the FAA, except when such persons are operating U.S.-registered aircraft for a foreign air carrier; and

(3) All operators of U.S.-registered civil aircraft, except when the operator of such aircraft is a foreign air carrier.

(b) *Flight prohibition.* Except as provided in paragraphs (c) and (d) of this section, no person described in paragraph (a) of this section may conduct flight operations in the Tehran Flight Information Region (FIR) (OIIX).

(c) *Permitted operations.* This section does not prohibit persons described in paragraph (a) of this section from conducting flight operations in the Tehran FIR (OIIX), provided that such flight operations are conducted under a contract, grant, or cooperative agreement with a department, agency, or instrumentality of the U.S. Government (or under a subcontract between the prime contractor of the department, agency, or instrumentality and the person described in paragraph (a) of this section) with the approval of the FAA, or under an exemption issued by the FAA. The FAA will consider requests for approval or exemption in a timely manner, with the order of preference being: First, for those operations in support of U.S. Government-sponsored activities; second, for those operations in support of government-sponsored activities of a foreign country with the support of a U.S. Government department, agency, or instrumentality; and third, for all other operations.

(d) *Emergency situations.* In an emergency that requires immediate decision and action for the safety of the

flight, the pilot in command of an aircraft may deviate from this section to the extent required by that emergency. Except for U.S. air carriers and commercial operators that are subject to the requirements of 14 CFR parts 119, 121, 125, or 135, each person who deviates from this section must, within 10 days of the deviation, excluding Saturdays, Sundays, and Federal holidays, submit to the responsible Flight Standards Office a complete report of the operations of the aircraft involved in the deviation, including a description of the deviation and the reasons for it.

(e) *Expiration.* This SFAR will remain in effect until October 31, 2022. The FAA may amend, rescind, or extend this SFAR, as necessary.

Issued in Washington, DC, under the authority of 49 U.S.C. 106(f) and (g), 40101(d)(1), 40105(b)(1)(A), and 44701(a)(5), on October 19, 2020.

Steve Dickson,

Administrator.

[FR Doc. 2020–23721 Filed 10–28–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 31336; Amdt. No. 555]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

DATES: Effective Date: 0901 UTC, November 5, 2020.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., Registry Bldg. 29, Room 104, Oklahoma City, OK 73125. Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC on October 26, 2020.

Wade Terrell,

Aviation Safety, Manager, Flight Procedures & Airspace Group, Flight Technologies and Procedures Division.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, November 5,2020.

■ 1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

■ 2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT

[Amendment 555 effective date November 5, 2020]

FROM	TO	MEA	MAA
§ 95.3000 Low Altitude RNAV Routes			
§ 95.3217 RNAV Route T217 Is Amended by Adding			
BONEE, OH FIX	SJAAY, IN WP	3000	17500
SJAAY, IN WP	DERRF, IN WP	2800	17500
DERRF, IN WP	GETCH, MI WP	2800	17500
GETCH, MI WP	GAYLE, MI WP	2400	17500

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT—Continued

[Amendment 555 effective date November 5, 2020]

FROM	TO	MEA	MAA
§ 95.3251 RNAV Route T251 Is Amended by Adding			
FORISTELL, MO VORTAC	RIVRS, IL FIX	2700	6000
RIVRS, IL FIX	KAYUU, MO WP	2700	17500
KAYUU, MO WP	MERKR, IA WP	2500	17500
MERKR, IA WP	AGENS, IA FIX	2500	17500
AGENS, IA FIX	PICRA, IA WP	2700	17500
PICRA, IA WP	HAVOS, IA WP	2800	17500
HAVOS, IA WP	WATERLOO, IA VOR/DME	2800	17500
WATERLOO, IA VOR/DME	ZEZDU, IA FIX	2800	17500
ZEZDU, IA FIX	FALAR, MN FIX	3000	17500
FALAR, MN FIX	KOETZ, WI WP	3100	17500
Is Amended to Read in Part			
FARMINGTON, MO VORTAC	FORISTELL, MO VORTAC	3100	6000
§ 95.3265 RNAV Route T265 Is Amended to Delete			
AHMED, IL FIX	START, IL FIX	4000	8000
*2500—MOCA			
START, IL FIX	BULLZ, IL FIX	4000	8000
*2500—MOCA			
BULLZ, IL FIX	VEENA, WI FIX	4000	8000
*2600—MOCA			
Is Added to Read			
JAYBE, WI FIX	GRIFT, IL FIX	2800	17500
GRIFT, IL FIX	START, IL FIX	2700	17500
START, IL FIX	MEITZ, IL FIX	2700	17500
MEITZ, IL FIX	COYAP, IL WP	2400	17500
COYAP, IL WP	MAPPS, IN FIX	2500	17500
MAPPS, IN FIX	KLROY, IN WP	2400	17500
KLROY, IN WP	SMUUV, MI WP	2600	17500
SMUUV, MI WP	GETCH, MI WP	2500	17500
GETCH, MI WP	LADIN, MI FIX	4000	17500
LADIN, MI FIX	CARGA, MI FIX	3200	17500
CARGA, MI FIX	BUDHA, MI WP	3200	17500
BUDHA, MI WP	RONDO, MI FIX	3200	17500
RONDO, MI FIX	PINES, MI FIX	2700	17500
§ 95.3300 RNAV Route T300 Is Amended by Adding			
SSENA, NY WP	STANK, NY WP	4100	17500
STANK, NY WP	JONNN, NY FIX	4600	17500
JONNN, NY FIX	UUBER, NY WP	4500	17500
*5300—MCA	UUBER, NY WP, S BND.		
UUBER, NY WP	OPDIE, NY WP	5800	17500
*6600—MCA	OPDIE, NY WP, S BND.		
OPDIE, NY WP	GASSY, NY FIX	7500	17500
GASSY, NY FIX	OTOLE, NY FIX	4900	17500
*2800—MCA	OTOLE, NY FIX, N BND.		
OTOLE, NY FIX	ALBANY, NY VORTAC	2200	17500
Is Amended to Delete			
FALMA, RI FIX	MARTHAS VINEYARD, MA VOR/DME	2000	17500
Is Amended to Read in Part			
ALBANY, NY VORTAC	CANAN, NY FIX	3400	17500
*3600—MCA	CANAN, NY FIX, SE BND.		
MOLDS, MA FIX	TOMES, MA FIX	3500	17500
TOMES, MA FIX	COBOL, MA FIX	3300	17500
COBOL, MA FIX	NELIE, CT FIX	3100	17500
WIPOR, CT FIX	YANTC, CT WP	2300	17500
*1900—MOCA			
YANTC, CT WP	LAFAY, RI FIX	2300	17500
LAFAY, RI FIX	MINNK, RI FIX	2000	17500
MINNK, RI FIX	NEWBE, RI FIX	2000	17500

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT—Continued

[Amendment 555 effective date November 5, 2020]

FROM	TO	MEA	MAA
*1200—MOCA			
NEWBE, RI FIX	DEEPO, MA FIX	2000	17500
§ 95.3348 RNAV Route T348 Is Added to Read			
BRAIN, MN WP	GRSIS, MN WP	3500	17500
GRSIS, MN WP	FOOLS, MN WP	3200	17500
FOOLS, MN WP	GABDE, MN FIX	3100	17500
GABDE, MN FIX	KRRTR, IA WP	3200	17500
KRRTR, IA WP	MADISON, WI VORTAC	3000	17500
MADISON, WI VORTAC	LUNGS, WI WP	2800	17500
§ 95.3354 RNAV Route T354 Is Amended by Adding			
BRNRD, MN WP	SSKYY, WI WP	3000	17500
SSKYY, WI WP	TONOC, WI FIX	3000	17500
TONOC, WI FIX	KOETZ, WI WP	3000	17500
KOETZ, WI WP	HRMNN, WI WP	3500	17500
HRMNN, WI WP	FOMAG, WI WP	3000	17500
FOMAG, WI WP	MAYSE, WI WP	3000	17500
MAYSE, WI WP	HOMRC, IL WP	3000	17500
HOMRC, IL WP	CPTON, IL WP	2600	17500
CPTON, IL WP	BLLUE, IL FIX	2700	17500
BLLUE, IL FIX	BOSTN, IL WP	2800	17500
BOSTN, IL WP	BIBLE GROVE, IL VORTAC	2500	17500
BIBLE GROVE, IL VORTAC	CUNNINGHAM, KY VOR/DME	2500	17500
Is Amended to Delete			
BRNRD, MN WP	SIREN, WI DME	3500	17500
*2700—MOCA			
Is Amended to Read in Part			
PARK RAPIDS, MN VOR/DME	BRNRD, MN WP	3300	17500
§ 95.3391 RNAV Route T391 Is Added to Read			
TUMPS, NY FIX	SYRACUSE, NY VORTAC	3400	17500
SYRACUSE, NY VORTAC	PAGER, NY FIX	2300	17500
PAGER, NY FIX	BRUIN, NY FIX	2600	17500
BRUIN, NY FIX	WATERTOWN, NY VORTAC	2600	17500
WATERTOWN, NY VORTAC	WILRD, NY FIX	2300	17500
WILRD, NY FIX	LETUS, NY FIX	2300	17500
LETUS, NY FIX	SSENA, NY WP	2200	17500
§ 95.3393 RNAV Route T393 Is Added to Read			
GAILS, MA FIX	INNDY, MA FIX	2000	17500
INNDY, MA FIX	PROVIDENCE, RI VOR/DME	2000	17500
PROVIDENCE, RI VOR/DME	FOSTY, RI FIX	2400	17500
FOSTY, RI FIX	PUTNM, CT WP	2500	17500
PUTNM, CT WP	GRIPE, MA FIX	2600	17500
GRIPE, MA FIX	GARDNER, MA VOR/DME	3100	17500
GARDNER, MA VOR/DME	KEYNN, NH WP	3500	17500
KEYNN, NH WP	STRUM, NH FIX	3500	17500
STRUM, NH FIX	UNKER, NH FIX	3800	17500
*4200—MCA	UNKER, NH FIX, N BND.		
UNKER, NH FIX	MCADM, NH FIX	5000	17500
MCADM, NH FIX	LBNON, NH WP	4100	17500
LBNON, NH WP	ZIECH, VT FIX	4000	17500
*4100—MCA	ZIECH, VT FIX, N BND.		
ZIECH, VT FIX	DAVID, VT FIX	4600	17500
DAVID, VT FIX	MONTPELIER, VT VOR/DME	4700	17500
MONTPELIER, VT VOR/DME	CEVIB, VT FIX	5200	17500
CEVIB, VT FIX	POROE, VT FIX	5200	17500
*5700—MCA	POROE, VT FIX, NW BND.		
POROE, VT FIX	BURLINGTON, VT VOR/DME	6300	17500
§ 95.3395 RNAV Route T395 Is Added to Read			
CONCORD, NH VOR/DME	YECKA, NH FIX	3300	17500

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT—Continued

[Amendment 555 effective date November 5, 2020]

FROM	TO	MEA	MAA
*3700—MCA	YECKA, NH FIX, NE BND.		
YECKA, NH FIX	GRUMP, NH FIX	4000	17500
*4600—MCA	GRUMP, NH FIX, NE BND.		
GRUMP, NH FIX	LAROE, NH FIX	5200	17500
LAROE, NH FIX	NOTTY, NH FIX	5400	17500
NOTTY, NH FIX	WYLIE, NH FIX	5900	17500
WYLIE, NH FIX	JOBBY, NH WP	6300	17500
*6200—MCA	JOBBY, NH WP, S BND.		
JOBBY, NH WP	BRLIN, NH WP	5800	17500

§ 95.4000 HIGH ALTITUDE RNAV Routes
§ 95.4108 RNAV Route Q108 Is Amended to Delete

GADAY, AL WP	HKUNA, FL WP	*18000	45000
*GNSS REQUIRED			

FROM	TO	MEA
§ 95.6001 VICTOR Routes—U.S		
§ 95.6001 VOR Federal Airway V1 Is Amended to Read in Part		
KINSTON, NC VORTAC	ZAGGY, NC FIX	#
#UNUSABLE		
§ 95.6002 VOR Federal Airway V2 Is Amended to Delete		
NODINE, MN VORTAC	WEBYE, WI FIX	3100
§ 95.6003 VOR Federal Airway V3 Is Amended to Read in Part		
PEASE, NH VOR/DME	YUKES, NH FIX	*3500
*2400—MOCA		
YUKES, NH FIX	*PARSO, ME FIX	**3500
*5000—MRA		
*7000—MCA		
	PARSO, ME FIX, N BND.	
**2800—MOCA		
PARSO, ME FIX	LABEL, ME FIX.	
	S BND	3500
	N BND	7000
LABEL, ME FIX	AUGUSTA, ME VOR/DME	*7000
*3600—MOCA		
*3600—GNSS MEA		
§ 95.6004 VOR Federal Airway V4 Is Amended to Read in Part		
REACH, WV FIX	*ELKINS, WV VORTAC	4400
*4900—MCA	ELKINS, WV VORTAC, E BND.	
§ 95.6024 VOR Federal Airway V24 Is Amended to Delete		
ROCHESTER, MN VOR/DME	LONE ROCK, WI VOR/DME	3000
LONE ROCK, WI VOR/DME	GLARS, WI FIX	*3400
*2800—MOCA		
GLARS, WI FIX	JANESVILLE, WI VOR/DME	*2800
*2300—MOCA		
§ 95.6039 VOR Federal Airway V39 Is Amended to Read in Part		
CONCORD, NH VOR/DME	*NEETS, NH FIX	3500
*4500—MCA	NEETS, NH FIX, NE BND.	
NEETS, NH FIX	*LABEL, ME FIX	**6000
*7000—MCA	LABEL, ME FIX, NE BND.	
**3500—MOCA		
**3500—GNSS MEA		
LABEL, ME FIX	AUGUSTA, ME VOR/DME	*7000
*3600—MOCA		
*3600—GNSS MEA		

FROM	TO	MEA
§ 95.6053 VOR Federal Airway V53 Is Amended to Read in Part		
WILLS, SC FIX	*SPARTANBURG, SC VORTAC	2700
*5200—MCA	SPARTANBURG, SC VORTAC, NW BND.	
SPARTANBURG, SC VORTAC	CARTT, SC FIX.	
	NW BND	6200
	SE BND	3000
CARTT, SC FIX	SUGARLOAF MOUNTAIN, NC VORTAC	6200
§ 95.6054 VOR Federal Airway V54 Is Amended to Read in Part		
RESTS, SC FIX	CLEVA, SC FIX	*7000
*5100—MOCA		
*5100—GNSS MEA		
CLEVA, SC FIX	*SPARTANBURG, SC VORTAC	**6000
*5200—MCA	SPARTANBURG, SC VORTAC, W BND.	
**3300—GNSS MEA		
SPARTANBURG, SC VORTAC	CHARLOTTE, NC VOR/DME	*4000
*2600—MOCA		
§ 95.6055 VOR Federal Airway V55 Is Amended to Delete		
PULLMAN, MI VOR/DME	MUSKEGON, MI VORTAC	2500
MUSKEGON, MI VORTAC	WHALL, MI FIX	*2400
*2400—MOCA		
#MUSKEGON R–328 TO YULNU UNUSABLE EXCEPT AIRCRAFT EQUIPPED WITH SUITABLE RNAV SYSTEM WITH GPS		
WHALL, MI FIX	NEROE, WI FIX	*5000
*2400—MOCA		
NEROE, WI FIX	GREEN BAY, WI VORTAC	#3000
#GREENBAY R–115 TO YULNU UNUSABLE EXCEPT AIRCRAFT EQUIPPED WITH SUITABLE RNAV SYSTEM WITH GPS		
GREEN BAY, WI	VORTAC BIPID, WI FIX	3000
§ 95.6069 VOR Federal Airway V69 Is Amended to Read in Part		
PONTIAC, IL VOR/DME	JOLIET, IL VOR/DME	*3000
*2300—MOCA		
§ 95.6077 VOR Federal Airway V77 Is Amended to Delete		
WATERLOO, IA VOR/DME	WAUKON, IA VOR/DME	*3000
*2800—MOCA		
§ 95.6097 VOR Federal Airway V97 Is Amended to Delete		
KRENA, IL FIX	JANESVILLE, WI VOR/DME	2900
JANESVILLE, WI VOR/DME	THEBO, WI FIX	3000
THEBO, WI FIX	LONE ROCK, WI VOR/DME	*3400
*2800—MOCA		
LONE ROCK, WI VOR/DME	WEBYE, WI FIX	3000
WEBYE, WI FIX	NODINE, MN VORTAC	3100
§ 95.6171 VOR Federal Airway V171 Is Amended to Delete		
ROCKFORD, IL VOR/DME	GLARS, WI FIX	2900
GLARS, WI FIX	LONE ROCK, WI VOR/DME	*3400
*2800—MOCA		
LONE ROCK, WI VOR/DME	WEBYE, WI FIX	3000
WEBYE, WI FIX	NODINE, MN VORTAC	3100
§ 95.6215 VOR Federal Airway V215 Is Amended to Delete		
JYBEE, MI FIX	SALES, MI FIX	*3500
*1700—MOCA		
SALES, MI FIX	MUSKEGON, MI VORTAC	*3000
*2300—MOCA		
MUSKEGON, MI VORTAC	WHITE CLOUD, MI VOR/DME	2800
WHITE CLOUD, MI VOR/DME	GAYLORD, MI VOR/DME	4000
§ 95.6218 VOR Federal Airway V218 Is Amended to Delete		
GOPHER, MN VORTAC	DLANY, MN WP	*4800

FROM	TO	MEA
*3200—MOCA		
DLANY, MN WP	WAUKON, IA VOR/DME	3000
§ 95.6225 VOR Federal Airway V225 Is Amended to Read in Part		
MARCI, FL FIX	LEE COUNTY, FL VORTAC.	
	N BND	2100
	S BND	4000
§ 95.6231 VOR Federal Airway V231 Is Amended to Read in Part		
MISSOULA, MT VOR/DME	ARLEE, MT FIX	9700
ARLEE, MT FIX	*JESSY, MT FIX	**11000
*13000—MCA	JESSY, MT FIX, N BND.	
**9400—MOCA		
§ 95.6244 VOR Federal Airway V244 Is Amended to Read in Part		
LAMAR, CO VOR/DME	*COFFE, KS FIX	**9000
*9000—MRA		
*9000—MCA	COFFE, KS FIX, SW BND.	
*9700—MCA	COFFE, KS FIX, NE BND.	
**5400—MOCA		
COFFE, KS FIX	*RANSO, KS FIX	**10000
*10000—MRA		
**4700—MOCA		
§ 95.6246 VOR Federal Airway V246 Is Amended to Delete		
DUBUQUE, IA VORTAC	WAUKON, IA VOR/DME	3000
WAUKON, IA VOR/DME	NODINE, MN VORTAC	3000
NODINE, MN VORTAC	MILTO, WI FIX	3000
§ 95.6247 VOR Federal Airway V247 Is Amended to Read in Part		
HIPSHER, WY VOR/DME	*WAPAP, WY FIX	**9000
*9000—MCA	WAPAP, WY FIX, SE BND.	
**8300—MOCA		
**8000—GNSS MEA		
WAPAP, WY FIX	CRAZY WOMAN, WY VOR/DME	8000
§ 95.6257 VOR Federal Airway V257 Is Amended to Read in Part		
DRAKE, AZ VORTAC	*KACEE, AZ FIX	**10000
*11000—MCA	KACEE, AZ FIX, W BND.	
*11000—MCA	KACEE, AZ FIX, E BND.	
**8600—MOCA		
**9000—GNSS MEA		
KACEE, AZ FIX	*BISOP, AZ FIX	**10000
*11000—MRA		
**8400—MOCA		
**9000—GNSS MEA		
§ 95.6262 VOR Federal Airway V262 Is Amended to Read in Part		
MOTIF, IL FIX	JOLIET, IL VOR/DME	*3000
*2300—MOCA		
§ 95.6271 VOR Federal Airway V271 Is Amended to Delete		
MUSKEGON, MI VORTAC	WELKO, MI FIX	*3000
*2500—MOCA		
WELKO, MI FIX	MANISTEE, MI VOR/DME	*4000
*2400—MOCA		
§ 95.6333 VOR Federal Airway V333 Is Amended to Read in Part		
JELLO, TN FIX	*WNSOR, KY FIX	**5100
*5100—MCA	WNSOR, KY FIX, S BND.	
*5100—MCA	WNSOR, KY FIX, N BND.	
**4000—MOCA		
**4000—GNSS MEA		
WNSOR, KY FIX	DOLLY, KY FIX	*5100
*4000—MOCA		
*4000—GNSS MEA		

FROM	TO	MEA
§ 95.6398 VOR Federal Airway V398 Is Amended to Delete		
ROCHESTER, MN VOR/DME	WAUKON, IA VOR/DME	3000
WAUKON, IA VOR/DME	LONE ROCK, WI VOR/DME	3000
§ 95.6411 VOR Federal Airway V411 Is Amended to Delete		
LONE ROCK, WI VOR/DME	WAUKON, IA VOR/DME	3000
WAUKON, IA VOR/DME	ROCHESTER, MN VOR/DME	3000
ROCHESTER, MN VOR/DME	FARMINGTON, MN VORTAC	3000
§ 95.6450 VOR Federal Airway V450 Is Amended to Delete		
ESCANABA, MI VOR/DME	MENOMINEE, MI VOR/DME	2500
MENOMINEE, MI VOR/DME	GREEN BAY, WI VORTAC	2600
GREEN BAY, WI VORTAC	MUSKEGON, MI VORTAC	3000
MUSKEGON, MI VORTAC	GIBER, MI FIX	*3000
*2400—MOCA		
GIBER, MI FIX	LUGGS, MI FIX	*4000
*2400—MOCA		
LUGGS, MI FIX	FLINT, MI VORTAC	*3000
*2400—MOCA		
§ 95.6472 VOR Federal Airway V472 Is Amended to Read in Part		
ZAGGY, NC FIX	KINSTON, NC VORTAC	#
#UNUSABLE		
§ 95.6539 VOR Federal Airway V539 Is Amended to Read in Part		
GOODY, FL FIX	LEE COUNTY, FL VORTAC.	
	N BND	2100
	S BND	4000
§ 95.6586 VOR Federal Airway V586 Is Amended to Read in Part		
PONTIAC, IL VOR/DME	JOLIET, IL VOR/DME	*3000
*2300—MOCA		

FROM	TO	MEA	MAA
§ 95.7001 Jet Routes			
§ 95.7002 Jet Route J2 Is Amended by Adding			
CRESTVIEW, FL VORTAC	DEFUN, FL FIX	18000	45000
Is Amended to Delete			
CRESTVIEW, FL VORTAC	SEMINOLE, FL VORTAC	18000	45000
SEMINOLE, FL VORTAC	TAYLOR, FL VORTAC	18000	45000
§ 95.7037 Jet Route J37 Is Amended to Delete			
ALBANY, NY VORTAC	MASSENA, NY VORTAC	23000	45000
§ 95.7039 Jet Route J39 Is Amended to Delete			
CRESTVIEW, FL VORTAC	MONTGOMERY, AL VORTAC	18000	45000
§ 95.7042 Jet Route J42 Is Amended to Read in Part			
BECKLEY, WV VOR/DME	MONTEBELLO, VA VOR/DME	#18000	41000
#BECKLEY R–091 UNUSABLE			
§ 95.7055 Jet Route J55 Is Amended to Delete			
CHARLESTON, SC VORTAC	FLORENCE, SC VORTAC	18000	45000
FLORENCE, SC VORTAC	TUBAS, NC FIX	18000	45000
§ 95.7061 Jet Route J61 Is Amended to Delete			
EDDYS, NC FIX	FORTS, VA FIX	31000	45000
FORTS, VA FIX	NOTTINGHAM, MD VORTAC	18000	45000
NOTTINGHAM, MD VORTAC	WESTMINSTER, MD VORTAC	18000	45000

FROM	TO	MEA	MAA
§ 95.7062 Jet Route J62 Is Amended to Delete			
ROBBINSVILLE, NJ VORTAC	NANTUCKET, MA VOR/DME	18000	45000
§ 95.7109 Jet Route J109 Is Amended to Delete			
WILMINGTON, NC VORTAC	FLAT ROCK, VA VORTAC	18000	45000
FLAT ROCK, VA VORTAC	LINDEN, VA VORTAC	18000	45000
§ 95.7121 Jet Route J121 Is Amended to Delete			
SEA ISLE, NJ VORTAC	HAMPTON, NY VORTAC	18000	45000
HAMPTON, NY VORTAC	SANDY POINT, RI VOR/DME	18000	45000
SANDY POINT, RI VOR/DME	KENNEBUNK, ME VOR/DME	18000	45000
Is Amended by Adding			
SEA ISLE, NJ VORTAC	BRIGS, NJ FIX	18000	45000
§ 95.7213 Jet Route J213 Is Amended to Read in Part			
BECKLEY, WV VOR/DME #BECKLEY R–072 UNUSABLE	ARMEL, VA VOR/DME	#18000	45000
§ 95.7230 Jet Route J230 Is Amended to Delete			
ROBBINSVILLE, NJ VORTAC	LARRI, PA FIX	18000	45000
LARRI, PA FIX	VINSE, PA FIX	26000	45000
VINSE, PA FIX	BELLAIRE, OH VOR/DME	18000	45000
§ 95.7570 Jet Route J570 Is Amended to Delete			
ALBANY, NY VORTAC	U.S. CANADIAN BORDER	18000	45000

AIRWAY SEGMENT CHANGEOVER POINTS		CHANGEOVER POINTS	
FROM	TO	DISTANCE	FROM
§ 95.8003 VOR Federal Airway Changeover Points V271 Is Amended to Delete Changeover Point			
MUSKEGON, MI VORTAC	MANISTEE, MI VOR/DME	37	MUSKEGON
§ 95.8005 Jet Routes Changeover Points J42 Is Amended to Add Changeover Point			
BECKLEY, WV VOR/DME	MONTEBELLO, VA VOR/DME	56	BECKLEY
J230 Is Amended to Delete Changeover Point			
LARRI, PA PA FIX	BELLAIRE, OH VOR/DME	#163	LARRI

[FR Doc. 2020–24033 Filed 10–28–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 742

[Docket No. 201022–0277]

RIN 0694–AI05

Amendments to National Security License Review Policy Under the Export Administration Regulations

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: In this final rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) to revise the license review policy for items controlled for national security reasons destined to the People's Republic of China (PRC), Venezuela, or the Russian Federation (Russia). With this revision, BIS and reviewing agencies will determine whether the export, reexport, or transfer (in-country) of items controlled for National Security (NS) reasons will make a material contribution to the ''development,'' ''production,'' maintenance, repair, or operation of weapons systems of the PRC, Venezuela, or the Russian Federation, as well as setting forth several factors that will be considered in reviewing license applications.

DATES: This rule is effective October 29, 2020.

FOR FURTHER INFORMATION CONTACT: Sharron Cook, Regulatory Policy Division, Bureau of Industry and Security, Email: *Sharron.cook@bis.doc.gov* or Phone: 202–492–2440.

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Industry and Security is amending the license review policy for items that have a national security (NS) reason for control (*i.e.,* pursuant to the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies)

when destined to the People's Republic of China (PRC), Venezuela, or the Russian Federation (Russia) (§ 742.4(b)(7)). BIS and reviewing agencies will determine, on a case-by-case basis, whether the proposed export, reexport, or in-country transfer of such items will make a material contribution to the weapons systems capability of those countries. The determination will include an illustrative list of factors that will be considered in reviewing license applications. The illustrative list of factors will provide more guidance to exporters on information to be included with their license applications and assist BIS and reviewing agencies in evaluating those applications. Provisions in other sections of part 742 continue to apply to the review of license applications for the export, reexport, or in-country transfer of NS controlled items to the PRC, Venezuela or Russia. When an export, reexport, or in-country transfer is destined for a civil end user for civil end uses in the PRC, Venezuela, or Russia, there is a presumption of approval. There is a presumption of denial for license applications to export, reexport, or transfer items that would make a material contribution to the ''development,'' ''production,'' maintenance, repair, or operation of weapons systems, subsystems, and assemblies.

As required by section 1756(d) of the Export Control Reform Act of 2018 (50 U.S.C. 4815(d)), the review will also include an assessment of the impact of a proposed export of an item on the United States defense industrial base and the denial of an application for a license that would have a significant negative impact on such defense industrial base.

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 been designated a ''significant regulatory action,'' although not economically significant, under section 3(f) of Executive Order 12866. This final rule will support the national security and foreign policy objectives of the United States by making the license review policy for national security items destined to the PRC, Venezuela, or the Russian Federation more restrictive, as well as clarifying the license review policy by setting forth and making transparent to the public a robust illustrative list of license application review factors for such applications.

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 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 that all applicants may spend more time gathering information to include in the license applications to satisfy the newly added license application review factors. However, others will refrain from applying because they either cannot satisfy the newly-added license review criteria or know that their license would be denied because their item would make a 'material contribution' to the military capabilities of PRC, Venezuela, or the Russian Federation. Therefore, BIS believes that the added hours for preparing an application will be offset by the decrease in applications and result in no change to the burden hours associated with this collection.

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), which was included in the John S. McCain National Defense Authorization Act for Fiscal Year 2019, 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. This final rule is not subject to the requirements of Executive Order 13771 (82 FR 9339, February 3, 2017) because it is issued with respect to a national security function of the United States. The cost-benefit analysis required pursuant to Executive Orders 12866 and 13563 indicates that this rule is intended to improve national security as its primary direct benefit. Specifically, setting forth a robust illustrative list of license application review factors and revising the national security license review policy by expanding the meaning of what would be considered a national security threat should increase license outcome predictability and consistency, as well as increase the number of application submissions that include information that satisfies the license application review factors, which should reduce the risk that exports, reexports, and transfers (in-country) of items subject to the EAR could be diverted and contribute to the military capability of countries of concern, contrary to U.S. national security interests. Accordingly, this rule meets the requirements set forth in the April 5, 2017 OMB guidance implementing Executive Order 13771 (82 FR 9339, February 3, 2017), regarding what constitutes a regulation issued ''with respect to a national security function of the United States,'' and is, therefore, exempt from the requirements of Executive Order 13771.

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—CONTROL POLICY—CCL BASED CONTROLS

■ 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. Section 742.4 is amended by revising paragraph (b)(7) to read as follows:

§ 742.4 National security.

* * * * *

(b) * * *

(7)(i) For the People's Republic of China (PRC), Venezuela, and the Russian Federation, all applications will be reviewed to determine the risk of diversion to a military end user or military end use. There is a general policy of approval for license applications to export, reexport, or transfer items determined to be for civil end users for civil end uses. There is a presumption of denial for license applications to export, reexport, or transfer items that would make a material contribution to the ''development,'' ''production,'' maintenance, repair, or operation of weapons systems, subsystems, and assemblies, such as, but not limited to, those described in supplement no. 7 to part 742 of the EAR, of the PRC, Venezuela, or the Russian Federation.

(ii) The following factors are among those that will be considered in reviewing license applications described in paragraph (b)(7)(i) of this section:

(A) The appropriateness of the export, reexport, or transfer for the stated end use;

(B) The significance of the item for the weapons systems capabilities of the importing country;

(C) Whether any party is a 'military end user' as defined in § 744.21(g) of the EAR;

(D) The reliability of the parties to the transaction, including whether:

(*1*) An export or reexport license application has previously been denied;

(*2*) Any parties are or have been engaged in unlawful procurement or diversion activities;

(*3*) The parties are capable of securely handling and storing the items; and

(*4*) End-use checks have been and may be conducted by BIS or another U.S. government agency on parties to the transaction;

(E) The involvement of any party to the transaction in military activities, including activities involving the ''development,'' ''production,'' maintenance, repair, or operation of weapons systems, subsystems, and assemblies;

(F) Government strategies and policies that support the diversion of exports from their stated civil end use and redirection towards military end use; and

(G) The scope and effectiveness of the export control system in the importing country.

(iii) The review will also include an assessment of the impact of a proposed export of an item on the United States defense industrial base and the denial of an application for a license that would have a significant negative impact, as defined in section 1756(d)(3) of the Export Control Reform Act of 2018 (50 U.S.C. 4815(d)(3)), on such defense industrial base.

* * * * *

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 2020–23962 Filed 10–28–20; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM18–9–000; Order No. 2222]

Participation of Distributed Energy Resource Aggregations in Markets Operated by Regional Transmission Organizations and Independent System Operators

Correction

In rule document 2020–20973 beginning on page 67094 in the issue of Wednesday, October 21, 2020, make the following correction:

On page 67094, in the second column, in the 16th line, ''September 17, 2021'' should read ''July 19, 2021''.

[FR Doc. C1–2020–20973 Filed 10–28–20; 8:45 am]

BILLING CODE 1301–00–D

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1300, 1309, 1310, 1313, and 1314

[Docket No. DEA–485]

RIN 1117–AB05 and 1117–AB06

Implementation of the Combat Methamphetamine Epidemic Act of 2005; Retail Sales; Notice of Transfers Following Importation or Exportation

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule.

SUMMARY: In March 2006, the President signed the Combat Methamphetamine Epidemic Act of 2005 (CMEA). The Drug Enforcement Administration (DEA) promulgated an Interim Final Rule (IFR) on September 26, 2006 (with a technical correction on October 13, 2006), under Docket Number DEA–291I, to implement the retail sales provisions of the CMEA. Additionally, on April 9, 2007, DEA promulgated an IFR, under Docket Number DEA–292I, to implement section 716 of the CMEA, which required additional reporting for import, export, and international transactions involving all list I and list II chemicals. DEA is finalizing these rulemakings in one action. This final rule adopts, with one technical change, the corrected September 2006 IFR, and adopts, without change, the April 2007 IFR.

DATES: Effective December 28, 2020. The effective date of December 28, 2020, for the interim final rules published September 26, 2006 (71 FR 56009) and April 9, 2007 (72 FR 17401), is confirmed.

FOR FURTHER INFORMATION CONTACT: Scott A. Brinks, Diversion Control Division, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, VA 22152, Telephone (571) 362–3261.

SUPPLEMENTARY INFORMATION:

I. Background

On March 9, 2006, the President signed the Combat Methamphetamine Epidemic Act of 2005 (CMEA), which is title VII of the USA PATRIOT Improvement and Reauthorization Act of 2005 (Pub. L. 109–177). The Drug Enforcement Administration (DEA) published interim final rules (IFRs) on September 26, 2006 (71 FR 56008)—with a technical correction on October 13, 2006 (71 FR 60609)—and April 9, 2007 (72 FR 17401) to implement certain provisions of the CMEA.

On December 30, 2016, DEA published a final rule ''Revision of Import and Export Requirements for Controlled Substances, Listed Chemicals, and Tableting and Encapsulating Machines, Including Changes To Implement the International Trade Data System (ITDS); Revision of Reporting Requirements for Domestic Transactions in Listed Chemicals and Tableting and Encapsulating Machines; and Technical Amendments.'' 81 FR 96992. This final rule included further amendments to amendments implemented by the September 2006 and April 2007 IFRs.

A. September 2006 IFR

The CMEA established new requirements for the retail sale of products containing the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine which may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act as a nonprescription drug. These products, known under the CMEA as scheduled listed chemical products, can be used to manufacture methamphetamine illegally. To implement those requirements, the September 2006 IFR established daily and 30-day limits on the sales of scheduled listed chemical products to individuals, and established recordkeeping on most retail sales. More detailed information can be found in the preamble to the September 2006 IFR. On October 13, 2006, at 71 FR 6069, a technical correction was published for Table 3 on page 56014 in the September 2006 IFR.

B. April 2007 IFR

The April 2007 IFR implemented section 716 of the CMEA to require additional reporting for import, export, and international transactions involving all list I and list II chemicals, and in so doing, closed a loophole in the regulatory system. Briefly, section 716 of the CMEA (21 U.S.C. 971 as amended) extends the current reporting requirements—as well as the current exemptions for regular importers and regular customers—to post-import and post-export transactions of list I and list II chemicals. With implementation of this IFR, importers, exporters, brokers, and traders are required to notify DEA, before the transaction is to take place, of certain information regarding their downstream customers. This person is referred to as the ''transferee'' of the United States importer, exporter, broker, or trader. Notification occurs on a new DEA Form 486.[1] If the transferee changes, or the quantity of the chemical is increased after initial notification to DEA, the importer, exporter, broker, or trader must file an amended DEA Form 486 with DEA. Within 30 days after the importation, exportation, or international transaction is completed, the importer, exporter, broker, or trader must send DEA a return declaration containing information regarding the transaction.

C. Updates to September 2006 and April 2007 IFRs Due to the ITDS Rule

On December 30, 2016, DEA published the ITDS rule. 81 FR 96992. The ITDS rule was scheduled to become effective January 30, 2017. However, the effective date was delayed until March 21, 2017. 82 FR 8688.

The ITDS rule updated DEA's regulations for the import and export of tableting and encapsulating machines, controlled substances, and listed chemicals, and its regulations relating to reports required for domestic transactions in listed chemicals, gammahydroxybutyric acid, and tableting and encapsulating machines. The amendments clarified certain policies, reflected current procedures and technological advancements, and implemented Executive Order (E.O.) 13659 on streamlining the export/import process. The ITDS rule additionally implemented changes to the Controlled Substances Import and Export Act for reexportation of controlled substances among members of the European Economic Area made by the Improving Regulatory Transparency for New Medical Therapies Act (Pub. L. 114–89). The rule also included additional substantive and technical and stylistic amendments.

The ITDS rule included further changes to certain amendments implemented by the September 2006 and April 2007 IFRs. This current final rule does not make any changes to those further amendments.

II. Discussion of Public Comments Received on September 2006 IFR

DEA received 18 comments on the September 2006 IFR. Commenters included trade associations for convenience stores and grocery stores, a law firm, a pharmaceutical organization, a non-pharmaceutical organization, individual pharmacists, and retailers.

Logbooks: Five commenters objected to the requirement for a bound logbook for paper records. One commenter stated that DEA exceeded its authority in requiring that the logbook be bound, because the CMEA includes no such mandate. Other commenters focused on practical problems with bound logbooks. One chain drug store stated that to comply with State requirements to check the logbooks for the past 30 days, it used alphabetical logs that allowed for pages to be inserted. Other commenters stated that available bound logbooks do not meet DEA requirements, and that retailers would have to order customized books at considerable expense or customize blank logbooks by hand. One commenter stated that spiral logbooks should be acceptable if they have page numbers. Other commenters recommended that DEA adopt more flexible requirements. One suggested that DEA only require that the pages of the logbook not be readily removable, altered, or copied without the change being detectable. Another commenter stated that DEA should simply require tamper-evident logs. This commenter stated that DEA had presented no information about why tamper-evident logbooks are important to thwart illegal use of scheduled listed chemical products.

DEA Response: In its regulations implementing the CMEA, DEA required bound logbooks for paper logs because the other types of logbooks suggested can be tampered with simply by removing pages. Tamper-proof paper would prevent alteration of the records, but would not prevent removal of pages. DEA noted that pharmacies are required to maintain bound logbooks for sales of certain schedule V controlled substances. DEA and the CMEA also allowed regulated sellers to maintain logs electronically.

In October 2008, the President signed the Methamphetamine Production Prevention Act of 2008 (MPPA) (Pub. L. 110–415). The MPPA clarified the information entry and signature requirements for electronic logbook systems permitted for the retail sale of scheduled listed chemical products. The MPPA allows regulated sellers to choose between maintaining a written or electronic logbook. For regulated sellers who choose to maintain a written logbook, the MPPA requires that the logbook be bound.[2] However, with respect to electronic logbook systems, the MPPA provides greater flexibility for sellers of scheduled listed chemical products. DEA implemented the

[1] DEA Form 486 is titled ''Import/Export Declaration for List I and List II Chemicals'' and is available online at *www.deadiversion.usdoj.gov.*

[2] Public Law 110–415, Sec. 2, ''Clarifications Regarding Signature Capture and Retention for Electronic Methamphetamine Precursor Logbook Systems.''

provisions of the MPPA in a final rule published December 1, 2011. 76 FR 74696.

Privacy Issues: Five commenters were concerned about the requirements related to protecting information entered into logbooks from exposure. As a practical matter, these commenters focused on paper logs, where previous customer entries may be seen by subsequent purchasers. Commenters asked DEA to define what ''accessed'' and ''shared'' mean, and to indicate that ''shared'' does not mean incidental disclosure to other customers using the same page.

Associations representing retailers stated that DEA should state that the records are not ''protected health information'' subject to the Health Insurance Portability and Accountability Act (HIPAA). One commenter noted that States have decided that the logs are not HIPAA protected. Another commenter stated that the log information is not sensitive; customers have been purchasing these products off the shelves for years without any expectation of privacy. The products can be used for a number of conditions and, therefore, reveal little about the purchaser's condition. This commenter also stated that limiting the log to a single entry per page would be expensive. An organization representing pharmacists stated that the logs should be considered subject to HIPAA and that customers should see only their own information.

One retailer asked DEA to clarify what methods are acceptable to prevent other customers from seeing the information. One pharmacist stated that requesting a form of identification and entering data into the log was an invasion of privacy. Two pharmacists noted that the process is time consuming.

DEA Response: The CMEA provides requirements regarding the protection of logbook information. In regard to the disclosure of collected information, the CMEA established restrictions on disclosure of information in logbooks to protect the privacy of individuals who purchase scheduled listed chemical products. 21 U.S.C. 830(e)(1)(C).

The logbook privacy protections set forth by the CMEA are implemented by DEA to closely resemble the language in the CMEA.[3] By adopting the statutory language regarding protection of logbooks in the regulations virtually without change, DEA has provided regulated sellers the greatest flexibility possible to ensure that customer information is protected, without dictating specific requirements.

The United States Department of Health and Human Services' Office of Civil Rights enforces HIPAA,[4] and it is the responsibility of covered entities (including pharmacies) to ensure that all aspects of their business practices are HIPAA compliant.[5] The covered entity is responsible for adequate safeguards and policies to ensure that protected health information in logbooks is not disclosed. DEA is not responsible for ensuring that such entities have the necessary safeguards in place to ensure that protected health information is not disclosed. DEA does not have authority to enforce HIPAA. However, 21 CFR 1314.45 provides privacy protections to purchasers of scheduled listed chemical products by restricting the disclosure of information collected in logbooks. Scheduled listed chemical products are sold in a wide variety of settings, from large retail chains where information is captured at general checkout lines to small pharmacies where information is captured at the pharmacy counter. To define the terms ''access'' and ''share'' in relation to logbook information could unnecessarily and adversely impact the sales of scheduled listed chemical products by regulated sellers.

Although the process requires additional time, the CMEA required that the purchaser sign the logbook, enter the purchaser's name and address, the date and time of sale, and that the regulated seller enter the name and quantity of the product sold. The CMEA further required that the regulated seller determine that the name on the identification presented by the purchaser corresponds to the name entered by the purchaser in the logbook. DEA had no discretion in the implementation of these requirements.

Other Logbook Issues: One association stated that the log entry requirements should be more flexible. Other than the signature, the commenter believed that DEA should not specify who has to enter the other data. The commenter suggested that stickers could be used to identify the product information other than the number of containers. Another retail association stated that DEA should allow others to enter the data when the purchaser is unable to do so (*e.g.,* because of a disability).

DEA Response: The CMEA required that the purchaser enter certain specific information as specified in 21 U.S.C. 830(e). DEA implemented those provisions in the September 2006 IFR. DEA sought to balance its statutory obligations while recognizing that with electronic logbooks, it may be difficult or impossible for some purchasers to enter the required information. To ensure that all persons were able to purchase scheduled listed chemical products at retail, DEA made an allowance at 21 CFR 1314.30(c) that if the purchaser were feasibly unable to do so, the regulated seller may ask for and enter the information electronically. This is similar to the regulated seller entering the information when the information must be entered into an electronic system that is not easily accessible to the customer.

Subsequent to DEA's implementation of the CMEA, the MPPA was passed, revising the information entry and signature requirements for electronic logbook systems permitted for the retail sale of scheduled listed chemical products. The MPPA allows for flexibility with its provisions relating to log entry requirements. Under the MPPA, regulated sellers of scheduled listed chemical products may choose from several options relating to how purchaser signatures may be obtained and how transactions may be recorded. 21 U.S.C. 830(e)(1)(A)(iv). DEA published a final rule on December 1, 2011, which implemented the MPPA. 76 FR 74696.

Federal/State Issues: Several commenters raised issues related to different Federal and State laws related to retail sales of scheduled listed chemical products. One association asked DEA to provide guidance on how to reconcile conflicting requirements on logbooks. The commenter asked whether a regulated seller would have to maintain two separate logbooks if State law requires different information than Federal law. Another association stated that DEA should allow the use of a single logbook to capture information for both requirements. The association asked DEA to provide a State-by-State analysis to let regulated sellers know which provisions apply in each State. Another association stated that compliance with a State rule that is as stringent or more stringent than DEA's should satisfy DEA's requirements. One

[3] DEA regulations regarding logbook privacy protections also include a provision which states that ''[a] regulated seller who in good faith releases information in a logbook to Federal, State, or local law enforcement authorities is immune from civil liability for the release unless the release constitutes gross negligence or intentional, wanton, or willful misconduct.'' 21 CFR 1314.45(c).

[4] The HIPPA Privacy Rule implemented national standards to protect personal health information which requires covered entities to implement appropriate administrative, technical, and physical safeguards to reasonably protect personal health information (with limited exceptions including information transmitted in writing, orally, or electronic form) from intentional or unintentional use or disclosure. See 67 FR 53182, 53193 (Aug. 14, 2002).

[5] *https://www.hhs.gov/hipaa/for-professionals/compliance-enforcement/examples/all-cases/index.html?language=en#case20.*

chain pharmacy stated that DEA should allow electronic capture of State information and manual capture of additional DEA elements rather than require two separate sets of logs.

DEA Response: Regulated sellers may use a single logbook for capturing Federal and State requirements provided that the data entered includes all of the elements required under the CMEA. If the data required by Federal law and State law is so markedly different that it cannot be merged easily, or if regulated sellers wish to do so for other reasons, regulated sellers may also use separate systems. If a State's requirements include all of the CMEA's requirements, a separate logbook need not be created. DEA, however, does not have the authority to alter the CMEA requirements.

Warning Notice: The CMEA requires that regulated sellers post a warning notice to inform customers that providing false information is a violation of Federal law. One commenter stated that DEA should recognize that any of the following meets the requirements for providing notice: Displaying the notice under glass near the logbook; putting it on the wall behind the logbook; or putting it on the cover of the logbook. The commenter also recommended that DEA allow mandated State notices to replace the Federal notice, because multiple warning notices can be confusing to the customer.

DEA Response: The CMEA mandated the warning notice; a State notice cannot substitute for the statutorily required warning that entering false statements or misrepresentations is a violation of Federal law. The regulation for placement of the notice provides regulated sellers with flexibility on placement of the notice. The only requirement is that the notice either be included in the written or electronic logbook, or displayed by the logbook. 21 CFR 1314.30(d).

Photographic Identification: One association stated that DEA should clarify that regulated sellers are only required to check the photographic identification to ensure that the name entered into the log is the same as the name on the identification and that the date and time are correct. In addition, the association claimed that the CMEA does not require a regulated seller to refuse to sell the product if the name is not correct. The commenter noted that there may be legitimate reasons for discrepancies (*e.g.,* such as name or address change since the issuance of the identification). In addition, clerks could be at risk if they challenged a customer.

DEA Response: The CMEA required that the regulated seller determine that the name entered into the logbook matches the name on the identification presented. The prospective purchaser must provide an appropriate identification card and signature and the seller must confirm the identification provided matches the information entered into the logbook.[6]

DEA recognizes that there will be times when names listed on an identification may not correspond to information entered into logbooks, due to marriage, name change, etc. However, DEA emphasizes that regulated sellers are required to comply with the CMEA, including not selling a product to customers if the name the customer entered into the logbook does not match the identification presented.

The MPPA amended section 310(e)(1)(A) of the CSA (21 U.S.C. 830(e)(1)(A)) to provide flexibility in the creation and maintenance of electronic logbooks, while retaining the CMEA's basic requirement that the regulated seller determine that the name entered into the logbook matches the name on the identification presented: In the case of a sale to which the [logbook requirement] applies, the seller does not sell such a product unless the sale is made in accordance with the following: The logbook maintained by the seller includes the prospective purchaser's name, address, and the date and time of the sale, as follows:

If the purchaser enters the information, the seller must determine that the name entered in the logbook corresponds to the name provided on such identification. If the seller enters the information, the prospective purchaser must verify that the information is correct.[7]

Identification for Mail-Order Distributors: An internet pharmacy stated that requiring a photographic identification for mail-order sales was not helpful. The retailer collects the purchaser's name, credit card name, billing address, shipping address, and email address. The retailer is not in a position to verify the photographic identification. In addition, a copy of a photographic identification can be manipulated to change information. The commenter believed that the requirement is an unreasonable burden on the consumer that does little to prevent illicit sales.

DEA Response: The CMEA intends for the retailer to verify the identity of the customer, whether that retailer is a regulated seller or a mail-order distributor. For regulated sellers, the CMEA was clear and specific in its requirements.[8] The purchaser is required to present a photographic identification or other permissible form of identification. 21 U.S.C. 830(e)(1)(A)(iv)(I)(aa). The regulated seller must then ''determine that the name entered in the logbook corresponds to the name provided on such identification . . .'' 21 U.S.C. 830(e)(1)(A)(iv)(III)(aa).[9]

Mail-order distributors are no less regulated. While mail-order distributors do not conduct face-to-face transactions, they still need to confirm purchaser identity. The CMEA states that mail-order distributors ''shall, prior to shipping the product, confirm the identity of the purchaser in accordance with procedures established by the Attorney General.'' 21 U.S.C. 830(e)(2)(A). In its regulations implementing the CMEA, DEA interpreted the requirement to ''confirm the identity of the purchaser'' to mean that mail-order distributors must ''receive from the purchaser a copy'' of a photographic identification or other permissible form of identification. 21 CFR 1314.105(a).

The requirement that mail-order distributors receive a copy of the purchaser's photographic identification is perhaps even more important due to the anonymity of the transactions. Providing a copy of a photographic identification issued by a Federal or the State government, or a copy of another document permissible for identification purposes, lends credence to the name and address given by phone, fax, or internet during the order process. It is

[6] The CMEA provision at 21 U.S.C. 830(e)(1)(A)(iv) stated ''In the case of a sale to which the [logbook] requirement . . . applies, the seller does not sell such a product unless . . . the prospective purchaser . . . presents an identification card that provides a photograph and is issued by a State or the Federal Government, or a document that, with respect to identification, is considered acceptable for purposes of sections 274a.2(b)(1)(v)(A) and 274a.2(b)(1)(v)(B) of title 8, Code of Federal Regulations (as in effect on or after [March 9, 2006]); and . . . signs the logbook and enters in the logbook his or her name . . . and the seller . . . determines that the name entered in the logbook corresponds to the name provided on such identification . . . . .''

[7] Public Law 110–415, Sec. 2, ''Clarifications Regarding Signature Capture and Retention for Electronic Methamphetamine Precursor Logbook Systems.''

[8] In addition to the CMEA, section 2 of the Combat Methamphetamine Enhancement Act of 2010 (MEA) (Pub. L. 111–268) requires that ''the Attorney General shall by regulation establish criteria for certifications of mail-order distributors that are consistent with the criteria established for certifications of regulated sellers . . . .'' DEA published an IFR on April 13, 2011, which implemented this MEA section. 76 FR 20518.

[9] This statutory cite denotes the provision in the MPPA. This requirement in the CMEA was denoted at 21 U.S.C. 830(e)(1)(A)(iv)(II)(aa).

no more unreasonable to require the mail-order distributor to compare the name and address on the identification with the name and address given on the order, than it is for a regulated seller to compare the information presented by the purchaser with the information entered into the logbook as part of the face-to-face transaction.

Daily and 30-day Limits: Two commenters raised questions about the daily and 30-day limits set in the CMEA. Both stated that DEA should include the CMEA language to clarify that retailers are not expected to check the logbooks to determine if a customer is exceeding the daily or 30-day limits. One of the commenters stated that the 30-day limit applies only to the purchaser, not the retailer. The same commenter stated that DEA should waive the 30-day and daily limits for mail-order sales if the retailer has a system in place to prevent a customer from exceeding the CMEA limits in a year with monthly reports to DEA. This commenter also recommended that the daily limit should be a calendar day, not any 24-hour period.

DEA Response: DEA has not included the language from the statute because it is part of the penalty provisions, which are not included in the regulations. DEA has no authority to waive the requirements for mail-order distributors, including the daily and 30-day sales limits, regardless of any steps the mail-order distributor chooses to take regarding sales of scheduled listed chemical products. Finally, as discussed in the September 2006 IFR, DEA has set the 24-hour period as a calendar day.

Certification: Four associations commented on the self-certification process. Two supported the annual certification versus a more frequent process. One association noted that turnover of staff was about 130 percent a year; updating the certification for each new staff would be unnecessarily burdensome. One association suggested allowing small rural stores to submit certifications through state associations. Another association asked that companies with many stores be allowed to select a single renewal date so that the stores are not recertifying at different times. One association asked DEA to clarify whether chains had the option to certify stores individually or in batches. One association noted that many small businesses do not have computers or internet access, making the web-based certification a burden for them.

DEA Response: The self-certification requires that the regulated seller attest to the truthfulness of its certification; the regulated seller is liable for misstatements. Therefore, DEA cannot allow third-party associations to file the certification statements on behalf of regulated sellers. Chain stores, however, may file on behalf of their individual store locations. If a chain batch files for its stores, they will all have the same recertification date. Where regulated sellers self-certifying with DEA pursuant to the CMEA are also DEA registrants, DEA has worked to ensure that the certification expires in the same month, but not necessarily the same year, as DEA registration. DEA will continue to handle the certification process through the internet. Even a small business owner will have a way to access the internet through a business, home, or public computer.

Certification Signer: One retailer stated that the location manager was the appropriate person to sign the certification on behalf of the regulated seller. An association stated that DEA should revise its certification website, which includes the controlled substance rules for who is allowed to sign a registration. The commenter also recommended that a person should be allowed to sign if the person is in a position to certify that the particular location is in compliance with the requirements of the CMEA. Another association stated that DEA should clarify the level of knowledge the signer needs and provide flexibility on who is authorized to sign. Another commenter stated that the rule language regarding the person allowed to sign should be ''on behalf of the regulated person or distributor'' not the ''regulated seller,'' which is narrower.

DEA Response: DEA appreciates the comments regarding who should sign the certification on behalf of the regulated seller. Regarding the regulatory language, only regulated sellers, not regulated persons, were required to self-certify under the CMEA. The regulatory text is correct as written. In its rule implementing the Combat Methamphetamine Enhancement Act of 2010 (CMEA) (Pub. L. 111–268), DEA amended the CFR to include three new sections pertaining to mail-order sales (1314.101, 1314.102, and 1314.103) which included the phrase ''regulated person.'' 76 FR 20518.

Certification Fee: Three commenters opposed a fee for certification. One pharmacist stated that pharmacies would not carry the products if they had to pay a fee. An association stated that a fee would disproportionately affect small businesses and sole proprietors, which operate on small margins. Another association objected to paying DEA to file information that DEA requires them to file.

DEA Response: DEA appreciates these comments. DEA published a final rule establishing self-certification fees for regulated sellers selling scheduled listed chemical products at retail on December 29, 2008 (73 FR 79318). In that rulemaking, DEA waived the self-certification fee for persons holding a current, valid DEA registration as a pharmacy to dispense controlled substances, and established a $21 self-certification fee for regulated sellers of scheduled listed chemical products that are not DEA pharmacy registrants. In the final rule, DEA certified that the rule will not have a significant economic impact on a substantial number of small entities whose interests must be considered under the Regulatory Flexibility Act (RFA).

Training: Three associations raised issues related to employee training. Two indicated that DEA training material does not recognize that not all employees require training; only those who handle the product do. The commenter noted that in some stores, the information is collected at one location; the checkout clerk merely takes the payment. The commenter believed the current training is confusing. One association stated that the training implies, improperly, that the regulated seller must check the logs for daily and 30-day limits, which the CMEA does not require. The commenter also asked DEA to remove the reference to phenylpropanolamine, which is not sold at retail as an over-the-counter drug. Another association claimed the training material needs to be revised to state that the limits apply to ephedrine and pseudoephedrine base, not to the product. An association stated that DEA should scale back the training record requirements. The commenter indicated that the CMEA does not require that all records be maintained or that employees sign an acknowledgement of training, let alone that the signed acknowledgement be maintained in the personnel record.

DEA Response: DEA appreciates the comments on the training content. DEA believes that no changes are needed to the training and the training content, as written, is necessary to ensure that employees of regulated sellers are properly trained to meet the requirements of the CMEA. In addition, DEA does not believe that the discussion of phenylpropanolamine should be removed from the training as it is a chemical covered by the CMEA. The training content provided by DEA has been utilized by industry for over 10 years. Furthermore, to reiterate CMEA requirements, all persons who either are responsible for delivering scheduled listed chemical products into the

custody of purchasers or who deal directly with purchasers by obtaining payments for the products must receive training regarding the requirements of the CMEA. 21 U.S.C. 830(e)(1)(A)(vii). Regulated sellers are required to use training provided by DEA, but may augment that training with their own information if they so choose. DEA disagrees that sellers do not need to retain records of the training. Without such records, the regulated seller would not be able to document, for itself or for law enforcement that the regulated seller had complied with the rule and the CMEA by training its employees.

Availability: Two pharmacists claimed that the rule had impeded access to customers with legitimate needs. The commenters believed that most stores are not informing customers of behind-the-counter availability. One pharmacist stated that the substitutes were inferior with more side effects. The commenter claimed that the rule has not reduced illicit methamphetamine production given the internet and other sources of the products. One individual stated that distributors are limiting the products they supply. One pharmacy customer had asked the pharmacy for a prescription for a nonprescription product; another pharmacy refused to carry them because of the logbook hassle. The commenter asked DEA to require pharmacies and distributors to provide the products.

DEA Response: DEA has no authority to require regulated sellers or distributors to carry products or to require stores to inform customers of product availability.

Costs: One chain pharmacy stated that compliance had cost it $2.4 million to move products behind-the-counter, change signage, train workers, and print logs. An association stated that stores would need to train more than two people a year. The commenter noted that estimates of space costs ignored the limited availability of such space. The commenter noted that States require retailers to store cigarettes and lottery tickets behind the counter. Many stores have marketing and display agreements with cigarette companies. The commenter claimed that DEA rule can hurt store sales and marketing revenues. In addition, over-the-counter sales of the products spur impulse purchases of other products so that, even if the products are a small percentage of sales, loss of these sales will have a considerable impact on in-store sales. Another association stated that the rule would affect a substantial number of small entities, which have fewer resources to devote to compliance.

One commenter raised issues related to the cost of complying with the CMEA requirements, such as training, store reconfigurations, and logbooks, and estimated the total cost of implementation to be approximately $2.26 million for a large chain pharmacy and almost $600,000 for a medium-sized pharmacy chain. Another commenter stated that DEA's assumptions and estimates regarding annual certification and employee training, as well as for behind-the-counter storage and its effect on impulse purchases, were inadequate.

DEA Response: While the placement of these products behind-the-counter may displace some items, it opens up space on the counter and shelves for others. Similarly, while some purchasers of these products may then decide to purchase other products, the reverse is also true; for some purchasers, these would be the impulse purchases. Finally, DEA recognized the impact on small entities, but the CMEA provided no discretion to apply different rules to small businesses.

DEA has no authority to alter the behind-the-counter requirement. DEA also notes that the costs mentioned by these commenters are generalized and actual costs are unknown. For these reasons, DEA continues to believe that this rule will not have a significant economic impact on a substantial number of small entities, and has certified accordingly pursuant to the RFA, referenced below.

Other Issues: One association stated that DEA should add provisions to the rule to clarify that all retail sellers, not just registrants, are subject to the rule. The association also asked for explicit rule language to specify that prescription products are not subject to the rule.

DEA Response: The rule is already clear on both these points. The CSA, as amended by the CMEA, defines a ''scheduled listed chemical product'' in part as ''a product that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act as a nonprescription drug.'' 21 U.S.C. 802(45)(A)(ii); 21 CFR 1300.02. Thus, DEA believes no further clarification is necessary. Nothing in the definitions of ''regulated seller'' (21 U.S.C. 802(46)) or ''retail distributor'' (21 U.S.C. 802(49)), upon which the definition of regulated seller is based, discusses or stipulates requirements regarding registration. Again, DEA does not believe that further clarification is warranted.

Definition of ''unusual or excessive loss.'' One commenter asked for a definition of ''unusual or excessive loss.'' The commenter stated that DEA should suspend enforcement until it has clarified loss reporting in another rule.

DEA Response: DEA regulation at 21 CFR 1314.15(a) does not define unusual or excessive loss. The phrase applies to a wide range of regulated persons, from small stores, to large-scale distributors, to manufacturers. The definition of unusual and excessive loss will vary too much to develop a single standard or definition applicable to a wide range of regulated persons.

Definition of retail distributor: One commenter stated that the definition of retail distributor as codified in the regulations should include ephedrine, as it does in the CSA.

DEA Response: DEA appreciates the commenter noting this inconsistency. The CSA definition of ''retail distributor,'' as amended by the CMEA, does include ephedrine.[10] The September 2006 IFR revised the definition of ''retail distributor'' at 21 CFR 1300.02(b)(29) to conform with the CMEA provision; however, this regulatory definition inadvertently omitted ''ephedrine.'' In January 2012, DEA issued a technical amendments rule which removed the numbers for each definition in 21 CFR 1300.02(b). 77 FR 4228. This final rule revises the definition of ''retail distributor'' at 21 CFR 1300.02(b) to include ephedrine.

Lack of notice and comment: An internet retailer objected to the lack of notice and comment. The commenter stated that Congress did not intend to require photographic identification of purchasers for mail-order, so the rule was not an extension of Congressional intent. The commenter believed that notice and comment would also have given retailers time to prepare for compliance; the commenter indicated that the requirement for photographic identification requires software and process changes that take time. The commenter believed that it is unfair to the company and consumers to make this change without comment. Another commenter noted that the IFR was published only four days before the compliance date, which did not give sellers time to comply.

DEA Response: In regards to mail-orders, the CMEA requires the purchaser to present a Federal or State government issued identification card that provides a photograph or a

[10] ''Retail distributor'' is defined as a grocery store, general merchandise store, drug store, or other entity or person whose activities as a distributor relating to ephedrine, pseudoephedrine, or phenylpropanolamine products are limited almost exclusively to sales for personal use, both in sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales. 21 U.S.C. 802(49)(A).

document that with respect to identification is considered acceptable pursuant to 8 CFR 274a.2(b)(1)(v)(A) and 274a.2(b)(1)(v)(B). The regulated person must verify that the name and address on the identification correspond to the information provided by the purchaser. DEA had a very limited period to conform its regulations to the CMEA requirements; the law was signed March 9, 2006, with a statutory deadline of September 30, 2006. The requirements of the CMEA would have gone into effect regardless of the regulations. If DEA had not published regulations when it did, procedures would not have been in place permitting persons to self-certify; thus, persons could not have legally sold scheduled listed chemical products at retail. Consequently, there was no time to seek comment prior to the CMEA deadlines, nor would comments have altered the requirements that the CMEA established. DEA conducted outreach activities to inform industry of the statutory requirements prior to the rulemaking, so they had time to come into compliance by the statutory deadlines.

Limitation of sales: One commenter suggested that sales be limited to pharmacies; internet sales should be banned. Another commenter stated that DEA should control distributors. One asked if liquids could be used to make methamphetamine illicitly and suggested that if they cannot, sales should be limited to liquids. One pharmacist suggested that scheduled listed chemical products be listed as controlled substances.

DEA Response: The CMEA did not provide DEA authority to limit sales of scheduled listed chemical products to pharmacies. DEA already regulates distributors of scheduled listed chemical products as, prior to their retail sale, they are considered list I chemicals. As DEA has discussed in other rulemakings regarding implementation of the CMEA,[11] liquid forms of scheduled listed chemical products can be used to manufacture methamphetamine illicitly, which is why Congress included all forms under the CMEA requirements. Congress did not choose to place scheduled listed chemical products in the schedules of controlled substances.

Small businesses: One commenter representing small to midsize businesses that engage in the manufacture, distribution, and sales of scheduled listed chemical products and other over-the-counter pharmaceuticals, stated that implementation of the CMEA will have a significant impact on small business. The commenter noted that small enterprises have fewer financial and material resources than their larger counterparts, thus making compliance a more expensive business expense, and that hundreds of thousands of small retailers, and their distributors, will be impacted.

DEA Response: Although DEA agrees with the commenter that the rule affects a substantial number of small entities, for the reasons previously discussed, DEA continues to believe that the rule does not have a significant economic impact on a substantial number of small entities, and has certified accordingly pursuant to the RFA, referenced below.

III. Discussion of Public Comments Received on April 2007 IFR

Request for Delay of Effective Date

DEA received comments from the regulated industry requesting the delay of the effective date of the rulemaking to allow industry more time to fully comply with the new provisions. The rule originally became effective on May 9, 2007. However, after careful consideration of the comments received, DEA temporarily stayed the provisions of the IFR by 30 days, from May 9, 2007 to June 8, 2007. 72 FR 28601, May 22, 2007.

Other Comments Received

DEA received five substantive comments on the IFR. Commenters included chemical manufacturers and distributors and national associations representing manufacturers of chemicals and flavorings and fragrances. DEA has determined that no changes are necessary to the rule as implemented as a result of the comments received. Therefore this final rule finalizes the IFR without change. The following discussion summarizes the issues raised by commenters and DEA's response to these issues.

Interpretation of the CMEA

One commenter disagreed with DEA's requirement that the transferee be identified before the import or export can take place. This commenter agreed that, while it is clear that Congress intended that the transferee be identified before a transfer to a new customer takes place, the CMEA does not require the transferee be identified before an import or export can take place.

DEA Response: DEA disagrees with the commenter's interpretation of new section 716. Section 716 of the CMEA amended 21 U.S.C. 971 by adding a new subsection (d)(1)(A) which states that ''[i]nformation provided in a notice under subsection (a) or (b) shall include the name of the person to whom the importer or exporter involved intends to transfer the listed chemical involved, and the quantity of such chemical to be transferred.'' Paragraph (a) of section 971 requires each regulated person who imports or exports a listed chemical to notify the Attorney General of the importation or exportation not later than 15 days before the transaction is to take place. Paragraph (b)(1) of section 971 requires the regulated person to notify the Attorney General of an importation by a regular importer or an exportation to a regular customer at the time the transaction is to take place. Thus, paragraph (d)(1)(A) requires the identification of the transferee at the time of the provision of DEA Form 486 to DEA.

Request for Extension of Effective Date

Three commenters objected to the lack of opportunity to comment on procedures before the IFR was issued and on the 30-day effective date imposed by the IFR, stating that it would not allow industry enough time to thoroughly review the new requirements, seek clarification regarding unclear provisions, and implement procedures to comply with the new requirements. One commenter indicated that it needed additional time to modify its computer programming logic to accommodate the revisions to DEA Form 486. One commenter believed that DEA's failure to conduct notice and comment rulemaking violates the Administrative Procedure Act (APA). Two commenters requested a 90-day extension to the effective date to allow the industry more time to come into compliance with the new rules.

DEA Response: After careful consideration of the concerns expressed by these commenters, DEA temporarily stayed certain provisions of the IFR published April 9, 2007. The temporary stay of certain provisions was published May 22, 2007 (72 FR 28601). Specifically, DEA temporarily stayed the following provisions:

- The waiver of the 15-day advance notification requirement for importations of a listed chemical for which the importer intends to transfer the listed chemical to a person who is a regular customer of the chemical;
- The requirement that importers, exporters, brokers, and traders notify DEA of the transferee of the listed chemical;

[11] *See* DEA final rule titled ''Removal of Thresholds for the List I Chemicals Pseudoephedrine and Phenylpropanolamine,'' published in the **Federal Register** on November 20, 2007, at 73 FR 65248.

• The requirement that importers, exporters, brokers, and traders amend DEA Form 486 if the transferee changes or the quantity of the chemical to be transferred increases; and

• The requirement that importers, exporters, brokers, and traders file return declarations regarding importations, exportations, and international transactions with DEA.

These provisions were already in effect because of their inclusion in the CMEA; however, their implementation was temporarily stayed until June 8, 2007. The temporary stay applied only to those provisions implemented by section 716 of the CMEA. All other provisions regarding the importation, exportation, and international transactions involving list I and list II chemicals remained in full force and effect.

DEA did not conduct a Notice of Proposed Rulemaking (NPRM) with an opportunity for comment because the CMEA set forth the provisions in such detail as to be self-implementing and gave no discretion in its implementation. DEA is merely codifying the statutory provisions. Also, Congress was clear in its intent that these provisions be implemented quickly, which precluded full notice and comment rulemaking. DEA did seek comments in the IFR and is responding to these comments in this Final Rule.

With respect to the commenter's allegation that DEA violated the notice and comment requirement of the APA, DEA notes that it provided an extensive discussion of the ''good cause'' exception to this requirement in its April 2007 IFR. DEA acknowledged that the good cause exception to the APA's notice and comment procedures is to be ''narrowly construed and only reluctantly countenanced.'' 72 FR 17405. DEA reiterates its position that because the CMEA's provisions regarding additional reporting for import, export, and international transactions involving list I and list II chemicals were so specific, DEA had no discretion in their implementation. DEA merely codified in its regulations that which had been explicitly required by Congress in section 716 of the CMEA. DEA believes that its use of the good cause exception to the APA's notice and comment requirements was entirely appropriate in this case.

Transferee Information

Three commenters stated that the IFR did not address the situation where, at the time of import or export, the importer or exporter does not intend to transfer the listed chemical to any person. Instead, the importer or exporter intends to transfer it to themselves either for stock purposes or for later distribution to transferees (downstream customers) that will be identified. One commenter described its (first in, first out) method of handling inventory and requested clarification on whether it can continue to follow that practice, since the exact material imported for a particular customer may not always be distributed to that customer. Another commenter speculated that DEA intended that the importer could list as the transferee another legal entity or listed chemical business activity. In this case importers could list their own manufacturer or distributor registration information. Another commenter suggested that, at the time of import or export of listed chemicals, if a transferee (downstream customer) has not been identified, DEA Form 486 space for transferee should be completed with the name of the importer. This would reflect the importer's intention to hold the listed chemicals in inventory. When the importer, exporter, broker, or trader later identifies a proposed transferee, then they must file an amended DEA Form 486 reporting the name of the person to whom the importer or exporter involved intends to transfer the listed chemical, and the quantity of such chemical to be transferred. Commenters requested that DEA clarify precisely when and how the identity of the transferee (downstream customer) must be provided if it is not known at the time of import.

DEA Response: The CMEA is clear in its plain language. As discussed above, at the time the advance notification (DEA Form 486) is provided to DEA, the importer, exporter, broker, or trader ''shall include the name of the person to whom the importer or exporter involved intends to transfer the listed chemical involved, and the quantity of such chemical to be transferred.'' DEA cannot change this requirement. However, DEA notes that the importer or exporter can change the name of the transferee included on DEA Form 486 simply by submitting an amended DEA Form 486 to DEA. For exports, a chemical may be exported from a United States facility of a company to a foreign facility of the same company; in that instance, the foreign facility is the transferee of the export. For imports, the importer may not list its own name as the transferee; however, it may list the name of an affiliated manufacturer, or its own manufacturing facility if it holds a separate registration as a manufacturer, who will process, repackage, or relabel the listed chemical. This is because an importer is permitted to distribute that which it imports, but is not permitted to distribute a chemical which it imported but which has been processed, packaged, labeled, repackaged, or relabeled, subsequent to import. Those activities are defined by the CSA as manufacturing activities (21 U.S.C. 802(15)) and such manufacturing activities may only be carried out by a DEA-registered manufacturer.

DEA recognizes that the exact material imported for a particular customer may not always be distributed to that customer. For example, DEA does not expect an importer to empty a large vat of liquid chemicals based on the order in which DEA Forms 486 were submitted to DEA. DEA would also not expect an importer to segment chemicals stored in its warehouse based on the specific transferee designated on a particular DEA Form 486. So long as all chemicals imported are accounted for in terms of importation and distribution to transferees, this satisfies the requirements of the CMEA.

Return of Chemicals

A related issue raised by two commenters addressed how to handle a return of a product exported to a foreign customer. One of the commenters asked how the supplier (the original exporter), who is now an importer, is to deal with the reporting of the transfer. The commenter noted that in circumstances involving returns, the disposition of the goods may not be decided until they are received back into the supplier's inventories.

DEA Response: In DEA's experience, the return of a product exported to a foreign customer is not a routine occurrence; however, when such instances arise, the return of such products will be treated as imports. Like with all imports, DEA Form 486 must be filed in compliance with DEA regulations. DEA further notes that this issue is not specific to implementation of the CMEA.

Importation for Exportation

A commenter requested clarification about a situation where a United States company imports listed chemicals for the purpose of export. This commenter asked whether it could list a foreign customer as the transferee on an import declaration.

DEA Response: The importation and exportation of the listed chemical are separate transactions conducted under separate DEA registrations. If a United States importer imports a listed chemical for exportation, the United States importer submits to DEA a DEA Form 486 providing information concerning the United States exporter,

the United States importer's transferee of the listed chemical. For the United States exporter, the transferee is the foreign importer. The United States exporter submits a separate DEA Form 486 providing information regarding the exportation. Both the importation and exportation of the listed chemical require the subsequent submission of return declarations for each transaction. Note that the requirement to submit separate DEA Forms 486 for the importation and exportation of the listed chemical has not been affected by the CMEA.

Regular Customer Status

One commenter stated that, under the rule, for a customer to obtain regular customer status, they must have an established business relationship for a specified listed chemical or chemicals that has been reported to DEA. The commenter believed that if it has transferred a regulated transaction either once in six months or twice in a year and the transfer has been reported to DEA, no matter what the chemical class, the 15-day advance notice should be able to be waived. If this were not the case, the commenter believed that its delivery time to its customers would be negatively impacted.

DEA Response: The requirement that an importer or exporter must establish a business relationship with a customer on a chemical-by-chemical basis to obtain regular customer status was not changed by the CMEA or the IFR. DEA views not only each customer independently, but also each chemical. There may be cases where a regular customer for one chemical may not be approved as a regular customer for a different chemical.

Another commenter requested that DEA clarify whether the 15-day advance notification requirement applies to the transfer of a listed chemical to regular customers in quantities greater than that indicated on the original form. The commenter believed that it is clear that the notice applies to new customers in this case. The commenter noted that as the transfer of quantities less than that originally reported can be transferred to regular customers without advance notification to DEA, and only needs to be reported on the return declaration, inventory may exist that will allow an importer to transfer a greater quantity than originally indicated to regular customers.

DEA Response: Notification is required for the transfer of a listed chemical to regular customers in quantities greater than that indicated on the original form; however, the notice need not be sent 15 days in advance if the regular customer status has been established. Section 971(d)(1)(C) states that after a notice under subsection (a) or (b) is submitted to the Attorney General, if circumstances change and the importer or exporter . . . will be transferring a greater quantity of the chemical than specified in the notice, the importer or exporter shall update the notice to identify . . . the most recent quantity . . . and may not transfer the listed chemical until after the expiration of the 15-day period beginning on the date on which the update is submitted to the Attorney General, except that such 15-day restriction does not apply if the prospective transferee identified in the update is a regular customer.

15-Day Advance Notification for Importation of Ephedrine and Pseudoephedrine

One commenter requested clarification regarding the waiver of the 15-day advance notification requirement for regular importers and regular customers with respect to the listed chemicals ephedrine and pseudoephedrine. Section 1313.12 of the IFR states that the 15-day advance notification can be waived for a regulated person who has qualified as a regular importer if the listed chemical is transferred to a regular customer. The commenter noted that in 1995 DEA disqualified regular importer status for the listed chemicals ephedrine and pseudoephedrine; all imports of these chemicals have been subject to the advance 15-day notification requirement. The commenter requested that DEA confirm whether this disqualification would still be in effect after the implementation of the IFR.

DEA Response: The disqualification of regular importer status for ephedrine and pseudoephedrine remains in effect. DEA sent out a separate notice to all DEA-registered importers reiterating the disqualification of regular importer and regular customer status for all importations of the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine and drug products containing those three list I chemicals in May 2007. This notice stated that the disqualification from regular importer and regular customer status of the United States importer and its transferees is necessary to enforce the provisions of the CMEA. The CMEA places stringent controls on the importation, manufacture, and retail sale of the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine because these chemicals—and drug products containing them—are used domestically to illicitly manufacture methamphetamine and amphetamine, both schedule II controlled substances.

Early Submission of Transferee Information

One commenter requested clarification on how §§ 1313.15 and 1313.08 would apply to future imports. To eliminate the 15-day waiting period on all future imports, the commenter requested that it be able to submit transferee information to allow for the 15-day advance notice to be waived on future imports.

DEA Response: Importers, exporters, brokers, and traders must follow DEA notification requirements for each planned import, export, or international transaction, so that DEA can closely monitor imports, exports, and international transactions of listed chemicals that may be used in the illicit manufacture of controlled substances. The submission of transferee information not affiliated with a specific importation, exportation, or international transaction is not permitted and does not negate any advance notification requirements in effect for the transferee.

DEA Form 486, Import/Export Declaration for List I and List II Chemicals

One commenter supported the change of return paperwork responsibility being transferred from United States Customs and Border Protection to the exporter or importer; however, another commenter requested clarification of this change to the procedures for distributing the form. Another commenter noted that the instructions for DEA Form 486 state that Copy 3 of the export declaration must be returned to DEA, while § 1313.23(c) states that ''Copy 3 shall be presented to the U.S. Customs Service.''

Two commenters requested clarification of the requirements for DEA Form 486 when a planned importation or exportation does not take place. Sections 1313.17 and 1313.27 state that an amended DEA Form 486 must be filed, but one commenter suggested that the form should be ''withdrawn'' and that §§ 1313.17 and 1313.27 should be amended accordingly.

DEA Response: The distribution requirements for DEA Form 486 have not changed and the importer/exporter must send an original copy of DEA Form 486 to the U.S. Customs Service. This has been corrected in the instructions for DEA Form 486. The change is that the U.S. Customs Service no longer has to certify what is being

imported or exported. The new return declarations serve as this certification.

Regarding the commenters seeking clarification on DEA Form 486, DEA considers any change to a previously submitted form an ''amendment'' whether specific information is being amended in the form or the form is being withdrawn. When a planned importation or exportation does not take place, the importer or exporter must submit an amended DEA Form 486, marked ''withdrawn'' in the fields provided for that purpose on the form.

International Transactions

One commenter asked how the new requirements apply to international transactions, *i.e.,* shipments from a United States-based company's facilities in a foreign country to a customer within that country or in a different foreign country. Similarly, the commenter asked whether shipping a product from the United States to a foreign entity of the same company would trigger the requirement to submit a DEA Form 486.

DEA Response: The definition of ''international transaction'' did not change with enactment of the CMEA. The CSA defines an international transaction as follows: ''The term 'international transaction' means a transaction involving the shipment of a listed chemical across an international border (other than a United States border) in which a broker or trader located in the United States participates.'' 21 U.S.C. 802(42). DEA has never regulated the shipment of listed chemicals from a United States-based company's foreign facilities to other entities within the country in which the United States-based company's foreign facility is located. If, however, any foreign entity ships a listed chemical from one foreign country to another foreign country, and that transaction is arranged by a United States broker or trader, the CSA and its implementing regulations apply for purposes of international transactions. As noted previously, shipping a product from the United States to a foreign entity of the same company is an export and must be handled as such.

IV. Summary of the Final Rule

This final rule adopts the September 2006 IFR, with one technical change, and the April 2007 IFR, without change, as amended by the ITDS rule. The technical amendment to the September 2006 IFR involves the definition of the term ''retail distributor.'' The definition of ''retail distributor'' in 21 CFR 1300.02(b) is being amended to include ephedrine so that it will mirror the definition of ''retail distributor'' found in the CSA at 21 U.S.C. 802(49)(A). The September 2006 IFR inadvertently omitted ephedrine from the definition of ''retail distributor.''

V. Regulatory Analyses

Administrative Procedure Act

This final rule, with one change to the September 2006 IFR, and without change to the April 2007 IFR, affirms the amendments made by both IFRs that are already in effect. The APA generally requires that agencies, prior to issuing a new rule, publish an NPRM in the **Federal Register**. The APA also provides, however, that agencies may be excepted from this requirement when ''the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(B).

As discussed in the September 2006 and April 2007 IFRs, DEA invoked this ''good cause'' exception to the APA's notice and comment requirements. For the September 2006 IFR, DEA determined that public notice and comment were impracticable and contrary to the public interest. As for the April 2007 IFR, DEA determined that public notice and comment were unnecessary and impracticable. With the publication of this final rule, DEA is making a technical amendment to the definition of the term ''retail distributor.'' The definition of ''retail distributor'' in 21 CFR 1300.02(b), which was set forth in the September 2006 IFR, is being amended to include ephedrine so that it will mirror the definition of ''retail distributor'' found in the CSA at 21 U.S.C. 802(49)(A). The CMEA set forth this definition in such detail as to be self-implementing. As explained above in section II, DEA inadvertently omitted ephedrine when it set forth the definition of ''retail distributor'' in the September 2006 IFR. As this definition is already in effect, DEA finds that notice and opportunity for comment for this technical amendment are unnecessary under the APA (5 U.S.C. 553(b)(B).

Regulatory Flexibility Act

The RFA (5 U.S.C. 601–612) applies to rules that are subject to notice and comment under section 553(b) of the APA. As noted in the above discussion regarding the applicability of the APA, DEA was not required to publish a general NPRM prior to this final rule for either the September 2006 IFR or the April 2007 IFR. Consequently, the RFA does not apply.

Furthermore, in the September 2006 IFR, although the RFA was determined to not apply, DEA reviewed the potential impacts of the IFR. The IFR was estimated to affect a substantial number of small entities, but DEA did not believe that it would have significant economic impacts on small entities. In the IFR, DEA sought comments where DEA had discretion in the way in which provisions of the CMEA were implemented and regarding impact on manufacturers and distributors. DEA received no information that could be used to quantify any impacts and notes that reports in trade publications have indicated that sales of cold medications, which is where most scheduled listed chemical products are classified, have continued to grow. It seems unlikely, therefore, that regulated sellers have been significantly impacted by the CMEA requirements.

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

This final rule was developed in accordance with the principles of E.O. 12866 and 13563. E.O. 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects; distributive impacts; and equity). E.O. 13563 is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review as established in E.O. 12866. E.O. 12866 classifies a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB), as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or

the principles set forth in the Executive order.

DEA had determined that the September 2006 and April 2007 IFRs were ''significant regulatory action[s]'' under E.O. 12866, section 3(f), Regulatory Planning and Review, and accordingly the IFRs were reviewed by OMB. DEA estimated that the statutory changes enacted under the April 2007 IFR imposed minimal costs on United States importers, exporters, brokers, and traders.

As discussed above, this final rule finalizes the IFRs and makes one technical revision to the definition of ''retail distributor,'' provided in the September 2006 IFR, to mirror the statutory definition of ''retail distributor'' as set forth by the CMEA. Therefore, this final rule imposes no cost beyond the costs imposed by the IFRs. OMB has determined that this final rule is not a ''significant regulatory action'' under E.O. 12866, section 3(f), Regulatory Planning and Review, and accordingly this rule has not been reviewed by OMB.

This final rule is not a significant regulatory action under E.O. 12866, it does not impose a cost greater than zero. Therefore, this final rule is not an E.O. 13771 regulatory action.

Paperwork Reduction Act of 1995

As stated in the September 2006 and April 2007 IFRs, DEA identified information collections and submitted those collection requests to OMB for review and clearance in accordance with review procedures of the Paperwork Reduction Act of 1995.

The September 2007 IFR updated DEA regulations for the requirements of the CMEA, ''Self-certification, Training and Logbooks for Regulated Seller of Scheduled Listed Chemical Products'' (OMB control number 1117–0046). The CMEA mandated a number of new information collections and recordkeeping. Regulated sellers are required to train any employee who will be involved in selling scheduled listed chemical products and to document the training. Regulated sellers must also self-certify to DEA that all affected employees have been trained and that the seller is in compliance with all CMEA provisions. Finally, the CMEA mandates that each sale at retail be documented in a written or electronic logbook and that the logbooks be retained for two years.

In the April 2007 IFR, DEA revised the information collected on DEA Form 486: Import/Export Declaration for list I and list II Chemicals [OMB information collection 1117–0023]. Those changes were discussed in the IFR and were necessary for DEA to implement the provisions of the CMEA.

DEA received OMB clearance for the information collections in the two IFRs. In addition, DEA did not receive any comments to the Paperwork Reduction Act aspect of these IFRs and is finalizing that aspect of the IFRs without change.

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, minimizes litigation, provides a clear legal standard for affected conduct, and promotes simplification and burden reduction.

Executive Order 13132, Federalism

This rulemaking does not have federalism implications warranting the application of E.O. 13132. The final rules does not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. The rule does preempt State laws that are less stringent than the statutory requirements. These requirements, however, are mandated under the CMEA and DEA has no authority to alter them or change the preemption. Accordingly, this rulemaking does not have federalism implications warranting the application of E.O. 13132.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This final rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities between the Federal Government and Indian tribes.

Unfunded Mandates Reform Act of 1995

DEA has determined pursuant to the Unfunded Mandates Reform Act (UMRA) of 1995, 2 U.S.C. 1501 *et seq.,* 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 $100,000,000 or more (adjusted for inflation) in any one year. Therefore, neither a Small Government Agency Plan nor any other action is required under provisions of the UMRA of 1995.

Congressional Review Act

This is a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act) (CRA). As explained in the September 2006 and April 2007 IFRs, the April 2007 IFR was not a major rule; however, the September 2006 IFR was a major rule. This final rule finalizes the IFRs and makes one technical revision to the definition of ''retail distributor'' in the September 2006 IFR to mirror the statutory definition of ''retail distributor.'' Therefore, this final rule imposes no cost beyond the costs imposed by the IFRs. Pursuant to the CRA, DEA has delivered copies of this rule to both Houses of Congress and to the Comptroller General.

A major rule generally cannot take effect until 60 days after the date on which the rule is published in the **Federal Register**. 5 U.S.C. 801(a)(3). However, the CRA provides that ''any rule for which an agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, shall take effect at such time as the Federal agency promulgating the rule determines.'' 5 U.S.C. 808. As noted in the above discussion regarding the applicability of the APA, DEA was not required to publish a general NPRM. Therefore, this final rule takes effect as outlined in the ''Dates'' section of this final rule.

List of Subjects

21 CFR Part 1300

Chemicals, traffic control.

21 CFR Part 1309

Administrative practice and procedure, Drug traffic control, Exports, Imports, Security measures.

21 CFR Part 1310

Drug traffic control, exports, imports, reporting and recordkeeping requirements.

21 CFR Part 1314

Drug traffic control, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the IFR amending 21 CFR parts 1300 and 1313, which was published at 72 FR 17401 on April 9, 2007, is adopted as a final rule, without change, and the IFR amending 21 CFR parts 1300, 1309, 1310, 1313, and 1314, which was published at 71 FR 56008 on September 26, 2006 (correction at 71 FR 60609 on October 13, 2006), is adopted as a final rule, with the following change, as amended by the final rule published on December 30, 2016 (81 FR

96992), effective January 30, 2017, and delayed on January 30, 2017 (82 FR 8688), until March 21, 2017 (82 FR 8688):

PART 1300—DEFINITIONS

■ 1. The authority citation for part 1300 continues to read as follows:

Authority: 21 U.S.C. 802, 821, 822, 829, 871(b), 951, 958(f).

■ 2. Amend § 1300.02(b) by removing ''pseudoephedrine or phenylpropanolamine'' from the definition of ''Retail distributor'' and adding in its place ''ephedrine, pseudoephedrine, or phenylpropanolamine''.

Timothy J. Shea,

Acting Administrator.

[FR Doc. 2020–19311 Filed 10–28–20; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 552

Yemen Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is amending the Yemen Sanctions Regulations and reissuing them in their entirety to further implement Executive Order 13611 of May 16, 2012, ''Blocking Property of Persons Threatening the Peace, Security, or Stability of Yemen.'' This final rule replaces the regulations that were published in abbreviated form on November 9, 2012, with a more comprehensive set of regulations that includes additional interpretive and definitional guidance, general licenses, statements of licensing policy, and other regulatory provisions that will provide further guidance to the public. Due to the number of regulatory sections being updated or added, OFAC is reissuing the Yemen Sanctions Regulations in their entirety.

DATES: This rule is effective October 29, 2020.

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Licensing, 202–622–2480; Assistant Director for Regulatory Affairs, 202–622–4855; or Assistant Director for Sanctions Compliance & Evaluation, 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available on OFAC's website (*www.treasury.gov/ofac*).

Background

On November 9, 2012, OFAC issued the Yemen Sanctions Regulations, 31 CFR part 552 (the ''Regulations'') (77 FR 67276, November 9, 2012), to implement Executive Order 13611 of May 16, 2012, ''Blocking Property of Persons Threatening the Peace, Security, or Stability of Yemen'' (77 FR 29533, May 18, 2012) (E.O. 13611). The Regulations were initially issued in abbreviated form for the purpose of providing immediate guidance to the public. OFAC is amending and reissuing the Regulations as a more comprehensive set of regulations that includes additional interpretive and definitional guidance, general licenses, statements of licensing policy, and other regulatory provisions that will provide further guidance to the public. Due to the number of regulatory sections being updated or added, OFAC is reissuing the Regulations in their entirety.

Executive Order 13611

On May 16, 2012, the President, invoking the authority of, *inter alia,* the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (IEEPA), issued E.O. 13611. In E.O. 13611, the President found that the actions and policies of certain members of the Government of Yemen and others threaten Yemen's peace, security, and stability, including by obstructing the implementation of the agreement of November 23, 2011, between the Government of Yemen and those in opposition to it, which provides for a peaceful transition of power that meets the legitimate demands and aspirations of the Yemeni people for change, and by obstructing the political process in Yemen. The President further found that these actions constitute an unusual and extraordinary threat to the national security and foreign policy of the United States and declared a national emergency to deal with that threat.

Section 1 of E.O. 13611 blocks, with certain exceptions, all property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of any U.S. person, including any foreign branch, of the following persons: Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, to: (a) Have engaged in acts that directly or indirectly threaten the peace, security, or stability of Yemen, such as acts that obstruct the implementation of the agreement of November 23, 2011, between the Government of Yemen and those in opposition to it, which provides for a peaceful transition of power in Yemen, or that obstruct the political process in Yemen; (b) be a political or military leader of an entity that has engaged in the acts described in Section 1(a) of E.O. 13611; (c) have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the acts described in Section 1(a) of E.O. 13611 or any person whose property and interests in property are blocked pursuant to E.O. 13611; or (d) be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to E.O. 13611. The property and interests in property of the persons described above may not be transferred, paid, exported, withdrawn, or otherwise dealt in.

In Section 2 of E.O. 13611, the President determined that the making of donations of certain articles, such as food, clothing, and medicine, intended to be used to relieve human suffering, as specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)), by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to E.O. 13611 would seriously impair his ability to deal with the national emergency declared in E.O. 13611. The President therefore prohibited the donation of such items unless authorized by OFAC.

Section 3 of E.O. 13611 provides that the prohibition on any transaction or dealing in blocked property or interests in property includes the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to E.O. 13611, and the receipt of any contribution or provision of funds, goods, or services from any such person.

Section 6 of E.O. 13611 prohibits any transaction by a U.S. person or within the United States that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in E.O. 13611, as well as any conspiracy formed to violate such prohibitions.

Section 9 of E.O. 13611 authorizes the Secretary of the Treasury, in consultation with the Secretary of State, to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the

President by IEEPA, as may be necessary to carry out the purposes of E.O. 13611. Section 9 of E.O. 13611 also provides that the Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the U.S. Government.

Current Regulatory Action

In furtherance of the purposes of E.O. 13611, OFAC is amending and reissuing the Regulations. The Regulations implement targeted sanctions that are directed at persons determined to meet the criteria set forth in section 552.201(a) of the Regulations, as well as sanctions that may be set forth in any further Executive orders issued pursuant to the national emergency declared in E.O. 13611. The sanctions in E.O. 13611 do not generally prohibit trade or the provision of banking or other financial services to the country of Yemen. Instead, the sanctions in E.O. 13611 apply where the transaction or service in question involves property or interests in property that are blocked pursuant to these sanctions.

Subpart A of the Regulations clarifies the relation of this part to other laws and regulations. Subpart B of the Regulations implements the prohibitions contained in Sections 1, 2, 3, and 6 of E.O. 13611, as well as the prohibitions that may be set forth in any future Executive orders issued pursuant to the national emergency declared in E.O. 13611. *See, e.g.,* §§ 552.201 and 552.205. Persons designated by or under the authority of the Secretary of the Treasury pursuant to E.O. 13611, or otherwise subject to the blocking provisions of E.O. 13611, as well as persons who are blocked pursuant to any further Executive orders issued pursuant to the national emergency declared in E.O. 13611, are referred to throughout the Regulations as ''persons whose property and interests in property are blocked pursuant to § 552.201.'' The names of persons designated pursuant to E.O. 13611, or listed in or designated or identified pursuant to any further Executive orders issued pursuant to the national emergency declared in E.O. 13611, are published on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List), which is accessible via OFAC's website. Those names also are published in the **Federal Register** as they are added to the SDN List.

Sections 552.202 and 552.203 of subpart B detail the effect of transfers of blocked property in violation of the Regulations and set forth the requirement to hold blocked funds, such as currency, bank deposits, or liquidated financial obligations, in interest-bearing blocked accounts. Section 552.204 of subpart B provides that all expenses incident to the maintenance of blocked tangible property shall be the responsibility of the owners and operators of such property, and that such expenses shall not be met from blocked funds, unless otherwise authorized. The section further provides that blocked property may, in OFAC's discretion, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

Section 552.205 of subpart B prohibits any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in section 552.201 of the Regulations, and any conspiracy formed to violate such prohibitions.

Section 552.206 of subpart B details transactions that are exempt from the prohibitions of the Regulations pursuant to section 203(b)(1) of IEEPA (50 U.S.C. 1702(b)(1)), which relates to personal communications, as well as transactions that are exempt from the prohibitions of the Regulations pursuant to section 5 of E.O. 13611, which relates to the conduct of the official business of the United States Government.

In subpart C of the Regulations, new definitions are being added to other key terms used throughout the Regulations. Because these new definitions were inserted in alphabetical order, the definitions that were in the prior abbreviated set of regulations have been renumbered. Similarly, in subpart D, which contains interpretive sections regarding the Regulations, certain provisions have been added to those in the prior abbreviated set of regulations. Section 552.411 explains that the property and interests in property of an entity are blocked if the entity is directly or indirectly owned, whether individually or in the aggregate, 50 percent or more by one or more persons whose property and interests in property are blocked, whether or not the entity itself is incorporated into OFAC's SDN List.

Transactions otherwise prohibited by the Regulations but found to be consistent with U.S. policy may be authorized by one of the general licenses contained in subpart E of the Regulations or by a specific license issued pursuant to the procedures described in subpart E of 31 CFR part 501. Subpart E of the Regulations also contains certain statements of specific licensing policy in addition to the general licenses. General licenses and statements of licensing policy relating to this part also may be available through the Yemen-related sanctions page on OFAC's website: *www.treasury.gov/ofac.*

OFAC is also incorporating several new general licenses into the Regulations, making technical edits to certain existing general licenses, and renumbering existing general licenses. Sections 552.506, 552.508, and 552.510 authorize certain transactions relating to investment and reinvestment of certain funds, payments for legal services from funds originating outside the United States, and official activities of international organizations. In addition, § 552.506 was renumbered as § 552.507, and § 552.507 was renumbered as § 552.509.

Subpart F of the Regulations refers to subpart C of part 501 for recordkeeping and reporting requirements. Subpart G of the Regulations describes the civil and criminal penalties applicable to violations of the Regulations, as well as the procedures governing the potential imposition of a civil monetary penalty or issuance of a Finding of Violation. Subpart G also refers to appendix A of part 501 for a more complete description of these procedures.

Subpart H of the Regulations refers to subpart E of part 501 for applicable provisions relating to administrative procedures and contains a delegation of certain authorities of the Secretary of the Treasury. Subpart I of the Regulations sets forth a Paperwork Reduction Act notice.

Public Participation

Because the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, as well as the provisions of Executive Order 13771, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501 (the ''Reporting, Procedures and Penalties Regulations''). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 552

Administrative practice and procedure, Banks, banking, Blocking of assets, Credit, Foreign trade, Penalties, Reporting and recordkeeping requirements, Sanctions, Securities, Services, Yemen.

■ For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control revises 31 CFR part 552 to read as follows:

PART 552—YEMEN SANCTIONS REGULATIONS

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Sec.
552.101 Relation of this part to other laws and regulations.

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552.202 Effect of transfers violating the provisions of this part.
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552.601 Records and reports.

Subpart G—Penalties and Findings of Violation

552.701 Penalties.
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552.801 Procedures.
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Subpart I—Paperwork Reduction Act

552.901 Paperwork Reduction Act notice.

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; 28 U.S.C. 2461 note; E.O. 13611, 77 FR 29533, 3 CFR, 2012 Comp., p. 260.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 552.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 552.201 Prohibited transactions.

(a) All property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of any U.S. person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, to:

(1) Have engaged in acts that directly or indirectly threaten the peace, security, or stability of Yemen, such as acts that obstruct the implementation of the agreement of November 23, 2011, between the Government of Yemen and those in opposition to it, which provides for a peaceful transition of power in Yemen, or that obstruct the political process in Yemen;

(2) Be a political or military leader of an entity that has engaged in the acts described in paragraph (a)(1) of this section;

(3) Have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the acts described in paragraph (a)(1) of this section or any person whose property and interests in property are blocked pursuant to paragraph (a) of this section; or

(4) Be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(b) The prohibitions in paragraph (a) of this section include prohibitions on the following transactions:

(1) The making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to paragraph (a) of this section; and

(2) The receipt of any contribution or provision of funds, goods, or services from any person whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(c) Unless authorized by this part or by a specific license expressly referring to this part, any dealing in securities (or evidence thereof) held within the possession or control of a U.S. person and either registered or inscribed in the name of, or known to be held for the

benefit of, or issued by, any person whose property and interests in property are blocked pursuant to paragraph (a) of this section is prohibited. This prohibition includes the transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of, or the endorsement or guaranty of signatures on, any securities on or after the effective date. This prohibition applies irrespective of the fact that at any time (whether prior to, on, or subsequent to the effective date) the registered or inscribed owner of any such securities may have or might appear to have assigned, transferred, or otherwise disposed of the securities.

(d) The prohibitions in paragraph (a) of this section apply except to the extent provided by regulations, orders, directives, or licenses that may be issued pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to the effective date.

(e) All transactions prohibited pursuant to any Executive order issued after May 16, 2012 pursuant to the national emergency declared in Executive Order 13611 of May 16, 2012 (E.O. 13611), are prohibited pursuant to this part.

Note 1 to § 552.201. The names of persons designated pursuant to E.O. 13611, or listed in or designated or identified pursuant to any further Executive orders issued pursuant to the national emergency declared in E.O. 13611, whose property and interests in property therefore are blocked pursuant to this section, are published in the **Federal Register** and incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) using the following identifiers: For E.O. 13611: ''[YEMEN]'' and for any further Executive orders issued pursuant to the national emergency declared in E.O. 13611: Using the identifier formulation ''[YEMEN–E.O.[E.O. number pursuant to which the person's property and interests in property are blocked]].'' The SDN List is accessible through the following page on OFAC's website: *www.treasury.gov/sdn.* Additional information pertaining to the SDN List can be found in appendix A to this chapter. *See* § 552.411 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to this section.

Note 2 to § 552.201. The International Emergency Economic Powers Act (50 U.S.C. 1701–1706), in Section 203 (50 U.S.C. 1702), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to this section also are published in the **Federal Register** and incorporated into the SDN List using the following identifiers: For E.O. 13611: ''[BPI–YEMEN]'' and for any further Executive orders issued pursuant to the national emergency declared in E.O. 13611: Using the identifier formulation ''[BPI–YEMEN–E.O.[E.O. number pursuant to which the person's property and interests in property are blocked pending investigation]].''

Note 3 to § 552.201. Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to this section.

§ 552.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 552.201, is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or interest in property.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 552.201, unless the person who holds or maintains such property, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, a license or other authorization issued by OFAC before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of this part and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property is or was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of OFAC each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property is or was held or maintained (and as to such person only);

(2) The person with whom such property is or was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property is or was held or maintained filed with OFAC a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other directive or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by OFAC; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

(e) The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (2) of this section have been satisfied.

(f) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property or interest in property blocked pursuant to § 552.201.

§ 552.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraph (e) or (f) of this section, or as otherwise directed or authorized by OFAC, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 552.201 shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a federally insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et*

seq.), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) Funds held or placed in a blocked account pursuant to paragraph (a) of this section may not be invested in instruments the maturity of which exceeds 180 days.

(c) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(d) For purposes of this section, if interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(e) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 552.201 may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraph (a) or (f) of this section.

(f) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 552.201 may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(g) This section does not create an affirmative obligation for the holder of blocked tangible property, such as real or personal property, or of other blocked property, such as debt or equity securities, to sell or liquidate such property. However, OFAC may issue licenses permitting or directing such sales or liquidation in appropriate cases.

(h) Funds subject to this section may not be held, invested, or reinvested in a manner that provides financial or economic benefit or access to any person whose property and interests in property are blocked pursuant to § 552.201, nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 552.204 Expenses of maintaining blocked tangible property; liquidation of blocked property.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted prior to the effective date, all expenses incident to the maintenance of tangible property blocked pursuant to § 552.201 shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 552.201 may, in the discretion of OFAC, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§ 552.205 Evasions; attempts; causing violations; conspiracies.

(a) Any transaction on or after the effective date that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this part is prohibited.

(b) Any conspiracy formed to violate the prohibitions set forth in this part is prohibited.

§ 552.206 Exempt transactions.

(a) *Personal communications.* The prohibitions contained in this part do not apply to any postal, telegraphic, telephonic, or other personal communication that does not involve the transfer of anything of value.

(b) *Official business.* The prohibitions contained in § 552.201(a) do not apply to transactions for the conduct of the official business of the United States Government by employees, grantees, or contractors thereof.

Subpart C—General Definitions

§ 552.300 Applicability of definitions.

The definitions in this subpart apply throughout the entire part.

§ 552.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibitions in § 552.201 held in the name of a person whose property and interests in property are blocked pursuant to § 552.201, or in which such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to a license or other authorization from OFAC expressly authorizing such action.

Note 1 to § 552.301. *See* § 552.411 concerning the blocked status of property and interests in property of an entity that is directly or indirectly owned, whether individually or in the aggregate, 50 percent or more by one or more persons whose property and interests in property are blocked pursuant to § 552.201.

§ 552.302 Effective date.

(a) The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part, and, with respect to a person whose property and interests in property are blocked pursuant to § 552.201, is the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked.

(b) For the purposes of this section, *constructive notice* is the date that a notice of the blocking of the relevant person's property and interests in property is published in the **Federal Register**.

§ 552.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 552.304 Financial, material, or technological support.

The term *financial, material, or technological support,* as used in this part, means any property, tangible or intangible, including currency, financial instruments, securities, or any other transmission of value; weapons or related materiel; chemical or biological agents; explosives; false documentation or identification; communications equipment; computers; electronic or other devices or equipment; technologies; lodging; safe houses; facilities; vehicles or other means of transportation; or goods. ''Technologies'' as used in this definition means specific information necessary for the development, production, or use of a product, including related technical data such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals, or other recorded instructions.

§ 552.305 [Reserved]

§ 552.306 Interest.

Except as otherwise provided in this part, the term *interest,* when used with respect to property (*e.g.,* ''an interest in property''), means an interest of any nature whatsoever, direct or indirect.

§ 552.307 Licenses; general and specific.

(a) Except as otherwise provided in this part, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part or made available on OFAC's website: *www.treasury.gov/ofac.*

(c) The term *specific license* means any license or authorization issued pursuant to this part but not set forth in subpart E of this part or made available

on OFAC's website: *www.treasury.gov/ofac.*

Note 1 to § 552.307. *See* § 501.801 of this chapter on licensing procedures.

§ 552.308 OFAC.

The term *OFAC* means the Department of the Treasury's Office of Foreign Assets Control.

§ 552.309 Person.

The term *person* means an individual or entity.

§ 552.310 Property; property interest.

The terms *property* and *property interest* include money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership, or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future, or contingent.

§ 552.311 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property. Without limitation on the foregoing, it shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 552.312 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 552.313 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

§ 552.314 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or other extensions of credit, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes depository institutions, banks, savings banks, trust companies, securities brokers and dealers, futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices, and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

Subpart D—Interpretations

§ 552.401 Reference to amended sections.

(a) Reference to any section in this part is a reference to the same as currently amended, unless the reference includes a specific date. *See* 44 U.S.C. 1510.

(b) Reference to any ruling, order, instruction, direction, or license issued pursuant to this part is a reference to the same as currently amended unless otherwise so specified.

§ 552.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by OFAC does not affect any act done or omitted, or any civil or criminal proceeding commenced or pending, prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 552.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person whose property and interests in property are blocked pursuant to § 552.201, such property shall no longer be deemed to be property blocked pursuant to § 552.201, unless there exists in the property another interest that is blocked pursuant to § 552.201, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property and interests in property are blocked pursuant to § 552.201, such property shall be deemed to be property in which such person has an interest and therefore blocked.

§ 552.404 Transactions ordinarily incident to a licensed transaction.

(a) Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(1) An ordinarily incident transaction, not explicitly authorized within the terms of the license, by or with a person whose property and interests in property are blocked pursuant to § 552.201; or

(2) An ordinarily incident transaction, not explicitly authorized within the terms of the license, involving a debit to

a blocked account or a transfer of blocked property.

(b) For example, a license authorizing a person to complete a securities sale involving Company A, whose property and interests in property are blocked pursuant to § 552.201, also authorizes other persons to engage in activities that are ordinarily incident and necessary to complete the sale, including transactions by the buyer, broker, transfer agents, and banks, provided that such other persons are not themselves persons whose property and interests in property are blocked pursuant to § 552.201.

§ 552.405 Provision of services.

(a) The prohibitions on transactions contained in § 552.201 apply to services performed in the United States or by U.S. persons, wherever located, including by a foreign branch of an entity located in the United States:

(1) On behalf of or for the benefit of a person whose property and interests in property are blocked pursuant to § 552.201; or

(2) With respect to property interests of any person whose property and interests in property are blocked pursuant to § 552.201.

(b) For example, U.S. persons may not, except as authorized by or pursuant to this part, provide legal, accounting, financial, brokering, freight forwarding, transportation, public relations, or other services to a person whose property and interests in property are blocked pursuant to § 552.201.

Note 1 to § 552.405. *See* §§ 552.507 and 552.509 on licensing policy with regard to the provision of certain legal and emergency medical services.

§ 552.406 Offshore transactions involving blocked property.

The prohibitions in § 552.201 on transactions or dealings involving blocked property, as defined in § 552.301, apply to transactions by any U.S. person in a location outside the United States.

§ 552.407 Payments from blocked accounts to satisfy obligations prohibited.

Pursuant to § 552.201, no debits may be made to a blocked account to pay obligations to U.S. persons or other persons, except as authorized by or pursuant to this part.

Note 1 to § 552.407. *See also* § 552.502(e), which provides that no license or other authorization contained in or issued pursuant to this part authorizes transfers of or payments from blocked property or debits to blocked accounts unless the license or other authorization explicitly authorizes the transfer of or payment from blocked property or the debit to a blocked account.

§ 552.408 Charitable contributions.

Unless specifically authorized by OFAC pursuant to this part, no charitable contribution of funds, goods, services, or technology, including contributions to relieve human suffering, such as food, clothing, or medicine, may be made by, to, or for the benefit of, or received from, a person whose property and interests in property are blocked pursuant to § 552.201. For the purposes of this part, a contribution is made by, to, or for the benefit of, or received from, a person whose property and interests in property are blocked pursuant to § 552.201 if made by, to, or in the name of, or received from or in the name of, such a person; if made by, to, or in the name of, or received from or in the name of, an entity or individual acting for or on behalf of, or owned or controlled by, such a person; or if made in an attempt to violate, to evade, or to avoid the bar on the provision of contributions by, to, or for the benefit of such a person, or the receipt of contributions from such a person.

§ 552.409 Credit extended and cards issued by financial institutions to a person whose property and interests in property are blocked.

The prohibition in § 552.201 on dealing in property subject to that section prohibits U.S. financial institutions from performing under any existing credit agreements, including charge cards, debit cards, or other credit facilities issued by a financial institution to a person whose property and interests in property are blocked pursuant to § 552.201.

§ 552.410 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 552.201 if effected after the effective date.

§ 552.411 Entities owned by one or more persons whose property and interests in property are blocked.

Persons whose property and interests in property are blocked pursuant to § 552.201 have an interest in all property and interests in property of an entity in which such persons directly or indirectly own, whether individually or in the aggregate, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to § 552.201, regardless of whether the name of the entity is incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List).

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 552.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E, of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. General licenses and statements of licensing policy relating to this part also may be available through the Yemen-Related Sanctions page on OFAC's website: *www.treasury.gov/ofac.*

§ 552.502 Effect of license or other authorization.

(a) No license or other authorization contained in this part, or otherwise issued by OFAC, authorizes or validates any transaction effected prior to the issuance of such license or other authorization, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by OFAC and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any other part of this chapter unless the regulation, ruling, instruction, or license specifically refers to such part.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property that would not otherwise exist under ordinary principles of law.

(d) Nothing contained in this part shall be construed to supersede the requirements established under any other provision of law or to relieve a person from any requirement to obtain a license or other authorization from another department or agency of the U.S. Government in compliance with applicable laws and regulations subject to the jurisdiction of that department or agency. For example, exports of goods, services, or technical data that are not prohibited by this part or that do not require a license by OFAC nevertheless may require authorization by the U.S.

Department of Commerce, the U.S. Department of State, or other agencies of the U.S. Government.

(e) No license or other authorization contained in or issued pursuant to this part authorizes transfers of or payments from blocked property or debits to blocked accounts unless the license or other authorization explicitly authorizes the transfer of or payment from blocked property or the debit to a blocked account.

(f) Any payment relating to a transaction authorized in or pursuant to this part that is routed through the U.S. financial system should reference the relevant OFAC general or specific license authorizing the payment to avoid the blocking or rejection of the transfer.

§ 552.503 Exclusion from licenses.

OFAC reserves the right to exclude any person, property, transaction, or class thereof from the operation of any license or from the privileges conferred by any license. OFAC also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

§ 552.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property and interests in property are blocked pursuant to § 552.201 has any interest that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may be made only to another blocked account held in the same name.

Note 1 to § 552.504. *See* § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. *See also* § 552.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 552.505 Entries in certain accounts for normal service charges.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charges* shall include charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 552.506 Investment and reinvestment of certain funds.

Subject to the requirements of § 552.203, U.S. financial institutions are authorized to invest and reinvest assets blocked pursuant to § 552.201, subject to the following conditions:

(a) The assets representing such investments and reinvestments are credited to a blocked account or subaccount that is held in the same name at the same U.S. financial institution, or within the possession or control of a U.S. person, but funds shall not be transferred outside the United States for this purpose;

(b) The proceeds of such investments and reinvestments shall not be credited to a blocked account or subaccount under any name or designation that differs from the name or designation of the specific blocked account or subaccount in which such funds or securities were held; and

(c) No immediate financial or economic benefit accrues (*e.g.,* through pledging or other use) to a person whose property and interests in property are blocked pursuant to § 552.201.

§ 552.507 Provision of certain legal services.

(a) The provision of the following legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 552.201 is authorized, provided that any receipt of payment of professional fees and reimbursement of incurred expenses must be authorized pursuant to § 552.508, which authorizes certain payments for legal services from funds originating outside the United States; via specific license; or otherwise pursuant to this part:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of the United States or any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons named as defendants in or otherwise made parties to legal, arbitration, or administrative proceedings before any U.S. federal, state, or local court or agency;

(3) Initiation and conduct of legal, arbitration, or administrative proceedings before any U.S. federal, state, or local court or agency;

(4) Representation of persons before any U.S. federal, state, or local court or agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 552.201 not otherwise authorized in this part, requires the issuance of a specific license.

(c) U.S. persons do not need to obtain specific authorization to provide related services, such as making filings and providing other administrative services, that are ordinarily incident to the provision of services authorized by paragraph (a) of this section. Additionally, U.S. persons who provide services authorized by paragraph (a) of this section do not need to obtain specific authorization to contract for related services that are ordinarily incident to the provision of those legal services, such as those provided by private investigators or expert witnesses, or to pay for such services. *See* § 552.404.

(d) Entry into a settlement agreement or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 552.201 is prohibited unless licensed pursuant to this part.

Note 1 to § 552.507. Pursuant to part 501, subpart E, of this chapter, U.S. persons seeking administrative reconsideration or judicial review of their designation or the blocking of their property and interests in property may apply for a specific license from OFAC to authorize the release of certain blocked funds for the payment of professional fees and reimbursement of incurred expenses for the provision of such legal services where alternative funding sources are not available.

§ 552.508 Payments for legal services from funds originating outside the United States.

(a) *Professional fees and incurred expenses.* (1) Receipt of payment of

professional fees and reimbursement of incurred expenses for the provision of legal services authorized pursuant to § 552.507(a) to or on behalf of any person whose property and interests in property are blocked pursuant to § 552.201 is authorized from funds originating outside the United States, provided that the funds do not originate from:

(i) A source within the United States;

(ii) Any source, wherever located, within the possession or control of a U.S. person; or

(iii) Any individual or entity, other than the person on whose behalf the legal services authorized pursuant to § 552.507(a) are to be provided, whose property and interests in property are blocked pursuant to any part of this chapter or any Executive order or statute.

(2) Nothing in paragraph (a) of this section authorizes payments for legal services using funds in which any other person whose property and interests in property are blocked pursuant to § 552.201, any other part of this chapter, or any Executive order or statute has an interest.

(b) *Reports.* (1) U.S. persons who receive payments pursuant to paragraph (a) of this section must submit annual reports no later than 30 days following the end of the calendar year during which the payments were received providing information on the funds received. Such reports shall specify:

(i) The individual or entity from whom the funds originated and the amount of funds received; and

(ii) If applicable:

(A) The names of any individuals or entities providing related services to the U.S. person receiving payment in connection with authorized legal services, such as private investigators or expert witnesses;

(B) A general description of the services provided; and

(C) The amount of funds paid in connection with such services.

(2) The reports, which must reference this section, are to be submitted to OFAC using one of the following methods:

(i) Email (preferred method): *OFAC.Regulations.Reports@treasury.gov;* or

(ii) U.S. mail: OFAC Regulations Reports, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Freedman's Bank Building, Washington, DC 20220.

§ 552.509 Emergency medical services.

The provision and receipt of nonscheduled emergency medical services that are otherwise prohibited by this part are authorized.

§ 552.510 Official activities of international organizations.

All transactions and activities otherwise prohibited by this part that are for the conduct of the official business of the United Nations and its Specialized Agencies, Programmes, Funds, and Related Organizations by employees, contractors, or grantees thereof are authorized.

Note 1 to § 552.510. For an organizational chart listing the Specialized Agencies, Programmes, Funds, and Related Organizations of the United Nations, see the following page on the United Nations website: *http://www.unsceb.org/directory.*

Subpart F—Reports

§ 552.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties and Findings of Violation

§ 552.701 Penalties.

(a) Section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) (IEEPA) is applicable to violations of the provisions of any license, ruling, regulation, order, directive, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA.

(1) A civil penalty not to exceed the amount set forth in section 206 of IEEPA may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any license, order, regulation, or prohibition issued under IEEPA.

(2) IEEPA provides for a maximum civil penalty not to exceed the greater of $307,922 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(3) A person who willfully commits, willfully attempts to commit, willfully conspires to commit, or aids or abets in the commission of a violation of any license, order, regulation, or prohibition may, upon conviction, be fined not more than $1,000,000, or if a natural person, be imprisoned for not more than 20 years, or both.

(b)(1) The civil penalties provided in IEEPA are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in IEEPA are subject to adjustment pursuant to 18 U.S.C. 3571.

(c) Pursuant to 18 U.S.C. 1001, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact; or makes any materially false, fictitious, or fraudulent statement or representation; or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under title 18, United States Code, imprisoned, or both.

(d) Violations of this part may also be subject to other applicable laws.

§ 552.702 Pre-Penalty Notice; settlement.

(a) *When required.* If OFAC has reason to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, directive, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) and determines that a civil monetary penalty is warranted, OFAC will issue a Pre-Penalty Notice informing the alleged violator of the agency's intent to impose a monetary penalty. A Pre-Penalty Notice shall be in writing. The Pre-Penalty Notice may be issued whether or not another agency has taken any action with respect to the matter. For a description of the contents of a Pre-Penalty Notice, see appendix A to part 501 of this chapter.

(b) *Response*—(1) *Right to respond.* An alleged violator has the right to respond to a Pre-Penalty Notice by making a written presentation to OFAC. For a description of the information that should be included in such a response, see appendix A to part 501 of this chapter.

(2) *Deadline for response.* A response to a Pre-Penalty Notice must be made within 30 days as set forth in paragraphs (b)(2)(i) and (ii) of this section. The failure to submit a response within 30 days shall be deemed to be a waiver of the right to respond.

(i) *Computation of time for response.* A response to a Pre-Penalty Notice must

be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to OFAC by courier), or dated if sent by email, on or before the 30th day after the postmark date on the envelope in which the Pre-Penalty Notice was mailed or date the Pre-Penalty Notice was emailed. If the Pre-Penalty Notice was personally delivered by a non-U.S. Postal Service agent authorized by OFAC, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(ii) *Extensions of time for response.* If a due date falls on a federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the discretion of OFAC, only upon specific request to OFAC.

(3) *Form and method of response.* A response to a Pre-Penalty Notice need not be in any particular form, but it must be typewritten and signed by the alleged violator or a representative thereof, contain information sufficient to indicate that it is in response to the Pre-Penalty Notice, and include the OFAC identification number listed on the Pre-Penalty Notice. A copy of the written response may be sent by facsimile, but the original also must be sent to OFAC's Office of Compliance and Enforcement by mail or courier and must be postmarked or date-stamped in accordance with paragraph (b)(2) of this section.

(c) *Settlement.* Settlement discussion may be initiated by OFAC, the alleged violator, or the alleged violator's authorized representative. For a description of practices with respect to settlement, see appendix A to part 501 of this chapter.

(d) *Guidelines.* Guidelines for the imposition or settlement of civil penalties by OFAC are contained in appendix A to part 501 of this chapter.

(e) *Representation.* A representative of the alleged violator may act on behalf of the alleged violator, but any oral communication with OFAC prior to a written submission regarding the specific allegations contained in the Pre-Penalty Notice must be preceded by a written letter of representation, unless the Pre-Penalty Notice was served upon the alleged violator in care of the representative.

§ 552.703 Penalty imposition.

If, after considering any written response to the Pre-Penalty Notice and any relevant facts, OFAC determines that there was a violation by the alleged violator named in the Pre-Penalty Notice and that a civil monetary penalty is appropriate, OFAC may issue a Penalty Notice to the violator containing a determination of the violation and the imposition of the monetary penalty. For additional details concerning issuance of a Penalty Notice, see appendix A to part 501 of this chapter. The issuance of the Penalty Notice shall constitute final agency action. The violator has the right to seek judicial review of that final agency action in federal district court.

§ 552.704 Administrative collection; referral to United States Department of Justice.

In the event that the violator does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to OFAC, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a federal district court.

§ 552.705 Findings of Violation.

(a) *When issued.* (1) OFAC may issue an initial Finding of Violation that identifies a violation if OFAC:

(i) Determines that there has occurred a violation of any provision of this part, or a violation of the provisions of any license, ruling, regulation, order, directive, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706);

(ii) Considers it important to document the occurrence of a violation; and

(iii) Based on the Guidelines contained in appendix A to part 501 of this chapter, concludes that an administrative response is warranted but that a civil monetary penalty is not the most appropriate response.

(2) An initial Finding of Violation shall be in writing and may be issued whether or not another agency has taken any action with respect to the matter. For additional details concerning issuance of a Finding of Violation, see appendix A to part 501 of this chapter.

(b) *Response*—(1) *Right to respond.* An alleged violator has the right to contest an initial Finding of Violation by providing a written response to OFAC.

(2) *Deadline for response; Default determination.* A response to an initial Finding of Violation must be made within 30 days as set forth in paragraphs (b)(2)(i) and (ii) of this section. The failure to submit a response within 30 days shall be deemed to be a waiver of the right to respond, and the initial Finding of Violation will become final and will constitute final agency action. The violator has the right to seek judicial review of that final agency action in federal district court.

(i) *Computation of time for response.* A response to an initial Finding of Violation must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to OFAC by courier), or dated if sent by email, on or before the 30th day after the postmark date on the envelope in which the initial Finding of Violation was served or date the Finding of Violation was sent by email. If the initial Finding of Violation was personally delivered by a non-U.S. Postal Service agent authorized by OFAC, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(ii) *Extensions of time for response.* If a due date falls on a federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the discretion of OFAC, only upon specific request to OFAC.

(3) *Form and method of response.* A response to an initial Finding of Violation need not be in any particular form, but it must be typewritten and signed by the alleged violator or a representative thereof, contain information sufficient to indicate that it is in response to the initial Finding of Violation, and include the OFAC identification number listed on the initial Finding of Violation. A copy of the written response may be sent by facsimile, but the original also must be sent to OFAC by mail or courier and must be postmarked or date-stamped in accordance with paragraph (b)(2) of this section.

(4) *Information that should be included in response.* Any response should set forth in detail why the alleged violator either believes that a violation of the regulations did not occur and/or why a Finding of Violation is otherwise unwarranted under the circumstances, with reference to the General Factors Affecting Administrative Action set forth in the Guidelines contained in appendix A to part 501 of this chapter. The response should include all documentary or other evidence available to the alleged violator that supports the arguments set forth in the response. OFAC will consider all relevant materials submitted in the response.

(c) *Determination*—(1) *Determination that a Finding of Violation is warranted.* If, after considering the response, OFAC

determines that a final Finding of Violation should be issued, OFAC will issue a final Finding of Violation that will inform the violator of its decision. A final Finding of Violation shall constitute final agency action. The violator has the right to seek judicial review of that final agency action in federal district court.

(2) *Determination that a Finding of Violation is not warranted.* If, after considering the response, OFAC determines a Finding of Violation is not warranted, then OFAC will inform the alleged violator of its decision not to issue a final Finding of Violation.

Note 1 to paragraph (c)(2). A determination by OFAC that a final Finding of Violation is not warranted does not preclude OFAC from pursuing other enforcement actions consistent with the Guidelines contained in appendix A to part 501 of this chapter.

(d) *Representation.* A representative of the alleged violator may act on behalf of the alleged violator, but any oral communication with OFAC prior to a written submission regarding the specific alleged violations contained in the initial Finding of Violation must be preceded by a written letter of representation, unless the initial Finding of Violation was served upon the alleged violator in care of the representative.

Subpart H—Procedures

§ 552.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

§ 552.802 Delegation of certain authorities of the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13611 of May 16, 2012, and any further Executive orders relating to the national emergency declared therein, may be taken by the Director of OFAC or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 552.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures, and other procedures, see § 501.901 of this chapter. 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 control number assigned by OMB.

Dated: October 26, 2020.

Andrea Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2020–23960 Filed 10–28–20; 8:45 am]

BILLING CODE 4810–AL–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2019–0681; FRL–10014–13–Region 2]

Approval and Promulgation of Implementation Plans; New Jersey; Revisions to Emissions Reporting Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the State of New Jersey. This revision removes from the SIP the recordkeeping, emission reporting, photochemical dispersion modeling, and inventory requirements for t-butyl acetate (TBAC) as a volatile organic compound (VOC). The revision is in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on November 30, 2020.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R02–OAR–2019–0681. All documents in the docket are listed on the *http://www.regulations.gov.* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Ysabel Banon, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–3382, or by email at *banon.ysabel@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On June 4, 2020, the EPA published a notice of proposed rulemaking (NPRM) for the State of New Jersey. 85 FR 34379. In the NPRM, the EPA proposed to approve New Jersey's November 29, 2017 submittal requesting to remove the recordkeeping, reporting, modeling, and inventory requirements for TBAC from the SIP. The reader is referred to EPA's NPRM for more detailed background and rationale for this final action.

II. Summary of the SIP Revision and the EPA's Analysis

The EPA previously determined that TBAC has a negligible level of reactivity, revised the definition of VOC to exclude TBAC, and removed the recordkeeping, emission reporting, photochemical dispersion modeling, and inventory requirements for TBAC. 69 FR 69298 (November 29, 2004); 81 FR 9339 (February 25, 2016).

In order to conform with the EPA's current regulatory requirements for TBAC, New Jersey requested that New Jersey Administrative Code (NJAC) 7:27–34, ''TBAC Emissions Reporting,'' consisting of TBAC recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements, be removed from the SIP.

III. What comments were received in response to the EPA's proposed action?

The EPA did not receive any comments in response to the June 4, 2020 NPRM.

IV. Final Action

The EPA is approving the removal of NJAC 7:27–34, ''TBAC Emissions Reporting,'' which includes recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements for TBAC, from the New Jersey SIP. This SIP revision will not interfere with attainment of any national ambient air quality standard (NAAQS), reasonable further progress, or any other requirement of the CAA, including Section 110(l), and is consistent with the EPA's February 25, 2016 final rule. 81 FR 9339.

V. Incorporation by Reference

In this document, the EPA is amending regulatory text that includes incorporation by reference. As described in the amendments to 40 CFR part 52 set forth below, the EPA is removing provisions of the EPA-Approved New Jersey State Regulations and Laws from the New Jersey State Implementation

Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

VI. 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, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 28, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: September 17, 2020.

Peter Lopez,

Regional Administrator, Region 2.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart FF—New Jersey

§ 52.1570 [Amended]

■ 2. In § 52.1570, amend the table in paragraph (c) by removing the entry ''Title 7, Chapter 27, Subchapter 34''.

[FR Doc. 2020–22764 Filed 10–28–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2020–0255; FRL–10013–47–Region 1]

Air Plan Approval; Connecticut; Control of Particulate Matter and Visible Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Connecticut. This revision amends a Connecticut air-quality regulation for controlling particulate matter (PM) and visible emissions. The intended effect of this action is to define the process industries and activities to which this regulation applies, and to make technical corrections to an emission-rate calculation method. This action is being taken in accordance with the Clean Air Act.

DATES: This rule is effective on November 30, 2020.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2020–0255. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available at *https://www.regulations.gov* or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office

Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID–19.

FOR FURTHER INFORMATION CONTACT: Alison C. Simcox, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square—Suite 100, (Mail code 05–2), Boston, MA 02109–3912, tel. (617) 918–1684, email *simcox.alison@epa.gov.*

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

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I. Background and Purpose
II. Response to Comments
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I. Background and Purpose

On June 29th, 2020 (85 FR 38830), EPA published a Notice of Proposed Rulemaking (NPRM) for the State of Connecticut. The NPRM proposed approval of amendments to Regulations of Connecticut State Agencies (RCSA) section 22a–174–18, Control of particulate matter (PM) and visible emissions. The formal SIP revision was submitted by Connecticut on October 19, 2018. The revision consists of amendments to subsections (c), (f), and (j) to define the process industries and activities to which this regulation applies, to make technical corrections to an emission-rate calculation method, and to make minor, non-substantive modifications in regulatory language. The rationale for EPA's proposed action is given in the NPRM and will not be restated here.

II. Response to Comments

EPA received three comments during the comment period. The comments we received discuss subjects outside the scope of the action on this Connecticut air-quality regulation, do not explain (or provide a legal basis for) how the proposed action should differ in any way, and, indeed, make no specific mention of the proposed action. Consequently, the received comments are not germane to this rulemaking and require no further response.

III. Final Action

EPA is approving, and incorporating into the Connecticut SIP, the revisions to subsections (c), (f), and (j) of RCSA section 22a–174–18, *Control of Particulate Matter and Visible Emissions,* effective on August 3, 2018, submitted to EPA on October 19, 2018.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing incorporation by reference into the Connecticut SIP the Connecticut regulation referenced in Section III above. The EPA has made, and will continue to make, these documents generally available through *https://www.regulations.gov* and at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 28, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 30, 2020.

Dennis Deziel,

Regional Administrator, EPA Region 1.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart H—Connecticut

■ 2. Section 52.370 is amended by adding paragraph (c)(124) to read as follows:

§ 52.370 Identification of plan

* * * * *

(c) * * *

(124) Revisions to the State Implementation Plan submitted by the Connecticut Department of Energy and Environmental Protection on October 19, 2018.

(i) Incorporation by reference.

(A) Regulations of Connecticut State Agencies Section 22a–174–18, entitled ''Control of Particulate Matter and Visible Emissions,'' as amended August 3, 2018, as follows:

(*1*) 22a–174–18(c) Control of airborne particulate matter and fugitive particulate matter;

(*2*) 22a–174–18(f) Process industries—general; and

(*3*) 22a–174–18(j)(1).

(B) [Reserved].

(ii) [Reserved]

■ 3. In § 52.385, Table 52.385 is amended by revising the entry in state citations for ''22a–174–18'' to read as follows:

§ 52.385 EPA-approved Connecticut regulations.

* * * * *

TABLE 52.385—EPA-APPROVED REGULATIONS

Connecticut state citation	Title/subject	Dates		Federal Register citation	Section 52.370	Comments/description
		Date adopted by state	Date approved by EPA			
*	*	*	*	*	*	*
22a–174–18	Control of Particulate Matter and Visible Emissions.	8/3/2018	10/29/2020	[Insert **Federal Register** citation].	(c)(124)	Approval of revisions to subsections (c), (f), and (j).
*	*	*	*	*	*	*

[FR Doc. 2020–22527 Filed 10–28–20; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket Nos. 17–264, 17–105, 05–6; FCC 20–65; MB Docket Nos. 19–193 and 17–105; FCC 20–53; MB Docket No. 19–3; FCC 19–127; FRS 17160]

Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements; Low Power FM Radio Service Technical Rules; Reexamination of the Comparative Standards and Procedures for Licensing Noncommercial Educational Broadcast Stations and Low Power FM Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection requirements associated with the Second Report and Order of the Commission's Rules Regarding Public Notice of the Filing of Applications; the Report and Order in Low Power FM Radio Service Technical Rules; the Report and Order in Reexamination of the Comparative Standards and Procedures for Licensing of Noncommercial Educational Broadcast Stations and Low Power FM Stations. This document is consistent with the Report and Orders, which stated that the Commission would publish a document in the **Federal Register** announcing OMB approval and the effective date of the information collection requirements.

DATES: Rule changes to 47 CFR 73.3525, 73.3526, 73.3527, 73.3571, 73.3573, 73.3580, 73.3594, published at 85 FR 36786 on June 18, 2020; Rule changes to 47 CFR 73.816, 73.850, 73.870, published at 85 FR 35567 on June 11, 2020; and Rule changes to 47 CFR 73.865, 73.872, 73.7002(c), 73.7003, and 73.7005, published at 85 FR 7880 on February 12, 2020, are effective on October 30, 2020.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Cathy Williams, *Cathy.Williams@fcc.gov,* (202) 418–2918.

SUPPLEMENTARY INFORMATION: This document announces that, on October 9, 2020, October 7, 2020, October 2, 2020 and September 24, 2020, OMB approved the information collection requirements contained in the Commission's Report and Order, FCC 20–65, published at 85 FR 36786, June 18, 2020, FCC 20–53, published at 85 FR 35567 on June 11, 2020 and FCC 19–127, published 85 FR 7880 on February 12, 2020. The OMB Control Numbers are 3060–0016, 3060–0213, 3060–1133, 3060–0214, 3060–0932, 3060–0920, 3060–0027, 3060–0029, 3060–0405, 3060–0110, 3060–0031 and 3060–0075. The Commission publishes this document as an announcement of the effective date of the information collection requirements.

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on October 9, 2020, October 7, 2020, October 2, 2020 and September 24, 2020 for the information collection requirements contained in the Commission's rules.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Numbers 3060–0016, 3060–0213, 3060–1133, 3060–0214, 3060–0932, 3060–0920, 3060–0027, 3060–0029, 3060–0405, 3060–0110, 3060–0031 and 3060–0075.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

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

OMB Control No.: 3060–0016.

OMB Approval Date: October 9, 2020.

OMB Expiration Date: October 31, 2023.

Title: FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule C (Former FCC Form 346); Sections 74.793(d) and 74.787, LPTV Out-of-Core Digital Displacement Application; Section 73.3700(g)(1)–(3), Post-Incentive Auction Licensing and Operations; Section 74.799, Low Power Television and TV Translator Channel Sharing.

Form No.: FCC Form 2100, Schedule C.

Respondents: Business or other for-profit entities; Not for profit institutions; State, local or Tribal government.

Number of Respondents and Responses: 4,460 respondents and 4,460 responses.

Estimated Time per Response: 2.5–7 hours.

Frequency of Response: One-time reporting requirement; on occasion reporting requirement; third party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Section 154(i), 303, 307, 308 and 309 of the Communications Act of 1934, as amended.

Total Annual Burden: 42,370 hours.

Annual Cost Burden: $23,026,757.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: FCC Form 2100, Schedule C is used by licensees/permittees/applicants when applying for authority to construct or make changes in a Low Power Television, TV Translator or DTV Transition.

On May 12, 2020, the Commission adopted Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580, Second Report and Order, MB Docket Nos. 17–254, 17–105, & 05–6, FCC 20–65 (rel. May 13, 2020). The Commission adopted new, streamlined procedures for stations to provide public notice of the filing of certain applications. Stations, including stations filing for new construction permits or major modifications to facilities, that were previously required to post public notice in a local newspaper, must now post notice online, either on the station website or a website affiliated with the station, its licensee, or its parent entity, or else must post notice on a publicly accessible, locally targeted website, for 30 continuous days following acceptance of the application for filing.

This submission was made to OMB for approval of the modified third-party disclosure requirements for this Information Collection, as adopted in the 2020 Public Notice Second Report and Order. The changes pertaining to this Information Collection and to 47 CFR 73.3580 adopted in the 2020 Public Notice Second Report and Order do not necessitate changes to the Form 2100, Schedule C, nor do they affect the substance, burden hours, or costs of completing the forms. The rule changes do, however, reduce burdens and costs associated with filing the application.

OMB Control Number: 3060–0075.

OMB Approval Date: September 24, 2020.

OMB Expiration Date: September 30, 2023.

Title: Application for Transfer of Control of a Corporate Licensee or Permittee, or Assignment of License or Permit, for an FM or TV Translator Station, or a Low Power Television Station, FCC Form 345.

Respondents: Business or other for-profit entities; Not for profit institutions; Local or Tribal Government.

Number of Respondents and Responses: 1,700 respondents; 3,900 responses.

Estimated Time per Response: 0.075–1.25 hours.

Frequency of Response: Third party disclosure requirement and on occasion reporting requirement.

Total Annual Burden: 3,013 hours.

Total Annual Cost: $3,943,979.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i) and 310 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: Filing of the FCC Form 345 is required when applying for authority for assignment of license or permit, or for consent to transfer of control of a corporate licensee or permittee for an FM or TV translator station, or low power TV station.

This collection also includes the third-party disclosure requirement of 47 CFR Section 73.3580 (OMB approval was received for Section 73.3580 under OMB Control Number 3060–0031). Section 73.3580, as amended in the Commission's 2020 Public Notice Second Report and Order, requires local public notice of the filing of all applications to assign or transfer control of a broadcast station authorization, including those of an FM or TV translator or booster station or LPTV station. Notice is given by an applicant posting notice of the application filing on its station website, its licensee website, its parent entity website, or on a publicly accessible, locally targeted website, for 30 consecutive days beginning within five business days of acceptance of the application for filing. The online notice must link to a copy of the application as filed in the Commission's LMS licensing database. Applicants for assignment or transfer of control of a low-power television (LPTV) station that locally originates programming must also make a total of six on-air announcements giving notice that their applications have been accepted for filing.

On May 12, 2020, the Commission adopted Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580, Second Report and Order, MB Docket Nos. 17–254, 17–105, & 05–6, FCC 20–65 (rel. May 13, 2020). The Commission adopted new, streamlined procedures for stations to provide public notice of the filing of certain applications. Applicants, including applicants for assignment or transfer of control of authorizations for FM or TV translators or LPTV stations, that were previously required to post public notice in a local newspaper, must now post notice online, either on the station website or a website affiliated with the station, its licensee, or its parent entity, or else must post notice on a publicly accessible, locally targeted website, for 30 continuous days following acceptance of the application for filing.

Stations that are required to make on-air announcements of the filing of certain applications, including an applicant for assignment or transfer of control of an LPTV station that locally originates programming, must continue to do so, but the announcements are shorter and direct viewers and listeners to the application as filed and displayed in either the station's Online Public Inspection File or another Commission database. A total of six on-air announcements are required, at least one per week and no more than one per day or two per week, to be broadcast between 7:00 a.m. and 11:00 p.m. local time, Monday through Friday, beginning after the application is accepted for filing.

This submission was made to OMB for approval of the modified third-party disclosure requirements for this Information Collection, as adopted in the 2020 Public Notice Second Report and Order. The changes pertaining to this Information Collection and to 47 CFR 73.3580 adopted in the 2020 Public Notice Second Report and Order do not necessitate changes to the Form 345, nor do they affect the substance, burden hours, or costs of completing the forms. The rule changes do, however, reduce burdens and costs associated with filing the application.

OMB Control No.: 3060–0027.

OMB Approval Date: October 2, 2020.

OMB Expiration Date: October 31, 2023.

Title: Application for Construction Permit for Commercial Broadcast Station, FCC Form 301; Form 2100, Schedule A—Application for Media Bureau Video Service Authorization; 47 Sections 73.3700(b)(1) and (b)(2) and Section 73.3800, Post Auction Licensing; Form 2100, Schedule 301–FM—Commercial FM Station Construction Permit Application.

Form No.: FCC Form 2100, Schedule A, FCC Form 301, FCC Form 2100, Schedule 301–FM.

Respondents: Business or other for-profit entities; Not for profit institutions; State, local or Tribal Government.

Number of Respondents and Responses: 3,092 respondents and 4,199 responses.

Estimated Time per Response: 0.075 hours–6.25 hours.

Frequency of Response: One-time reporting requirement; On occasion reporting requirement; Third party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 12,435 hours.

Annual Cost Burden: $62,308,388.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: On May 12, 2020, the Commission adopted Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580, Second Report and Order, MB Docket Nos. 17–254, 17–105, & 05–6, FCC 20–65 (rel. May 13, 2020). The Commission adopted new, streamlined procedures for stations to provide public notice of the filing of certain applications. Stations, including stations filing for new construction permits or major modifications to facilities, that were previously required to post public notice in a local newspaper, must now post notice online, either on the station website or a website affiliated with the station, its licensee, or its parent entity, or else must post notice on a publicly accessible, locally targeted website, for 30 continuous days following acceptance of the application for filing. Stations that are required to make on-air announcements of the filing of certain applications, must continue to do so, but the announcements are shorter and direct viewers and listeners to the application as filed and displayed in either the station's Online Public Inspection File or another Commission database. A total of six on-air announcements are required, at least one per week and no more than one per day or two per week, to be broadcast between 7:00 a.m. and 11:00 p.m. local time, Monday through Friday, beginning after the application is accepted for filing.

This submission was made to OMB for approval of the modified third-party disclosure requirements for this Information Collection, as adopted in the 2020 Public Notice Second Report and Order. The changes pertaining to this Information Collection and to 47 CFR 73.3580 and 47 CFR 73.3594 adopted in the 2020 Public Notice Second Report and Order, do not necessitate changes to the Schedule 301, nor do they affect the substance, burden hours, or costs of completing the forms. The rule changes do, however, reduce burdens and costs associated with filing the application. 47 CFR 73.3571(j)(3) and 73.3573(g)(3) require that applicants must comply with the local public notice provisions of § 73.3580(c)(5).

OMB Control Number: 3060–0029.

OMB Approval Date: October 2, 2020.

OMB Expiration Date: October 31, 2023.

Title: FCC Form 2100, Schedule 340, Noncommercial Educational Station for Reserved Channel Construction Permit Application.

Form Number: FCC Form 2100, Schedule 340.

Respondents: Business or other for-profit entities, not for profit institutions and State, local or Tribal Government.

Number of Respondents and Responses: 2,820 respondents; 2,820 responses.

Estimated Time per Response: 0.5 hours–6 hours.

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

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 6,603 hours.

Total Annual Cost: $30,039,119.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: This submission was made to the Office of Management (OMB) for the approval of information collection requirements contained in the Commission's Reexamination of the Comparative Standards and Procedures for Licensing Noncommercial Educational Broadcast Stations and Low Power FM Stations, Report and Order, FCC 19–127, 34 FCC Rcd 12519 (2019) (NCE LPFM Report and Order), adopted December 10, 2019, and released on December 11, 2019, where the Commission revised its rules and procedures for considering competing applications for new and major modifications to noncommercial educational full-service FM and full-power television (NCE), and low power FM (LPFM) broadcast stations. The changes are designed to improve the comparative selection and licensing procedures, expedite the initiation of new service to the public, eliminate unnecessary applicant burdens, and reduce the number of appeals of NCE comparative licensing decisions.

First, to improve the NCE comparative process, the NCE LPFM Report and Order: (1) Eliminates the governing document requirements for established local applicants and applicants claiming diversity points; (2) establishes a uniform divestiture pledge policy; (3) expands the tie-breaker criteria and revises the procedures for allocating

time in mandatory time-sharing situations; and (4) clarifies and modifies the ''holding period'' rule.

Second, the NCE LPFM Report and Order adopts the following changes to the LPFM comparative process: (1) Prohibits amendments that attempt to cure past unauthorized station violations; (2) authorizes time-sharing discussions prior to tentative selectee designations; and (3) establishes procedures for remaining tentative selectees following dismissal of point aggregation time-share agreements.

Third, the NCE LPFM Report and Order adopts the following general changes: (1) Defines which applicant board changes are major changes; (2) clarifies the reasonable site assurance requirements; (3) streamlines construction deadline tolling procedures and notification requirements; (4) lengthens the LPFM construction period; and (5) eliminates restrictions on the assignment and transfer of LPFM authorizations.

Specifically, pertaining to this Information Collection and NCE stations, the Commission is revising the relevant rules, 47 CFR 73.7002, 73.7003, and 73.7005, the form, and corresponding instructions, as follows:

(1) Changing all former references to ''holding period'' to ''maintenance of comparative qualifications.'' During the four-year ''maintenance of comparative qualifications'' period, an NCE station receiving a decisive preference for fair distribution of service, in accordance with the provisions of 47 CFR 73.7002, must certify that any technical modification to its authorized facilities satisfies the technical requirements of 47 CFR 73.7005(b).

(2) Adding an ''Established Local Applicant Pledge,'' requiring an applicant to pledge to maintain localism characteristics during the four-year maintenance of comparative qualifications period, if the applicant certifies that it qualifies for points as an ''established local applicant'' in the Point System Factors of 47 CFR 73.7003.

(3) Adding a ''Diversity Pledge,'' requiring an applicant to pledge to comply with all of the restrictions on station modifications and acquisitions (as defined in 47 CFR 73.7005) during the four-year maintenance of comparative qualifications period, if the applicant certifies that it qualifies for ''local diversity of ownership'' points in the Point System Factors of 47 CFR 73.7003.

(4) Modifying the divestiture sub-question certification, to reflect the new divestiture policies, in the Diversity of Ownership question in the Point System Factors Section.

(5) Adding a new question in the Tie Breakers section of the form, reflecting the new third tie-breaker criterion of 47 CFR 73.7003(c)(3).

(6) Adding a new question in the Tie Breakers Section of the form, requiring the applicant to provide its initial date of establishment.

(7) Adding a Reasonable Site Assurance Certification in the Technical Certifications Section of the form, requiring the applicant to certify that it has obtained reasonable assurance from the tower owner or authorized representative, that its specified site will be available.

The revisions to the relevant rules, and the changes to the questions in Schedule 340 listed above affect the substance, burden hours, and costs of completing the Schedule 340. Therefore, this submission was made to OMB for approval of revised Information Collection requirements.

On May 12, 2020, the Commission adopted Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580, Second Report and Order, MB Docket Nos. 17–254, 17–105, & 05–6, FCC 20–65 (rel. May 13, 2020). The Commission adopted new, streamlined procedures for stations to provide public notice of the filing of certain applications. Stations, including stations filing for new construction permits or major modifications to facilities, that were previously required to post public notice in a local newspaper, must now post notice online, either on the station website or a website affiliated with the station, its licensee, or its parent entity, or else must post notice on a publicly accessible, locally targeted website, for 30 continuous days following acceptance of the application for filing. Stations that are required to make on-air announcements of the filing of certain applications, must continue to do so, but the announcements are shorter and direct viewers and listeners to the application as filed and displayed in either the station's Online Public Inspection File or another Commission database. A total of six on-air announcements are required, at least one per week and no more than one per day or two per week, to be broadcast between 7:00 a.m. and 11:00 p.m. local time, Monday through Friday, beginning after the application is accepted for filing.

This submission was made to OMB for approval of the modified third-party disclosure requirements for this Information Collection, as adopted in the 2020 Public Notice Second Report and Order. The changes pertaining to this Information Collection and to 47 CFR 73.3580 adopted in the 2020 Public Notice Second Report and Order, do not necessitate changes to the Schedule 340, nor do they affect the substance, burden hours, or costs of completing the forms. The rule changes do, however, reduce burdens and costs associated with filing the application.

Control Number: 3060–0031.

OMB Approval Date: September 24, 2020.

OMB Expiration Date: September 30, 2023.

Title: Application for Consent to Assignment of Broadcast Station Construction Permit or License, FCC Form 314; Application for Consent to Transfer Control of Entity Holding Broadcast Station Construction Permit or License, FCC Form 315; Section 73.3580, Local Public Notice of Filing of Broadcast Applications.

Form Number: FCC Forms 314 and 315.

Respondents: Business or other for-profit entities; Not-for-profit institutions; State, local or Tribal government.

Number of Respondents and Responses: 4,920 respondents and 13,160 responses.

Estimated Time per Response: 0.075 to 7 hours.

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

Obligation To Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in Sections 154(i), 303(b) and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 17,159 hours.

Total Annual Cost: $51,493,759.

Privacy Impact Assessment(s): No impacts.

Nature and Extent of Confidentiality: There is no need for confidentiality and respondents are not being asked to submit confidential information to the Commission.

Needs and Uses: This submission was made to the Office of Management (OMB) for the approval of information collection requirements contained in the Commission's Reexamination of the Comparative Standards and Procedures for Licensing Noncommercial Educational Broadcast Stations and Low Power FM Stations, Report and Order, FCC 19–127, 34 FCC Rcd 12519 (2019) (NCE LPFM Report and Order), adopted December 10, 2019, and released on

December 11, 2019, where the Commission revised its rules and procedures for considering competing applications for new and major modifications to noncommercial educational full-service FM and full-power television (NCE), and low power FM (LPFM) broadcast stations. The changes are designed to improve the comparative selection and licensing procedures, expedite the initiation of new service to the public, eliminate unnecessary applicant burdens, and reduce the number of appeals of NCE comparative licensing decisions.

First, to improve the NCE comparative process, the NCE LPFM Report and Order: (1) Eliminates the governing document requirements for established local applicants and applicants claiming diversity points; (2) establishes a uniform divestiture pledge policy; (3) expands the tie-breaker criteria and revises the procedures for allocating time in mandatory time-sharing situations; and (4) clarifies and modifies the ''holding period'' rule.

Second, the NCE LPFM Report and Order adopts the following changes to the LPFM comparative process: (1) Prohibits amendments that attempt to cure past unauthorized station violations; (2) authorizes time-sharing discussions prior to tentative selectee designations; and (3) establishes procedures for remaining tentative selectees following dismissal of point aggregation time-share agreements.

Third, the NCE LPFM Report and Order adopts the following general changes: (1) Defines which applicant board changes are major changes; (2) clarifies the reasonable site assurance requirements; (3) streamlines construction deadline tolling procedures and notification requirements; (4) lengthens the LPFM construction period; and (5) eliminates restrictions on the assignment and transfer of LPFM authorizations.

Specifically, pertaining to this Information Collection and NCE and LPFM stations, the Commission is removing the restrictive LPFM station three-year ''holding period'' certification from CDBS Forms 314 and 315, and revising the relevant rules, 47 CFR 73.865 and 73.7005, the forms, and corresponding instructions, as follows:

(1) Changing all references to ''holding period'' to ''maintenance of comparative qualifications,'' and requiring NCE stations awarded by the point system to certify satisfying the four-year ''maintenance of comparative qualifications'' period;

(2) requiring LPFM applicants to certify that it has been at least 18 months since the station's initial construction permit was granted in accordance with 47 CFR 73.865(c);

(3) requiring LPFM applicants to certify that the assignment/transfer of the LPFM authorization satisfies the consideration restrictions of 47 CFR 73.865(a)(1);

(4) requiring LPFM authorizations awarded by the LPFM comparative point system, to indicate whether the LPFM station has operated on-air for at least four years since grant;

(5) requiring NCE applicants to certify that the proposed acquisition comports with 47 CFR 73.7005(c) diversity requirements, based on any ''diversity of ownership'' points awarded in an NCE points system analysis.

Moreover, the NCE LPFM Report and Order will increase the number of applicants eligible to file FCC Forms 314 and 315 by eliminating both the absolute prohibition on the assignment/transfer of LPFM construction permits and the three-year holding period restriction on assigning LPFM licenses. The elimination of these restrictions will benefit the LPFM service by increasing the likelihood that LPFM permits will be constructed, provide new service to communities, and help make the LPFM stations more viable.

On May 12, 2020, the Commission adopted Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580, Second Report and Order, MB Docket Nos. 17–254, 17–105, & 05–6, FCC 20–65 (rel. May 13, 2020). The Commission adopted new, streamlined procedures for stations to provide public notice of the filing of certain applications. Stations, including commercial stations filing assignment and transfer applications, that were previously required to post public notice in a local newspaper, must now post notice online either on the station website or a website affiliated with the station, its licensee, or its parent entity, or else must post notice on a publicly accessible, locally targeted website, for 30 continuous days following acceptance of the application for filing. Stations, including those filing assignment and transfer applications, that are required to make on-air announcements of the filing of certain applications, must continue to do so, but the announcements are shorter and direct viewers and listeners to the application as filed and displayed in either the station's Online Public Inspection File or another Commission database. A total of six on-air announcements are required, at least one per week and no more than one per day or two per week, to be broadcast between 7:00 a.m. and 11:00 p.m. local time, Monday through Friday, beginning after the application is accepted for filing.

This submission was made to OMB for approval of the modified third-party disclosure requirements for this Information Collection, as adopted in the 2020 Public Notice Second Report and Order. The changes pertaining to this Information Collection and to 47 CFR 73.3580 adopted in the 2020 Public Notice Second Report and Order, do not necessitate changes to the Forms 314 or 315, nor do they affect the substance, burden hours, or costs of completing the forms. The rule changes do, however, reduce burdens and costs associated with filing the application.

OMB Control Number: 3060–0110.

OMB Approval Date: September 24, 2020.

OMB Expiration Date: September 30, 2023.

Title: FCC Form 2100, Application for Renewal of Broadcast Station License, LMS Schedule 303–S.

Form Number: FCC 2100, LMS Schedule 303–S.

Respondents: Business or other for-profit entities; Not for profit institutions; State, Local or Tribal Governments.

Number of Respondent and Responses: 5,126 respondents, 5,126 responses.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i), 303, 307 and 308 of the Communications Act of 1934, as amended, and Section 204 of the Telecommunications Act of 1996.

Estimated Time per Response: 0.5 hours-12 hours.

Frequency of Response: Every eight-year reporting requirement; Third party disclosure requirement.

Total Annual Burden: 14,868 hours.

Total Annual Costs: $3,994,164.

Obligation of Response: Required to obtain or retain benefits. The statutory authority for the collection is contained Sections 154(i), 303, 307 and 308 of the Communications Act of 1934, as amended, and Section 204 of the Telecommunications Act of 1996.

Nature and Extent of Confidentiality: There is no need for confidentiality with this information collection.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: On May 12, 2020, the Commission adopted Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the

Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580, Second Report and Order, MB Docket Nos. 17–254, 17–105, & 05–6, FCC 20–65 (rel. May 13, 2020). The Commission adopted new, streamlined procedures for stations to provide public notice of the filing of certain applications. Some stations that were previously required to post public notice in a local newspaper, must now post notice online, either on the station website or a website affiliated with the station, its licensee, or its parent entity, or else must post notice on a publicly accessible, locally targeted website, for 30 continuous days following acceptance of the application for filing. Stations that are required to make on-air announcements of the filing of certain applications, including applications for the renewal of broadcast licenses, must continue to do so, but the announcements are shorter and direct viewers and listeners to the application as filed and displayed in either the station's Online Public Inspection File or another Commission database. A total of six on-air announcements are required, at least one per week and no more than one per day or two per week, to be broadcast between 7:00 a.m. and 11:00 p.m. local time, Monday through Friday, beginning after the application is accepted for filing. The Commission also clarified low-power FM (LPFM) stations' obligations to provide local public notice, and amended section 73.801 of the rules (47 CFR 73.801, listing FCC rules that apply to the LPFM service) to include the local public notice rule, 47 CFR 73.3580.

This submission was made to OMB for approval of the modified third-party disclosure requirements for this Information Collection, as adopted in the 2020 Public Notice Second Report and Order. The changes pertaining to this Information Collection and to 47 CFR 73.3580 adopted in the 2020 Public Notice Second Report and Order, do not necessitate changes to Schedule 303–S, nor do they affect the substance, burden hours, or costs of completing the forms. The rule changes do, however, reduce burdens and costs associated with filing the application.

OMB Control Number: 3060–0213.

OMB Approval Date: October 9, 2020.

OMB Expiration Date: October 31, 2023.

Title: Section 73.3525, Agreements for Removing Application Conflicts.

Form Number: N/A.

Respondents: Business or other for-profit entities; Not for profit institutions.

Number of Respondents and Responses: 38 respondents; 38 responses.

Estimated Time per Response: 1 hour.

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

Total Annual Burden: 38 hours.

Total Annual Cost: $91,200.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i) and 311 of the Communications Act of 1934, as amended.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The Commission is submitting this revision to the Office of Management and Budget for approval to remove the information collection requirements, annual burden hours and annual cost contained in this collection for 47 CFR 73.3535(b). The Commission removed this rule section when it adopted the Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications, MB Docket No. 17–264, FCC 20–65 on May 12, 2020.

The following information collection requirements remain in this collection: 47 CFR 73.3525 states (a) except as provided in § 73.3523 regarding dismissal of applications in comparative renewal proceedings, whenever applicants for a construction permit for a broadcast station enter into an agreement to procure the removal of a conflict between applications pending before the FCC by withdrawal or amendment of an application or by its dismissal pursuant to § 73.3568, all parties thereto shall, within 5 days after entering into the agreement, file with the FCC a joint request for approval of such agreement. The joint request shall be accompanied by a copy of the agreement, including any ancillary agreements, and an affidavit of each party to the agreement setting forth:

(1) The reasons why it is considered that such agreement is in the public interest;

(2) A statement that its application was not filed for the purpose of reaching or carrying out such agreement;

(3) A certification that neither the applicant nor its principals has received any money or other consideration in excess of the legitimate and prudent expenses of the applicant; Provided That this provision shall not apply to bona fide merger agreements;

(4) The exact nature and amount of any consideration paid or promised;

(5) An itemized accounting of the expenses for which it seeks reimbursement; and

(6) The terms of any oral agreement relating to the dismissal or withdrawal of its application.

OMB Control Number: 3060–0214.

OMB Approval Date: October 7, 2020.

OMB Expiration Date: October 31, 2023.

Title: Sections 73.3526 and 73.3527, Local Public Inspection Files; Sections 73.1212, 76.1701 and 73.1943, Political Files.

Form Number: N/A.

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

Number of Respondents and Responses: 23,984 respondents; 62,839 responses.

Estimated Time per Response: 1–52 hours.

Frequency of Response: On occasion reporting requirement, Recordkeeping requirement, Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for these collections is contained in Sections 151, 152, 154(i), 303, 307 and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 2,043,805 hours.

Total Annual Cost: None.

Privacy Impact Assessment: The Commission prepared a system of records notice (SORN), FCC/MB–2, ''Broadcast Station Public Inspection Files,'' that covers the PII contained in the broadcast station public inspection files located on the Commission's website. The Commission will revise appropriate privacy requirements as necessary to include any entities and information added to the online public file in this proceeding.

Nature and Extent of Confidentiality: Most of the documents comprising the public file consist of materials that are not of a confidential nature. Respondents complying with the information collection requirements may request that the information they submit be withheld from disclosure. If confidentiality is requested, such requests will be processed in accordance with the Commission's rules, 47 CFR 0.459.

In addition, the Commission has adopted provisions that permit respondents subject to the information collection requirement for Shared Service Agreements to redact confidential or proprietary information from their disclosures.

Needs and Uses: On May 12, 2020, the Commission adopted Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580, Second Report and Order, MB Docket Nos. 17–254, 17–105, & 05–6, FCC 20–65 (rel. May 13, 2020). The Commission adopted new, streamlined procedures for stations to provide public notice of the filing of certain applications. Stations, including stations filing for new construction permits or major modifications to facilities, that were previously required to post public notice in a local newspaper, must now post notice online, either on the station website or a website affiliated with the station, its licensee, or its parent entity, or else must post notice on a publicly accessible, locally targeted website, for 30 continuous days following acceptance of the application for filing. Stations that are required to make on-air announcements of the filing of certain applications, must continue to do so, but the announcements are shorter and direct viewers and listeners to the application as filed and displayed in either the station's Online Public Inspection File or another Commission database. A total of six on-air announcements are required, at least one per week and no more than one per day or two per week, to be broadcast between 7:00 a.m. and 11:00 p.m. local time, Monday through Friday, beginning after the application is accepted for filing.

This submission was made to OMB for approval of the modified third-party disclosure requirements for this Information Collection, as adopted in the 2020 Public Notice Second Report and Order. The modified information collection requirements, revising rules 47 CFR 73.3526(e)(13) and 47 CFR 73.3527(e)(10) covering local public notice announcements, are as follows:

47 CFR 73.3526(e)(13)—Local public notice announcements. Each applicant for renewal of license shall, within 7 days of the last day of broadcast of the local public notice of filing announcements required pursuant to § 73.3580(c)(3), place in the station's online public inspection file a statement certifying compliance with this requirement. The dates and times that the on-air announcements were broadcast shall be made part of the certifying statement. The certifying statement shall be retained in the public file for the period specified in § 73.3580(e)(2) (for as long as the application to which it refers).

47 CFR 73.3527(e)(10)—Local public notice announcements. Each applicant for renewal of license shall, within 7 days of the last day of broadcast of the local public notice of filing announcements required pursuant to § 73.3580(c)(3), place in the station's online public inspection file a statement certifying compliance with this requirement. The dates and times that the on-air announcements were broadcast shall be made part of the certifying statement. The certifying statement shall be retained in the public file for the period specified in § 73.3580(e)(2) (for as long as the application to which it refers).

OMB Control Number: 3060–0405.

OMB Approval Date: October 2, 2020.

OMB Expiration Date: October 31, 2023.

Title: Form 2100, Schedule 349—FM Translator or FM Booster Station Construction Permit Application.

Form Number: FCC Form 2100, Schedule 349.

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

Number of Respondents and Responses: 1,250 respondents; 3,750 responses.

Estimated Time per Response: 0.5 hours–1.5 hours.

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

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 4,050 hours.

Total Annual Cost: $4,447,539.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this information collection.

Needs and Uses: On May 12, 2020, the Commission adopted Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580, Second Report and Order, MB Docket Nos. 17–254, 17–105, & 05–6, FCC 20–65 (rel. May 13, 2020). The Commission adopted new, streamlined procedures for stations to provide public notice of the filing of certain applications. Stations, including stations filing for new construction permits or major modifications to facilities, that were previously required to post public notice in a local newspaper, must now post notice online, either on the station website or a website affiliated with the station, its licensee, or its parent entity, or else must post notice on a publicly accessible, locally targeted website, for 30 continuous days following acceptance of the application for filing.

This submission was made to OMB for approval of the modified third-party disclosure requirements for this Information Collection, as adopted in the 2020 Public Notice Second Report and Order. The changes pertaining to this Information Collection and to 47 CFR 73.3580 adopted in the 2020 Public Notice Second Report and Order, do not necessitate changes to the Schedule 349, nor do they affect the substance, burden hours, or costs of completing the forms. The rule changes do, however, reduce burdens and costs associated with filing the application.

In April 2020, the Commission adopted a Report and Order making certain changes to the LPFM technical rules, to improve reception and increase flexibility while maintaining interference protection and the core LPFM goals of diversity and localism. Amendments of Parts 73 and 74 to Improve the Low Power FM Radio Service Technical Rules; Modernization of Media Regulation Initiative, Report and Order, MB Docket Nos. 19–193, 17–105, FCC 20–53 (rel. Apr. 23, 2020) (2020 Technical Report and Order).

LPFM stations provide a secondary, noncommercial radio service with a community focus. The Commission originally designed LPFM engineering requirements to be simple so that non-profit organizations with limited engineering expertise and small budgets could readily apply for, construct, and operate community-oriented stations serving highly localized areas. LPFM organizations suggested that the service has matured and requires additional engineering options to improve reception. Thus, the 2020 Technical Report and Order adopted the following rules: Allow expanded LPFM use of directional antennas. All LPFM stations may use directional facilities, with either off-the-shelf or composite antennas, upon a satisfactory engineering showing. Such antennas could improve service near international borders by allowing LPFM stations to serve more listeners in the United States while continuing to protect Mexican and Canadian stations.

Redefine ''Minor Changes'' for LPFM stations. An LPFM station may apply for approval to relocate its transmitter site without awaiting a filing window if the change is ''minor,'' redefined in the 2020 Technical Report and Order as a

move of 11.2 kilometers or less. The 2020 Technical Report and Order also allowed proposals of greater distances to qualify as minor if the existing and proposed service contours overlap.

Permit LPFM Use of FM Booster Stations. FM booster stations amplify and retransmit a station's signal. The 2020 Technical Report and Order amended rules that had prohibited LPFM stations from operating booster stations, allowing LPFM stations to operate an FM booster in lieu of an FM translator when a booster would better address unique terrain challenges.

Allow Shared Emergency Alert System (EAS) Equipment. Co-owned, co-located radio stations can share EAS equipment, but this option was not available to LPFM stations because they cannot be co-owned. The 2020 Technical Report and Order permitted co-located LPFM stations (particularly those in time-share arrangements) to share an EAS decoder pursuant to an agreement for common access as well as common responsibility for any EAS rule violations, thus potentially reducing costs.

Facilitate Waivers of Requirement to Protect Television Stations Operating on Channel 6. Stations on the part of the FM band reserved for NCE use must currently protect adjacent television stations on Channel 6 (TV6). The 2020 Technical Report and Order deferred to a future proceeding consideration of a proposal to eliminate the protection of digital television stations operating on TV6. The 2020 Technical Report and Order stated that until such a proceeding is resolved, the Commission will accept FM proposals that are short-spaced to TV6 if the FM applicant demonstrates no interference. Alternatively, the 2020 Technical Report and Order added language to the rules allowing reserved band radio stations to provide an agreement indicating the concurrence of all potentially affected digital TV6 stations.

Miscellaneous Changes. The 2020 Technical Report and Order added language to 47 CFR 73.850 requiring LPFM stations to notify the Commission if they are silent for ten days and to seek authority for silent periods over 30 days, as required for all other broadcasters, thus codifying a longstanding policy that the Bureau already applies to the LPFM service that allows it to identify and assist LPFM stations at risk of losing their licenses automatically under section 312(g) of the Communications Act.

Specifically, pertaining to this Information Collection and FM Booster (and LPFM) stations, the Commission is revising the form, the corresponding instructions, and the information collection as follows:

(1) Permitting LPFM licensees to own and operate FM Booster stations. The 2020 Technical Report and Order will increase the number of applicants eligible to file LMS Schedule 349 by eliminating the absolute prohibition on the cross-ownership of FM Booster stations by LPFM licenses. The overall number of respondents may increase because these rule changes expand the universe of applicants eligible to apply for an FM Booster station construction permit. Therefore, this submission was made to OMB for approval of revised Information Collection requirements.

OMB Control Number: 3060–0920.

OMB Approval Date: October 2, 2020.

OMB Expiration Date: October 31, 2023.

Title: Form 2100, Schedule 318—Low Power FM Station Construction Permit Application; Report and Order in MM Docket No. 99–25 Creation of Low Power Radio Service; Sections 73.801, 73.807, 73.809, 73.810, 73.816, 73.827, 73.850, 73.865, 73.870, 73.871, 73.872, 73.877, 73.878, 73.318, 73.1030, 73.1207, 73.1212, 73.1300, 73.1350, 73.1610, 73.1620, 73.1750, 73.1943, 73.3525, 73.3550, 73.3598, 11.61(ii).

Form No.: Form 2100, Schedule 318.

Respondents: Not-for-profit institutions; State, local or Tribal governments.

Number of Respondents and Responses: 24,606 respondents with multiple responses; 31,324 responses.

Estimated Time per Response: .0025–12 hours.

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

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in sections 154(i), 303, 308 and 325(a) of the Communications Act of 1934, as amended.

Total Annual Burden: 52,889 hours.

Total Annual Costs: $1,229,370.

Privacy Act Impact Assessment: This information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

Nature and Extent of Confidentiality: There is no need for confidentiality with this information collection.

Needs and Uses: This submission was made to the Office of Management (OMB) for the approval of information collection requirements contained in the Commission's Reexamination of the Comparative Standards and Procedures for Licensing Noncommercial Educational Broadcast Stations and Low Power FM Stations, Report and Order, FCC 19–127, 34 FCC Rcd 12519 (2019) (NCE LPFM Report and Order), adopted December 10, 2019, and released on December 11, 2019, where the Commission revised its rules and procedures for considering competing applications for new and major modifications to noncommercial educational full-service FM and full-power television (NCE), and low power FM (LPFM) broadcast stations. The changes are designed to improve the comparative selection and licensing procedures, expedite the initiation of new service to the public, eliminate unnecessary applicant burdens, and reduce the number of appeals of NCE comparative licensing decisions.

First, to improve the NCE comparative process, the NCE LPFM Report and Order: (1) Eliminates the governing document requirements for established local applicants and applicants claiming diversity points; (2) establishes a uniform divestiture pledge policy; (3) expands the tie-breaker criteria and revises the procedures for allocating time in mandatory time-sharing situations; and (4) clarifies and modifies the ''holding period'' rule.

Second, the NCE LPFM Report and Order adopts the following changes to the LPFM comparative process: (1) Prohibits amendments that attempt to cure past unauthorized station violations; (2) authorizes time-sharing discussions prior to tentative selectee designations; and (3) establishes procedures for remaining tentative selectees following dismissal of point aggregation time-share agreements.

Third, the NCE LPFM Report and Order adopts the following general changes: (1) Defines which applicant board changes are major changes; (2) clarifies the reasonable site assurance requirements; (3) streamlines construction deadline tolling procedures and notification requirements; (4) lengthens the LPFM construction period; and (5) eliminates restrictions on the assignment and transfer of LPFM authorizations.

Specifically, pertaining to this Information Collection and LPFM stations, the Commission is revising the relevant rules, 47 CFR 73.872, the form, and corresponding instructions, as follows:

(1) Adding a Reasonable Site Assurance Certification in the Technical Certifications Section of the form, requiring the applicant to certify that it has obtained reasonable assurance from the tower owner or authorized representative, that its specified site will

be available. The revisions to the relevant rules, and the changes to the questions in Schedule 318 listed above affect the substance, burden hours, and costs of completing the Schedule 318. Therefore, this submission was made to OMB for approval of revised Information Collection requirements. On May 12, 2020, the Commission adopted Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580, Second Report and Order, MB Docket Nos. 17–254, 17–105, & 05–6, FCC 20–65 (rel. May 13, 2020). The Commission adopted new, streamlined procedures for stations to provide public notice of the filing of certain applications. Stations, including stations filing for new construction permits or major modifications to facilities, that were previously required to post public notice in a local newspaper, must now post notice online, either on the station website or a website affiliated with the station, its licensee, or its parent entity, or else must post notice on a publicly accessible, locally targeted website, for 30 continuous days following acceptance of the application for filing. Stations that are required to make on-air announcements of the filing of certain applications, must continue to do so, but the announcements are shorter and direct viewers and listeners to the application as filed and displayed in either the station's Online Public Inspection File or another Commission database. A total of six on-air announcements are required, at least one per week and no more than one per day or two per week, to be broadcast between 7:00 a.m. and 11:00 p.m. local time, Monday through Friday, beginning after the application is accepted for filing. The Commission also clarified LPFM stations' obligations to provide local public notice, and amended section 73.801 of the rules (47 CFR 73.801, listing FCC rules that apply to the LPFM service) to include the local public notice rule, 47 CFR 73.3580.

This submission was made to OMB for approval of the modified third-party disclosure requirements for this Information Collection, as adopted in the 2020 Public Notice Second Report and Order. The changes pertaining to this Information Collection and to 47 CFR 73.3580 adopted in the 2020 Public Notice Second Report and Order, do not necessitate changes to the Schedule 318, nor do they affect the substance, burden hours, or costs of completing the forms. The rule changes do, however, reduce burdens and costs associated with filing the application.

In April 2020, the Commission adopted a Report and Order making certain changes to the LPFM technical rules, to improve reception and increase flexibility while maintaining interference protection and the core LPFM goals of diversity and localism. Amendments of Parts 73 and 74 to Improve the Low Power FM Radio Service Technical Rules; Modernization of Media Regulation Initiative, Report and Order, MB Docket Nos. 19–193, 17–105, FCC 20–53 (rel. Apr. 23, 2020)(2020 Technical Report and Order).

LPFM stations provide a secondary, noncommercial radio service with a community focus. The Commission originally designed LPFM engineering requirements to be simple so that non-profit organizations with limited engineering expertise and small budgets could readily apply for, construct, and operate community-oriented stations serving highly localized areas. LPFM organizations suggested that the service has matured and requires additional engineering options to improve reception. Thus, the 2020 Technical Report and Order adopted the following rules: Allow expanded LPFM use of directional antennas. All LPFM stations may use directional facilities, with either off-the-shelf or composite antennas, upon a satisfactory engineering showing. Such antennas could improve service near international borders by allowing LPFM stations to serve more listeners in the United States while continuing to protect Mexican and Canadian stations.

Redefine ''Minor Changes'' for LPFM stations. An LPFM station may apply for approval to relocate its transmitter site without awaiting a filing window if the change is ''minor,'' redefined in the 2020 Technical Report and Order as a move of 11.2 kilometers or less. The 2020 Technical Report and Order also allowed proposals of greater distances to qualify as minor if the existing and proposed service contours overlap.

Permit LPFM Use of FM Booster Stations. FM booster stations amplify and retransmit a station's signal. The 2020 Technical Report and Order amended rules that had prohibited LPFM stations from operating booster stations, allowing LPFM stations to operate an FM booster in lieu of an FM translator when a booster would better address unique terrain challenges.

Allow Shared Emergency Alert System (EAS) Equipment. Co-owned, co-located radio stations can share EAS equipment, but this option was not available to LPFM stations because they cannot be co-owned. The 2020 Technical Report and Order permitted co-located LPFM stations (particularly those in time-share arrangements) to share an EAS decoder pursuant to an agreement for common access as well as common responsibility for any EAS rule violations, thus potentially reducing costs.

Facilitate Waivers of Requirement to Protect Television Stations Operating on Channel 6. Stations on the part of the FM band reserved for NCE use must currently protect adjacent television stations on Channel 6 (TV6). The 2020 Technical Report and Order deferred to a future proceeding consideration of a proposal to eliminate the protection of digital television stations operating on TV6. The 2020 Technical Report and Order stated that until such a proceeding is resolved, the Commission will accept FM proposals that are short-spaced to TV6 if the FM applicant demonstrates no interference. Alternatively, the 2020 Technical Report and Order added language to the rules allowing reserved band radio stations to provide an agreement indicating the concurrence of all potentially affected digital TV6 stations.

Miscellaneous Changes. The 2020 Technical Report and Order added language to 47 CFR 73.850 requiring LPFM stations to notify the Commission if they are silent for ten days and to seek authority for silent periods over 30 days, as required for all other broadcasters, thus codifying a longstanding policy that the Bureau already applies to the LPFM service that allows it to identify and assist LPFM stations at risk of losing their licenses automatically under section 312(g) of the Communications Act. The 2020 Technical Report and Order also made several non-substantive changes to remove duplicative and out-of-date information.

Specifically, pertaining to this Information Collection and LPFM stations, the Commission is revising the relevant rules, 47 CFR 73.816, 73.850, and 73.870, the form, and corresponding instructions, as follows:

(1) Adding an Antenna Type question in the Technical Certifications Section of the form, requiring the applicant to describe the proposed antenna type (directional or non-directional). Applicants proposing a directional antenna (as now permitted by section 73.816) must complete a data table, providing relative field values for every 10 degrees on the unit circle.

(2) Modifying section 73.850 to clarify that LPFM stations must, like other broadcast stations, notify the

Commission if they temporarily stop broadcasting. The rules require radio stations to notify the Commission within 10 days of temporarily discontinuing operations and to obtain Commission authorization if the discontinued operations last beyond 30 days.

(3) Redefining the types of LPFM facility changes that qualify as ''minor'' (in section 73.870), to provide additional flexibility for LPFM stations to relocate their facilities.

The revisions to the relevant rules, and the changes to the questions in Schedule 318 listed above affect the substance, burden hours, and costs of completing the Schedule 318. Therefore, this submission was made to OMB for approval of revised Information Collection requirements.

OMB Control No.: 3060–0932.

OMB Approval Date: October 7, 2020.

OMB Expiration Date: October 31, 2023.

Title: FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule E (Former FCC Form 301–CA); 47 CFR Sections 73.3700(b)(1)(i)–(v) and (vii), (b)(2)(i) and (ii); 47 CFR Section 73.6028; 47 CFR Section 74.793(d).

Form No.: FCC Form 2100, Schedule E (Application for Media Bureau Audio and Video Service Authorization) (Former FCC Form 301–CA).

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

Number of Respondents and Responses: 745 respondents and 745 responses.

Estimated Time per Response: 2.25 hours–6 hours.

Frequency of Response: One-time reporting requirement; On occasion reporting requirement; Third party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 151, 154(i), 157 and 309(j) as amended; Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, 6402 (codified at 47 U.S.C. 309(j)(8)(G)), 6403 (codified at 47 U.S.C. 1452), 126 Stat. 156 (2012) (Spectrum Act) and the Community Broadcasters Protection Act of 1999.

Total Annual Burden: 6,146 hours.

Annual Cost Burden: $4,334,902.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: FCC Form 2100, Schedule E (formerly FCC Form 301–CA) is to be used in all cases by a Class A television station licensee seeking to make changes in the authorized facilities of such station. FCC Form 2100, Schedule E requires applicants to certify compliance with certain statutory and regulatory requirements. Detailed instructions on the FCC Form 2100, Schedule E provide additional information regarding Commission rules and policies. FCC Form 2100, Schedule E is presented primarily in a ''Yes/No'' certification format. However, it contains appropriate places for submitting explanations and exhibits where necessary or appropriate. Each certification constitutes a material representation. Applicants may only mark the ''Yes'' certification when they are certain that the response is correct. A ''No'' response is required if the applicant is requesting a waiver of a pertinent rule and/or policy, or where the applicant is uncertain that the application fully satisfies the pertinent rule and/or policy. FCC Form 2100, Schedule E filings made to implement post-auction channel changes will be considered minor change applications.

Class A applications for a major change are subject to third party disclosure requirement of Section 73.3580, which requires local public notice that the application has been accepted for filing. Notice is given by an applicant posting notice of the application filing on its station website, its licensee website, its parent entity website, or on a publicly accessible, locally targeted website, for 30 consecutive days beginning within five business days of acceptance of the application for filing. The online notice must link to a copy of the application as filed in the Commission's LMS licensing database.

On May 12, 2020, the Commission adopted Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580, Second Report and Order, MB Docket Nos. 17–254, 17–105, & 05–6, FCC 20–65 (rel. May 13, 2020). The Commission adopted new, streamlined procedures for stations to provide public notice of the filing of certain applications. Stations, including Class A television stations filing for new construction permits or major modifications to facilities, that were previously required to post public notice in a local newspaper, must now post notice online, either on the station website or a website affiliated with the station, its licensee, or its parent entity, or else must post notice on a publicly accessible, locally targeted website, for 30 continuous days following acceptance of the application for filing.

This submission was made to OMB for approval of the modified third-party disclosure requirements for this Information Collection, as adopted in the 2020 Public Notice Second Report and Order. The changes pertaining to this Information Collection and to 47 CFR 73.3580 adopted in the 2020 Public Notice Second Report and Order do not necessitate changes to the Form 2100, Schedule E, nor do they affect the substance, burden hours, or costs of completing the forms. The rule changes do, however, reduce burdens and costs associated with filing the application.

OMB Control Number: 3060–1133.

OMB Approval Date: October 7, 2020.

OMB Expiration Date: October 31, 2023.

Title: Application for Permit to Deliver Programs to Foreign Broadcast Stations (FCC Form 308); 47 CFR Sections 73.3545 and 73.3580.

Form No.: FCC Form 308.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 26 respondents; 48 responses.

Estimated Time per Response: 0.5 hours-2 hours.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Section 325(c) of the Communications Act of 1934, as amended.

Total Annual Burden: 40 hours.

Annual Cost Burden: $18,642.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality with this collection of information.

Needs and Uses: On May 12, 2020, the Commission adopted Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580, Second Report and Order, MB Docket Nos. 17–254, 17–105, & 05–6, FCC 20–65 (rel. May 13, 2020). The Commission adopted new, streamlined procedures for stations to provide public notice of the filing of certain applications. Stations, including stations filing FCC Form 308, that were previously required to post public notice in a local newspaper, must now post notice online, either on the station website or a website affiliated with the station, its licensee, or its parent entity, or else must post notice on a publicly accessible, locally targeted website, for

30 continuous days following acceptance of the application for filing.

This was made to OMB for approval of the modified third-party disclosure requirements for this Information Collection, as adopted in the 2020 Public Notice Second Report and Order. The changes pertaining to this Information Collection and to 47 CFR 73.3580 adopted in the 2020 Public Notice

Second Report and Order do not necessitate changes to FCC Form 308, nor do they affect the substance, burden hours, or costs of completing the forms. The rule changes do, however, reduce burdens and costs associated with filing the application.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2020–23441 Filed 10–28–20; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 200221–0062; RTID 0648–XA528]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 in 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 directed fishing for pollock in Statistical Area 620 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the D season allowance of the 2020 total allowable catch of pollock for Statistical Area 620 in the GOA.

DATES: Effective October 26, 2020. This inseason became applicable at 1200 hours, Alaska local time (A.l.t.), October 20, 2020, through 1200 hours, A.l.t., October 27, 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 D season allowance of the 2020 total allowable catch (TAC) of pollock in Statistical Area 620 of the GOA is 6,739 metric tons (mt) as established by the final 2020 and 2021 harvest specifications for groundfish in the GOA (85 FR 13802, March 10, 2020).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the D season allowance of the 2020 TAC of pollock in Statistical Area 620 of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 6,639 mt and is setting aside the remaining 100 mt as bycatch to support other anticipated groundfish fisheries. 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 pollock in Statistical Area 620 of the GOA.

While this closure is effective the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

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

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of directed fishing for pollock in Statistical Area 620 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 October 19, 2020.

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

Dated: October 26, 2020.

Jennifer M. Wallace,

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

[FR Doc. 2020–24010 Filed 10–26–20; 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–XA602

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 in the Gulf of Alaska

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

ACTION: Temporary rule; modification of closure

SUMMARY: NMFS is opening directed fishing for pollock in Statistical Area 620 of the Gulf of Alaska (GOA). This action is necessary to fully use the 2020 total allowable catch of pollock in Statistical Area 620 of the GOA.

DATES: Effective 1201 hours, Alaska local time (A.l.t.), October 27, 2020, through 1200 hours, A.l.t., October 29, 2020. Comments must be received at the following address no later than 4:30 p.m., A.l.t., November 10, 2020.

ADDRESSES: You may submit comments on this document, identified by FDMS Docket Number NOAA–NMFS–2019–0102 by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0102,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Records. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and NMFS will post the comments for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7241.

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 D season allowance of the 2020 total allowable catch (TAC) of pollock in Statistical Area 620 of the GOA is 6,739 metric tons (mt) as established by the final 2020 and 2021 harvest specifications for groundfish of the GOA (85 FR 13802, March 10, 2020).

NMFS closed directed fishing for pollock in Statistical Area 620 of the GOA under § 679.20(d)(1)(iii) on October 20, 2020 through a separate notice in the **Federal Register**.

As of October 23, 2020, NMFS has determined that approximately 900 metric tons of pollock remain in the D season allowance for pollock in Statistical Area 620 of the GOA. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully utilize the D season allowance of the 2020 TAC of pollock in Statistical Area 620 of the GOA, NMFS is terminating the previous closure and is reopening directed fishing for pollock in Statistical Area 620 of the GOA, effective 1201 hours, A.l.t., October 27, 2020.

The Administrator, Alaska Region (Regional Administrator) considered the following factors in reaching this decision: (1) The catch of pollock in Statistical Area 620 of the GOA and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in participating in this fishery.

Classification

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

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of directed fishing for pollock in Statistical Area 620 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 October 23, 2020.

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

Dated: October 26, 2020.

Jennifer M. Wallace,

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

[FR Doc. 2020–24021 Filed 10–26–20; 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–XA594

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 in the Gulf of Alaska

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

ACTION: Temporary rule; modification of closure.

SUMMARY: NMFS is opening directed fishing for pollock in Statistical Area 610 of the Gulf of Alaska (GOA). This action is necessary to fully use the 2020 total allowable catch of pollock in Statistical Area 610 of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), October 27, 2020, through 1200 hours, A.l.t., October 29, 2020. Comments must be received at the following address no later than 4:30 p.m., A.l.t., November 10, 2020.

ADDRESSES: You may submit comments on this document, identified by FDMS Docket Number NOAA–NMFS–2019–0102 by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0102,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Records. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and NMFS will post the comments for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

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 D season allowance of the 2020 total allowable catch (TAC) of pollock in Statistical Area 610 of the GOA is 9,070 metric tons (mt) as established by the final 2020 and 2021 harvest specifications for groundfish of the GOA (85 FR 13802, March 10, 2020).

NMFS closed directed fishing for pollock in Statistical Area 610 of the GOA under § 679.20(d)(1)(iii) on October 6, 2020 (85 FR 64070, October 9, 2020).

As of October 22, 2020, NMFS has determined that approximately 740 metric tons of pollock remain in the D season allowance for pollock in Statistical Area 610 of the GOA. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully utilize the D season allowance of the 2020 TAC of pollock in Statistical Area 610 of the GOA, NMFS is terminating the previous closure and is reopening directed fishing for pollock in Statistical Area 610 of the GOA, effective 1200 hours, A.l.t., October 27, 2020 through 1200 hours, A.l.t., October 29, 2020.

The Administrator, Alaska Region (Regional Administrator) considered the following factors in reaching this decision: (1) The catch of pollock in Statistical Area 610 of the GOA and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in participating in this fishery.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens

Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of directed fishing for pollock in Statistical Area 610 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 October 22, 2020.

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

Dated: October 26, 2020.

Jennifer M. Wallace,

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

[FR Doc. 2020–23997 Filed 10–26–20; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 85, No. 210
Thursday, October 29, 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.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701, 703, 741, and 746

RIN 3133–AF29

Derivatives

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: The NCUA Board (Board) is proposing to amend the NCUA's Derivatives rule. This proposed rule is intended to modernize the NCUA's Derivatives rule and make it more principles-based. This proposal retains key safety and soundness components, while providing more flexibility for federal credit unions (FCUs) to manage their interest rate risk (IRR) through the use of Derivatives. The changes included in this proposal would streamline the regulation and expand credit unions' authority to purchase and use Derivatives for the purpose of managing IRR. This proposal also reorganizes rule content related to loan pipeline management into one section, which will aid in readability and clarity.

DATES: Comments must be received by December 28, 2020.

ADDRESSES: You may submit written comments, identified by RIN 3133–AF29, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.*
  - Follow the instructions for submitting comments.
- *Fax:* 703–518–6319
  - Include ''[Your Name]—Comments on Proposed Rule: Derivatives'' on the transmittal cover page.
- *Mail:* Melane Conyers-Ausbrooks, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

Please send comments by one method only.

Public Inspection: You may view all public comments as submitted on the Federal eRulemaking Portal at *http://www.regulations.gov,* except those that cannot be posted for technical reasons. The NCUA will not edit or remove any identifying or contact information from submitted public comments. Due to social distancing measures in effect, the usual opportunity to inspect paper copies of comments in the NCUA's law library is not currently available. After social distancing measures are relaxed, visitors may make an appointment to review paper copies by calling 703–518–6540 or emailing *OGCMail@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: *Policy and Analysis:* Tom Fay, Capital Markets Manager, Office of Examination and Insurance, 703–518–1179; *Legal:* Justin Anderson, Senior Staff Attorney, Office of General Counsel, 703–518–6540; or by mail at National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314.

SUPPLEMENTARY INFORMATION:

I. Introduction

As discussed throughout the remainder of this document, the Board is proposing to modernize its Derivatives [1] rule by progressing from a prescriptive construct to a more expansive, principles-based approach. The Board believes the proposed amendments will make it easier and more efficient for FCUs to manage IRR with Derivatives while maintaining the necessary safety and soundness controls.

II. Background

In 2014, the Board finalized the NCUA's current Derivatives rule,[2] which only applies to FCUs.[3] Before finalization of the current Derivatives rule, FCUs could only use Derivatives to hedge real estate loans produced for sale on the secondary market; hedge interest rate lock or forward sales commitments for loans that the FCU originated; or fund dividend payments on member share certificates where the share certificate rate was tied to an equity index.

Beginning in 1999, however, the Board had approved several IRR Derivative pilot programs. The pilot programs, which remained active until the 2014 rulemaking, provided important insight into the safety and efficacy of the use of Derivatives in managing IRR over a significant time horizon that included periods of both rising and falling interest rates.

As noted above, in 2014, the Board, based largely on its experience observing the successful use of Derivatives through the pilot programs, finalized the current Derivatives rule. As noted in the preamble in the proposed and final versions of that rule, the Board concluded that it was both safe and beneficial to authorize the use of Derivatives for managing IRR.

The scope of the 2014 final rule was intentionally prescriptive, given most FCUs' lack of experience using Derivatives for IRR management and the NCUA's need to increase its specialized expertise to manage and supervise the use of such instruments and the accompanying application process included in the rule. The prescriptiveness of the final rule enabled the Board to safely expand Derivatives authority while also ensuring that FCUs which engaged in Derivatives did not pose an undue safety and soundness risk to themselves, the broader credit union industry, or the National Credit Union Share Insurance Fund (the Fund). As such, the 2014 final rule included a number of restrictions on Derivative authorities. These included, but were not limited to, discrete limits on the types of Derivative products an FCU could purchase; requiring FCUs to receive NCUA preapproval before engaging in Derivatives; and regulatory limits on the amounts of Derivatives an FCU could hold relative to its net worth.

Since 2014, the NCUA has received many applications from FCUs and notifications from federally insured, state-charted credit unions (FISCUs) [4] planning to use Derivatives to manage IRR. As of June 2020, approximately 30% of all FCUs with an approved Derivatives application and FISCUs that have notified the NCUA of their use of Derivatives have outstanding Derivative transactions.

[1] The term ''Derivatives'' is defined in both the current rule and this proposed rule.

[2] 79 FR 5228 (Jan. 31, 2014).

[3] As of this proposal, to use Derivatives, federally insured, state-chartered credit unions must have authority from the applicable state regulator (explicit authority or case-by-case authority).

[4] FISCUs are required to notify the NCUA; they are not required to receive NCUA approval.

Under the current rule, the Board and staff have gained critical knowledge and experience through oversight of credit unions actively using Derivatives. This experience has helped the NCUA streamline the focus of its examinations while also identifying areas where additional regulatory relief could be granted safely. Many of these relief items were included as part of the Board's December 2018 Regulatory Reform Agenda;[5] most of those items are included in this proposed rule. The Board notes that comments from the Regulatory Reform Agenda were generally supportive of a principles-based approach for permissible Derivative products for FCUs managing IRR.

Given the observable safe and effective management of Derivatives by credit unions since the 2014 final rule, the Board believes it is appropriate to modernize the Derivatives rule to expand the Derivatives authority for FCUs and shift the regulation toward a more principles-based approach. In developing this proposed rule, the Board carefully considered the risks Derivatives pose, contemporary developments in the marketplace, and the NCUA's experiences with credit unions using Derivatives. While using Derivatives to manage IRR, the Board reminds credit unions that Derivatives are not a panacea for managing market risks. Derivatives, when used responsibly, are only a part of a credit union's IRR framework. Credit unions will still require appropriate risk management by experienced staff, as well as suitable policies, procedures, and management oversight. Further, the Board reminds credit unions that implicit in a principles-based approach is the expectation that FCUs will maintain strong prudential controls around their Derivative use at all times.

The Board remains committed to the principle that any authorized Derivative activity should be limited to the purpose of mitigating IRR within a discreet hedging strategy, and may not be used to increase risks deliberately or conduct any otherwise speculative transactions. This proposal continues to authorize Derivative activity by FCUs that demonstrate risk characteristics highly correlated to the FCU's assets and liabilities, such that Derivatives would be an efficient and effective risk mitigation tool.

For the reasons stated above, the Board is proposing to amend the Derivatives rule as described in the following sections. The Board believes these changes will provide regulatory relief in a safe and sound manner for credit unions choosing to utilize Derivatives as part of their IRR mitigation strategy.

III. Proposed Rule

As described in more detail below, the Board is proposing to make numerous changes to the Derivatives rule, both substantive and technical. The proposed changes make the Derivatives rule less prescriptive and more principles based. Significant elements of this proposal include eliminating the preapproval process for FCUs that are complex with a Management CAMEL component rating of 1or 2; eliminating the specific product permissibility; and eliminating the regulatory limits on the amount of Derivatives an FCU may purchase.

The aforementioned changes, as well as proposed changes to other sections of the NCUA's regulations and less significant changes to the Derivatives rule are described in the following section-by-section analysis.

A. Part 701

The Board is proposing to remove paragraph (i) from § 701.21 to consolidate it with related provisions without intending any substantive change. This section currently allows FCUs to purchase put options to manage increased IRR for real estate loans produced for sale on the secondary market. A *put option* is a financial options contract which entitles the holder to sell, entirely at the holder's option, a specific quantity of a security at the specified price at or before the stated expiration date of the contract. Using put options in the manner permitted by § 701.21(i) is a form of loan pipeline management. *Loan pipeline management* involves transactions that are made to protect an FCU from the changes in the value of loans between origination and sale.

The Board is proposing to move the authority in § 701.21(i) to a revised § 703.14(k) (discussed in more detail in subsection B of this section). The Board's intent in proposing to move this paragraph is to consolidate all loan pipeline management into one paragraph and to use a principles-based approach for this activity. The Board notes that this proposed change would not eliminate or change this authority for FCUs.

B. Subpart A to Part 703

The Board is proposing to revise paragraph (k) of § 703.14. This section currently lists permissible Derivative activities for FCUs. This section includes a list of permissible Derivatives, the majority of which are addressed in subpart B to part 703 or elsewhere in the NCUA's regulations. As such, this section only grants unique authority for interest rate lock commitments or forward sales commitments made in connection with a loan originated by an FCU. The Board is proposing to revise § 703.14(k) to only address transactions for loan pipeline management, which would include the purchase of put options permissible in the current § 701.21(i) and interest rate lock commitments or forward sales commitments made in connection with a loan originated by an FCU in the current § 703.14(k). In addition to the current permissible transactions for loan pipeline management, the proposed revision to § 703.14(k) would allow other transactions as long as they are for managing interest rate exposure of the FCU's loan pipeline.

Due to the revised purpose of the paragraph, the Board is proposing to remove § 703.14(k)(1), which refers to the activities in § 701.21(i), § 703.14(g), and subpart B. As discussed previously, the Board is proposing to move the authority in § 701.21(i) to a revised § 703.14(k). Section 703.14(g) permits FCUs to purchase European financial option contracts to fund the payment of dividends on member share certificates where the dividend rate is tied to an equity index. While the reference in § 703.14(k)(1) to subparagraph (g) will be removed, the Board notes that it is not making any changes to the aforementioned subparagraph. Subpart B is the Derivative authority addressed below.

As such, the Board believes § 703.14(k)(1) is no longer necessary, because the revised paragraph (k) would only address instruments for loan pipeline management and not a broader Derivative authority. The Board notes that this proposed revision is technical in nature and does not change an FCU's current Derivative authority.

For similar reasons to the proposed removal of § 703.14(k)(1), the Board is proposing to move § 703.14(k)(2) to a new subsection (l). This new subsection will retain the authority for FCUs to enter into transactions where Generally Accepted Accounting Principles (GAAP) do not require the embedded options to be accounted separately from the host contract.

Further, the Board notes that this authority contains an implicit prohibition on FCUs entering into embedded options where GAAP requires the option to be accounted for separately from the host contract. The Board notes that such transactions would be considered Derivatives. As

[5] 83 FR 65926 (Dec. 21, 2018).

discussed in more detail below, the Board is proposing to make this prohibition explicit in subpart B to part 703. The Board believes this change is clarifying in nature and is not intended to make a substantive change.

The proposed revision would continue to allow FCUs to enter into transactions related to the management of their loan pipeline without limiting the activity to specified transaction types. The current § 703.14(k)(3) specifies that FCUs can enter into interest rate lock commitments or forward sales commitments made in connection with a loan originated by an FCU. Consistent with proposed changes to subpart B, the Board is making this paragraph principles-based by not specifying product types, which will allow FCUs more flexibility when managing their loan pipeline.

Examples of transactions that an FCU might use to protect itself from IRR between origination and sale include forward sales commitments, selling ''to be announced'' (TBA),[6] or purchasing put options referenced in the current § 701.21(i). These examples would be permissible under the proposed § 703.14(k). Other transactions not mentioned would also be permissible if they are related to the management of interest rate exposure of an FCU's loan pipeline.

The Board is aware that GAAP may classify some transactions for loan pipeline management as Derivatives. Such accounting classification would not preclude an FCU from engaging in the activity. The Board would also like to make it clear that a Derivatives transaction for loan pipeline management would not be subject to the proposed subpart B of part 703, and the transacting FCU will not be subject to the requirements of the aforementioned subpart.

The Board is soliciting comments on whether loan pipeline management should be limited to mortgage loans as opposed to all loans on an FCUs balance sheet. If so, why should loan pipeline management be limited to mortgage loans? If not, what types of loans other than mortgage loans would an FCU manage using the tools in this section?

C. Subpart B to Part 703

Section 703.101 Purpose and Scope

The Board is proposing to retain a majority of the purpose and scope section in the current Derivatives rule. Specifically, the purpose and scope section of this proposal would continue to make it clear that the Derivatives rule only applies to FCUs, except for a limited provision related to notifications FISCUs provide the NCUA.[7] In addition, the proposed section continues to make it clear that an FCU may enter Derivatives under this rule for the exclusive purpose of managing IRR.

While the majority of this section would remain unchanged, the Board is proposing to eliminate the requirement related to mutual funds. The Board is proposing to remove the prohibition for mutual funds to engage in Derivatives if an FCU purchases the mutual fund under the general investment authority.[8] The current rule states that subpart B does not permit FCUs to ''invest in registered investment companies or collective investment funds under § 703.14(c) of this part, where the prospectus of the company or fund permit the investment portfolio to contain Derivatives.'' [9] In 2014, the Board was concerned with the risk Derivatives could add to credit unions and the Fund. The Board believes this prohibition is no longer necessary. The Board believes a mutual fund can enter into Derivative transactions in a safe and sound manner as long as the transactions are limited to managing IRR. This belief stems from the experience the Board gained from FCUs that have engaged in Derivative transactions since the 2014 final rule.

By removing this prohibition, the Board would permit FCUs to invest in mutual funds that enter into Derivative transactions to manage IRR. Mutual funds that enter into derivatives to manage IRR are able to increase or decrease the interest rate sensitivity of the mutual fund, thereby providing the owners of such fund with the target duration [10] of the investment that accounts for volatility in interest rates. For example, a mutual fund may have a target duration of four years, and the current portfolio has a duration of five years. The mutual fund may enter into a Derivative transaction to decrease the mutual fund's duration, which would be a form of IRR management.

The Board would like to make it clear that mutual funds permissible for FCUs under the general investment authority will only be permitted to engage in Derivatives to manage IRR. A mutual fund may not engage in Derivatives that do not manage IRR. For example, a mutual fund that purchases Derivatives related to equities, credit, or commodities would not be permissible for an FCU under the general investment authority.

The Board is also proposing to add two paragraphs to this section to address FCUs that are currently operating under an approved application for Derivatives authority or have submitted an application for Derivatives authority under the current Derivatives rule and are awaiting a determination. As discussed in the portion of this preamble addressing § 701.108 of the proposal, the Board is proposing to eliminate the application requirement for Derivatives authority except for certain FCUs that do not meet limited conditions. As such, the proposed new paragraphs in this section would clarify that any FCU with a current approval would be subject only to the terms and conditions of a final rule based off this proposal and would no longer be subject to the requirements included in its approved application. In addition, any credit union not required to submit an application under this proposal that has submitted an application under the current Derivatives rule and is awaiting a determination would be deemed to have such application withdrawn and would only be subject to the terms and conditions of a final rule based off of this proposed rule.

If this proposal is finalized, the NCUA would continue to process any pending application from an FCU that would be required to submit an application under this proposed rule. The Board notes, however, that the NCUA would process such application in accordance with the more flexible standards under this proposal rather than the standards in the current Derivatives rule.

Section 703.102 Definitions

The Board is proposing to revise several definitions from the current rule; add new definitions; remove definitions that are no longer applicable to this proposed rule; and retain definitions from the current rule with no changes.

The Board is proposing to modify the definitions of the following terms in the current Derivatives rule:

- Counterparty;
- Interest Rate Risk;
- Margin;
- Master Service Agreement;
- Net Economic Value;
- Senior Executive Officer;
- Threshold Amount; and
- Trade Date.

The Board is proposing to revise the definition of Counterparty to include reference to the regulatory citations for the terms ''Swap dealer'' and ''Derivatives clearing organization.''

[6] To be announced. A forward-settling agency mortgage pass-through trade.

[7] Section 703.108 (Notification and application requirements) addresses FISCU notification requirements.

[8] 12 CFR part 703, subpart A.

[9] 12 CFR 703.100(b)(2).

[10] Duration is the sensitivity of the price of the mutual fund to a change in interest rates.

Including these citations in the definition will allow the Board to remove the definitions for ''Swap dealer'' and ''Derivatives clearing organization'' in this proposal and the corresponding cross-references. This change would make the Derivatives rule more user-friendly and aid in readability.

The Board is proposing to revise the definition of Interest Rate Risk to make it consistent with the definition used in the Interest Rate Risk chapter of the NCUA's Examiner's Guide.[11] The proposed revision changes ''vulnerability'' to ''current and prospective risk'' and changes ''earnings or economic value'' to ''capital and earnings.'' The Board believes these proposed revisions help better articulate what IRR is, from the NCUA's perspective. The proposed revised definition of IRR also removes ''Federal'' when referring to a credit union and removes ''market'' when referring to interest rates. The Board views the qualifiers of ''Federal'' and ''market'' as unnecessary, and views these changes as technical.

The Board is proposing to revise the definition of Margin to add clarity. The proposed revision to Margin changes ''funds'' to ''eligible collateral, as defined by § 703.104(c)'' to make the definition more user-friendly to the reader. The Board believes readers can more easily reference eligible collateral with this change through directing the reader to the section where eligible collateral is defined. The Board is also proposing to change ''as detailed in a Master Services Agreement'' to ''as detailed in a credit support annex or clearing arrangement.'' The Board is proposing this change to reflect the location of contractual requirements for eligible collateral, which is contained in the credit support annex for non-cleared Derivative transactions. The Board considers these changes clarifications and technical.

The Board is proposing to change the definition of Master Service Agreement. The proposed revised definition removes the language regarding the application of the Master Service Agreement to future transactions with the same counterparty. The Board believes the reference to future transactions is unnecessary since the Master Service Agreement, not the NCUA definition, will define the terms of the agreement.

The Board is proposing to revise the definition of Net Economic Value. The proposed revision changes ''economic value of assets minus the economic value of liabilities'' to ''measurement of changes in the economic value of net worth caused by changes in interest rates.'' As with the change in the definition of Interest Rate Risk, the proposed Net Economic Value definition would be consistent with the definition used in the NCUA's IRR examiner guidance. The Board believes this will add clarity by providing readers with a consistent definition across the NCUA's regulatory and supervisory framework.

The Board is proposing to revise the definition of Senior Executive Officer by removing ''as identified in a Federal credit union's process and responsibility framework, as discussed in § 703.106(b)(1) of this subpart.'' The Board is proposing this change, as this proposal removes the process and responsibility framework referenced in the definition. The proposed definition for Senior Executive Officer will still have the meaning as specified in § 701.14 and include any other similar employee that is directly within the chain of command for oversight of an FCU's Derivative program. Senior Executive Officers will continue to have reporting requirements as specified in § 703.105 and be responsible for the operational support requirements in § 703.106.

The Board is proposing to revise the definition of Threshold Amount to add clarity to the permissible collateral. The proposed revision changes ''collateral'' to ''eligible collateral.'' Furthermore, the proposed revised definition adds a clarifier that eligible collateral is ''as defined in § 703.104(c).'' The Board believes these changes will provide clarity to the reader on where to find eligible collateral type within the proposed rule, and does not believe such change is material.

Finally, the Board is proposing to revise the definition of Trade Date to replace the reference to ''in the market'' with ''with the counterparty.'' The Board believes this change provides specificity to the definition, because a trade is executed with a counterparty and not a market.

The Board is proposing to add the following definitions:

- Domestic Counterparty;
- Domestic Interest Rates;
- Earnings at Risk; and
- Written Options.

The Board is proposing to add a definition for Domestic Counterparty. This proposal would define a Domestic Counterparty as a counterparty domiciled in the United States. This definition is necessary because the Board is proposing that FCUs can only enter into Derivatives transactions with Domestic Counterparties.

The Board is proposing to add a definition of Domestic Interest Rates. This proposal would define Domestic Interest Rates as interest rates derived in the United States and are U.S. dollar denominated. The Board is including this definition to ensure there is no ambiguity in the term Domestic Interest Rates.

The Board is proposing to add a definition for Earnings at Risk. This proposal would define Earnings at Risk as the changes to earnings, typically in the short term, caused by changes in interest rates. This is consistent with the definition in the NCUA's IRR examiner guidance. This definition is necessary because this is a type of modeling would be required for an FCU's asset/liability risk management under this proposed rule.

Finally, the Board is proposing to add a definition for Written Options. The Board is defining Written Options as options where compensation has been received and the purchaser has the right, not obligation, to exercise the option on a future date. This definition is necessary because the Board is proposing to prohibit Written Options in this proposed rule.

The Board is proposing to eliminate the following definitions that appear in the current rule:

- Amortizing Notional Amount;
- Basis Swap;
- Cleared Swap;
- Credit Support Annex;
- Derivative Clearing Organization;
- Exchange;
- Fair Value;
- Forward Start Date;
- Futures;
- Futures Commission Merchant (FCM);
- Hedge;
- Interest Rate Swap;
- Introducing Broker;
- ISDA Protocol;
- Leveraged Derivative;
- Minimum Transfer Amount;
- Non-cleared;
- Notional Amount;
- Reporting Date;
- Swap Dealer;
- Swap Execution Facility; and
- Unamortized Premium.

The Board is proposing to remove the above mentioned definitions as they are no longer relevant in this proposal. Most definitions lose their relevancy due to the proposal's shift to a principles-based approach from the more prescriptive approach in the current rule. The Board is proposing to move the regulatory citations for Derivative Clearing Organization and Swap Dealer into the

[11] *https://www.ncua.gov/regulation-supervision/manuals-guides/examiners-guide.*

definition of Counterparty, making these definitions no longer necessary.

The Board is proposing to retain the following definitions from the current rule without amendment:

- Derivative;
- Economic Effectiveness;
- External Service Provider;
- Field Director; [12]
- Interest Rate Cap;
- Interest Rate Floor;
- Net Worth;
- Novation;
- Reference Interest Rate; and
- Structured Liability Offering.

The Board is proposing to retain the above mentioned definitions from the current rule because they are still relevant and necessary for this proposed rule.

Section 703.103 Requirements Related to the Characteristics of Permissible Interest Rate Derivatives

The Board is proposing to replace the ''Permissible Derivatives'' section of the current rule with the new proposed § 703.103 titled ''Requirements related to the characteristics of permissible interest rate Derivatives.'' The proposed title change will better reflect the intent of the section.

As established in the background section of this document, the Board is proposing to use a principles-based approach with Derivatives to manage IRR. This approach will replace the prescriptive list of products permitted and some of the required characteristics in the current rule.

The Board is proposing that FCUs may use Derivatives to manage IRR, provided such Derivatives have all of the following characteristics:

- Denominated in U.S. dollars;
- Based off Domestic Interest Rates or dollar-denominated London Interbank Offered Rate (LIBOR); The Board notes that The United Kingdom Kingdom's Financial Conduct Authority has announced that it will not guarantee LIBOR's availability beyond the end of 2021, and risks associated with LIBOR discontinuation could occur prior to the end of 2021. On July 1, 2020 the FFIEC released a Joint Statement on Managing the LIBOR Transition, that among other things, highlights LIBOR transition risks and encourages supervised institutions to continue their efforts to prepare for and manage associated risks.[13] As such, the Board will monitor the LIBOR transition and will make any necessary changes to a final Derivatives rule.
- A contract maturity equal to or less than 15 years, as of the Trade Date; and
- Not used to create Structured Liability Offerings for members of nonmembers.

All of the characteristics above are in the current Derivatives rule. Consistent with the current Derivative rule and the limitations for variable rate investments set in § 703.14(a),[14] the Board is proposing to continue to limit permissible indices for Derivatives to Domestic Interest Rates. In addition, any Derivatives transaction must be denominated in U.S. dollars. These restrictions are consistent with the use of Derivatives to manage IRR, as an FCU's IRR is correlated to changes in domestic interest rates. Further, an FCUs Derivatives program will be hedging against transactions that are also denominated in U.S. Dollars.

Consistent with the current Derivative rule, the Board is proposing to keep the current contract maturity limit (15 years, as of the Trade Date). As with the current rule, the Board believes this will continue to allow FCUs to effectively hedge various points of the yield curve for longer-term assets like mortgages, while preventing an excessive exposure to very long Derivative maturities.

Lastly, the Board is proposing to continue to prohibit Derivatives to create Structured Liability Offerings for members or nonmembers.[15] The Board continues to believe this activity is inconsistent with FCUs managing IRR.

The Board believes the above-mentioned characteristics are consistent with a principles-based approach while maintaining guardrails for safety and soundness and consistency with requirement for Derivatives to be used for managing IRR.

As mentioned in the background section of this document, the Board is proposing to remove reference to specific product types. The current Derivative rule allows credit unions to enter into interest rate swaps, basis swaps, purchased interest rate caps, purchased interest rate floors, and U.S. Treasury note futures, with some conditions applied. The proposed rule will allow for all of the specific product types identified in the current rule, as well as additional product types that meet the above characteristics.

The Board has found that Derivatives not included in the current rule would allow FCUs to manage IRR without adding an incremental risk versus the current rule. For example, an FCU could decide to manage short-term IRR with Eurodollar futures. This transaction could be done in a safe and sound manner without adding incremental risk versus a Derivative that is currently permissible for FCUs.

In addition, the Board is proposing to remove the following requirements for the characteristics of Derivatives authorized for FCU use that appear in the current rule:

- Forward start date limitations;
- Fluctuating notional amount limitations;
- Restriction on leveraged Derivatives; and
- Meet the definition of Derivative under GAAP.

The Board is removing forward start date limitations in the proposal because it no longer believes a forward start date beyond 90 days poses an undue risk to an FCU. When making this determination, the Board considered two potential scenarios, one in which an FCU enters into a ten-year swap which settles in three days, and one in which an FCU enters into a ten-year swap which settles in one year. The FCU would record both swaps on the FCU's financial statements as of trade date and both will have a contract maturity of 10 years. The major difference between the two is that cash-flows (excluding Margin requirements) will not be exchanged in the first year for the swap that has a longer settlement. The Board no longer believes this extended settlement would create an undue risk for an FCU, at least no more than the conventional settlement of an interest rate swap since the price volatility and modeling for both swaps are similar.

The Board is also proposing to remove the fluctuating notional amounts limits in the current rule. The Board believes keeping this limitation would be inconsistent with the new principles-based approach and would not add any additional safety and soundness protections.

The Board is proposing to remove the restriction on leveraged Derivatives from the current rule. As discussed in the section below, the Board is proposing to remove limits on the amount of Derivatives an FCU can have exposure to. The current restriction on leveraged Derivatives was included due to the notional limits in the current rule. Therefore, there is no need for a leveraged Derivative prohibition if there are no notional limits on Derivatives in this proposal.

The Board is also proposing to remove the requirement that a Derivative ''(m)eet the definition of Derivative under GAAP.'' The Board believes this

[12] The Board is proposing to change ''Field'' to ''Regional'' to better align with the NCUA's other regulations. Such change will not, however, amend the definition of this term.

[13] *https://www.ffiec.gov/press/pr070120.htm.*

[14] 12 CFR 703.14(a).

[15] European financial put options are permissible per 12 CFR 703.14(g).

requirement is moot, because all the Derivatives in the proposed rule would meet the definition of a Derivative under GAAP.

In the process of broadening the Derivative products and characteristics in this proposal versus the current rule, the Board did retain one prohibition. The Board is proposing to prohibit an FCU from engaging in Written Options. This activity is impermissible under the current Derivative rule. A Written Option would obligate a credit union to pay the purchaser if the option is in the money [16] at maturity. If an FCU were to engage in Written Options, it would receive a payment from the purchaser. The payment would be the maximum profit the FCU could realize if the option were to expire with no value. However, the Written Option could produce losses in excess of the maximum profit an FCU could realize. The gain/loss profile of an option limits the gain to the premium the option writer receives at inception of the option. The loss profile of the option, however, can be multiples of the premium received from the purchaser. The Board believes this asymmetric return profile could potentially cause a safety and soundness issue for an FCU engaging in Written Options.

The Board is specifically seeking comment on whether the NCUA should allow FCUs to engage in Written Options for managing IRR, and specific scenarios where a Written Option could be used to manage IRR.

The Board is proposing to retain and clarify the current prohibition on FCUs engaging in embedded options required under GAAP to be accounted for separately from the host contract. This prohibition is implicit in the current § 703.14(k)(2). The Board notes that currently § 703.14(k)(2) permits FCUs to enter into embedded options where the option is not, under GAAP, required to be accounted for separately from the host contract. While not explicit the Board has historically interpreted this provision as also prohibiting FCUs from engaging in embedded options that *are required,* under GAAP, to be accounted for separately from the host contract. For clarity purposes the Board is making this prohibition explictit rather than implicit and moving it to this section of the proprosed rule. The Board believes retaining this prohition is necessary, as these types of derivatives are overly complex compared to the limited derivatives that are permissible under the current rule and this proposal.

[16] Option expires with a positive value at maturity.

Finally, the Board is proposing to remove all limitations that appear in § 703.103 in the current rule. The Board believes Derivative limits are inconsistent with a principles-based approach, especially when the activity is to manage IRR. The current rule has limits on the weighted average remaining maturity notional and fair value loss limits, both of which would be removed by the current proposal.

In the current rule, FCUs are subject to two types of limits: A fair value loss limit and a weighted average remaining maturity notional (WARMN) limit. The *fair value loss limit* put a cap on the unrealized losses an FCU could have associated with its Derivative holdings. The *WARMN limit* is based on the notional amounts of Derivatives held by an FCU adjusted for the maturity of the transactions. Using notional with maturity captures price risk better compared to only using notional.

These limits were designed to limit an FCU's Derivative unrealized losses and the price risk of an FCU's Derivative positions. The limits were either entry limits or standard limits. The entry limit was the lower of the two limits and was for an FCU that had been engaging in Derivative transactions for less than a year. The entry limit in the current rule caps the fair value loss at 15 percent of Net Worth and caps the WARMN at 65 percent of Net Worth. The intent of this limit was to ensure an FCU did not take a large amount of Derivative exposure without offering the NCUA an opportunity to examine the activity.

The standard limit is higher than the entry limit, and allowed FCUs to take more Derivative exposure after a year's worth of Derivative activity. The standard limit in the current rule caps the fair value loss at 25 percent of Net Worth and caps the WARMN at 100 percent of Net Worth.

Based on the supervisory experience from the past six years, the Board has determined that the limits from the current Derivative rule do not offer the safety and soundness protections they were intended to provide. First, the Board has found that FCUs do not generally approach the limits in the current Derivative rule. Moreover, in cases where an FCU did approach the limit, the Board found that additional Derivative exposure would not have created a safety and soundness concern for the NCUA. The Board also believes removing the burden of measuring and reporting the limits in the current rule outweighs the potential benefit of having limits. The Board would like to note that the NCUA will still review Derivative exposure when examining an FCU's Derivative program and may determine that excessive exposures may be a safety and soundness finding, subject to the various administrative remedies permissible under the Federal Credit Union Act.

Section 703.104 Requirements for Counterparty Agreements, Collateral and Margining

The Board is proposing to revise the requirements for counterparty agreements, collateral and margining. The Board is proposing to require FCUs to:

- Have an executed Master Services Agreement with a Domestic Counterparty that must be reviewed by counsel with expertise in similar types of transactions to ensure it reasonably protects the FCU's interests;
- Use contracted Margin requirements with a maximum Margin threshold amount of $250,000; and
- Accept as collateral, for Margin requirements, only the following:
  - Cash (U.S. dollars);
  - U.S. Treasuries;
  - Government-sponsored enterprise debt;
  - U.S. government agency debt;
  - Government-sponsored enterprise residential mortgage-backed security pass-through securities; and
  - U.S. government agency residential mortgage-backed security pass-through securities.

These requirements are generally consistent with the requirements in § 703.104(a) in the current rule,[17] with a few exceptions. The current rule breaks down permissible counterparties and requirements for exchange-traded and cleared Derivative transactions and for non-cleared Derivative transactions. In *exchange-traded and cleared Derivative transactions* there is a clearinghouse between the two counterparties. The Dodd-Frank Act requires a clearinghouse for these types of Derivative transactions.[18] *Non-cleared Derivative transactions* are those that take place between two parties without involving a clearinghouse. Federal credit unions are exempt from mandatory use of a clearinghouse due to the Commodity Futures Trading Commission (CFTC) exemption for cooperatives.[19]

For simplification, the Board is proposing to create one standard for both exchange-traded and cleared Derivative transactions, and for non-cleared Derivative transactions. In the

[17] 12 CFR 703.104(a).

[18] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 723, 124 Stat., July 21, 2010.

[19] 17 CFR 50.51.

proposed standard, the Board requires an FCU to enter a Master Services Agreement with a Domestic Counterparty before engaging in Derivative transactions under this proposal. A Master Service Agreement is the contract that dictates the terms of the Derivative contract.

The current rule does not dictate that exchange-traded and cleared Derivative transactions are required to have a Master Service Agreement, but the Board believes it is standard practice for exchange-traded and cleared Derivative transactions to document standard terms that apply to all transactions entered into between two parties. The Board believes the proposed Domestic Counterparty requirement is consistent with the current rule that requires CFTC registrants for exchange-traded Derivatives and registered swap dealers for non-cleared Derivatives. The Board also believes the requirement of having a Master Services Agreement is consistent with the current rule and reflects standard industry practice.

The Board is also proposing to require that the Master Services Agreement be reviewed by counsel that has expertise with similar types of transactions to ensure the agreement reasonably protects an FCU's interests. This is a clarifying change compared to the current rule, but is not a new requirement. The current rule requires the legal review be performed by counsel that has legal expertise with Derivative contracts and related matters. The proposal will only require the Master Services Agreement be reviewed by counsel that has expertise with similar types of transactions to ensure the agreement reasonably protects an FCU's interest. The Board believes that complex loan or securities documents meet the standard for similar types of transactions.

The Board is proposing a contracted Margin requirement with a maximum Margin threshold amount of $250,000 for both exchange-traded and cleared, and non-cleared Derivative transactions. Margin helps protect counterparties from the credit risk of a counterparty by requiring the counterparty to post collateral if they are in a net loss position. The permissible type of collateral for FCUs is discussed later in this document. The maximum Margin threshold is the maximum amount a party in the Derivative transaction can be undercollaterized.

The Board did not specify a maximum Margin threshold for exchange-traded and cleared Derivatives in the current rule, but did specify the same threshold for non-cleared Derivatives, which is the same as in this proposed rule. The Board believes the maximum Margin threshold in the proposal for exchange-traded and cleared Derivatives is consistent with clearing houses for exchange-traded and cleared Derivatives.

The Board is proposing to revise the existing eligible collateral requirements in two ways.[20] First, the Board is proposing to add a requirement that exchange-traded and cleared Derivatives be subject to the collateral requirements. The current rule does not specify collateral types for exchange-traded and cleared Derivatives. The Board believes the eligible collateral requirements are generally consistent with the collateral requirement for the clearing houses for exchange-traded Derivatives. The Board is seeking specific comment on whether specifying acceptable collateral for exchange-traded and cleared Derivatives may create unintended consequences for FCUs. If so, the Board is seeking comment on what the unintended consequences may be, and how the NCUA should modify the proposal. For example, should the NCUA revert to not having collateral standards for exchange-traded and cleared Derivatives as in the current rule?

The second change from the current rule is that the Board is proposing to add U.S. government agency residential mortgage backed pass-through securities (for example, Government National Mortgage Association (GNMA) pass-through securities) as an acceptable collateral type. GNMA pass-through securities are guaranteed by the U.S. government and are highly liquid. Not including this collateral type was an oversight from the current rule, which the Board is proposing to remedy with this amendment. The proposal continues to restrict the forms of collateral to the most liquid and easily valued instruments so they can be easily negotiated even in times of market illiquidity.

Section 703.105 Reporting Requirements

The Board is proposing to retain certain parts of the reporting requirements in the current Derivatives rule. The current rule requires that FCUs provide their board of directors, senior executive officers, and, if applicable, asset liability committee a comprehensive Derivatives report.

Specifically, the Board is retaining the required frequency of reporting (at least quarterly to the FCU's board of directors, and at least monthly to the FCU's senior executive officer and applicable asset liability committee). The Board is also retaining the requirements outlining what must be included in these reports. This includes identification of any areas of noncompliance with any provision of this rule or the FCU's policies; an itemization of the FCU's individual transactions subject to the rule; the current values of such transactions; each individual transaction's intended use for IRR mitigation; and a comprehensive view of the FCU's risk reports, including, but not limited to, IRR calculations with details of the transactions subject to the rule.

The Board has also consolidated and streamlined the current rule's reporting requirements in this proposal in § 703.105(c)(3) to include the relative risk reports and intended use of Derivatives for IRR management. The Board is also proposing to eliminate the reporting of compliance with regulatory limits, which aligns with this proposal's elimination of the regulatory limits

The Board believes that retaining these reporting requirements is essential to FCUs maintaining strong internal controls related to Derivative transactions, given the principles-based approach of this proposed rule. The Board also believes that the proposed reporting requirements are less burdensome to FCUs, while ensuring the proper credit union officials receive reports that are necessary to oversee a credit union's Derivatives program.

In conjunction with the regulatory violation requirements of proposed § 703.109, discussed later in this document, the Board is proposing to require that an FCU submit the Derivatives management report to the applicable Regional Director[21] when there has been a regulatory violation or violation of the FCU's policies. This is not a new reporting requirement; the current rule requires an FCU to submit a description of the violation and the corrective action within three business days of a violation.[22] The Board is proposing to allow an FCU to submit the Derivatives management report to its board of directors before submitting such report to the applicable Regional Director. The Board notes that an FCU is required to submit the Derivatives management report to the applicable Regional Director when there has been a violation of the regulation or the FCU's policies. The Board has also added a requirement that the

[20] Eligible collateral is used to satisfy the Margin requirements for FCUs.

[21] Regional Director is a defined term in the Derivatives rule, which means the applicable NCUA Regional Director or the Director of the Office of National Examinations and Supervision.

[22] 12 CFR 703.114(a)(2).

Derivatives report be made available to NCUA examiners upon request. The Board notes that this is not a new burden, but merely a transparent codification of exisiting authority, which will provide NCUA examiners the documents to support the compliance with the requirements of this subpart.

The Board is proposing to add the requirement that FCUs retain reports to the Board and Senior Executive Officers in accordance with the Record Retention Guidelines set forth in Appendix A to part 749.[23]

Section 703.106(a) Operational Support Requirements; Required Experience and Competencies

The Board believes that a credit union's board of directors and senior executive officers need sufficient experience and knowledge to effectively oversee a Derivatives program. Therefore, the Board is proposing to retain many of the experience and competency requirements from the current rule [24] in this proposal. First, the Board is proposing to retain the requirement that an FCU's board of directors receive training before an FCU engages in its first Derivative transaction. Any new board of director subsequent to the initial training of the board of directors must receive Derivatives training. Such training must provide board members a general understanding of Derivative transactions and the knowledge required to provide strategic oversight of the FCU's Derivatives program. The Board, however, is proposing to remove the requirement, in the current Derivatives rule, that an FCU's board members receive annual Dervivatives training. As discussed further in the next paragraph, the Board is substituting the required annual training with an annual briefing from the FCU's Senior Executive Officers.

The Board considers the transparency of the Derivatives program with the board of directors to be a critical part of the FCU's internal controls and communication. As such the Board is replacing the requirement in the current rule that requires annual training after the initial training with a requirement that the board be briefed, at least annually, on the Derivatives program using the required reporting to the board as prescribed in § 703.105(a) of this subpart.

In addition to the annual training, the Board believes that the required reporting requirements to the board of directors (proposed § 703.105 of this subpart) will provide the necessary transparency and disclosure of such activities on an ongoing basis. .

The Board is proposing to retain the requirement that an FCU's senior executive officers must be able to understand, approve, and provide oversight for a Derivatives program. Senior executive officers must have a comprehensive understanding of how Derivatives fit into the credit union's risk management process.

The Board believes that an FCU must have qualified personnel to manage the asset/liability risk management functions when a Derivatives program is in place. Personnel must have enhanced capabilities to estimate the credit union's Earnings at Risk and Net Economic Value based on the market's expectation of future interest rates and any potential changes from those expectations. The Board is retaining the staff qualifications from the current rule to support the complexity of Derivatives for trade execution, financial reporting, accounting, and the operational processes related to Margin requirements.

Section 703.106(b) Operational Support Requirements; Required Review and Internal Controls Structure

The Board is proposing to retain the current requirements for transaction review and internal controls.[25] For transaction reviews, the Board is retaining the requirement that an FCU identify and document the circumstances that lead to the decision to execute a transaction, specify the strategy the credit union will employ, and demonstrate the economic effectiveness of the transaction. The Board is retaining the requirement for transaction reviews because such reviews are critical to an FCU and the NCUA understanding how Derivatives are being used to manage IRR.

For internal controls reviews, the Board is proposing to reduce the number of required internal controls reviews an FCU must conduct. The current rule requires internal controls reviews for the first two years from when an FCU commenced its Derivatives program.[26] The Board is proposing to reduce this to only the first year after an FCU engages in its first Derivative transaction. The Board believes that retaining at least one internal controls review, along with the required reporting and operational provisions in this proposal, is prudent in supporting a safe and sound Derivatives program. However, credit unions should continue to review and strengthen controls accordingly.

The Board believes the internal controls review should be a comprehensive review of all aspects of an FCU's Derivatives functions, with timely identification and resolution of all findings. The Board is retaining the other provisions of the current rule associated with internal controls reviews including that an internal controls reviews must be conducted by an independent external unit or, if applicable, the FCU's internal auditor. The Board believes that an independent unit would be objective to the business processes in supporting Derivatives.

The Board is retaining the current rule's requirement that any FCU engaging in Derivatives transactions pursuant to this subpart must obtain an annual financial statement audit, as defined in § 715.2(d), in supporting that all transactions are accurately accounted for in accordance with GAAP.

The Board is also proposing to remove the specific provision from the current rule (§ 703.106(b)(4)) for the process and responsibility framework as credit unions have generally included these items as part of their policies and procedures. The Board believes that, irrespective of a specific requirement, FCUs entering into Derivatives would continue to include the necessary information in their policies and procedures.

The Board is proposing to retain the requirement for separation of duties in the current rule to further support the prudent risk management and internal controls in supporting a Derivatives program. The Board believes adequate separation of duties is nessecary to effectuate a Derivatives program in a safe and sound manner by eliminating the propensity for insider fraud and abuse.

The Board is proposing to add a requirement for a liquidity review as part of the operational support requirements, given the importance of asset/liability management and the potential liquidity pressures associated with Margin requirements with a Derivative counterparty and having the eligible collateral as a potential use for Margin requirements. In addition, the liquidity review must also address how an FCU is planning on responding to potential changes in interest rates, which may require significant and unpredictable Margin requirements from the Derivative counterparty that must be settled on a daily basis over and above the Margin threshold.

The Board is retaining the requirements of policies and procedures

[23] *Id.* at Appendix A to part 749.

[24] *Id.* at § 703.106.

[25] *Id.* at 703.106(b).

[26] *Id.*

in that the policies must address the requirements of this subpart and any additional limitations imposed by the FCU's board of directors. The Board is retaining the requirement that a review of the policies and procedures must be completed annually by the board of directors. The Board believes that effective policies and procedures which are reviewed annually are critical to maintaining and supporting a Derivatives program.

Section 703.107 External Service Providers

The Board is proposing some changes to FCU's use of External Service Providers (ESPs) from the current rule. The general requirements in this proposal address restrictions on ESPs, an FCU's ability to oversee and manage ESPs, and an FCU's documentation of the specific uses of ESPs.

As with the current Derivative rule, the Board is proposing to allow ESPs, provided the ESP (including its affiliates) does not:

- Act as a counterparty to any Derivatives transactions that involve the FCU;
- Act as a principal or agent in any Derivatives transactions that involve the FCU; or
- Have discretionary authority to execute any of the FCU's Derivatives transactions.

The above prohibitions on ESPs are identical to the prohibitions in the current rule. The Board continues to believe there would be an inherent conflict of interest if an ESP (including its affiliates) acted as a counterparty or principle/agent for a Derivative transaction. Therefore, the Board is proposing to retain this prohibition.

The Board is also proposing to retain the prohibition of an ESP having discretionary authority to execute any of an FCU's Derivative transactions. Allowing discretionary authority for an ESP would remove a level of control from an FCU, which is inconsistent with an FCU's operational support requirements.

The Board also is proposing to retain the current requirements in the Derivatives rule that an FCU must have the internal capacity, experience, and skills to oversee and manage any ESP it uses. This requirement is consistent with an FCU's duties required in the operational support requirements and safety and soundness.

The Board is proposing a slight modification in how FCUs will be required to document specific uses of ESPs. The Board is proposing to remove the reference to its ''process and responsibilities framework'' from the current rule, because the Board is proposing to no longer require the framework in this proposal.

The Board is proposing to replace the process and responsibilities framework requirement with the documentation being required in its policies and procedures. The Board believes this proposed change offers FCUs a clearer understanding of the NCUA's requirements, because FCUs are more familiar with policies and procedures than process and responsibilities frameworks, which may be considered nebulous. The process and responsibilities framework is unique to the current Derivative rule; policies and procedures are either required or expected for many FCU activities outside of Derivatives.

The Board is also proposing to clarify that an FCU's use of ESPs does not alleviate the credit union of its responsibility to employ qualified personnel in accordance with the operational support requirements of the proposed rule. The Board believes this requirement is consistent with the current rule and the proposed operation support requirements in § 703.106, and also believes such clarification is necessary due to the proposed removal of an application process in the proposed § 703.108 for some FCUs.

Lastly, the Board is proposing to remove the support functions paragraph in the current rule. The support functions paragraph in the current rule requires an FCU to perform asset/liability management and liquidity risk management internally and independently. The Board believes this paragraph is not necessary for two reasons. First, the proposed operational support requirements section in the proposed § 703.106 already contains an FCU's requirements for asset/liability management and liquidity risk management. Second, the Board believes the current requirement created confusion in cases where an FCU had oversight and control of both functions and was using models housed at the ESP to perform these functions.

The Board believes removing this requirement will make it clear that an FCU may house asset/liability management and liquidity risk management at an ESP if the credit union has oversight and control of both functions. The Board believes the proposed changes remain consistent with the intent of the current rule, albeit less prescriptive.

Section 703.108 Notification and Application Requirements

The Board is proposing to eliminate the application process for FCUs with at least $500 million in assets and that have a CAMEL Management component rating of 1 or 2. However, the Board is proposing that an FCU provide the applicable Regional Director a written notification within five business days after entering into its first Derivative transaction.

In determining the proposed dollar threshold of $500 million, the Board takes the position that FCUs that will be subject to the NCUA's risk-based capital (RBC) requirements and will be deemed ''complex'' generally have the required infrastructure to enter into Derivative transactions without preapproval. The Board also contemplated thresholds higher and lower than $500 million, but believes the threshold of $500 million is appropriate due to FCU's this size generally having the required infrastructure to enter into Derivative transactions. The Board is specifically requesting comment on whether the dollar threshold for the new notification provision in the proposal should be increased or decreased, and why such increase or decrease is warranted. For example, should the Board change the dollar threshold to $250 million or $1 billion? Furthermore, as an added safeguard beyond the ''at least $500 million in assets'' criteria, the Board is proposing to only allow FCUs that have a CAMEL Management component rating of 1or 2 to be exempt from the application process.

The Board believes a CAMEL Management component rating of 1 or 2 demonstrates FCUs with at least $500 million in assets have at least satisfactory management and board practices relative to the FCU's size and, in general, have effectively identified, measured, monitored, and controlled risks at the FCU. However, the Board is proposing to require FCUs with more than $500 million in assets and a CAMEL Management component rating of 1 or 2 to provide written notification to the appropriate Regional Director within five business days after entering into their first Derivative transaction to ensure the NCUA is aware of their activity. This will provide the NCUA the opportunity to schedule a supervision contact or an examination if it is deemed necessary.

The Board is proposing that an FCU that does not meet the notification criteria (those with less than $500 million in assets and/or a CAMEL Management component rating of 3, 4, or 5) submit an application to the applicable Regional Director for Derivatives authority that contains content generally consistent with the

current rule.[27] Requiring such content will ensure that such an FCU can demonstrate the requisite systems and expertise to support Derivatives.

The Board is proposing three non-technical changes to the application content in the current rule. First, instead of requiring an FCU to provide a list of Derivatives products and product characteristics it is applying for authority to use, the Board is proposing requiring the FCU to provide a list of products and characteristics it intends to use. This change is necessitated by the Board moving towards a principles-based approach on products and characteristics.

Second, the Board is proposing to remove the requirement for an FCU to provide ''a description of how it intends to use the products and characteristics listed, an analysis of how the products and characteristics fit within its interest rate risk mitigation plan, and a justification for each product and characteristic listed.'' [28] The Board believes this requirement is too prescriptive and creates an unnecessary burden on FCUs.

Finally, the Board is proposing the addition of a provision that the Regional Director may request additional information as part of an FCU's application for Derivatives authority. The Board believes the Regional Director has always had this authority, but believes adding it to the rule provides clarity.

The NCUA plans to modify its current application guidance to be consistent with any new final Derivative rule. The Board would like to note that the proposed rule no longer has a provision to apply for interim approval. The Board believes the interim approval provision in the current rule provided no benefits for FCUs and, conversely, increased burden on both FCUs and the NCUA.

In this proposal, the Board included an application review paragraph for FCUs subject to application requirements. The application review paragraph is consistent with the current rule's approval section, but does not address interim approval. The Board is proposing to only allow final approvals for Derivative applications. The Board has retained the right for an FCU to appeal the denial of a Derivative application, consistent with the current rule.

The Board also is proposing a change in the condition paragraph that requires FCUs to immediately cease entering into any new Derivatives and contact the applicable Regional Director if the FCU experiences a change in condition such that it no longer meets the requirements for a notification FCU or if an FCU's application becomes materially inaccurate.

For example, an FCU that engaged in Derivatives after notifying its applicable Regional Director (required after entering into the first Derivative transaction) and is subsequently downgraded to a CAMEL Management component rating of 3 must immediately stop entering into new Derivatives and contact the applicable Regional Director regarding the change of condition. In this example, an FCU could subsequently apply for Derivative authority under the application process.

Another example would be if an FCU's asset size drops below $500 million. As with the previous example, the FCU must immediately stop entering into new Derivatives and contact the applicable Regional Director regarding the change of condition. The FCU can subsequently apply for Derivative authority under the application process.

An FCU must also notify the applicable Regional Director if it determines its approved application is inaccurate. An application would be rendered inaccurate if an FCU no longer meets the operational support requirements in the proposed § 703.106. These requirements are focused on an FCU's management capabilities and the FCU's required reviews. For example, if an FCU no longer has qualified Derivative personnel required by the proposed rule, it would be required to immediately stop entering into new Derivatives and contact the applicable Regional Director regarding the change of condition. The proposed rule would not require an FCU to notify the applicable Regional Director on the basis of staff turnover if the FCU still meets the qualified personnel in the operational support requirements section.

Section 703.109 Regulatory Violation or Unsafe and Unsound Condition

The Board is retaining the provisions of the current rule for regulatory violations when an FCU no longer meets the requirements of this subpart or its internal polices, in that such an FCU must immediately stop entering into any new Derivative transactions. However, the determination of the regulatory violation will be made by the applicable Regional Director, who will provide written notice to the credit union.

The Board is proposing changes for Regulatory violations to include when an FCU is operating in an unsafe or unsound condition and establish that the applicable Regional Director will determine whether a regulatory violation has occurred. If the applicable Regional Director determines that the credit union is operating in an unsafe or unsound condition the applicable Regional Director may prohibit an FCU from engaging in Derivatives transactions. If the applicable Regional Director renders such a determination, he or she will provide the FCU written notice that includes the reason for such determination.

The Board believes the principles-based approach of the proposed rule creates greater responsibility on an FCU's senior executive officers, who are responsible for ensuring that the Derivative program is properly and safely addressed in the credit union's internal controls, policies, and procedures.

D. Other Affected Parts

In addition to the aforementioned changes, the Board is also proposing to amend parts 741 and 746.

Section 741.219 Investment requirements [Amended]

The Board is proposing to maintain the notification requirement for FISCUs. However, the proposal adjusts the timeframe for a FISCU to notify the NCUA of its Derivatives activity. The 2014 final rule required a FISCU to notify the NCUA at least 30 days before it begins engaging in Derivatives. The Board is proposing to amend this to require a FISCU to notify the NCUA within five business days after entering into its first Derivatives transaction.

The Board believes that adjusting the notification to occur after a FISCU enters into its first Derivatives transaction will provide the applicable Regional Director more certainty for planning examiner time and specialists resources. The Board is proposing that this notification will not be required for transactions covered under § 703.14 for loan pipeline management.

This amendment would align this section with the notice provisions discussed elsewhere in this document (§ 703.108—Notification and application requirements) by removing the 30-day time requirement. The Board is proposing this change to ensure consistency between FCUs and FISCUs that engage in Derivatives and notifications to NCUA related thereto.

The Board is also proposing to amend § 746. 201 to correct a citation that would change based on the proposed change to Subpart B to part 703. The Board notes that this change is strictly technical, and will not affect the substance of this section of part 746.

[27] 12 CFR 703.110.

[28] *Id.* at § 703.110(b).

IV. Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires that, in connection with a notice of proposed rulemaking, an agency prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities (defined for purposes of the RFA to include credit unions with assets less than $100 million).[29] A regulatory flexibility analysis is not required, however, if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and publishes its certification and a short, explanatory statement in the **Federal Register** together with the rule.

The proposed rule would amend the NCUA's Derivatives rule to shift from a prescriptive construct to a principles-based approach. As a result, it would not cause any increased burden or impose any new requirements on FICUs. Accordingly, the NCUA certifies that the proposed rule would not have a significant economic impact on a substantial number of small credit unions.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to information collection requirements in which an agency creates a new paperwork burden on regulated entities or modifies an existing burden. For purposes of the PRA, a paperwork burden may take the form of a reporting, recordkeeping, or third-party disclosure requirement, each referred to as an information collection. The NCUA may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The NCUA anticipates more FCUs to engage in Derivatives, which would increase the recordkeeping requirement associated with reports made to the FCU board and senior executive officers under § 703.105. This would increase the number of respondents from 20 to 50. The proposed rule would also increase the number of FCUs that would be required to maintain the policies and procedures annually under § 703.106(c) from 43 to 50 respondents. These policies and procedures would also include the process and responsibility framework requirements of external service providers, eliminating separate recordkeeping requirement of § 703.107(a)(3). Section 703.108(a) provides for FCUs the meet certain requirements to provide notification of its readiness to engage in derivatives in lieu of an application. An increase is estimated in the number of FCUs that would engage in Derivatives from 4 to 15. The NCUA does not anticipate any increase in the number of FCUs currently providing applications under proposed § 703.108(b) annually. Information collection requirements previously identified under §§ 703.112 through 703.114 are being removed due to obsolete reporting. Burden under these sections had previously been reported as zero hours. It is estimated that program changes to the information collection requirements associated with this proposed rule increase the burden by 254 hours.

Adjustments to the information collection burden are also being made to include information collection requirements not previously captured and to update respondents and response times to reflect a more accurate and up-to-date accounting of the burden. Adjustments to the information collection requirements will increase the burden by 290 hours.

The proposed rule would revise the information collection requirements currently approved under OMB number 3133–0133, as follows:

Title of Information Collection: Investment and Deposit Activities, 12 CFR Part 703.

Estimated Number of Respondents: 50.

Estimated Annual Responses per Respondent: 23.86.

Estimated Total Annual Responses: 1,193.

Estimated Hours per Response: 0.70.

Estimated Total Annual Burden Hours: 839.

Affected Public: Private Section: Not-for-profit institutions.

The NCUA invites comments on: (a) Whether the collection of information are necessary for the proper performance of the agencies' functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and cost of operations, maintenance, and purchase of services to provide information.

All comments are a matter of public record. Due to the limited in-house staff, email comments are preferred. Comments regarding the information collection requirements of this rule should be (1) mailed to: *PRAcomments@ncua.gov* with ''OMB No. 3133–0133'' in the subject line; faxed to (703) 837–2406, or mailed to Dawn Wolfgang, NCUA PRA Clearance Officer, National Credit Union Administration, 1775 Duke Street, Suite 6032, Alexandria, VA 22314, and to the (2) Office of Information and Regulatory Affairs, Office of Management and Budget, at *www.reginfo.gov/public/do/PRAMain.* Select ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Executive Order 13132

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

Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

List of Subjects

12 CFR Part 701

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

12 CFR Part 703

Credit unions, Investments, Reporting and recordkeeping requirements.

[29] *See* NCUA Interpretive Ruling and Policy Statement 87–2, as amended by IRPS 03–2 and IRPS 15–1, 80 FR 57512 (Sept. 24, 2015).

12 CFR Part 741

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

12 CFR Part 746

Administrative practice and procedure, Claims, Credit unions, Investigations.

By the National Credit Union Administration Board on October 15, 2020.

Melane Conyers-Ausbrooks,

Secretary of the Board.

For the reasons discussed above, the Board is proposing to amend 12 CFR parts 701, 703, 741, and 746 as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

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

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

§ 701.21 [Amended]

■ 2. Amend § 701.21 by removing paragraph (i).

PART 703—INVESTMENT AND DEPOSIT ACTIVITIES

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

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

§ 703.2 [Amended]

■ 4. Amend § 703.2 by removing the definition ''Derivative.''

■ 5. Amend § 703.14 by revising paragraph (k) and adding paragraph (l) to read as follows:

§ 703.14 Permissible investments.

* * * * *

(k) *Loan pipeline management.* A Federal credit union may enter into the following transactions related to the management of its loan pipeline:

(1) Interest rate lock commitments and forward sales commitments; and

(2) Transactions to manage interest rate exposure.

(l) *Embedded options.* A Federal credit union may enter into embedded options not required under generally accepted accounting principles (GAAP) adopted in the United States to be accounted for separately from the host contract. Embedded options that *are* required, under GAAP, to be accounted for separately from the host contract are addressed in § 703.103(c) of this part.

■ 6. Revise Subpart B to part 703 to read as follows:

Subpart B—Derivatives Authority

Sec.
703.101 Purpose and scope.
703.102 Definitions.
703.103 Requirements related to the characteristics of permissible interest rate risk Derivatives.
703.104 Requirements for counterparty agreements, collateral and Margining.
703.105 Reporting requirements.
703.106 Operational support requirements.
703.107 External service providers.
703.108 Notification and application requirements.
703.109 Regulatory violation or unsafe and unsound condition.

§ 703.101 Purpose and scope.

(a) *Purpose.* This subpart grants Federal credit unions limited authority to enter into Derivatives only for the purpose of managing Interest Rate Risk.

(b) *Scope.* This subpart applies to all Federal credit unions. Except as provided in § 741.219, this rule does not apply to federally insured, state-chartered credit unions.

(c) *Prior Approvals.* Any Federal credit union with an active approval, under the prior version of this subpart, on [EFFECTIVE DATE OF FINAL RULE] is subject to the provisions of this subpart and is no longer subject to the restrictions, limits, or terms contained in the Federal credit union's approved application.

(d) *Pending Approvals.* Any application for Derivatives authority pending on [EFFECTIVE DATE OF FINAL RULE], except for such applications submitted by a Federal credit union that would be subject to the requirements of § 703.108(b) of this subpart, is deemed to be withdrawn and such applicant is subject to the provisions of this subpart.

§ 703.102 Definitions.

For purposes of this subpart:

Counterparty means a swap dealer (as defined by the Commodity Futures Trading Commission in 17 CFR 1.3), Derivatives clearing organization (as defined by the Commodity Futures Trading Commission in 17 CFR 1.3), or central financial clearing market (exchange) that participates as the other party in a Derivatives transaction with a Federal credit union;

Domestic Counterparty means a counterparty domiciled in the United States;

Domestic Interest Rates means interest rates derived in the United States and are U.S. dollar denominated;

Derivative means a financial contract that derives its value from the value and performance of some other underlying financial instrument or variable, such as an index or interest rate;

Earnings at Risk means the changes to earnings, typically in the short term (for example, 12 to 36 months), caused by changes in interest rates;

Economic Effectiveness means the extent to which a Derivatives transaction results in offsetting changes in the Interest Rate Risk that the transaction was, and is, intended to provide;

External Service Provider means any entity that provides services to assist a Federal credit union in carrying out its Derivatives program and the requirements of this subpart;

Interest Rate Cap means a contract, based on a reference interest rate, for payment to the purchaser when the reference interest rate rises above the level specified in the contract;

Interest Rate Floor means a contract, based on a reference interest rate, for payment to the purchaser when the reference interest rate falls below the level specified in the contract;

Interest Rate Risk means the current and prospective risk to a credit union's capital and earnings arising from movements in interest rates.

Margin means the minimum amount of eligible collateral, as defined in § 703.104(c), that must be deposited between parties to a Derivatives transaction, as detailed in a Master Services Agreement;

Master Services Agreement means a document agreed upon between two parties that sets out standard terms that apply to all transactions entered into between those parties. The most common form of a Master Services Agreement for Derivatives is an International Swap Dealer Association (ISDA) Master Agreement

Net Economic Value means the measurement of changes in the economic value of Net Worth caused by changes in interest rates;

Net Worth has the meaning specified in part 702 of this chapter;

Novation means the substitution of an old obligation with a new one that either replaces an existing obligation with a new obligation or replaces an original party with a new party;

Reference Interest Rate means the index or rate to be used as the variable rate for resetting Derivatives transactions;

Regional Director means an NCUA Regional Director or the Director of the Office of National Examinations and Supervision;

Senior Executive Officer has the meaning specified in § 701.14 of this chapter and any other similar employee that is directly within the chain of command for the oversight of a Federal credit union's Derivatives program;

Structured Liability Offering means a share product created by a Federal credit union with contractual option features, such as periodic caps and calls, similar to those found in structured securities or structured notes;

Threshold Amount means an unsecured credit exposure that a party to a Derivatives transaction is prepared to accept before requesting additional eligible collateral, as defined in § 703.104(c), from the other party;

Trade Date means the date that a Derivatives order (new transactions, terminations, or assignments) is executed with a counterparty; and

Written Options means an option where compensation has been received and the Domestic Counterparty has the right, not obligation, to exercise the option on a future date(s).

§ 703.103 Requirements related to the characteristics of permissible interest rate risk Derivatives.

(a) A Federal credit union may only enter into Derivatives, under this subpart that have the following characteristics:

(1) Denominated in U.S. dollars;

(2) Based on Domestic Interest Rates or the U.S. dollar-denominated London Interbank Offered Rate (LIBOR);

(3) A contract maturity equal to or less than 15 years, as of the Trade Date; and

(4) Not used to create Structured Liability Offerings for members or nonmembers.

(b) A Federal credit union may not engage in Written Options. Examples of Written Options include swaptions, interest rate caps and interest rate floors.

(c) A Federal credit union may not engage in embedded options required under U.S. Generally Accepted Accounting Principles (GAAP) to be accounted for separately from the host contract.

§ 703.104 Requirements for counterparty agreements, collateral and Margining.

To enter into Derivatives transactions under this subpart, a Federal credit union must:

(a) Have an executed Master Services Agreement with a Domestic Counterparty. Such agreement must be reviewed by counsel with expertise in similar types of transactions to ensure the agreement reasonably protects the interests of the Federal credit union;

(b) Utilize contracted Margin requirements with a maximum Margin threshold amount of $250,000; and

(c) Accept as eligible collateral, for Margin requirements, only the following: Cash (U.S. dollars), U.S. Treasuries, government-sponsored enterprise debt, U.S. government agency debt, government-sponsored enterprise residential mortgage-backed security pass-through securities, and U.S. government agency residential mortgage-backed security pass-through securities.

§ 703.105 Reporting requirements.

(a) *Board reporting.* At least quarterly, a Federal credit union's Senior Executive Officers must deliver a comprehensive Derivatives report, as described in paragraph (c) of this section to the Federal credit union's board of directors.

(b) *Senior Executive Officer and asset liability or similarly functioning committee.* At least monthly, Federal credit union staff must deliver a comprehensive Derivatives report, as described in paragraph (c) of this section to the Federal credit union's Senior Executive Officers and, if applicable, the Federal credit union's asset liability or similarly functioning committee.

(c) *Comprehensive Derivatives management report.* At a minimum, the reports required in paragraphs (a) and (b) of this section must include:

(1) Identification of any areas of noncompliance with any provision of this subpart or the Federal credit union's policies, and the planned remediation of such noncompliance;

(2) An itemization of the Federal credit union's individual transactions subject to this subpart, the current values of such transactions, and each individual transaction's intended use for Interest Rate Risk mitigation;

(3) A comprehensive view of the Federal credit union's risk reports, including, but not limited to, Interest Rate Risk calculations with details of the transactions subject to this subpart.

(d) Reports required by this section must, at a minimum, be retained in accordance with the requirements in Appendix A to part 749.

(e) Notification of any noncompliance as part of the Derivatives management report required in paragraph (c)(1) of this section must be submitted to the applicable Regional Director immediately after it has been submitted to the Federal credit union's board of directors.

(f) The NCUA may, at any time, request the Derivatives management report required by paragraph (c) of this section.

§ 703.106 Operational support requirements.

(a) *Required experience and competencies.* A Federal credit union using Derivative transactions subject to this subpart must internally possess the following experience and competencies:

(1) *Board.* (i) Before entering into the initial Derivatives transaction, a Federal credit union's board members must receive training that provides a general understanding of the Derivative transactions, and the knowledge required to provide strategic oversight of the Federal credit union's Derivatives program.

(ii) Any person that becomes a board member after the initial Derivatives transaction must receive the same training as required by paragraph (a)(1)(i) of this section.

(iii) At least annually after the initial Derivatives transaction, as part of the Derivatives reporting requirement in § 703.105(a), the Federal credit union's Senior Executive Officers must brief the board on the Federal credit union's use of Derivatives to manage Interest Rate Risk.

(2) *Senior executive officers.* A Federal credit union's Senior Executive Officers must be able to understand, approve, and provide oversight for the Derivatives program. These individuals must have a comprehensive understanding of how the Derivative transactions fit into the Federal credit union's Interest Rate Risk management process.

(3) *Qualified Derivatives personnel.* To engage in the Derivative transactions, a Federal credit union must employ staff with experience in the following areas:

(i) *Asset/liability risk management.* Staff must be qualified to understand and oversee asset/liability risk management, including the appropriate role of the transactions subject to this subpart. Staff must also be qualified to understand and undertake or oversee the appropriate modeling and analytics related to Net Economic Value and Earnings at Risk;

(ii) *Accounting and financial reporting.* Staff must be qualified to understand and oversee appropriate accounting and financial reporting for Derivatives in accordance GAAP;

(iii) *Derivatives execution and oversight.* Staff must be qualified to undertake or oversee Derivative trade executions; and

(iv) *Counterparty, collateral, and Margin management.* Staff must be qualified to evaluate counterparty, collateral, and Margin risk as described in § 703.104 of this subpart.

(b) *Required review and internal controls structure.* To effectively

manage the transactions subject to this subpart, a Federal credit union must assess the effectiveness of its management and internal controls structure. At a minimum, the internal controls structure must include:

(1) *Transaction review.* Before executing any transaction, a Federal credit union must identify and document the circumstances that lead to the decision to execute a transaction, specify the strategy the Federal credit union will employ, and demonstrate the economic effectiveness of the transaction;

(2) *Internal controls review.* Within the first year after commencing its first Derivatives transaction, a Federal credit union must have an internal controls review that is focused on the integration and introduction of the program, and ensure the timely identification of weaknesses in internal controls, accounting, and all operational and oversight processes. This review must be performed by an independent external unit or, if applicable, the Federal credit union's internal auditor;

(3) *Financial statement audit.* Any Federal credit union engaging in Derivatives transactions pursuant to this subpart must obtain an annual financial statement audit, as defined in § 715.2(d) of this chapter, and be compliant with GAAP for all Derivatives-related accounting and reporting;

(4) *Collateral management review.* Before executing its first Derivative transaction, a Federal credit union must establish a collateral management process that monitors a Federal credit union's collateral and Margining requirements and ensures that its transactions are collateralized in accordance with the collateral requirements of this subpart and a Federal credit union's Master Services Agreement with its counterparty; and

(5) *Liquidity review.* Before executing its first Derivative transaction, a Federal credit union must establish a liquidity review process to analyze and measure potential liquidity needs related to its Derivatives program and the additional collateral requirements due to changes in interest rates. The Federal credit union must, as part of its liquidity risk management, calculate and track contingent liquidity needs in the event a transaction needs to be novated or terminated, and must establish effective controls for liquidity exposures arising from both market or product liquidity and instrument cash flows.

(6) *Separation of duties.* A Federal credit union's process, whether conducted internally or by an external service provider, must have appropriate separation of duties for the following functions defined in subsection (a)(3) of this section:

(i) Asset/liability risk management;

(ii) Accounting and financial reporting;

(iii) Derivatives execution and oversight; and

(iv) Counterparty, collateral, and Margin management

(c) *Policies and procedures.* A Federal credit union using Derivatives, permitted under this subpart, must operate according to comprehensive written policies and procedures for control, measurement, and management of Derivative transactions. At a minimum, the policies and procedures must address the requirements of this subpart and any additional limitations imposed by the Federal credit union's board of directors. A Federal credit union's board of directors must review the policies and procedures described in this section at least annually and update them when necessary.

§ 703.107 External service providers.

(a) *General.* A Federal credit union using Derivatives may use external service providers to support or conduct aspects of its Derivative management program, provided:

(1) The external service provider, including affiliates, does not:

(i) Act as a counterparty to any Derivative transactions that involve the Federal credit union;

(ii) Act as a principal or agent in any Derivative transactions that involve the Federal credit union; or

(iii) Have discretionary authority to execute any of the Federal credit union's Derivative transactions.

(2) The Federal credit union has the internal capacity, experience, and skills to oversee and manage any external service providers it uses; and

(3) The Federal credit union documents the specific uses of external service providers in its policies and procedures, as described in § 703.106(c) of this subpart.

(b) This section does not alleviate the responsibility of the Federal credit union to employ qualified staff in accordance with § 703.106 of this subpart.

§ 703.108 Notification and application requirements.

(a) *Notification.* A Federal credit union that meets the following requirements must notify the applicable Regional Director in writing within five business days after entering into its first Derivatives transaction:

(1) The Federal credit union's most recent NCUA Management component is a rating of 1 or 2; and

(2) The Federal credit union has assets of at least $500 million as of its most recent call report.

(b) *Application.* A Federal credit union that does not meet the requirements of paragraphs (a)(1) and/or (2) of this section must obtain approval before engaging in Derivatives under this subpart from its applicable Regional Director, by submitting an application, that, at a minimum, includes the following:

(1) An Interest Rate Risk mitigation plan that shows how Derivatives are one aspect of the Federal credit union's overall Interest Rate Risk mitigation strategy, and an analysis showing how the Federal credit union will use Derivatives in conjunction with other on-balance sheet instruments and strategies to effectively manage its Interest Rate Risk;

(2) A list of the Derivatives products and characteristics of such products the Federal credit union is planning to use;

(3) Draft policies and procedures that the Federal credit union has prepared in accordance with § 703.106 of this subpart;

(4) How the Federal credit union plans to acquire, employ, and/or create the resources, policies, processes, systems, internal controls, modeling, experience, and competencies to meet the requirements of this subpart. This includes a description of how the Federal credit union will ensure that Senior Executive Officers, the board of directors, and personnel have the knowledge and experience in accordance with the requirements of this subpart;

(5) A description of how the Federal credit union intends to use external service providers as part of its Derivatives program, and a list of the name(s) of and service(s) provided by the External Service Providers, as described in § 703.107 of this subpart, it intends to use;

(6) A description of how the Federal credit union will support the operations of Margining and collateral, as described in § 703.104 of this subpart;

(7) A description of how the Federal credit union will comply with the accounting and financial reporting in GAAP; and

(8) Any additional information requested by the Regional Director.

(c) *Application review.* (1) After the applicable Regional Director has completed his or her review, including any requests for additional information, the Regional Director will notify the Federal credit union in writing of his or her decision. Any denials will include the reason(s) for such denial. A Federal credit union subject to paragraph (b) of

this section may not enter into any Derivative transactions under this subpart until it receives approval from the applicable Regional Director. At a Regional Director's discretion, a Federal credit union may reapply if its initial application is denied.

(2) A Federal credit union that receives a denial of its application may appeal such decision in accordance with part 746 of the NCUA's regulations.

(d) *Change in condition.* A Federal credit union must immediately cease entering into any new Derivatives and contact the applicable Regional Director, if the Federal credit union experiences a change in condition such that it no longer meets the requirements of paragraph (a) of this section or renders its approved application inaccurate. The applicable Regional Director may take all necessary actions, including, but not limited to, revoking a Federal credit union's authority to engage in Derivatives and/or requiring divesture of current Derivatives.

§ 703.109 Regulatory violation or unsafe and unsound condition.

(a) Upon determination by the applicable Regional Director, and written notice by the same, a Federal credit union that: No longer meets the requirements of this subpart; if applicable, fails to comply with its approved application; or is operating in an unsafe or unsound condition must immediately stop entering into any new Derivative transactions until the Federal credit union is notified by the applicable Regional Director that it is permitted to resume engaging in transactions under this subpart.

(b) If the applicable Regional Director renders an unsafe or unsound condition in their determination, he or she will provide the Federal credit union as part of the written notice the reason(s) for such determination.

(c) During this period, however, the Federal credit union may terminate existing Derivative transactions. A Regional Director may permit a Federal credit union to enter into offsetting transactions if he or she determines such transactions are part of a corrective action strategy; and

(d) A Federal credit union that receives written notice under this section may appeal such determination in accordance with part 746 of the NCUA's regulations.

PART 741—REQUIREMENTS FOR INSURANCE

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

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

■ 8. Amend § 741.219 by revising paragraph (b) to read as follows:

§ 741.219 Investment requirements.

* * * * *

(b) Any credit union which is insured pursuant to title II of the Act must notify the applicable NCUA Regional Director in writing within five business days after entering into its first Derivatives transaction. Such transactions do not include those included in § 703.14 of this chapter.

PART 746—APPEALS PROCEDURES

■ 9. The authority citation for part 746 continues to read as follows:

Authority: 12 U.S.C. 1766, 1787, and 1789.

■ 10. Amend § 746.201 by revising paragraph (c) to read as follows:

§ 746.201 Authority, purpose, and scope.

* * * * *

(c) *Scope.* This subpart covers the appeal of initial agency determinations by a program office which the petitioner has a right to appeal to the NCUA Board under the following regulations: §§ 701.14(e), 701.21(h)(3), 701.22(c), 701.23(h)(3), 701.32(b)(5), and 701.34(a)(4), appendix A to part 701 of this chapter, appendix B to part 701 of this chapter, Chapters 1 through 4, §§ 703.20(d), 703.108(b), 705.10(a), 708a.108(d), 708a.304(h), 708a.308(d), 709.7, 741.11(d), and 745.201(c), subpart J to part 747 of this chapter, and § 750.6(b).

* * * * *

[FR Doc. 2020–23968 Filed 10–28–20; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0915; Project Identifier AD–2020–00661–Q]

RIN 2120–AA64

Airworthiness Directives; Rockwell Collins, Inc., Global Positioning Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Rockwell Collins, Inc. (Rockwell Collins), GPS–4000S Global Positioning Systems (GPS) installed on airplanes. This proposed AD was prompted by an un-annunciated GPS position error, which could cause a misleading localizer performance with vertical guidance (LPV) glidepath, resulting in controlled flight into terrain (CFIT). This proposed AD would require upgrading the GPS–4000S. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by December 14, 2020.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this NPRM, contact Rockwell Collins, Inc., 400 Collins Road NE, Cedar Rapids, IA 52498; phone: 319–295–5000; email: *customersupport@rockwellcollins.com;* internet: *https://www.rockwellcollins.com/*. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call 816–329–4148. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0915.

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–2020–0915; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Paul Rau, Aerospace Engineer, Wichita ACO Branch, FAA, 1801 Airport Road, Wichita, Kansas 67209; phone: 316–

946–4149; fax: 316–946–4107; email: *paul.rau@faa.gov* or *Wichita-COS@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0915; Project Identifier AD–2020–00661–Q'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact we receive about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Paul Rau, Aerospace Engineer, Wichita ACO Branch, FAA, 1801 Airport Road, Wichita, Kansas 67209; phone: 316–946–4149; fax: 316–946–4107; email: *paul.rau@faa.gov* or *Wichita-COS@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Discussion

The FAA was notified of a software error in the Rockwell Collins GPS–4000S GPS, part number (P/N) 822–2189–100, installed on airplanes. The software error can result in an un-annunciated inaccurate GPS position in the region within approximately 1,000 miles (+/− 20 degrees) of 180 degrees west longitude. The software improperly applies the wide area augmentation system ionospheric delay corrections to the GPS signal from satellites located across the 180th meridian. Due to this anomaly, the position accuracy may be diminished such that the GPS–4000S P/N 822–2189–100 will not support LPV approaches in the affected region. This condition, if not addressed, could result in a misleading glidepath on an affected LPV approach resulting in CFIT.

Related Service Information

The FAA reviewed Rockwell Collins Service Information Letter (SIL) GPS–4X00( )–19–3, Revision No. 2, dated March 25, 2020. The service letter describes the unsafe condition and provides operating limitations for approaches to airports in the affected region until the software is upgraded.

The FAA also reviewed Rockwell Collins Service Bulletin GPS–4X00( )–34–510, Revision No. 1, dated March 6, 2020. The service bulletin specifies procedures for upgrading the GPS–4000S software, which removes P/N 822–2189–100 and installs P/N 822–2189–101.

FAA's Determination

The FAA is issuing this AD because it evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

AD Requirements

This proposed AD would require removing P/N 822–2189–100 GPS–4000S Global Positioning System(s) from the airplane and installing P/N 822–2189–101 GPS–4000S Global Positioning System(s).

Costs of Compliance

The FAA estimates that this proposed AD would affect 3,500 airplanes of U.S. registry. The FAA estimates that 2,000 airplanes have two GPS–4000S units installed and 1,500 airplanes have one GPS–4000S unit installed.

The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace GPS–4000S (airplanes with 2 units installed).	7 work-hours × $85 per hour = $595	$4,540.00	$5,135	$10,270,000
Replace GPS–4000S (airplanes with single unit installed).	3.50 work-hours × $85 per hour = $297.50 ...	2,270	2,567.50	3,851,250

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

Authority for This Rulemaking

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

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

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not

have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Rockwell Collins, Inc.: Docket No. FAA–2020–0915; Project Identifier AD–2020–00661–Q.

(a) Comments Due Date

The FAA must receive comments by December 14, 2020.

(b) Affected ADs

None.

(c) Applicability

This airworthiness directive (AD) applies to Rockwell Collins, Inc. GPS–4000S Global Positioning System (GPS) part number (P/N) 822–2189–100 installed on airplanes, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 3400, NAVIGATION SYSTEM.

(e) Unsafe Condition

This AD was prompted by an un-annunciated GPS vertical error that could result in a hazardously misleading localizer performance vertical (LPV) glidepath. The FAA is issuing this AD to prevent a misleading GPS position on an LPV approach. The unsafe condition, if not addressed, result in a misleading GPS position on an LPV approach resulting in controlled flight into terrain.

(f) Compliance

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

(g) Actions

(1) Within 24 months after the effective date of this AD, replace GPS–4000S GPS P/N 822–2189–100 with P/N 822–2189–101.

(2) As of the effective date of this AD, do not install GPS–4000S GPS P/N 822–2189–100 on any airplane.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Wichita ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (i)(1) of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/ certificate holding district office.

(i) Related Information

(1) For more information about this AD, contact Paul Rau, Aerospace Engineer, Wichita ACO Branch, FAA, 1801 Airport Road, Wichita, Kansas 67209; phone: 316–946–4149; fax: 316–946–4107; email: *paul.rau@faa.gov* or *Wichita-COS@faa.gov.*

(2) For service information identified in this proposed AD, contact Rockwell Collins, Inc., Collins Aviation Services, 400 Collins Road NE, M/S 164–100, Cedar Rapids, IA 52498–0001; telephone: 888–265–5467 (U.S.) or 319–265–5467; fax: 319–295–4941 (outside U.S.); email: *techmanuals@rockwellcollins.com;* internet: *https://portal.rockwellcollins.com/web/publications-and-training.* You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call 816–329–4148.

Issued on October 21, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–23812 Filed 10–28–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0973; Project Identifier MCAI–2020–01113–T]

RIN 2120–AA64

Airworthiness Directives; ATR—GIE Avions de Transport Régional Airplanes Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2000–23–04 R1 and AD 2018–20–14, which apply to certain ATR—GIE Avions de Transport Régional Model ATR42–500 airplanes. AD 2000–23–04 R1 and AD 2018–20–14 require revising the maintenance or inspection program, as applicable, to incorporate new and/ or more restrictive maintenance requirements and airworthiness limitations. Since the FAA issued AD 2000–23–04 R1 and AD 2018–20–14, the FAA has determined that new or more restrictive airworthiness limitations are necessary. This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in a European Union Aviation Safety Agency (EASA) AD, which will be incorporated by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by December 14, 2020.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For EASA AD 2020–0136 that will be 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–2020–0973.

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–2020–0973; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3220; email Shahram. *Daneshmandi@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2020–0973; Project Identifier MCAI–2020–01113–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments we receive, 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 we receive about this proposed AD.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Shahram Daneshmandi, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3220; email Shahram. *Daneshmandi@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Discussion

The FAA issued AD 2018–20–14, Amendment 39–19448 (83 FR 52123, October 16, 2018) (AD 2018–20–14), for certain ATR—GIE Avions de Transport Régional Model ATR42–500 airplanes. AD 2018–20–14 requires revising the maintenance or inspection program, as applicable, to incorporate new and/or more restrictive maintenance requirements and airworthiness limitations. The FAA issued AD 2018–20–14 to address reduced structural integrity of the airplane. AD 2018–20–14 specifies that accomplishing the revision required by paragraph (g) of that AD terminates all requirements of AD 2000–23–04 R1, Amendment 39–12174 (66 FR 19381, April 16, 2001) (AD 2000–23–04 R1), and all requirements of AD 2008–04–19 R1, Amendment 39–16069 (74 FR 56713, November 3, 2009) (AD 2008–04–19 R1), and AD 2015–26–09, Amendment 39–18357 (81 FR 1483, January 13, 2016) (AD 2015–26–09), for ATR—GIE Avions de Transport Régional Model ATR42–500 airplanes only.

Actions Since AD 2018–20–14 Was Issued

Since the FAA issued AD 2018–20–14, the FAA has determined that new or more restrictive airworthiness limitations are necessary. This proposed AD would supersede both AD 2000–23–04 R1 and AD 2018–20–14 because the actions required by AD 2000–23–04 R1 have already been terminated by AD 2018–20–14.

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0136, dated June 18, 2020 (EASA AD 2020–0136) (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Model ATR 42–400 and ATR 42–500 airplane. Model ATR 42–400 airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this AD therefore does not include those airplanes in the applicability. Airplanes with an original airworthiness certificate or original export certificate of airworthiness issued after April 24, 2020 must comply with the airworthiness limitations specified as part of the approved type design and referenced on the type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

This proposed AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is proposing this AD to address reduced structural integrity of the airplane. See the MCAI for additional background information.

Related IBR Material Under 1 CFR part 51

EASA AD 2020–0136 describes new or more restrictive airworthiness limitations for airplane structures and safe life limits.

This AD would also require the following service information, which the Director of the Federal Register approved for incorporation by reference as of November 20, 2018 (83 FR 52123, October 16, 2018).

- ATR ATR42–400/–500, Time Limits Document (TL), Revision 11, dated May 5, 2015.
- ATR ATR42–400/–500 Time Limits Temporary Revision TR01/17, dated May 3, 2017,

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

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been

notified of the unsafe condition described in the MCAI and service information referenced above. The FAA is proposing this AD because the FAA has evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Proposed AD Requirements

This proposed AD would retain the requirements of AD 2018–20–14. This proposed AD would also require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, which are specified in EASA AD 2020–0136 described previously, as incorporated by reference. Any differences with EASA AD 2020–0136 are identified as exceptions in the regulatory text of this AD.

This proposed AD would require revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections) and Critical Design Configuration Control Limitations (CDCCLs). Compliance with these actions and CDCCLs is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (n)(1) of this proposed 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 2020–0136 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2020–0136 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD.

Service information specified in EASA AD 2020–0136 that is required for compliance with EASA AD 2020–0136 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0973 after the FAA final rule is published.

Airworthiness Limitation ADs Using the New Process

The FAA's process of incorporating by reference MCAI ADs as the primary source of information for compliance with corresponding FAA ADs has been limited to certain MCAI ADs (primarily those with service bulletins as the primary source of information for accomplishing the actions required by the FAA AD). However, the FAA is now expanding the process to include MCAI ADs that require a change to airworthiness limitation documents, such as airworthiness limitation sections.

For these ADs that incorporate by reference an MCAI AD that changes airworthiness limitations, the FAA requirements are unchanged. Operators must revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in the new airworthiness limitation document. The airworthiness limitations must be followed according to 14 CFR 91.403(c) and 91.409(e).

Costs of Compliance

The FAA estimates that this proposed AD affects 9 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

The FAA estimates the total cost per operator for the retained actions from AD 2018–20–14 to be $7,650 (90 work-hours × $85 per work-hour).

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. In the past, the agency has estimated that this action takes 1 work-hour per airplane. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate.

The FAA estimates the total cost per operator for the new proposed actions to be $7,650 (90 work-hours × $85 per work-hour).

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2000–23–04 R1, Amendment 39–12174 (66 FR 19381, April 16, 2001); and AD 2018–20–14, Amendment 39–19448 (83 FR 52123, October 16, 2018); and

■ b. Adding the following new AD:

ATR—GIE Avions de Transport Régional: Docket No. FAA–2020–0973; Project Identifier MCAI–2020–01113–T.

(a) Comments Due Date

The FAA must receive comments by December 14, 2020.

(b) Affected ADs

(1) This AD replaces AD 2000–23–04 R1, Amendment 39–12174 (66 FR 19381, April 16, 2001) (AD 2000–23–04 R1); and AD 2018–20–14, Amendment 39–19448 (83 FR 52123, October 16, 2018) (AD 2018–20–14).

(2) This AD affects AD 2008–04–19 R1, Amendment 39–16069 (74 FR 56713, November 3, 2009) (AD 2008–04–19 R1); and AD 2015–26–09, Amendment 39–18357 (81 FR 1483, January 13, 2016) (AD 2015–26–09).

(c) Applicability

This AD applies to ATR—GIE Avions de Transport Régional Model ATR42–500 airplanes, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness dated on or before April 24, 2020.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to prevent reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Maintenance or Inspection Program Revision, With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2018–20–14, with no changes. For airplanes with an original airworthiness certificate or original export certificate of airworthiness dated on or before May 3, 2017: Within 90 days after November 20, 2018 (the effective date of AD 2018–20–14), revise the maintenance or inspection program, as applicable, to incorporate the information specified in ATR ATR42–400/–500, Time Limits Document (TL), Revision 11, dated May 5, 2015; and ATR ATR42–400/–500 Time Limits Temporary Revision TR01/17, dated May 3, 2017. The initial compliance time for accomplishing the tasks is at the applicable times specified in ATR ATR42–400/–500, Time Limits Document (TL), Revision 11, dated May 5, 2015; and ATR ATR42–400/–500 Time Limits Temporary Revision TR01/17, dated May 3, 2017; or within 90 days after the November 20, 2018; whichever occurs later, except for those certification maintenance requirements (CMRs) tasks identified in figure 1 to paragraphs (g) and (h) of this AD.

FIGURE 1 TO PARAGRAPHS (g) AND (h)—GRACE PERIOD FOR CMR TASKS

CMR/Maintenance Significant Item (MSI) task	Compliance time
213100–2A 213100–2B 213100–3A 213100–3B	Within 550 flight hours or 90 days, whichever occurs first, after November 20, 2018 (the effective date of AD 2018–20–14).

(h) Retained Initial Compliance Times for Certain CMR Tasks, With No Changes

This paragraph restates the requirements of paragraph (h) of AD 2018–20–14, with no changes. For the CMR tasks listed in figure 1 to paragraphs (g) and (h) of this AD, the initial compliance time for accomplishing the tasks is at the applicable time specified in ATR ATR42–400/–500 Time Limits Temporary Revision TR01/17, dated May 3, 2017; or within the compliance time specified in figure 1 to paragraphs (g) and (h) of this AD; whichever occurs later.

(i) Retained Restrictions on Alternative Actions, Intervals, and Critical Design Configuration Control Limitations, With a New Exception.

This paragraph restates the requirements of paragraph (i) of AD 2018–20–14, with a new exception. Except as required by paragraph (l) of this AD, after the maintenance or inspection program, as applicable, has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections), intervals, and/or CDCCLs may be used unless the actions, intervals, and/or CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (n)(1) of this AD.

(j) New Maintenance or Inspection Program Revision

Except as specified in paragraph (k) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2020–0136, dated June 18, 2020 (EASA AD 2020–0136). Accomplishing the maintenance or inspection program revision required by this paragraph terminates the requirements of paragraph (g) of this AD.

(k) Exceptions to EASA AD 2020–0136

(1) The requirements specified in paragraphs (1) and (2) of EASA AD 2020–0136 do not apply to this AD.

(2) Paragraph (3) of EASA AD 2020–0136 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, to incorporate the ''limitations, tasks and associated thresholds and intervals'' specified in paragraph (3) of EASA AD 2020–0136 within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2020–0136 is at the applicable ''associated thresholds'' specified in paragraph (3) of EASA AD 2020–0136, or within 90 days after the effective date of this AD, whichever occurs later.

(4) The provisions specified in paragraphs (4) and (5) of EASA AD 2020–0136 do not apply to this AD.

(5) The ''Remarks'' section of EASA AD 2020–0136 does not apply to this AD.

(l) New Provisions for Alternative Actions, Intervals, and CDCCLs

After the maintenance or inspection program has been revised as required by paragraph (j) of this AD, no alternative actions (*e.g.,* inspections), intervals, and CDCCLs are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2020–0136.

(m) Terminating Action for Other ADs

Accomplishing the actions required by paragraph (g) or (j) of this AD terminates all requirements of the ADs specified in paragraphs (m)(1) and (2) of this AD for ATR—GIE Avions de Transport Régional Model ATR42–500 airplanes only.

(1) AD 2008–04–19 R1.

(2) AD 2015–26–09.

(n) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (o)(2) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.*

(i) 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.

(ii) AMOCs approved previously for AD 2018–20–14 are approved as AMOCs for the corresponding provisions of EASA AD 2020–0136 that are required by paragraph (g) of this AD.

(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 ATR–GIE Avions de Transport Régional's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(o) Related Information

(1) For information about EASA AD 2020–0136, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0973.

(2) For more information about this AD, contact Shahram Daneshmandi, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206 231 3220; email *Shahram.Daneshmandi@faa.gov.*

Issued on October 23, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–23932 Filed 10–28–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

[COE–2020–0015]

Danger Zone; Pacific Ocean at U.S. Marine Corps Base, Camp Blaz, Mason Live-Fire Training Range Complex, on the North Coast of Guam

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is proposing to revise its existing regulations to establish a danger zone at the U.S. Marine Corps Base, Camp Blaz in the Pacific Ocean, Guam. The Marine Corps requested establishment of a danger zone extending over the Pacific Ocean adjacent to the Mason Live-Fire Training Range Complex (LFTRC). Establishment of the danger zone would intermittently restrict commercial, public, and private vessels from entering or lingering in the restricted safety zone to ensure public safety during small arms training activities. This danger zone is necessary to minimize potential conflicts between local populace activities and ongoing military training in the subject area.

DATES: Written comments must be submitted on or before November 30, 2020.

ADDRESSES: You may submit comments, identified by docket number COE–2020–0015, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Email: david.b.olson@usace.army.mil. Include the docket number, COE–2020–0015, in the subject line of the message.

Mail: U.S. Army Corps of Engineers, Attn: CECW–CO–R (David B. Olson), 441 G Street NW, Washington, DC 20314–1000.

Hand Delivery/Courier: Due to security requirements, we cannot receive comments by hand delivery or courier.

Instructions: Direct your comments to docket number COE–2020–0015. All comments received will be included in the public docket without change and may be made available on-line at *http://www.regulations.gov,* including any personal information provided, unless the commenter indicates that the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through *regulations.gov* or email. The *regulations.gov* website is an anonymous access system, which means we will not know your identity or contact information unless you provide it in the body of your comment. If you send an email directly to the Corps without going through *regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, we recommend that you include your name and other contact information in the body of your comment and with any disk or compact disk you submit. If we cannot read your comment because of technical difficulties and cannot contact you for clarification, we may not be able to consider your comment. Electronic comments should avoid the use of any special characters, any form of encryption, and be free of any defects or viruses.

Docket: For access to the docket to read background documents or comments received, go to *www.regulations.gov.* All documents in the docket are listed. Although listed in the index, some information is not publicly available, such as CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson, Headquarters, Operations and Regulatory Community of Practice, Washington, DC at 202–761–4922.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat 892; 33 U.S.C. 3) the Corps is proposing to amend the regulations at 33 CFR part 334 by establishing a danger zone in the Pacific Ocean. The amendment to this regulation will allow the Commanding Officer of the U.S. Marine Corps Base, Camp Blaz, Guam to restrict passage of persons, watercraft, and vessels in the waters within the danger zone during use of the Mason Live-Fire Training Range. The establishment of the danger zone would intermittently restrict passage of persons, watercraft, and vessels from entering or lingering in the danger zone to ensure public safety during live-fire training activities at the Mason LFTRC. This danger zone will be in place as a precautionary measure to protect the public from any potential impacts in firing small arms to the north.

The Department of Defense military forces and the Government of Guam law enforcement agencies are required to qualify with their assigned weapons prior to executing their duties and further the execution of their assigned mission. These ranges are not only used by military forces assigned to the island, but also deployable military forces (Army, Navy, Air Force, and Marines). The Department of Defense requires frequent firing of assigned weapons to ensure proficiency in the use and operations of assigned weapons.

The proposed danger zone would comprise approximately 3,660 acres extending into the ocean approximately 2.8 miles from the north coast of Guam. The proposed establishment of this danger zone was considered in the Final Guam and CNMI Military Relocation Environmental Impact Statement (2015). The Department of the Navy considered the environmental consequences of the proposed action, strategic implications, operational training requirements, and obligations under treaties and announced its decision to construct and operate a live-fire training range

complex on Guam in support of the relocation of U.S. Marines.

The Mason LFTRC will consist of five ranges firing small arms up to and including .50 caliber rifles and heavy machine guns. This location is part of the Marine Corps Base Camp Blaz (MCBCB) facility and meets all of the landside requirements of a small arms range. With limited land on the island, it is not feasible to have the firing range and danger zone completely on land.

The Installation Range Control Officer (IRCO) will be responsible for submitting all Notice to Mariners (NTM) no later than 24 hours before the use of the range and publishing the range schedule and standard operating procedures on the MCBCB web page. The establishment of the danger zone would ensure public safety and facilitate safe live-fire training. ''Day'' operations would occur between 7:00 a.m. and 7:00 p.m. ''Night'' operations (estimated to occur two nights per week) would occur between 7:00 p.m. and 10:00 p.m. or 6:00 a.m. and 6:59 a.m. No training is planned to occur between the hours of 10:00 p.m. and 6:00 a.m. When the danger zone is activated it will be closely monitored by surface radar and personnel designated to serve as observers. Due to the extreme depth of the waters off the coast of Guam buoys will not be employed.

Procedural Requirements

a. Review Under Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This proposed rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this proposed rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

The Corps determined this proposed rule is not a significant regulatory action. This regulatory action determination is based on the proposed rule governing the danger zone, which would not allow any person, vessel or other craft to enter or remain in the area during times designated for live-fire except those authorized by the enforcing agency. When the range is not in use, the danger zone will be open to normal maritime traffic and to all activities, including anchoring and loitering.

b. Review Under the Regulatory Flexibility Act

This proposed rule has been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354). The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (*i.e.,* small businesses and small governments). The proposed danger zone is necessary to protect public safety during use of the small arms range. The proposed danger zone will be in effect on an intermittent basis, and persons, vessels, and other watercraft can transit around the danger zone when it is in effect and live-firing exercises may be conducted. The proposed danger zone would not allow any person, vessel or other craft to enter or remain in the area during times designated for live-fire except those authorized by the enforcing agency. When the range is not in use, the danger zone will be open to normal maritime traffic and to all activities, including anchoring and loitering. Unless information is obtained to the contrary during the comment period, the Corps certifies that the proposed rule would have no significant economic impact on the public. After considering the economic impacts of this proposed danger zone regulation on small entities, I certify that this action will not have a significant impact on a substantial number of small entities.

c. Review Under the National Environmental Policy Act

Due to the administrative nature of this action and because there is no intended change in the use of the area, the Corps expects that this regulation, if adopted, will not have a significant impact on the quality of the human environment and, therefore, preparation of an environmental impact statement will not be required. An environmental assessment will be prepared after the public notice period is closed and all comments have been received and considered.

d. Unfunded Mandates Act

This proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more for state, local, and tribal governments, in the aggregate, or the private sector in any one year. Therefore, this proposed rule is not subject to the requirements of Sections 202 and 205 of the Unfunded Mandates Reform Act (UMRA). The proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments. Therefore, the proposed rule is not subject to the requirements of Section 203 of UMRA.

e. Congressional Review Act

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

List of Subjects in 33 CFR part 334

Danger zones, Navigation (water), Restricted areas, Waterways.

For the reasons set forth in the summary above, the Corps proposes to amend 33 CFR part 334 as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

■ 1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

■ 2. Add § 334.1425 to read as follows:

§ 334.1425 Pacific Ocean adjacent to the Mason Live-Fire Training Range Complex located at U.S. Marine Corps Base, Camp Blaz, on the northwestern coast of Guam; danger zone.

(a) *Area of Proposed Danger Zone.* The danger zone will consist of two areas: An outer area (Area 1) for large caliber weapons and a smaller area (Area 2) for smaller caliber weapons within Area 1. The datum for the coordinates is NAD–83.

(1) *Area 1.* The waters bounded by the following seven points: Point A (13°38′59.443″ N; 144°51′11.522″ E) following the mean high water line to Point B (13°38′36.722″ N; 144°52′50.256″ E), following the mean high water line to Point C (13°38′33.936″ N; 144°52′53.031″ E), to Point D (13°40′8.336″ N; 144°53′44.876″ E), to Point E (13°40′56.842″ N; 144°53′42.808″ E), to Point F

(13°41′28.434″ N; 144°52′37.582″ E), and Point G (13°41′3.344″ N; 144°51′53.652″ E).

(2) *Area 2.* A subset of waters within Area 1 bounded by the following six points: Point A (13°39′7.432″ N; 144°52′8.210″ E) following the mean high water line to Point B (13°38′36.722″ N; 144°52′50.256″ E), following the mean high water line to Point C (13°38′33.936″ N; 144°52′53.031″ E), to Point D (13°39′54.724″ N; 144°53′37.400″ E), to Point E (13°40′25.737″ N; 144°52′43.157″ E), and Point F (13°40′6.494″ N; 144°52′7.349″ E).

(b) *The regulation.* (1) The enforcing agency will designate which area will be closed for use on dates designated for live-fire. No persons, watercrafts, or vessels shall enter, or remain, in the area during the times designated for live-fire except those authorized by the enforcing agency. The Installation Range Control Officer will be responsible for submitting all local Notices to Mariners of specific dates of firing, which will be disseminated through the U.S. Coast Guard and on the Marine Corps Base Camp Blaz website. The area will be open to normal maritime traffic when the range is not in use.

(2) When the range is in use red flags will be displayed from a conspicuous and easily seen location on the east and west boundary of the danger zone to signify that the range is in use. These flags will be removed when firing ceases for the day.

(3) During the night firing, red lights will be displayed on the east and west side of the danger zone to enable safety observers to detect vessels which may attempt to enter the danger zone. All range flags and red lights will be visible from 360 degrees. Due to the depth of the ocean the danger zone will not be marked with buoys.

(c) *Enforcement.* The restrictions on public access through the danger zone shall be enforced by the Commander, Marine Corps Base, Camp Blaz, and such agencies as the Commander may designate in writing.

Thomas P. Smith,

Chief, Operations and Regulatory Division Directorate of Civil Works.

[FR Doc. 2020–22895 Filed 10–28–20; 8:45 am]

BILLING CODE 3720–58–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2020–0425; FRL–10015–07–Region 9]

Approval of Air Quality Implementation Plans; California; Sacramento Metro Area; 2008 8-Hour Ozone Nonattainment Area Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve, or conditionally approve, all or portions of two state implementation plan (SIP) revisions submitted by California to meet Clean Air Act (CAA or ''Act'') requirements for the 2008 8-hour ozone national ambient air quality standards (NAAQS or ''standards'') in the Sacramento Metro ozone nonattainment area. These SIP revisions include the ''Sacramento Regional 2008 NAAQS 8-hour Attainment and Reasonable Further Progress Plan'' and the Sacramento Metro portion of the ''2018 Updates to the California State Implementation Plan.'' Collectively, the EPA refers to these submittals as the ''Sacramento Metro Area Ozone SIP.'' The Sacramento Metro Area Ozone SIP addresses the CAA nonattainment area requirements for the 2008 ozone NAAQS, such as the requirements for an emissions inventory, an attainment demonstration, reasonable further progress, reasonably available control measures, and contingency measures, and it establishes motor vehicle emissions budgets. The EPA is proposing to approve the Sacramento Metro Area Ozone SIP as meeting all the applicable ozone nonattainment area requirements, except for the contingency measure requirement where the EPA is proposing a conditional approval. Also, the EPA is beginning the adequacy process for the 2023 and 2024 motor vehicle emissions budgets in the Sacramento Metro Area Ozone SIP via this proposed rule.

DATES: Written comments must arrive on or before November 30, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2020–0425 at *https://www.regulations.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information 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, or 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 the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Jerry Wamsley, Air Planning Office (ARD–2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 947–4111, or by email at *Wamsley.Jerry@epa.gov.*

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

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I. Regulatory Context

A. Ozone Standards, Area Designations, and SIPs

Ground-level ozone pollution is formed from the reaction of volatile organic compounds (VOC) and oxides of nitrogen (NO_X) in the presence of sunlight.[1] These two pollutants, referred to as ozone precursors, are emitted by many types of sources, including on-and off-road motor vehicles and engines, power plants and industrial facilities, and smaller area sources such as lawn and garden equipment and paints. Scientific evidence indicates that adverse public health effects occur following exposure to ozone, particularly in children and adults with lung disease. Breathing air containing ozone can reduce lung function and inflame airways, which can increase respiratory symptoms and aggravate asthma or other lung diseases.[2]

In 1979, under section 109 of the CAA, the EPA established primary and secondary national ambient air quality standards for ozone at 0.12 parts per million (ppm) averaged over a 1-hour period (''1-hour ozone standard'').[3]

With the CAA Amendments of 1990, the Sacramento Metro ozone nonattainment area (''Sacramento Metro Area'') was designated as ''Serious'' for the 1979 1-hour ozone standard and was required to submit an attainment plan designed to meet this NAAQS by 1999. The California Air Resources Board (CARB) submitted such an attainment plan to the EPA on November 15, 1994, and we approved this attainment plan on January 8, 1997.[4] When subsequent air quality modeling studies from the State showed that the control strategy in the 1994 attainment plan would not meet the 1-hour ozone standard, the State requested and the EPA approved a voluntary reclassification from Serious to ''Severe-15.''[5] This reclassification extended the deadline for attaining the 1-hour ozone standard from 1999 to November 2005. Based on the air quality data collected from 2007 through 2009, the EPA determined that the Sacramento Metro Area met the 1979 1-hour ozone standard on October 18, 2012.[6]

On July 18, 1997, the EPA revised the primary and secondary NAAQS for ozone to set the acceptable level of ozone in the ambient air at 0.08 ppm, averaged over an 8-hour period (''1997 8-hour ozone standard'').[7] The EPA set the 1997 8-hour ozone standard based on scientific evidence demonstrating that ozone causes adverse health effects at lower concentrations and over longer periods of time than was understood when the previous 1-hour ozone standard was set. The EPA determined that the 1997 8-hour standard would be more protective of human health, especially children and adults who are active outdoors, and individuals with a pre-existing respiratory disease, such as asthma.

In 2004, the Sacramento Metro Area was designated as nonattainment for the 1997 8-hour ozone standard and classified as Serious.[8] Subsequently, CARB requested that the EPA reclassify the Sacramento Metro Area, under CAA section 181(b)(3), from Serious to ''Severe-15.''[9] The EPA then finalized the reclassification of the Sacramento Metro Area to Severe-15 on May 5, 2010.[10] The State and local air districts developed an attainment plan, along with state-wide and local control measures, for the 1997 8-hour ozone standard and submitted the plan and related components to the EPA over the course of several years from 2006 to 2013.[11] The EPA approved the ''Sacramento 8-Hour Ozone Attainment Plan'' on January 29, 2015.[12]

On March 27, 2008, the EPA revised and further strengthened the primary and secondary NAAQS for ozone by setting the acceptable level of ozone in the ambient air at 0.075 ppm, averaged over an 8-hour period (''2008 8-hour ozone standard'').[13] On May 21, 2012, we designated nonattainment areas for the 2008 8-hour ozone NAAQS.[14] At the same time, we assigned classifications to many of these areas based upon their ozone design value, in accordance with the structure of part D, subpart 2 of Title I of the CAA.[15] We designated the Sacramento Metro Area as nonattainment for the 2008 ozone standards, and at the request of CARB retained the Severe-15 classification, consistent with previous ozone NAAQS.[16] The Sacramento Metro Area's outermost attainment date for the 2008 8-hour ozone standard is as expeditious as practicable but no later than July 20, 2027. As a practical matter, the Sacramento Metro Area would be required to demonstrate attainment of the 2008 NAAQS no later than the previous ozone season, 2026. As discussed further below, the EPA has determined that expeditious attainment for the Sacramento Metro Area can be achieved in 2024. Accordingly, the effective attainment date for the area is December 31, 2024.

B. The Sacramento Metro Ozone Nonattainment Area

The Sacramento Metro Area consists of Sacramento and Yolo counties and portions of El Dorado, Placer, Solano and Sutter counties.[17] Several local air agencies have jurisdiction in this area. Sacramento County is under the jurisdiction of the Sacramento Metropolitan Air Quality Management District (SMAQMD). Yolo County and the eastern portion of Solano County comprise the Yolo-Solano AQMD (YSAQMD). The southern portion of Sutter County is part of the Feather River AQMD (FRAQMD). The western portion of Placer County is part of the Placer County Air Pollution Control District (PCAPCD). Lastly, the western portion of El Dorado County is part of the El Dorado County AQMD (EDCAQMD). In this action, we refer to these five districts collectively as the ''Districts.'' Under California law, each air district is responsible for adopting and implementing stationary source rules, while CARB adopts and

[1] The State of California refers to reactive organic gases (ROG) rather than VOC in some of its ozone-related SIP submissions. As a practical matter, ROG and VOC refer to the same set of chemical constituents, and for the sake of simplicity, we refer to this set of gases as VOC in this proposed rule.

[2] ''Fact Sheet—2008 Final Revisions to the National Ambient Air Quality Standards for Ozone'' dated March 2008.

[3] 44 FR 8202 (February 8, 1979).

[4] 62 FR 1150 (January 8, 1997).

[5] 60 FR 20237 (April 25, 1995).

[6] 77 FR 64036 (October 18, 2012).

[7] 62 FR 38856 (July 18, 1997).

[8] 69 FR 23858 (April 30, 2004).

[9] Letter dated February 14, 2008, from James N. Goldstene, Executive Officer, CARB, to Wayne Nastri, Regional Administrator, EPA Region IX.

[10] 75 FR 24409 (May 5, 2010).

[11] See Table 4 of our proposed rule for a listing of state and local submittals composing the attainment plan for the 1997 8-hour ozone standard; 79 FR 61803 (October 15, 2014).

[12] 80 FR 4795 (January 29, 2015). Please see our proposed rule for this final action for a complete description of the attainment plan and state and local control measures; 79 FR 61799 (October 15, 2014).

[13] 73 FR 16436 (March 27, 2008).

[14] 77 FR 30088 (May 21, 2012) and 40 CFR 81.330.

[15] 69 FR 23858 (April 30, 2004) and 40 CFR 51.903(a). The designations and classifications for the 2008 8-hour ozone standard for California nonattainment areas are codified at 40 CFR 81.305. A design value is an ambient concentration calculated using a specific methodology to evaluate monitored air quality data and is used to determine whether an area's air quality is meeting a NAAQS. The methodology for calculating design values for the 8-hour ozone NAAQS is found in 40 CFR part 50, Appendix I.

[16] 77 FR 30088 (May 21, 2012).

[17] For a precise description of the geographic boundaries of the Sacramento Metro Area for the 2008 ozone standards, see 40 CFR 81.305. Specifically included portions are the eastern portion of Solano County, the western portions of Placer and El Dorado counties outside of the Lake Tahoe Basin, and the southern portion of Sutter County.

implements consumer products and mobile source rules. The Districts' and State's rules are submitted to the EPA by CARB.

Current ambient 8-hour ozone levels in the Sacramento Metro Area are well above the 2008 8-hour ozone NAAQS. For the 2014–2016 period, the design value for the area, based on monitored readings at the Placerville monitor in El Dorado County, is 0.085 ppm. Since 2010, the highest design values have been found at the Folsom monitor in Sacramento County and the Placerville monitor in El Dorado County, ranging from 0.085 ppm to 0.102 ppm.[18]

C. CAA and Regulatory Requirements for 2008 Ozone Nonattainment Area SIPs

States must implement the 2008 ozone NAAQS under Title 1, part D of the CAA, including sections 171–179B of subpart 1 (''Nonattainment Areas in General'') and sections 181–185 of subpart 2 (''Additional Provisions for Ozone Nonattainment Areas''). To assist states in developing effective plans to address ozone nonattainment problems, in 2015, the EPA issued a SIP Requirements Rule (SRR) for the 2008 ozone NAAQS (''2008 Ozone SRR'') that addressed implementation of the 2008 standards, including attainment dates, requirements for emissions inventories, attainment and reasonable further progress (RFP) demonstrations, among other SIP elements, as well as the transition from the 1997 ozone NAAQS to the 2008 ozone NAAQS and associated anti-backsliding requirements.[19] The 2008 Ozone SRR is codified at 40 CFR part 51, subpart AA. In section III below, we discuss in more detail the CAA and regulatory requirements for the air quality plans required to meet the 2008 ozone standard.

The EPA's 2008 Ozone SRR was challenged, and on February 16, 2018, the U.S. Court of Appeals for the D.C. Circuit (''D.C. Circuit'') published its decision in *South Coast Air Quality Management District* v. *EPA* (''*South Coast II*'')[20] vacating portions of the 2008 Ozone SRR. The only aspect of the *South Coast II* decision that affects this proposed action is the vacatur of the alternative baseline year for RFP plans. More specifically, the 2008 Ozone SRR required states to develop the baseline emissions inventory for RFP plans using the emissions for the most recent calendar year for which states submit a triennial inventory to the EPA under subpart A (''Air Emissions Reporting Requirements'') of 40 CFR part 51, which was 2011. The 2008 Ozone SRR, however, allowed states to use an alternative year, between 2008 and 2012, for the baseline emissions inventory provided that the state demonstrated why the alternative baseline year was appropriate. In the *South Coast II* decision, the D.C. Circuit vacated the provisions of the 2008 Ozone SRR that allowed states to use an alternative baseline year for demonstrating RFP.

II. Submissions From the State of California To Address 2008 Ozone Standard Requirements in the Sacramento Metro Area

A. Summary of Submissions

The EPA's designation of an area as nonattainment for a NAAQS starts the process for a state to develop and submit to the EPA a plan providing for attainment of the given NAAQS under title 1, part D of the CAA. For 8-hour ozone areas designated as nonattainment under the 2008 ozone NAAQS, effective July 20, 2012, the Sacramento Metro Area's attainment plan was due by July 20, 2016.[21] The State did not meet this July 20, 2016 deadline to submit an attainment plan and the EPA issued a finding of failure to submit an attainment SIP and several of its required elements on September 26, 2017.[22] This finding of failure to submit an attainment plan and other required elements was addressed by the submittals discussed below.

California has submitted two SIP revisions to address the Sacramento Metro Area's CAA planning obligations for attaining the 2008 8-hour ozone standard. The principal submittals are as follows:

- ''Sacramento Regional 2008 NAAQS 8-Hour Ozone Attainment Plan and Reasonable Further Progress Plan,'' dated July 25, 2017 (''2017 Sacramento Regional Ozone Plan'' or ''Plan''); and
- The Sacramento Metro portion of CARB's ''2018 Updates to the California State Implementation Plan'' (''2018 SIP Update'').

In this document, we are proposing action on all or portions of these SIP revisions, which are summarized below. Collectively, we refer to the relevant portions of these SIP revisions as the ''Sacramento Metro Area Ozone SIP.''

1. 2017 Sacramento Regional Ozone Plan

On December 18, 2017, CARB submitted the 2017 Sacramento Regional Ozone Plan to the EPA as a revision to the California SIP.[23] The 2017 Sacramento Regional Ozone Plan addresses the nonattainment area requirements for the Sacramento Metro Area concerning the 2008 ozone NAAQS. The SIP revision for the 2017 Sacramento Regional Ozone Plan includes the Plan itself with its chapters and appendices, plus the Districts' resolutions of adoption for the plan, and CARB's resolution of adoption for the 2017 Sacramento Regional Ozone Plan. The 2017 Sacramento Regional Ozone Plan was adopted by the Districts' governing boards beginning in late August through October 2017, and then by CARB, via Resolution 17–40, on November 16, 2017. See Table 1 for the Districts' adoption dates and board resolution or order numbers.

TABLE 1—DISTRICTS AND ADOPTION DATES FOR 2017 SACRAMENTO REGIONAL OZONE PLAN

District	Hearing and adoption dates	Board resolution/ order
SMAQMD	August 24, 2017	2017–015
EDCAQMD	September 12, 2017	141–2017
FRAQMD	October 2, 2017	2017–10
YSAQMD	October 11, 2017	17–06
PCAPCD	October 12, 2017	17–08

The 2017 Sacramento Regional Ozone Plan is organized into thirteen chapters and six technical appendices addressing the CAA requirements for VOC and NO_X emissions inventories, air quality and photochemical modeling to demonstrate attainment of the 2008 ozone standard, reasonably available control measures (RACM) for each of the Districts along with the overall control strategy for the Sacramento Metro Area, RFP, adoption and implementation of transportation control strategies and measures, and contingency measures for failure to meet RFP or attain, among other requirements. Submittal of the 2017 Sacramento Regional Ozone Plan and the EPA's completeness determination for the Plan set aside our September 26,

[18] Sacramento Regional 2008 NAAQS 8-hour Attainment and Reasonable Further Progress Plan, Table 4–2.

[19] 80 FR 12264 (March 6, 2015).

[20] *South Coast Air Quality Management District* v. *EPA,* 882 F.3d 1138 (D.C. Cir. 2018). The term ''*South Coast II*'' is used in reference to the 2018 court decision to distinguish it from a decision published in 2006 also referred to as ''*South Coast.*'' The earlier decision involved a challenge to the EPA's Phase 1 implementation rule for the 1997 ozone NAAQS. *South Coast Air Quality Management Dist.* v. *EPA,* 472 F.3d 882 (D.C. Cir. 2006).

[21] 40 CFR 51.1108(b) and 40 CFR 51.1110.

[22] 82 FR 44736 (September 26, 2017), effective on October 26, 2017.

[23] Letter dated December 18, 2017, from Richard Corey, Executive Officer, CARB, to Alexis Strauss, Acting Regional Administrator, EPA Region IX.

2017 finding of failure to submit.[24] In addition to the 2017 Sacramento Regional Ozone Plan, CARB submitted its Staff Report reviewing the plan and discussing the photochemical modeling supporting its attainment demonstration and referred to herein as the ''CARB Staff Report.'' [25]

2. 2018 SIP Update

On December 5, 2018, CARB submitted the 2018 SIP Update to the EPA as a revision to the California SIP.[26] CARB developed the 2018 SIP Update in response to the court's decision in *South Coast II* vacating the 2008 Ozone SRR with respect to the use of an alternate baseline year for demonstrating RFP and to address contingency measure requirements in the wake of the court decision in *Bahr* v. *EPA*.[27] The 2018 SIP Update includes an RFP demonstration using the required 2011 baseline year for the Sacramento Metro Area for the 2008 ozone NAAQS. The 2018 SIP Update also includes updated motor vehicle emission budgets and information to support the contingency measure element of the 2017 Sacramento Regional Ozone Plan. The 2018 SIP Update includes updates for 8 different California ozone nonattainment areas. We have already acted to approve portions of the 2018 SIP Update related to other nonattainment areas.[28] In this action, we are proposing action on the Sacramento Metropolitan Area portion of the 2018 SIP Update, specifically, Section V—SIP Elements for the Sacramento Metropolitan Area.

To supplement the contingency measure element of the 2017 Sacramento Regional Ozone Plan, in a letter dated July 7, 2020, CARB forwarded to the EPA a May 26, 2020 letter of commitment from the Districts.[29] In this letter, the Districts commit to modify their existing architectural coatings rules, and the SMAQMD also commits to adopt a VOC rule that would serve as contingency measures that will be triggered if the area fails to meet an RFP milestone or fails to attain the 2008 ozone NAAQS.[30] In the July 7, 2020 letter, CARB commits to submit the Districts' revised rules to the EPA as a SIP revision within 12 months of the EPA's final conditional approval of the contingency measures element of the Sacramento Metro Area Ozone SIP.[31]

B. Clean Air Act Procedural Requirements for Adoption and Submission of SIP Revisions

CAA sections 110(a) and 110(l) require a state to provide reasonable public notice and opportunity for public hearing prior to the adoption and submission of a SIP or SIP revision. To meet this requirement, every SIP submittal should include evidence that adequate public notice was given and an opportunity for a public hearing was provided consistent with the EPA's implementing regulations in 40 CFR 51.102.

The Districts, collectively, and CARB have satisfied the applicable statutory and regulatory requirements for reasonable public notice and hearing prior to the adoption and submittal of the SIP revisions that comprise the Sacramento Metro Area Ozone SIP. With respect to the 2017 Sacramento Regional Ozone Plan, the Districts held hearings prior to adoption to discuss the plan and solicit public input. Prior to these adoption hearings, the Districts published notices of public hearing for the adoption of the 2017 Sacramento Regional Ozone Plan in local newspapers within the Districts.[32] As noted in Table 1 above, the Districts adopted the 2017 Sacramento Regional Ozone Plan and each directed their respective Executive Officer or Air Pollution Control Officer to forward the plan to CARB for inclusion in the California SIP.

CARB also provided public notice and opportunity for public comment on the 2017 Sacramento Regional Ozone Plan. On October 12, 2017, CARB released for public review its Staff Report for the 2017 Sacramento Regional Ozone Plan and published a notice of public meeting to be held on November 16, 2017, to consider adoption of the 2017 Sacramento Regional Ozone Plan.[33] On November 16, 2017, CARB held the public hearing and adopted the 2017 Sacramento Regional Ozone Plan as a revision to the California SIP, and directed the Executive Officer to submit the 2017 Sacramento Regional Ozone Plan to the EPA for approval into the California SIP.[34] On December 18, 2017, the Executive Officer of CARB submitted the 2017 Sacramento Regional Ozone Plan to the EPA and included the transcript of the hearing held on November 16, 2017.[35] On June 14, 2018, the EPA determined that this submittal addressing the 2008 ozone NAAQS was complete.[36]

With respect to the 2018 SIP Update, CARB also provided public notice and opportunity for public comment. On September 21, 2018, CARB released for public review the 2018 SIP Update and published a notice of a public meeting to be held on October 23, 2018, to consider adoption of the 2018 SIP Update.[37] On October 23, 2018, through Resolution 18–50, CARB adopted the 2018 SIP Update. On December 5, 2018, CARB submitted the 2018 SIP Update to the EPA.

Based on information provided in each of the SIP revisions summarized above, the EPA has determined that all hearings were properly noticed. Therefore, we find that the submittals of the 2017 Sacramento Regional Ozone Plan and the 2018 SIP Update meet the procedural requirements for public notice and hearing in CAA sections 110(a) and 110(l) and 40 CFR 51.102.

[24] Letter dated June 14, 2018, from Elizabeth Adams, Acting Director, Air Division, EPA Region IX, to Richard Corey, Executive Officer, CARB.

[25] ''Staff Report, ARB Review of the Sacramento Regional 2008 NAAQS 8-Hour Ozone Attainment and Reasonable Further Progress Plan'' (''CARB Staff Report''), release date October 13, 2017.

[26] Letter dated December 5, 2018, from Richard Corey, Executive Officer, CARB, to Mike Stoker, Regional Administrator, EPA Region IX. CARB adopted the 2018 SIP Update on October 25, 2018.

[27] *Bahr* v. *EPA,* 836 F.3d 1218 (9th Cir. 2016) (''*Bahr* v. *EPA*''). In *Bahr* v. *EPA,* the court rejected the EPA's longstanding interpretation of CAA section 172(c)(9) as allowing for early implementation of contingency measures. The court concluded that a contingency measure must take effect at the time the area fails to make RFP or attain by the applicable attainment date, not before.

[28] See, *e.g.,* 84 FR 11198 (March 25, 2019) (final approval of the San Joaquin Valley portion of the 2018 SIP Update), 84 FR 52005 (October 1, 2019) (final approval of the South Coast portion of the 2018 SIP Update), and 85 FR 38081 (June 25, 2020) (final approval of the Ventura County portion of the 2018 SIP Update).

[29] Letter dated July 7, 2020, from Richard Corey, Executive Officer, CARB, to John Busterud, Regional Administrator, EPA Region IX.

[30] Letter dated May 26, 2020, from the Districts' respective Executive Officer or Air Pollution Control Officer, Alberto Ayala-SMAQMD, Dave Johnston-EDCAQMD, Christopher Brown-FRAQMD, Erik White-PCAPCD, Mat Ehrhardt-YSAQMD to Richard Corey, Executive Officer, CARB.

[31] Letter dated July 7, 2020, from Richard Corey, Executive Officer, CARB, to John Busterud, Regional Administrator, EPA Region IX.

[32] Please refer to the EPA's Completeness Determination and supporting information included in the docket for this proposal concerning the specific notices of public hearing, their evidence of publication in local newspapers, and the Districts' public hearings.

[33] ''Notice of Public Meeting to Consider the Ozone State Implementation Plan for the Sacramento Nonattainment Region,'' signed by Richard W. Corey, CARB Executive Officer, October 12, 2017. The Notice was made available on CARB's website.

[34] CARB Resolution 17–40.

[35] Compilation of Public Comments and Response for the November 16, 2017 Meeting of the State of California Air Resources Board.

[36] Letter dated June 14, 2018, from Elizabeth Adams, Acting Director, Air Division, EPA Region IX to Richard Corey, Executive Officer, CARB.

[37] Notice of Public Meeting to Consider the 2018 Updates to the California State Implementation Plan signed by Richard Corey, Executive Officer, CARB, September 21, 2018.

III. Evaluation of the Sacramento Metro Area Ozone SIP

A. Emissions Inventories

1. Statutory and Regulatory Requirements

CAA sections 172(c)(3) and 182(a)(1) require states to submit for each ozone nonattainment area a ''base year inventory'' that is a comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutant or pollutants in the area. In addition, the 2008 Ozone SRR requires that the inventory year be selected consistent with the baseline year for the RFP demonstration, which is the most recent calendar year for which a complete triennial inventory is required to be submitted to the EPA under the Air Emissions Reporting Requirements.[38]

The EPA has issued guidance on the development of base year and future year emissions inventories for 8-hour ozone and other pollutants.[39] Emissions inventories for ozone must include emissions of VOC and NO_X and represent emissions for a typical ozone season weekday.[40] States should include documentation explaining how the emissions data were calculated. When estimating mobile source emissions, states should use the latest emissions models and planning assumptions available at the time the SIP is developed.[41]

Future baseline emissions inventories must reflect the most recent population, employment, travel and congestion estimates for the area. In this context, ''baseline'' emissions inventories refer to emissions estimates for a given year and area that reflect rules and regulations and other measures that are already adopted. Future baseline emissions inventories are necessary to show the projected effectiveness of SIP control measures. Both the base year and future year inventories are necessary for photochemical modeling to demonstrate attainment.

2. Summary of State's Submission

The 2017 Sacramento Regional Ozone Plan includes base year (2012) and future year baseline inventories for NO_X and VOC for the Sacramento Metro Area. Documentation for the inventories is found in Chapter 5 (''Emissions Inventory'') and Appendix A (''Emission Inventory'') of the 2017 Sacramento Regional Ozone Plan.[42] The emissions inventories represent average summer day emissions, consistent with the observation that ozone levels in the Sacramento Metro Area are typically higher from May through October.

The 2012 base year and future year inventories in the 2017 Sacramento Regional Ozone Plan reflect District and CARB rules adopted prior to the plan in late 2015.[43] The plan's emission reductions are based on continuing implementation of existing federal, state and local control measures. Both base year and projected future year inventories use the most recent EPA-approved version of California's mobile source emissions model at the time the plan was developed, EMFAC2014, for estimating on-road motor vehicle emissions.[44]

VOC and NO_X emissions estimates in the 2017 Sacramento Regional Ozone Plan are grouped into two general categories, stationary sources and mobile sources. Stationary sources are further divided into ''point'' and ''area'' sources. Point sources typically refer to permitted facilities and have one or more identified and fixed pieces of equipment and emissions points. Area sources consist of widespread and numerous smaller emission sources, such as small permitted facilities and households. The mobile sources category is divided into two major subcategories, ''on-road'' and ''off-road'' mobile sources. On-road mobile sources include light-duty automobiles, light-, medium-, and heavy-duty trucks, and motorcycles. Off-road mobile sources include aircraft, locomotives, construction equipment, mobile equipment, and recreational vehicles.

For the 2017 Sacramento Regional Ozone Plan, point source emissions for the 2012 base year emissions inventory are based on reported data from facilities using the Districts' annual emissions reporting programs. Area sources include smaller emissions sources distributed across the nonattainment area. CARB and the Districts estimate emissions for area sources using established inventory methods, including publicly available emission factors and activity information. Activity data are derived from national survey data such as the Energy Information Administration or from local sources such as public utilities, paint suppliers, and Districts' databases. Emission factors used for the estimates come from many sources, such as facility and equipment source tests, compliance reports, and the EPA's compilation of emissions factors document known as ''AP–42.''

CARB calculated the on-road emissions inventories in the 2017 Sacramento Regional Ozone Plan and the 2018 SIP Update using the EMFAC2014 model and the vehicle travel activity data provided by the Sacramento Council of Governments (SACOG) in its ''2016 Metropolitan Transportation Plan/Sustainable Communities Strategy'' (''2016 MTP/SCS'')[45] as updated in the ''2017–20 Metropolitan Transportation Improvement Program'' (''2017 MTIP'')[46] and the Metropolitan Transportation Commission (MTC) in its 2012 ''Bay Area Plan—Preferred Land Use and Transportation and Investment Strategy.''[47] CARB provided emissions inventories for off-road equipment, including construction and mining equipment, industrial and commercial equipment, lawn and garden equipment, agricultural equipment, ocean-going

[38] 2008 Ozone SRR at 40 CFR 51.1115(a) and the Air Emissions Reporting Requirements at 40 CFR part 51 subpart A.

[39] ''Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations,'' EPA–454/B–17–002, May 2017. At the time the 2017 Sacramento Regional Ozone Plan was developed, the following EPA emissions inventory guidance applied: ''Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations'' EPA–454–R–05–001, August 2005.

[40] 40 CFR 51.1115(a) and (c), and 40 CFR 51.1100(bb) and (cc).

[41] 80 FR 12264, 12290 (March 6, 2015).

[42] Appendix A–4 contains detailed source category and emissions inventory projections from CARB's California Emission Projection Analysis Model. This detailed information is consolidated and presented in Chapter 5 of the plan.

[43] 2017 Sacramento Regional Ozone Plan, 5–11 and 7–12 to 7–14.

[44] 80 FR 77337 (December 14, 2015). EMFAC is short for EMission FACtor. The EPA announced the availability of the EMFAC2014 model for use in state implementation plan development and transportation conformity in California on December 14, 2015. The EPA's approval of the EMFAC2014 emissions model for SIP and conformity purposes was effective on the date of publication of the notice in the **Federal Register**. EMFAC2014 was the most recently approved version of the EMFAC model that was available at the time of preparation of the 2017 Sacramento Regional Ozone Plan. Recently, the EPA approved an updated version of the EMFAC model, EMFAC2017, for future SIP development and transportation purposes in California; 84 FR 41717 (August 15, 2019).

[45] SACOG, ''2016 Metropolitan Transportation Plan/Sustainable Communities Strategy,'' February 2016. Available at *http://www.sacog.org/general-information/2016-mtpscs*.

[46] SACOG, ''2017–20 Metropolitan Transportation Improvement Program,'' September 15, 2016, Appendix A–6, ''Amendment #1 to the 2016 Metropolitan Transportation Plan/Sustainable Communities Strategy,'' available at *https://www.sacog.org/post/2017-20-mtip*.

[47] 2017 Sacramento Regional Ozone Plan, Sections 10–2—10–6. 2018 SIP Update, 31. SACOG is the regional transportation planning agency for the greater Sacramento area and covers Sacramento and Yolo counties, and portions of El Dorado, Placer, and Sutter counties. MTC is the regional transportation planning agency for the San Francisco Bay area, including portions of Solano County within the Sacramento Metro Area.

vessels, commercial harbor craft, locomotives, cargo handling equipment, pleasure craft, and recreational vehicles. CARB uses several models to estimate emissions for more than one hundred off-road equipment categories.[48] Aircraft emissions are developed in conjunction with the airports in the region.

Table 2 provides a summary of the Sacramento Metro Area's 2012 base year, interim, and future attainment year baseline emissions estimates in tons per average summer day for NO_X and VOC. These inventories provide the basis for the control measure analysis and the attainment demonstrations in the 2017 Sacramento Regional Ozone Plan. This emissions inventory includes emissions throughout the Sacramento Metro Area. In the 2012 emissions inventory, stationary and area sources account for roughly 45 percent of VOC emissions and 10 percent of the NO_X emissions in the Sacramento Metro Area while mobile sources account for roughly 55 percent of the VOC emissions and 90 percent of the NO_X emissions. For a more detailed discussion of the inventories, see Chapter 5 and Appendix A–4 of the 2017 Sacramento Regional Ozone Plan.

TABLE 2—SACRAMENTO METRO AREA BASE YEAR, INTERIM, AND ATTAINMENT YEAR BASELINE EMISSIONS INVENTORIES

[Summer planning inventory, tons per day (tpd)]

Source category	2012		2018		2021		2024	
	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC
Stationary Sources	8	22	7	22	7	23	7	23
Area Sources	3	29	2	29	2	30	2	31
On-Road Mobile Sources	61	34	35	20	26	16	19	14
Off-Road Mobile Sources	30	26	26	20	23	18	21	17
Total	101	110	69	91	58	87	49	84

Source: 2017 Sacramento Regional Ozone Plan, Chapter 5, tables 5–1 and 5–2. The sum of the emissions values may not equal the total shown due to rounding of the numbers.

Future emissions forecasts in the 2017 Sacramento Regional Ozone Plan, particularly on-road mobile source emissions, are based primarily on demographic and economic growth projections provided by SACOG, the metropolitan planning organization (MPO) for the Sacramento Metro Area, and the MTC, the MPO for Solano County. The Districts and CARB developed stationary and area source control factors in reference to the 2012 base year, and then used the California Emission Projection Analysis Model to project these 2012 baseline inventories to future years.[49]

Following the *South Coast II* decision, CARB submitted the 2018 SIP Update to the EPA to revise, among other things, the RFP demonstration in the 2017 Sacramento Regional Ozone Plan based on a 2011 RFP baseline year (*i.e.,* rather than 2012).[50] Our analysis of the emissions inventories for the 2011 RFP baseline year and RFP milestone years 2017 and 2020 can be found in section III.E below.

3. The EPA's Review of the State's Submission

We have reviewed the 2012 base year emissions inventory in the 2017 Sacramento Regional Ozone Plan, and the inventory methodologies used by the District and CARB, for consistency with CAA requirements and EPA guidance. First, as required by EPA regulation, we find that the 2012 inventory includes estimates of VOC and NO_X for a typical ozone season weekday and that CARB has provided adequate documentation explaining how the emissions are calculated. Second, we find that the 2012 base year emissions inventory in the 2017 Sacramento Regional Ozone Plan reflects appropriate emissions models and methodologies; therefore, the submitted emissions inventory represents a comprehensive, accurate, and current inventory of actual emissions during that year in the Sacramento Metro Area. Third, we find that selection of year 2012 for the base year emissions inventory is appropriate because it is consistent with the 2011 RFP baseline year (from the 2018 SIP Update) that is derived from a common set of models and methods. Consequently, the EPA is proposing to approve the 2012 emissions inventory in the 2017 Sacramento Regional Ozone Plan as meeting the requirements for a base year inventory set forth in CAA section 182(a)(1) and 40 CFR 51.1115.

With respect to future year baseline projections, we have reviewed the growth and control factors and find them acceptable and conclude that the future baseline emissions projections in the 2017 Sacramento Regional Ozone Plan reflect appropriate calculation methods and the latest planning assumptions. Also, as a general matter, the EPA will approve a SIP revision that takes emissions reduction credit for a control measure only where the EPA has approved the measure as part of the SIP. Thus, to take credit for the emissions reductions from newly adopted or amended District rules for stationary sources, the related rules must be approved by the EPA into the SIP. The 2017 Sacramento Regional Ozone Plan emissions inventories reflect credit for local VOC and NO_X control measures adopted and submitted to CARB through late 2015 and for the future effects of these currently adopted control measures; no new future local stationary or area source control measures were submitted or credited within the Plan. With respect to mobile sources, the EPA has acted in recent years to approve CARB mobile source regulations into the California SIP.[51] CARB mobile source control measures are reviewed in more detail in Sections III.C and III.D of this action. Based on our review, we find that the future year baseline projections in the 2017 Sacramento Regional Ozone Plan are properly supported by SIP-approved stationary and mobile source measures.

In September 2019 and April 2020, the U.S. Department of Transportation and the EPA published separate final actions concerning the ''Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule'' (''SAFE rule'') that, among other things, withdrew the EPA's

[48] 2017 Sacramento Regional Ozone Plan, 5–4.

[49] 2017 Sacramento Regional Ozone Plan, Chapter 5, and Appendices A–2 and A–4.

[50] 2018 SIP Update, Section V (''SIP Elements for the Sacramento Metropolitan Area''), 27–34; and Appendix A, A–15 through A–18.

[51] 81 FR 39424 (June 16, 2016), 82 FR 14446 (March 21, 2017), and 83 FR 23232 (May 18, 2018).

2013 waiver of preemption for CARB's Zero Emissions Vehicle (ZEV) sales mandate and Greenhouse Gas (GHG) standards that are applicable to new model year 2021 through 2025 light-duty vehicles (''SAFE Part 1''), and relaxed federal GHG emissions and fuel economy standards (''SAFE Part 2'').[52] The future year emissions projections in the 2017 Sacramento Regional Ozone Plan assume implementation of CARB's entire Advanced Clean Cars (ACC) program including the third generation of Low-Emission Vehicle (''LEV III'') criteria pollutant standards, but also including the ZEV sales mandate and GHG standards. The Plan's on-road emissions projections for NO_X and VOCs are based on EMFAC2014, the EPA-approved model at the time the Plan was developed, and assumptions concerning implementation of the ACC program. Calculations for other portions of the future year emissions inventories (*e.g.,* the point and area source portions of the inventories) also include assumptions about the continued implementation of the ACC program, which were appropriate when the plan was submitted in 2017.

In response to the EPA's final action on SAFE Part 1, CARB developed adjustment factors for EMFAC to account for criteria pollutant emissions increases associated with the revocation of the ZEV sales mandate waiver.[53] CARB's EMFAC off-model adjustment factors are multipliers that are to be applied to gasoline-powered light-duty automobiles, light-duty trucks and medium-duty vehicles modeled by EMFAC2014 (and its more recent EPA-approved update, EMFAC2017). The EPA reviewed CARB's EMFAC off-model adjustment factors and concluded that they are acceptable for use because the effect of their application is more conservative than necessary, and that, therefore, the factors may be used in transportation conformity determinations and SIP development.[54] We applied the adjustment factors to the relevant light duty gasoline motor vehicle source categories in the relevant years, 2023—RFP year and 2024—attainment year, to estimate the VOC and NO_X increases in the Sacramento Metro Area relative to those included in the Plan and found that the emissions increases were so small as to be negligible.[55]

SAFE Parts 1 and 2 could result in a higher level of gasoline production, transport, and usage, with associated upstream emissions, than had been assumed for the Plan. We believe, however, that the incremental increase in upstream impacts would be limited between now and 2024, the last year addressed in this Plan. Moreover, the relevant source categories that may be affected by increased gasoline production, transport, and usage: Oil and gas production (combustion), and petroleum production and marketing, collectively represent only 5.6 percent of the area's projected VOC emissions estimates and 0.02 percent of the area's projected NO_X emissions estimates for the relevant years.[56] As such, the anticipated small incremental increase in emissions from these upstream sources due to higher-than-expected gasoline consumption in the wake of SAFE Part 1 and SAFE Part 2 would be inconsequential from the standpoint of the RFP and attainment demonstrations in the Plan. Therefore, we find that the regulatory changes established by the SAFE Part 1 and Part 2 final rules do not undermine the RFP and attainment demonstrations in the Sacramento Metro Area Ozone SIP.

B. Emissions Statement

1. Statutory and Regulatory Requirements

Section 182(a)(3)(B)(i) of the Act requires states to submit a SIP revision requiring owners or operators of stationary sources of VOC or NO_X to provide the state with statements of actual emissions from such sources. Statements must be submitted at least every year and must contain a certification that the information contained in the statement is accurate to the best knowledge of the individual certifying the statement. Section 182(a)(3)(B)(ii) of the Act allows states to waive the emissions statement requirement for any class or category of stationary sources that emit less than 25 tons per year (tpy) of VOC or NO_X, if the state provides an inventory of emissions from such class or category of sources as part of the base year or periodic inventories required under CAA sections 182(a)(1) and 182(a)(3)(A), based on the use of emission factors established by the EPA or other methods acceptable to the EPA.

The preamble of the 2008 Ozone SRR states that if an area has a previously approved emissions statement rule for the 1997 ozone NAAQS or the 1-hour ozone NAAQS that covers all portions of the nonattainment area for the 2008 ozone NAAQS, such rule should be sufficient for purposes of the emissions statement requirement for the 2008 ozone NAAQS.[57] The state should review the existing rule to ensure it is adequate and, if so, may rely on it to meet the emissions statement requirement for the 2008 ozone NAAQS. Where an existing emissions statement requirement is still adequate to meet the requirements of this rule, states can provide the rationale for that determination to the EPA in a written statement in the SIP to meet this requirement. States should identify the various requirements and how each is met by the existing emissions statement program. Where an emissions statement requirement is modified for any reason, a state must provide the revision to the emissions statement as part of its SIP.

2. Summary of the State's Submission

The Districts in the Sacramento Metro Area have adopted and CARB has submitted emissions statement rules for incorporation into the California SIP. The EPA has reviewed and approved into the SIP the rules listed in Table 3.

[52] 84 FR 51310 (September 27, 2019) and 85 FR 24174 (April 30, 2020).

[53] Letter dated March 5, 2020, from Steven S. Cliff, Deputy Executive Officer, CARB, to Elizabeth Adams, Director, Air and Radiation Division, EPA, Region IX; includes enclosure, ''EMFAC Off-Model Adjustment Factors to Account for the SAFE Vehicles Rule Part One,'' November 20, 2019. CARB has determined that additional EMFAC adjustment factors for criteria pollutants are not needed in response to SAFE Part 2; CARB, ''EMFAC Off-Model Adjustment Factors for Carbon Dioxide (CO_2) Emissions to Account for the SAFE Vehicles Rule Part One and the Final SAFE Rule,'' June 26, 2020.

[54] Letter dated March 12, 2020, from Elizabeth J. Adams, Director, Air and Radiation Division, EPA Region IX, to Steven Cliff, Deputy Executive Officer, CARB.

[55] We estimated SAFE rule effects as follows: 2023 VOC and NO_X emissions increase 0.0115 and 0.0026 tons per day, respectively; 2024 VOC and NO_X emissions increase 0.0189 and 0.0047 tons per day, respectively.

[56] Total petroleum production and marketing VOC and NO_X emissions in the Sacramento Metro Area are estimated as follows: 4.72 tpd and 0.01 tpd in 2023, respectively; and, 4.62 tpd and 0.01 tpd in 2024, respectively. Total VOC and NO_X emissions in the Sacramento Metro Area are estimated as follows: 83.46 and 48.25 in 2023, respectively; and, 82.86 and 46.53, respectively. 2018 SIP Update, A–15 to A–18.

[57] 80 FR 12264, 12291 (March 6, 2015).

TABLE 3—EPA-APPROVED EMISSIONS STATEMENT RULES FOR THE SACRAMENTO METRO AREA

District	Rule No. and name	EPA approval date and cite
SMAQMD	Rule 105, Emission Statements	73 FR 32240, June 6, 2008.
EDCAQMD	Rule 1000, Emission Statement	69 FR 29880, May 26, 2004.
FRAQMD	Rule 4.8, Further Information	69 FR 29880, May 26, 2004.
YSAQMD	Rule 3.18, Emission Statements	69 FR 29880, May 26, 2004.
PCAPCD	Rule 503, Emission Statement	77 FR 72968, December 7, 2012.

The CARB Staff Report submitted with the 2017 Sacramento Regional Ozone Plan certified the submittal and EPA approval of the Districts' emissions statement rules and their applicability to the area.[58] CARB certified that these emissions statement rules are applicable to the area and the 75 ppb ozone standard because the nonattainment area boundaries have not changed since the EPA's approval of these rules and the reporting thresholds within the rules are appropriate.

3. The EPA's Review of the State's Submission

As noted above, the EPA has reviewed and approved the Districts' emissions statement rules as meeting the requirements of section 182(a)(3)(B) and incorporated them into the SIP. Also, although the emissions reporting requirements in these rules do not apply to permitted sources of emissions less than 10 or 25 tpy (depending on the subject rule), we note that such an exclusion is allowed under CAA section 182(a)(3)(B)(ii), so long as the state includes estimates of such class or category of stationary sources in base year emissions inventories and periodic inventories, submitted under CAA sections 182(a)(1) and 182(a)(3)(A), based on EPA emission factors or other methods acceptable to the EPA. The EPA has routinely approved emissions inventories developed by the Districts and CARB for the Sacramento Metro Area that include actual emissions estimates for all stationary sources or classes or categories of such sources, including those emitting less than the reporting thresholds within these emissions statement rules, and that such inventories provide the basis for inventories submitted to meet the requirements of CAA sections 182(a)(1) and 182(a)(3)(A). Most recently, we approved the base year emissions inventory for the 1997 8-hour ozone NAAQS on January 29, 2015.[59] Similarly, we are proposing approval of the base year inventory for the 2008 ozone NAAQS, as noted in the previous section. Therefore, for the reasons described above, we propose to approve the 2017 Sacramento Regional Ozone Plan as meeting the emissions statement requirements under CAA section 182(a)(3)(B).

C. Reasonably Available Control Measures Demonstration

1. Statutory and Regulatory Requirements

CAA section 172(c)(1) requires that each attainment plan provide for the implementation of all RACM as expeditiously as practicable (including such reductions in emissions from existing sources in the area as may be obtained through implementation of reasonably available control technology (RACT)) and for attainment of the NAAQS. For each nonattainment area required to submit an attainment demonstration, the 2008 Ozone SRR requires that the state concurrently submit a SIP revision showing that it has adopted all RACM necessary to demonstrate attainment as expeditiously as practicable and to meet any RFP requirements.[60]

The EPA has provided guidance interpreting the RACM requirement in the General Preamble for the Implementation of the Clean Air Act Amendments of 1990 (''General Preamble'') and in a memorandum entitled ''Guidance on the Reasonably Available Control Measure Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas.'' [61] In short, to address the requirement to adopt all RACM, states should consider all potentially reasonable control measures for source categories in the nonattainment area to determine whether they are reasonably available for implementation in that area and whether they would, if implemented individually or collectively, advance the area's attainment date by one year or more.[62] Any measures that are necessary to meet these requirements that are not either federally promulgated, or part of the state's SIP, must be submitted in enforceable form as part of the state's attainment plan for the area.

For ozone nonattainment areas classified as ''Moderate'' or above, CAA section 182(b)(2) also requires implementation of RACT for all major sources of VOC and for each VOC source category for which the EPA has issued a control techniques guideline (CTG). CAA section 182(f) requires that RACT under section 182(b)(2) also apply to major stationary sources of NO_X. In Severe-15 areas, a major source is a stationary source that emits or has the potential to emit at least 25 tpy of VOC or NO_X (see CAA section 182(d) and (f)). CARB has submitted separate SIP revisions to address these requirements for each of the Districts.[63] We are not addressing the section 182 RACT requirements in today's proposed rule.

2. Summary of the State's Submission

For the 2017 Sacramento Regional Ozone Plan, the Districts, SACOG, and CARB undertook collective and individual processes to identify and evaluate potential RACM that could contribute to expeditious attainment of the 2008 ozone NAAQS in the Sacramento Metro Area. We describe each agency's evaluation below.

a. The Districts' RACM Analysis

The Districts' RACM demonstration for the 2008 ozone NAAQS focuses on stationary and area source controls, and is described in Appendix E (''Reasonably Available Control

[58] CARB Staff Report, 7. The CARB Staff Report cites a June 6, 2006 rulemaking for SMAQMD Rule 105; while the **Federal Register** citation is correct, the correct date is June 6, 2008. The EPA's 2012 approval of PCAPCD Rule 503 provided in Table 3 is not cited by CARB.

[59] 80 FR 4795.

[60] 40 CFR 51.1112(c).

[61] General Preamble, 57 FR 13498, 13560 (April 16, 1992) and memorandum dated November 30, 1999, from John Seitz, Director, OAQPS, to Regional Air Directors, titled ''Guidance on the Reasonably Available Control Measure Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas.''

[62] Id. 44 FR 20372 (April 4, 1979), and memorandum dated December 14, 2000, from John S. Seitz, Director, OAQPS, to Regional Air Directors, titled ''Additional Submission on RACM from States with Severe 1-hour Ozone Nonattainment Area SIPs.''

[63] The EPA fully approved the submissions for EDCAQMD (83 FR 67696, December 31, 2018), FRAQMD (80 FR 38959, July 18, 2015), and PCAPCD (82 FR 38604, August 15, 2017). The EPA has not yet acted on the SMAQMD and YSAQMD submissions.

Measures (RACM) Analysis'') of the 2017 Sacramento Regional Ozone Plan. Appendix E contains summary analyses of all potential control measures for emissions reduction opportunities, as well as their economic and technological feasibility. As a first step in the RACM analysis, the Districts prepared a detailed inventory of emissions sources that emit VOC and NO_X to identify source categories from which emissions reductions would effectively contribute to attainment. Details on the methodology and development of this source category and control measure review are discussed in chapter 7 and appendix E of the 2017 Sacramento Regional Ozone Plan.[64]

The Districts' RACM analysis builds upon a foundation of the respective rules developed for earlier ozone plans and approved as part of the SIP, *e.g.,* the Sacramento 8-Hour Ozone Attainment Plan for the 1997 8-hour ozone standard. The Districts' rules listed in Tables E–1 to E–5 of the 2017 Sacramento Regional Ozone Plan establish emissions limits or other types of emissions controls for a wide range of sources, including use of solvents, refineries, gasoline storage, architectural coatings, spray booths, various types of commercial coatings, boilers, steam generators and process heaters, oil and gas production wells, and many more. These rules have already provided significant and ongoing reductions toward attainment of the 2008 ozone NAAQS by 2024.

To identify all potential RACM, staff from the Districts reviewed multiple sources of control measure information. These sources included past regional ozone plans, rules adopted between January 2006 and July 2013 by other California air quality management districts, the EPA's ''RACT/BACT/LAER Clearinghouse,'' [65] CARB's BACT Clearinghouse, the Bay Area AQMD's 2010 Clean Air Plan, the South Coast AQMD's 2012 Air Quality Management Plan, and rules from ozone nonattainment areas in other states, such as Houston-Galveston-Brazoria (Texas), Dallas-Fort Worth (Texas), and Baltimore (Maryland). Next, the Districts performed the RACM analyses for the stationary and areawide sources within their jurisdictions. For each potential RACM measure, Districts' staff estimated the emissions inventory, emissions reductions, and cost effectiveness. With this process, the Districts evaluated and analyzed all reasonable control measures that were available to include within the 2017 Sacramento Regional Ozone Plan. The Districts determined that emissions reductions associated with the evaluated control measures would not advance the area's attainment date or RFP because the emission reductions, in total, were either too small or unquantifiable.[66]

As discussed above, the Districts are required to make submittals addressing the CAA section 182(b)(2) requirement to implement RACT for all major sources of VOC and for each VOC source category for which the EPA has issued control techniques guidelines. CAA section 182(f) requires that RACT under section 182(b)(2) also apply to major stationary sources of NO_X. California has submitted the CAA section 182 RACT SIPs from the Districts, and the EPA has approved the submittals from EDCAQMD, FRAQMD, and PCAPCD. The CARB Staff Report, submitted with the 2017 Sacramento Regional Ozone Plan, identified commitments by SMAQMD and YSAQMD to submit or amend rules for several source categories to address the RACT SIP requirement.[67] As a result, the SMAQMD and YSAQMD adopted or amended the following stationary source rules: SMAQMD Rule 419 (''Miscellaneous Combustion Units''); SMAQMD Rule 468 (''Plastic Parts''); and YSAQMD Rule 2.29 (''Graphic Arts''). Subsequently, the State submitted these rules to the EPA in 2018 and 2019.[68] Within the 2017 Sacramento Regional Ozone Plan, the SMAQMD and YSAQMD evaluated these rules and/or the relevant source categories for RACM and found that controls applied to these sources would not individually or collectively advance the attainment date.[69] The control strategy for the Sacramento Metro Area Ozone SIP, overall, takes credit for emissions reductions from the Districts' stationary or area source rules adopted or amended before late 2015.[70] Consequently, any emission reductions after 2015 and associated with the later 2018 amendments to or adoption of these SMAQMD and YSAQMD rules to meet the CAA section 182(b)(2) requirement are not credited or incorporated within the attainment demonstration of the Sacramento Metro Area Ozone SIP. Accordingly, the EPA's approval of these three rules, submitted in 2018 and 2019, are not required for our proposed action on the Sacramento Metro Area Ozone SIP; however, our review and approval into the SIP of these local rules remain relevant for our action on the submitted RACT SIPs, in accordance with CAA section 182(b)(2).

b. Local Jurisdictions' RACM Analysis and Transportation Control Measures

The 2017 Sacramento Regional Ozone Plan's Appendix E–9 (''Sacramento Area Council of Governments (SACOG) Transportation Control Measures Considered''), contains the transportation control measures (TCMs) RACM component for the plan. This analysis was conducted by SACOG, the MPO for the Sacramento Metro Area region. In its initial analysis, SACOG conducted a comprehensive review of implemented TCMs in California and other states, measures and strategies from the Sacramento Region's 2009 Ozone SIP, and statewide and mobile source emissions reduction strategies, and identified almost 100 potential TCM measures. Of these, SACOG selected and analyzed 22 measures that were not already implemented in Sacramento Metro Area. These measures were assessed based on the criteria specified in the 2015 Ozone SRR and the EPA's RACT guidance, such as technical and economic feasibility, enforceability, local applicability, and the measures' ability to provide emission reductions before 2026 to advance attainment of the ozone standard. A summary of SACOG's findings for each measure is provided in Table E–6 of the 2017 Sacramento Regional Ozone Plan. Using the assessment criteria, SACOG concluded that none of the additional 22 measures that they identified were appropriate for implementation. Individual measures were economically infeasible, and when considered together, the 22 measures did not advance attainment of the ozone standard by one year. Based on this comprehensive review of TCM projects, SACOG determined that the TCMs being

[64] 2017 Sacramento Regional Ozone Plan, Appendix E provides the overall discussion, while tables E–1 through E–5 list the Districts' rules that were reviewed for RACM.

[65] LAER means lowest achievable emission rate. For more information on the RACT/BACT/LAER Clearinghouse, see *https://cfpub.epa.gov/RBLC/index.cfm?action=Home.Home&lang=en.*

[66] 2017 Sacramento Regional Ozone Plan, Appendix E and Tables E–1 through Table E–5. These tables present a list of the individual district rules and control measures evaluated by the Districts and a brief discussion of their respective conclusions for each district rule or source category.

[67] CARB Staff Report, 9.

[68] California submitted these rules to the EPA on the following dates: SMAQMD Rule 419 on August 15, 2018 and January 23, 2019; SMAQMD Rule 468 on May 18, 2018; and YSAQMD Rule 2.29 on August 15, 2018.

[69] 2017 Sacramento Regional Ozone Plan, Appendix E.4, Table E–1, and Appendix E.8, Table E–5.

[70] 2017 Sacramento Regional Ozone Plan, 5–11 and 7–12 to 7–14.

implemented in the Sacramento Metro Area are inclusive of all RACM.[71]

c. CARB's RACM Analysis

CARB's RACM analysis is contained in Appendix E–10 (''California Mobile Source Reasonably Available Control Measures Assessment'') of the 2017 Sacramento Regional Ozone Plan. This analysis provides a general description of CARB's existing mobile source programs. A more detailed description of these mobile source control programs, including comprehensive tables listing on- and off-road mobile source regulatory actions taken by CARB since as early as 1985, is contained in Section 7.2 of the 2017 Sacramento Regional Ozone Plan. Collectively, the Appendix E.10 RACM analysis and Section 7.2 contain CARB's evaluation of mobile source and other statewide control measures that reduce emissions of NO_X and VOC in the Sacramento Metro Area.

Within California, CARB has primary responsibility for reducing emissions in several state-wide source categories, including most new and existing on- and off-road engines and vehicles, motor vehicle fuels, and consumer products. Given the need for substantial emissions reductions from mobile and area sources to meet the NAAQS in California nonattainment areas, CARB has developed stringent control measures for on-road and off-road mobile sources and their related fuels. California has authority under CAA section 209 (subject to a waiver by the EPA) to adopt and implement new emission standards for many categories of on-road vehicles and engines, and new and in-use off-road vehicles and engines.

CARB's mobile source program extends beyond regulations that are subject to the waiver or authorization process set forth in CAA section 209 to include engine standards, gasoline and diesel fuel specifications, and other requirements to control emissions from in-use heavy-duty trucks and buses and many other types of mobile sources. Generally, these regulations have been submitted and approved as revisions to the California SIP.[72]

Based on the strength of the measures included in the current statewide mobile source program, and the extensive public process involved in developing that program, CARB concluded that there are no additional RACM that would further advance attainment of the 2008 ozone NAAQS in the Sacramento Metro Area, and as a result, that California's mobile source programs fully meet the RACM requirement.[73]

3. The EPA's Review of the State's Submission

As described above, collectively, the Districts already implement many rules to reduce VOC and NO_X emissions from stationary and area sources in the Sacramento Metro Area. For the Sacramento Metro Area Ozone SIP, the Districts evaluated a wide range of potentially available measures. We find that the process followed by the Districts and described in the 2017 Sacramento Regional Ozone Plan to identify additional RACM is generally consistent with the EPA's recommendations in the General Preamble, that the Districts' evaluation of potential measures to be appropriate, and that the Districts have provided reasoned justifications that additional measures would not advance attainment. Regarding TCMs, we find that SACOG's process for identifying additional TCM RACM and conclusion that the TCMs being implemented in the Sacramento Metro Area (identified in Section 7.7 and Table E–6 of the 2017 Sacramento Regional Ozone Plan), are inclusive of all TCM RACM that are reasonably justified and supported.

With respect to mobile sources, CARB's current program addresses the full range of mobile sources in the Sacramento Metro Area through regulatory programs for both new and in-use vehicles. We find that the process conducted by CARB, as described in Appendix E.10, was reasonably designed to identify additional available measures within CARB's jurisdiction, and that CARB has adopted those measures that are reasonably available.

Based on our review of these RACM analyses and the Districts' and CARB's adopted rules, we propose to find that there are, at this time, no additional RACM that would further advance attainment of the 2008 ozone NAAQS in the Sacramento Metro Area. For the foregoing reasons, we propose to find that the Sacramento Metro Area Ozone SIP provides for the implementation of all RACM as required by CAA section 172(c)(1) and 40 CFR 51.1112(c).

If finalized, this finding under CAA section 172(c)(1) does not affect the State's and the EPA's continuing obligation under CAA sections 182(b)(2) and (f) and 40 CFR 51.905(a)(1)(ii) to implement RACT on all major sources and all CTG source categories.

D. Attainment Demonstration

1. Statutory and Regulatory Requirements

An attainment demonstration consists of the following: (1) Technical analyses, such as base year and future year modeling, to locate and identify sources of emissions that are contributing to violations of the ozone NAAQS within the nonattainment area (*i.e.,* analyses related to the emissions inventory for the nonattainment area and the emissions reductions necessary to attain the standard); (2) a list of adopted measures (including RACT controls) with schedules for implementation and other means and techniques necessary and appropriate for demonstrating RFP and attainment as expeditiously as practicable but no later than the outside attainment date for the area's classification; (3) a RACM analysis; and, (4) contingency measures required under sections 172(c)(9) and 182(c)(9) of the CAA that can be implemented without further action by the state or the EPA to cover emissions shortfalls in RFP plans and failures to attain.[74] This subsection of today's proposed rule addresses the first two components of the attainment demonstration—the technical analyses and a review of adopted measures. Section III.C (''Reasonably Available Control Measures Demonstration'') of this document addresses the RACM component, and section III.G (''Contingency Measures'') addresses the contingency measures component of the attainment demonstration in the Sacramento Metro Area Ozone SIP.

With respect to the technical analyses, section 182(c)(2)(A) of the CAA requires that a plan for an ozone nonattainment area classified Serious or above include a ''demonstration that the plan . . . will provide for attainment of the ozone [NAAQS] by the applicable attainment date. This attainment demonstration must be based on photochemical grid modeling or any other analytical method determined . . . to be at least as effective.'' The attainment demonstration predicts future ambient concentrations for comparison to the NAAQS, making use of available information on measured

[71] 2017 Sacramento Regional Ozone Plan, 7–16 and Appendix E–9, E–33.

[72] See, *e.g.,* 77 FR 20308 (April 4, 2012), the EPA's approval of standards and other requirements to control emissions from in-use heavy-duty diesel-powered trucks; 75 FR 26653 (May 12, 2010), revisions to the California on-road reformulated gasoline and diesel fuel regulations; and, 75 FR 38023 (July 1, 2010), revisions to the California motor vehicle inspection and maintenance program.

[73] 2017 Sacramento Regional Ozone Plan, Appendix E.10, E–37. CARB's 2016 Mobile Source Strategy and the public process they conducted for this submittal is referenced in the appendix at footnote 2, E–34.

[74] 78 FR 34178, 34184 (June 6, 2013), the EPA's proposed rule for implementing the 2008 ozone NAAQS.

concentrations, meteorology, and current and projected emissions inventories of ozone precursors, including the effect of control measures in the plan. Areas classified Severe-15 for the 2008 ozone NAAQS must demonstrate attainment as expeditiously as practicable, but no later than 15 years after the effective date of designation as nonattainment. The Sacramento Metro Area was designated nonattainment for the 2008 ozone NAAQS effective July 20, 2012,[75] and accordingly must demonstrate attainment of the standards by no later than July 20, 2027.[76] An attainment demonstration must show attainment of the standards for a full calendar year before the attainment date, so in practice, Severe-15 nonattainment areas must demonstrate attainment no later than 2026.

The EPA's recommended procedures for modeling ozone as part of an attainment demonstration are contained in ''Modeling Guidance for Demonstrating Attainment of Air Quality Goals for Ozone, $PM_{2.5}$, and Regional Haze'' (''Modeling Guidance'').[77] The Modeling Guidance includes recommendations for a modeling protocol, model input preparation, model performance evaluation, use of model output for the numerical NAAQS attainment test, and modeling documentation. Air quality modeling is performed using meteorology and emissions from a base year, and the predicted concentrations from this base case modeling are compared to air quality monitoring data from that year to evaluate model performance. Once the model performance is determined to be acceptable, future year emissions are simulated with the model. The relative (or percent) change in modeled concentration due to future emissions reductions provides a relative response factor (RRF). Each monitoring site's RRF is applied to its monitored base year design value to provide the future design value for comparison to the NAAQS. The Modeling Guidance also recommends supplemental air quality analyses, which may be used as part of a weight of evidence (WOE) analysis. A WOE analysis corroborates the attainment demonstration by considering evidence other than the main air quality modeling attainment test, such as trends and additional monitoring and modeling analyses.

The Modeling Guidance also does not require a particular year to be used as the base year for 8-hour ozone plans.[78] The Modeling Guidance states that the most recent year of the National Emissions Inventory may be appropriate for use as the base year for modeling, but that other years may be more appropriate when considering meteorology, transport patterns, exceptional events, or other factors that may vary from year to year.[79] Therefore, the base year used for the attainment demonstration need not be the same year used to meet the requirements for emissions inventories and RFP.

For a more detailed discussion of photochemical modeling guidance recommendations, please see the technical support document (TSD) provided in the docket for this proposal.

With respect to the list of adopted measures, CAA section 172(c)(6) requires that nonattainment area plans include enforceable emissions limitations, and such other control measures, means or techniques (including economic incentives such as fees, marketable permits, and auctions of emission rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to provide for timely attainment of the NAAQS.[80] Under the 2008 Ozone SRR, all control measures needed for attainment must be implemented no later than the beginning of the attainment year ozone season.[81] The attainment year ozone season is defined as the ozone season immediately preceding a nonattainment area's maximum attainment date; in the case of the Sacramento Metro area, the attainment year is 2026.[82]

2. Summary of the State's Submission

a. Photochemical Modeling

CARB performed the air quality modeling for the Sacramento Metro Area Ozone SIP with assistance from the Districts and has included documentation of this modeling within the 2017 Sacramento Regional Ozone Plan and the CARB Staff Report. The modeling relies on a 2012 base year and projects design values for 2022 and 2026. As discussed below, CARB also included an interpolation of NO_X emissions to estimate the design value in the attainment year 2024. The attainment plan's modeling protocol is in Appendix B–3 of the 2017 Sacramento Regional Ozone Plan and contains all the elements recommended in the Modeling Guidance.

The modeling and modeled attainment demonstration are described in Chapter 6 of the 2017 Sacramento Regional Ozone Plan and in more detail in Appendix B–4, which provides a description of model input preparation procedures and various model configuration options. Appendix B–5 of the 2017 Sacramento Regional Ozone Plan provides the coordinates of the modeling domain and thoroughly describes the development of the modeling emissions inventory, including its chemical speciation, its spatial and temporal allocation, its temperature dependence, and quality assurance procedures. The modeling analysis used version 5 of the Community Multiscale Air Quality (CMAQ) photochemical model developed by the EPA. To prepare meteorological input for CMAQ, CARB used the Weather and Research Forecasting model version 3.6 (WRF) from the National Center for Atmospheric Research. The WRF modeling uses routinely available meteorological and air quality data collected during 2012. Those data cover May through September, a period that spans the period of highest ozone concentrations in the Sacramento Metro Area. CMAQ and WRF are both recognized in the Modeling Guidance as technically sound, state-of-the-art models. The areal extent and the horizontal and vertical resolution used in these models were adequate for modeling Sacramento Metro Area ozone.

The WRF meteorological model results and performance statistics are described in Appendix B–4.[83] There is a slight underprediction of wind speeds and overprediction of temperatures in the eastern portion of the nonattainment area; but overall, modeled wind speed, temperature and relative humidity all track observations well, as shown in scatter and time series plots. The modeling was able to replicate some important meteorological features such as the bifurcation of the delta breeze from the ocean into northern and

[75] 77 FR 30088 (May 21, 2012).

[76] 80 FR 12264 (March 6, 2015).

[77] ''Modeling Guidance for Demonstrating Attainment of Air Quality Goals for Ozone, $PM_{2.5}$, and Regional Haze,'' EPA 454/R–18–009; available at *https://www.epa.gov/scram/state-implementation-plan-sip-attainment-demonstration-guidance.* See also December 2014 draft of this guidance, available at *https://www3.epa.gov/ttn/scram/guidance/guide/Draft-O3-PM-RH-Modeling_Guidance-2014.pdf.* The December 2014 draft guidance was available during development of the Plan; the final version differs mainly in organization, and in updates to the regional haze portion and to other document references. Additional EPA modeling guidance can be found in 40 CFR 51 Appendix W, *Guideline on Air Quality Models,* 82 FR 5182 (January 17, 2017); available at *https://www.epa.gov/scram/clean-air-act-permit-modeling-guidance.*

[78] Modeling Guidance at section 2.7.1, 35.

[79] Id.

[80] See also CAA section 110(a)(2)(A).

[81] 40 CFR 51.1108(d).

[82] 40 CFR 51.1100(h).

[83] Appendix B–4, section 3.2, B–125; also, refer to supplemental figures S.1–S.15 at B–166.

southern branches, and afternoon upslope flows in the Sierra Nevada foothills. The 2017 Sacramento Regional Ozone Plan states that the bias and error are relatively small and are comparable to those seen in previous meteorological modeling of central California and cited in the 2017 Sacramento Regional Ozone Plan. In summary, the 2017 Sacramento Regional Ozone Plan's meteorological modeling performance statistics appear satisfactory.

Ozone model performance statistics are described in the 2017 Sacramento Regional Ozone Plan at Appendix B–4.[84] It includes tables of statistics recommended in the Modeling Guidance for 8-hour and 1-hour daily maximum ozone concentrations, for the whole nonattainment area and for three Sacramento Metro Area subregions (*i.e.,* western, central, and eastern. There is a slight negative bias (underprediction) for the central and eastern subregions. Because only the relative response to emissions changes from the modeling is used, note that the underprediction of absolute ozone concentrations does not mean that future concentrations will be underestimated. The 2017 Sacramento Regional Ozone Plan found the statistics to be within the ranges for other modeling applications, at the low end of the distribution for error and bias. The Plan's supplemental figures with hourly time series show generally good performance; although some individual daily ozone peaks are missed, for each site there are days for which the modeled highest concentration is close to the value of the highest observed concentration.

As noted in the 2017 Sacramento Regional Ozone Plan's modeling protocol, the Modeling Guidance recognizes that limited time and resources can constrain the extent of the diagnostic and dynamic evaluation of model performance undertaken.[85] The 2017 Sacramento Regional Ozone Plan describes a dynamic evaluation [86] in which model predictions of ozone concentrations for weekdays and weekends were compared to each other and to observed concentrations. This evaluation provides useful information on how well the model simulates the effect of emissions changes, since NO_X emissions are lower on weekends than on weekdays, but otherwise similar. The model-predicted ozone reduction on weekends tends to match the observed ozone reduction; this match lends confidence to the modeling. The modeled weekend response is also consistent with an independent study [87] that examined the frequency of ozone exceedance days over 2001–2007 and the NO_X emission reductions during the same period. The study concluded the NO_X reductions were effective at reducing ozone throughout the entire Sacramento urban ozone plume (*i.e.,* downwind and northeast of urban Sacramento, within the nonattainment area), which exhibits ''NO_X-limited'' ozone chemistry except in the urban core, and is expected to transition to NO_X-limited conditions everywhere in the nonattainment area as NO_X emissions continue to decline.[88] The Plan also contains results of an analysis of weekday and weekend ozone concentrations during the 2000–2014 period. It notes a shift over the years toward lower ozone on weekends, especially after 2010, showing that lower NO_X emissions lead to lower ozone concentrations.[89] Both the modeling and the observed weekday-weekend trends throughout the Sacramento Metro Area show that ozone responds to NO_X emission reductions, *i.e.,* that ozone formation is NO_X-limited.

After model performance for the 2012 base case was accepted, the model was applied to develop RRFs for the attainment demonstration.[90] This entailed running the model with the same meteorological inputs as before, but with adjusted emissions inventories to reflect the expected changes between the 2012 base year and the 2022 and 2026 future years. These modeling inventories excluded ''emissions events which are either random and/or cannot be projected to the future . . . wildfires, and events such as the [San Francisco Bay Area] Chevron refinery fire.'' [91] The future inventories project the base year with these exclusions into the future by including the effect of economic growth and emissions control measures.

The 2017 Sacramento Regional Ozone Plan carried out the attainment test procedure consistent with the Modeling Guidance. The RRFs were calculated as the ratio of future to base year concentrations; these were then applied to 2012 weighted base year design values for each monitor to arrive at future year design values.[92] The highest 2022 ozone design value is 75.2 ppb, which occurs at the Folsom Natoma Street site, and just barely meets the level of the 2008 8-hour ozone NAAQS of 0.075 ppm.[93] The highest 2026 ozone design value is 70.7 ppb at the same monitoring site, and is well below the NAAQS.

As discussed in chapter 8 of the 2017 Sacramento Regional Ozone Plan, the reduction per year needed from the monitored design value of 83 in 2016 to the projected 75 in 2022 was roughly twice the reduction per year seen during 2010–2016. Given the uncertainty posed by the magnitude of the reductions necessary to reach this level by 2022 relative to the historic rate of reduction, and the fact that 2022 design values would achieve the standard by only a very small margin, the Districts determined that a 2024 attainment year would be more appropriate, while still representing an ambitious target for expeditious attainment in advance of the statutory outermost deadline for attainment.[94] Since modeling was not available for year 2024, the plan interpolated between the 2022 and 2026 modeling results, on the basis of projected NO_X emissions. The Plan's discussion of the weekend-weekday

[84] Appendix B–4, section 5.2, B–139; also, refer to supplemental figures S.16–S.69, B–182.

[85] 2017 Sacramento Regional Ozone Plan, Appendix B–3 (''Modeling Protocol''), B–76; Modeling Guidance, 63.

[86] See ''Diagnostic Evaluation'' in Appendix B–4 section 5.2.1, B–146.

[87] La Franchi et al., ''Observations of the temperature dependent response of ozone to NO_X reductions in the Sacramento, CA urban plume,'' *Atmospheric Chemistry and Physics,* 11, 6945–6960, doi:10.5194/acp–11–6945–2011, 2011; described in Appendix B, B–150.

[88] The term ''NO_X-limited'' can mean either that reducing NO_X emissions decrease ozone (as opposed to increasing it); or that reducing NO_X is much more effective at decreasing ozone than is reducing VOC. Both are true in this case; as discussed below, ambient Sacramento Metro Area ozone responds only weakly to VOC reductions. The NO_X-limited ozone regime in the Sacramento Metro Area is discussed in Plan Appendix B. See, *e.g.,* B–147 through B–150 (comparing weekend-weekday concentrations); B–150 through B–152; B–157 through B–158. The issue is also discussed in the CARB Staff Report Appendix B, B–17 and B–36.

[89] 2017 Sacramento Regional Ozone Plan, Appendix B, B–149.

[90] 2017 Sacramento Regional Ozone Plan, section 6.8, 6–10, and Appendix B–4, section 5.3, B–150.

[91] 2017 Sacramento Regional Ozone Plan, Appendix B–3 (''Modeling Protocol''), B–78; and, Appendix B–5 (''Modeling Emissions Inventory''), B–259. To include the fires in the base year but not the future year would effectively credit the Plan's control measures with eliminating emissions from the fire.

[92] 2017 Sacramento Regional Ozone Plan, Table 6–2 and Appendix B–4, Table 13, B–151.

[93] The Modeling Guidance recommends that RRFs be applied to the average of three three-year design values centered on the base year, in this case the design values for 2010–2012, 2011–2013, and 2012–2015. This amounts to a 5-year weighted average of individual year 4th high concentrations, centered on the base year of 2012, and so is referred to as a weighted design value. 75.2 ppb is equivalent to 0.0752 ppm, which is truncated to 0.075 ppm according to the data handling conventions of 40 CFR 50 Appendix P.

[94] 2017 Sacramento Regional Ozone Plan, 8–2. Here, the year 2024 is discussed for modeling purposes. As noted earlier, the effective attainment date for a determination of attainment is December 31, 2024 if we approve this attainment demonstration as we propose.

differences, described above, notes that the area's ozone formation is NO_X-limited, so NO_X emissions are a reasonable basis for interpolation. The interpolation is a form of a scaling of model results and has been done for previous EPA-approved plans.[95] The interpolation gives a 2024 design value estimate of 72.1 ppb, corresponding to 0.072 ppm, which is below the 2008 8-hour ozone NAAQS of 0.075 ppm, and therefore demonstrates attainment in 2024.[96]

Finally, the 2017 Sacramento Regional Ozone Plan modeling includes an ''Unmonitored Area Analysis'' (UAA) to assess whether locations without a monitor are able to reach attainment; the standard attainment test procedure covers only locations with a monitor.[97] The Modeling Guidance describes a procedure utilizing ''gradient adjusted spatial fields,'' as well as the EPA software used to carry it out.[98] This procedure uses a form of interpolation, combining monitored concentrations and modeled gradients (modeled changes in concentration with distance from a monitor) to estimate future concentrations at locations without a monitor. The 2017 Sacramento Regional Ozone Plan describes an UAA carried out using software developed by CARB and implemented in ''R,''[99] using a procedure virtually the same as that outlined in the Modeling Guidance. The 2017 Sacramento Regional Ozone Plan states that the 2026 results showed concentrations below 70 ppb for all locations except for one grid square at Folsom Lake; the Plan notes that this was likely an artifact of too-low mixing heights, a known problem over water. Because the results are well below the 2008 ozone NAAQS level of 75 ppb, the UAA supports the demonstration that all locations in the Sacramento Metro Area will attain the NAAQS by 2024.

In addition to the formal attainment demonstration, the plan also contains a WOE analysis within Appendix B to the CARB Staff Report. It mainly shows the long-term downward trends that continue through 2015, the latest year available prior to 2017 Sacramento Regional Ozone Plan development. Downward trends are demonstrated for measured ozone concentrations, number of days above the ozone NAAQS, geographic area and population exposed to concentrations above the NAAQS, and emissions of the ozone precursors NO_X and VOC. These all show the substantial air quality progress made in the Sacramento Metro Area and add support to the attainment demonstration for 2024.

The 2017 Sacramento Regional Ozone Plan includes an additional attainment demonstration using ''banded'' RRFs; the EPA also considers this to be part of the WOE.[100] The banded approach is described more fully in a study cited in the 2017 Sacramento Regional Ozone Plan, and also cited in the Modeling Guideline as an alternative RRF approach.[101] The banded RRF approach divides ozone concentrations into ranges or bands and computes a specific RRF for each band. This allows different ozone concentrations to respond differently to emission changes, a refinement on the standard approach. In this case, the banded approach increased design values for some monitors and decreased them for others; for Folsom, the site with the highest 2026 design value, the design value decreased from 75.2 ppb to 69.0 ppb. This more refined approach provides corroboration for the attainment demonstration and suggests that the analysis was done conservatively.

b. Control Strategy for Attainment

The control strategy for attainment of the 2008 ozone NAAQS in the 2017 Sacramento Regional Ozone Plan relies primarily on emissions reductions from control measures that have been adopted by the Districts and CARB prior to the submittal of the plan. Local stationary and area source emissions reductions come from baseline (*i.e.,* already-adopted) control measures.[102] Overall, nearly all of the emissions reductions that the control strategy relies upon are expected to come from already-adopted and EPA-approved state on- and off-road mobile source control measures, which are discussed in section III.C of this document.[103] For the 2008 ozone NAAQS, already-adopted control measures from the Districts and CARB are expected to achieve almost all of the reductions needed from the 2012 base year to attain the 2008 NAAQS in 2024. As tables 4 and 5 show, the vast majority of emissions reductions relied upon by the Plan's control strategy are from the on- and off-road mobile source inventory and can be largely attributed to control measures adopted by CARB, subsequently approved by the EPA, and cited in detail in Section III.C.[104]

TABLE 4—2012 AND 2024 VOLATILE ORGANIC COMPOUND (VOC) EMISSIONS FOR THE SACRAMENTO METRO AREA

[Summer planning inventory, tpd]

Source category	2012	2024	Emissions difference from 2012 to 2024	Percentage of total emission reductions
Stationary Sources	22	23	+1	−4
Area Sources	29	31	+2	−8
On-Road Mobile Sources	34	14	−20	77
Other Mobile Sources	26	17	−9	35
Total	110	84	−26	100

Source: 2017 Sacramento Regional Ozone Plan, Chapter 5, Table 5–1. The sum of the emissions values may not equal the total shown due to rounding. Percentage reductions are calculated against net total of gross reductions.

[95] San Joaquin Valley ''phase 2'' plan for the 2008 ozone NAAQS, 83 FR 61346 (November 29, 2018), and revisions to the San Joaquin Valley plan for the 1997 ozone NAAQS, 77 FR 12652 (March 1, 2012).

[96] 2017 Sacramento Regional Ozone Plan, 8–4.

[97] 2017 Sacramento Regional Ozone Plan, Appendix B–4, section 5.4.

[98] Modeling Guidance section 4.7.

[99] The R Project for Statistical Computing, *https://www.r-project.org.*

[100] 2017 Sacramento Regional Ozone Plan Appendix B–4, section 5.5, and Appendix B–3, section 8.2.

[101] Modeling Guidance, 103.

[102] 2017 Sacramento Regional Ozone Plan, Sections 7.3, 7.4, and 7.5, 7–12 to 7–14.

[103] 2017 Sacramento Regional Ozone Plan, Section 7.2, 7–1 to 7–14.

[104] 2017 Sacramento Regional Ozone Plan, 5–13, Figures 5–8 and 5–9 show VOC and NO_X emission reductions by source category over time.

TABLE 5—2012 AND 2024 OXIDES OF NITROGEN (NO_X) EMISSIONS FOR THE SACRAMENTO METRO AREA

[Summer planning inventory, tpd]

Source category	2012	2024	Emissions difference from 2012 to 2024	Percentage of total emission reductions
Stationary Sources	8	7	−1	2
Area Sources	3	2	−1	2
On-Road Mobile Sources	61	19	−42	81
Other Mobile Sources	30	21	−9	17
Total	101	49	−52	100

Source: 2017 Sacramento Regional Ozone Plan, Chapter 5, Table 5–2. The sum of the emissions values may not equal the total shown due to rounding.

c. Attainment Demonstration

Chapter 8 of the Plan describes the attainment demonstration in general terms, including photochemical modeling results, and the process for selecting and demonstrating a 2024 attainment year, while Appendix B to the Plan provides more detail concerning photochemical modeling. Other aspects of this demonstration are included throughout the Plan, including emissions inventory forecasts included in section 5.5 and the control strategy described in Chapter 7. The WOE analysis in Appendix B to the CARB Staff Report includes additional supporting information to complement the photochemical modeling and to provide context for this attainment demonstration, such as analyses of anthropogenic emission, ambient ozone data, and meteorological analyses. Table 6 below summarizes the attainment demonstration for the 2008 ozone NAAQS by listing the base year (2012) emissions level, the modeled attainment emissions level, and the total reductions that the District and CARB estimate to achieve through baseline control measures and accounting for growth. Baseline measures are expected to reduce base year (2012) emissions of NO_X by 51 percent and VOC emissions by 24 percent by the 2024 attainment year, notwithstanding growth and the emission reduction credit (ERC) balance, and to attain the 2008 ozone NAAQS in the Sacramento Metro Area by 2024, two years ahead of the required attainment year, 2026.

TABLE 6—SUMMARY OF SACRAMENTO METRO AREA 2008 OZONE NAAQS ATTAINMENT DEMONSTRATION

[Summer planning inventory, tpd]

	NO_X	VOC
2012 Base Year Emissions Level (A)	101	110
2024 Modeled Attainment Emissions Level (B)	49	84
Total Reductions Needed from 2012 Base Year Levels to Demonstrate Attainment (A − B)	52	26
Reductions from Baseline (i.e., adopted) Measures, net of growth and excluding ERC balance	52	26
2024 Emissions with Reductions from Baseline Control Strategy (compare to Row B)	49	84
Attainment demonstrated?	Yes	Yes

Notes and sources: 2017 Sacramento Regional Ozone Plan, Figure 5–8 and 5–9, 5–3.

3. The EPA's Review of the State's Submission

a. Photochemical Modeling

The interpolation of 2022 and 2026 modeling results to estimate the 2024 design value assumed that only NO_X emissions needed to be considered; it was assumed that small changes in VOC emissions have a negligible effect on ozone. That assumption is supported by the ozone isopleth diagram in the Plan showing the ozone results from modeling various combinations of NO_X and VOC reductions.[105] Its lines of constant ozone are nearly parallel to the VOC axis; that is, ozone is about the same for the whole range of VOC emissions levels, and ozone changes very little with VOC emissions reductions. Conversely, the lines are nearly perpendicular to the NO_X axis, indicating ozone varies strongly with NO_X emissions levels. This illustrates the ozone formation is not just NO_X-limited (responsive to NO_X emissions changes), but also far more sensitive to emissions changes in NO_X than VOC. On a percentage basis, ozone is about 14 times as sensitive to NO_X reductions than to VOC reductions; on a tons per year basis, it is about 24 times as sensitive. Nevertheless, the isopleth diagram shows there is some modeled sensitivity to VOC change, so the EPA used it to estimate a 2024 design value, as an alternative to the Plan's interpolation approach. The methodology used is discussed in the TSD, which applies the modeled sensitivity from the 2026 isopleth diagram to the NO_X and VOC emissions differences between 2026 and 2024, to arrive at an ozone difference between 2026 and 2024. The result was a 2024 design value of 72.7 ppb, about 0.6 ppb higher than the Plan's estimate, but still well below the 75 ppb NAAQS. The difference is due mainly to the different simplifying assumptions used in the two approaches, rather than to the inclusion of the effect of VOC, which by itself resulted in an impact of only 0.03 ppb. The results corroborate the Plan's attainment demonstration, including the assumption that VOC emissions changes have little effect on ozone concentrations.[106]

[105] Plan Appendix B–4, Figure 16, p. B–158.

[106] The relative sensitivity of ozone to NO_X and VOC and the alternative 2024 design value are discussed in ''Assessment of Sacramento Metro NAA Conformity Motor Vehicle Emissions Budget Consistency with O_3 NAAQS Attainment,'' draft

The modeling shows that existing control measures from CARB and the Districts are sufficient to attain the 2008 8-hour ozone NAAQS by 2024 at all monitoring sites in the Sacramento Metro Area. Because the Plan properly incorporates all modeling and input preparation procedures, tests, and performance analyses called for in the modeling protocol, demonstrates good model performance, and responds to emission changes consistent with observations, the EPA finds that the photochemical modeling is adequate for purposes of supporting the attainment demonstration.

b. Control Strategy for Attainment

As discussed above, the Sacramento Metro Area Ozone SIP relies on state and locally adopted baseline control measures, *i.e.,* already-adopted control measures, to achieve the emissions reductions needed to attain the 2008 ozone NAAQS by 2024. As shown in Tables 4–6 and discussed in Section III.C, the Sacramento Metro Area Ozone SIP relies on these measures to achieve all the emissions reductions needed to attain the 2008 ozone NAAQS by 2024. These baseline measures are approved into the SIP and, as such, are fully creditable within the attainment demonstration analysis. Accordingly, we propose to find that the emissions reductions that are relied on for attainment are creditable and sufficient to provide for attainment.

c. Attainment Demonstration

The Plan followed the modeling procedures recommended in the EPA's Modeling Guidance and showed excellent performance in simulating observed ozone concentrations in the 2012 base year; the TSD discusses the modeling in detail. Given the extensive discussion of modeling procedures, tests, and performance analyses called for in the modeling protocol, the good model performance, and the model response to emissions changes consistent with observations, the EPA finds that the modeling is adequate for purposes of supporting the attainment demonstration. Based on our review of the Plan and our proposed findings that the photochemical modeling and control strategy are acceptable and demonstrate attainment by the applicable attainment date, we propose to approve the attainment demonstration for the 2008 ozone NAAQS in the Sacramento Metro Area Ozone SIP as meeting the requirements of CAA section 182(c)(2)(A) and 40 CFR 51.1108.

E. Rate of Progress Plan and Reasonable Further Progress Demonstration

1. Statutory and Regulatory Requirements

Requirements for RFP for ozone nonattainment areas are specified in CAA sections 172(c)(2), 182(b)(1), and 182(c)(2)(B). Under CAA section 171(1), RFP is defined as meaning such annual incremental reductions in emissions of the relevant air pollutant as are required under part D (''Plan Requirements for Nonattainment Areas'') of the CAA or as may reasonably be required by the EPA for the purpose of ensuring attainment of the applicable NAAQS by the applicable date. CAA section 182(b)(1) specifically requires that ozone nonattainment areas that are classified as Moderate or above demonstrate a 15 percent reduction in VOC between the years of 1990 and 1996. The EPA has typically referred to section 182(b)(1) as the rate of progress (ROP) requirement. For ozone nonattainment areas classified as Serious or higher, section 182(c)(2)(B) requires VOC reductions of at least 3 percent of baseline emissions per year, averaged over each consecutive 3-year period, beginning 6 years after the baseline year until the attainment date. CAA section 182(c)(2)(B)(ii) allows an amount less than 3 percent of such baseline emissions each year if the state demonstrates to the EPA that the plan includes all measures that can feasibly be implemented in the area in light of technological achievability. Additionally, under CAA section 182(c)(2)(C), a state may substitute NO_X emissions reductions for VOC emissions reductions.

In the 2008 Ozone SRR, the EPA provides that an area classified Moderate or higher will have met the ROP requirements of CAA section 182(b)(1) if the area has a fully approved 15 percent ROP plan for the 1-hour or 1997 8-hour ozone standards, provided the boundaries of the ozone nonattainment areas are the same.[107] For such areas, the EPA interprets the RFP requirements of CAA section 172(c)(2) to require areas classified as Moderate to provide a 15 percent emissions reduction of ozone precursors within 6 years of the baseline year. Areas classified as Serious or higher must meet the RFP requirements of CAA section 182(c)(2)(B) by providing an 18 percent reduction of ozone precursors in the first 6-year period, and an average ozone precursor emissions reduction of 3 percent per year for all remaining 3-year periods thereafter.[108] To meet CAA sections 172(c)(2) and 182(c)(2)(B) RFP requirements, a state may substitute NO_X emissions reductions for VOC reductions.[109]

Except as specifically provided in CAA section 182(b)(1)(C), emissions reductions from all SIP-approved, federally promulgated, or otherwise SIP-creditable measures that occur after the baseline year are creditable for purposes of demonstrating that the RFP targets are met. Because the EPA has determined that the passage of time has caused the effect of certain exclusions to be de minimis, the RFP demonstration is no longer required to calculate and specifically exclude reductions from measures related to motor vehicle exhaust or evaporative emissions promulgated by January 1, 1990; regulations concerning Reid vapor pressure promulgated by November 15, 1990; measures to correct previous RACT requirements; and, measures required to correct previous inspection and maintenance (I/M) programs.[110]

The 2008 Ozone SRR requires the RFP baseline year to be the most recent calendar year for which a complete triennial inventory was required to be submitted to the EPA. For the purposes of developing RFP demonstrations for the 2008 ozone NAAQS, the applicable triennial inventory year is 2011. As discussed above, the 2008 Ozone SRR provided states with the opportunity to use an alternative baseline year for RFP,[111] but this provision was vacated by the D.C. Circuit in the *South Coast II* decision.

2. Summary of the State's Submission

In response to the *South Coast II* decision, CARB developed the 2018 SIP Update, which replaces the RFP portion of the 2017 Sacramento Regional Ozone Plan and includes updated emissions estimates for the RFP baseline year, subsequent milestone years, and the attainment year, and an updated RFP demonstration relying on a 2011 RFP baseline year.[112] To develop the 2011 RFP baseline inventory, CARB relied on actual emissions reported from industrial point sources for year 2011 and back-cast emissions from smaller stationary sources and area sources from 2012 to 2011 using the same growth and

August 7, 2020, EPA Region IX, within the docket for this proposed rulemaking.

[107] 80 FR 12264, 12271 (March 6, 2015).

[108] Id.

[109] 40 CFR 51.1110(a)(2)(i)(C) and 40 CFR 51.1110(a)(2)(ii)(B); 80 FR 12264, 12271 (March 6, 2015).

[110] 40 CFR 51.1110(a)(7).

[111] 40 CFR 51.1110(b).

[112] 2018 SIP Update, Section V.B. Reasonable Further Progress, 28–30.

control factors as was used for the 2017 Sacramento Regional Ozone Plan. To develop the emissions inventories for the RFP milestone years (*i.e.,* 2017, 2020, 2023) and attainment year (*i.e.,* 2024), CARB also relied upon the same growth and control factors as the 2017 Sacramento Regional Ozone Plan. The 2018 SIP Update emissions estimates reflect District rules adopted and submitted to CARB through November 2015 and CARB rules adopted through December 2014.[113]

Documentation for the Sacramento Metro Area RFP baseline and milestone emissions inventories is found in the 2018 SIP Update.[114] The updated RFP demonstration for the Sacramento Metro Area for the 2008 ozone NAAQS is shown in Table 7. This demonstration calculates future year VOC targets from the 2011 baseline, consistent with CAA 182(c)(2)(B)(i), which requires reductions of ''at least 3 percent of baseline emissions each year,'' and it substitutes NO_X reductions for VOC reductions beginning in milestone year 2020 to meet VOC emission targets.[115] For the Sacramento Metro Area, CARB concludes that the RFP demonstration meets the applicable requirements for each milestone year as well as the attainment year.[116]

TABLE 7—RFP DEMONSTRATION FOR THE SACRAMENTO METRO AREA FOR THE 2008 OZONE NAAQS, SUMMER PLANNING INVENTORY, tpd OR PERCENTAGE (%)

	VOC				
	2011	2017	2020	2023	2024
Baseline VOC	111.6	91.7	91.3	88.5	87.9
Transportation conformity safety margin *	0	0	0	0	0.5
Baseline + safety margin (VOC)	111.6	91.7	91.3	88.5	88.4
Required change since 2011 (VOC or NO_X), %		18	27	36	39
Target VOC level		91.5	81.5	71.4	68.1
Apparent shortfall (−)/surplus (+) in VOC		−0.2	−9.9	−17.0	−20.3
Apparent shortfall (−)/surplus (+) in VOC, %		−0.1	−8.8	−15.3	−18.2
VOC shortfall previously provided by NO_X substitution, %		0	−0.1	8.8	15.3
Actual VOC shortfall (−)/surplus (+), %		−0.1	−8.7	−6.4	−2.9
	NO_X				
	2011	2017	2020	2023	2024
Baseline NO_X	107.7	71.7	63.8	52.2	50.5
Transportation conformity safety margin *	0	0	0.4	0.9	1.2
Baseline + safety margin (NO_X)	107.7	71.7	64.2	53.2	51.7
Change in NO_X since 2011, tpd		36.0	43.4	54.5	56.0
Change in NO_X since 2011, %		33.4	40.3	50.6	52.0
NO_X reductions used for VOC substitution through last milestone year, %		0	0.1	8.8	15.3
NO_X reductions since 2011 available for VOC substitution in this milestone year, %		33.4	40.2	41.8	36.7
NO_X reductions since 2011 used for VOC substitution in this milestone year, %		0.1	8.7	6.4	2.9
NO_X reductions since 2011 surplus after meeting VOC substitution needs in this milestone year, %		33.3	31.5	35.3	33.8
Total shortfall for RFP		0	0	0	0
RFP met?		Yes	Yes	Yes	Yes

Source: 2018 SIP Update, Table V–3, and Appendix A, A–15—A–18. The sum of the emissions values may not equal the total shown due to rounding of the numbers. Baseline emissions for 2020, 2023, and 2024 include 5 tpd VOC and 4 tpd NO_X to account for area ERC banking and accounting.

*We discuss the concept of a safety margin within motor vehicle emissions budgets below in the Section H concerning transportation conformity.

3. The EPA's Review of the State's Submission

In 2015, the EPA approved a 15 percent ROP plan for the Sacramento Metro Area for the 1-hour ozone NAAQS and 1997 8-hour ozone NAAQS,[117] and the boundaries of the Sacramento Metro Area for the 2008 ozone NAAQS are the same as the Sacramento Metro Area for the 1997 8-hour ozone NAAQS.[118] As a result, the Districts and CARB have met the ROP requirements of CAA section 182(b)(1) for the Sacramento Metro Area and do not need to demonstrate another 15 percent reduction in VOC for this area.

Based on our review of the emissions inventory documentation in the 2017 Sacramento Regional Ozone Plan and 2018 SIP Update, we find that CARB and the Districts have used the most recent planning and activity assumptions, emissions models, and methodologies in developing the RFP baseline and milestone year emissions inventories. Also, as presented in Table 7, we have reviewed the calculations in Table V–3 of the 2018 SIP Update and related clarifications in CARB correspondence and find that the Districts and CARB have used an appropriate calculation method to

[113] 2018 SIP Update, Appendix A, A–1, A–2.

[114] 2018 SIP Update, 27–30, and Appendix A, A–15 through A–18.

[115] NO_X substitution is permitted under EPA regulations. See 40 CFR 51.1110(a)(2)(i)(C) and 40 CFR 51.1110(a)(2)(ii)(B); and 80 FR 12264, 12271 (March 6, 2015).

[116] In addition to the RFP demonstration in Table 7, CARB provided a clarification including the small rounding additions in the motor vehicle emission budgets to ensure that they are accounted for and that RFP would still be met; email dated August 11, 2020, from Webster Tasat, CARB to Anita Lee, USEPA, including attached RFP demonstration table, in the docket.

[117] 80 FR 4795 (January 29, 2015).

[118] See 2017 Sacramento Regional Ozone Plan, 2–8, Figure 2–1.

demonstrate RFP. Similarly, we find that the Districts' use of NO_X substitution is warranted and appropriately implemented based on the NO_X-limited conditions in the Sacramento Metro Area, and the area's greater responsiveness to NO_X emissions reductions relative to VOC emissions reductions. For these reasons, we have determined that the Sacramento Metro Area Ozone SIP demonstrates RFP in each milestone year and the attainment year, consistent with applicable CAA requirements and EPA guidance. Therefore, we propose to approve the RFP demonstration for the Sacramento Metro Area for the 2008 ozone NAAQS under sections 172(c)(2), 182(b)(1) and 182(c)(2)(B) of the CAA and 40 CFR 51.1110(a)(2)(ii).

F. Transportation Control Strategies and Measures to Offset Emissions Increases From Vehicle Miles Traveled

1. Stationary and Regulatory Requirements

Section 182(d)(1)(A) of the Act requires, in relevant part, a state to submit, for each area classified as Serious or above, a SIP revision that ''identifies and adopts specific enforceable transportation control strategies and transportation control measures to offset any growth in emissions from growth in vehicle miles traveled or number of vehicle trips in such area.'' [119] Herein, we use ''VMT'' to refer to vehicle miles traveled and refer to the related SIP requirement as the ''VMT emissions offset requirement.'' In addition, we refer to the SIP revision intended to demonstrate compliance with the VMT emissions offset requirement as the ''VMT emissions offset demonstration.''

In *Association of Irritated Residents* v. *EPA,* the United States Court of Appeals for the Ninth Circuit (''Court'') ruled that additional transportation control measures are required whenever vehicle emissions are projected to be higher than they would have been had VMT not increased, even when aggregate vehicle emissions are actually decreasing.[120] In response to the Court's decision, in August 2012, the EPA issued a memorandum titled ''Implementing Clean Air Act Section 182(d)(1)(A): Transportation Control Measures and Transportation Control Strategies to Offset Growth in Emissions Due to Growth in Vehicle Miles Travelled'' (herein referred to as the ''August 2012 Guidance'').[121]

The August 2012 Guidance discusses the meaning of ''transportation control strategies'' (TCS) and ''transportation control measures'' (TCM) and recommends that both TCSs and TCMs be included in the calculations made for the purpose of determining the degree to which any hypothetical growth in emissions due to growth in VMT should be offset. Generally, TCS is a broad term that encompasses many types of controls (including, for example, motor vehicle emission limitations, I/M programs, alternative fuel programs, other technology-based measures, and TCMs) that would fit within the regulatory definition of ''control strategy.'' [122] TCM is defined at 40 CFR 51.100(r) as meaning ''any measure that is directed toward reducing emissions of air pollutants from transportation sources,'' including, but not limited to, those listed in section 108(f) of the CAA. Generally, TCMs refer to programs intended to reduce VMT, number of vehicle trips, or traffic congestion, such as programs for improved public transit, designation of certain lanes for passenger buses and high-occupancy vehicles, and trip reduction ordinances.

The August 2012 Guidance explains how states may demonstrate that the VMT emissions offset requirement is satisfied in conformance with the Court's ruling. Under the August 2012 Guidance, states would develop one emissions inventory for the base year, and three different emissions inventory scenarios for the attainment year. For the attainment year, two of the scenarios would represent hypothetical emissions that would provide the basis to identify the ''growth in emissions'' due solely to the growth in VMT, and one would represent projected actual motor vehicle emissions after fully accounting for projected VMT growth and offsetting emissions reductions obtained by all creditable TCSs and TCMs. See the August 2012 Guidance for specific details on how states might conduct the calculations.

The base year on-road VOC emissions should be calculated using VMT in that year, and it should reflect all enforceable TCSs and TCMs in place in the base year. This would include vehicle emissions standards, state and local control programs, such as I/M programs or fuel rules, and any additional implemented TCSs and TCMs that were already required by or credited in the SIP as of that base year.

The first of the emissions calculations for the attainment year would be based on the projected VMT and trips for that year and assume that no new TCSs or TCMs beyond those already credited in the base year inventory have been put in place since the base year. This calculation demonstrates how emissions would hypothetically change if no new TCSs or TCMs were implemented while VMT and trips were allowed to grow at the projected rate from the base year. This estimate would show the potential for an increase in emissions due solely to growth in VMT and trips. This represents a ''no action'' scenario. Emissions in the attainment year in this scenario may be lower than those in the base year due to the fleet that was on the road in the base year gradually being replaced through fleet turnover; however, provided VMT and/or numbers of vehicle trips will increase by the attainment year, they would still likely be higher than they would have been assuming VMT had held constant.

The second of the attainment year's emissions calculations would assume that no new TCSs or TCMs beyond those already credited have been put in place since the base year, but it would also assume that there was no growth in VMT and trips between the base year and attainment year. This estimate reflects the hypothetical emissions level that would have occurred if no further TCMs or TCSs had been put in place and if VMT and trip levels had held constant since the base year. Like the ''no action'' attainment year estimate described above, emissions in the attainment year may be lower than those in the base year due to the fleet that was on the road in the base year gradually being replaced by cleaner vehicles through fleet turnover, but in this case they would not be influenced by any growth in VMT or trips. This emissions estimate would reflect a ceiling on the attainment emissions that should be

[119] CAA section 182(d)(1)(A) includes three separate elements. In short, under section 182(d)(1)(A), states are required to adopt transportation control strategies and measures to offset growth in emissions from growth in VMT, and, as necessary, in combination with other emission reduction requirements, to demonstrate RFP and attainment. For more information on the EPA's interpretation of the three elements of section 182(d)(1)(A), refer to 77 FR 58067, 58068 (September 19, 2012) (proposed withdrawal of approval of South Coast VMT emissions offset demonstrations). In section III.F of this document, we are addressing the first element of CAA section 182(d)(1)(A) (*i.e.,* the VMT emissions offset requirement). In sections III.E and III.D of this document, we are proposing to approve the RFP and attainment demonstrations, respectively, for the 2008 ozone NAAQS in the Sacramento Metro Area, and compliance with the second and third elements of section 182(d)(1)(A) is predicated on final approval of the RFP and attainment demonstrations.

[120] *See Association of Irritated Residents* v. *EPA,* 632 F.3d. 584, 596–597 (9th Cir. 2011), reprinted as amended on January 27, 2012, 686 F.3d 668, further amended February 13, 2012 (''*Association of Irritated Residents*'').

[121] Memorandum dated August 30, 2012, Karl Simon, Director, Transportation and Climate Division, Office of Transportation and Air Quality, to Carl Edland, Director, Multimedia Planning and Permitting Division, EPA Region 6, and Deborah Jordan, Director, Air Division, EPA Region IX.

[122] E.g., 40 CFR 51.100(n).

allowed to occur under the statute as interpreted by the Court because it shows what would happen under a scenario in which no offsetting TCSs or TCMs have yet been put in place and VMT and trips are held constant during the period from the area's base year to its attainment year. This represents a ''VMT offset ceiling'' scenario. These two hypothetical status quo estimates are necessary steps in identifying the target level of emissions from which states would determine whether further TCMs or TCSs, beyond those that have been adopted and implemented in reality, would need to be adopted and implemented in order to fully offset any increase in emissions due solely to VMT and trips identified in the ''no action'' scenario.

Finally, the state would present the emissions that are expected to occur in the area's attainment year after taking into account reductions from all enforceable TCSs and TCMs put in place after the baseline year. This estimate would be based on the VMT and trip levels expected to occur in the attainment year (*i.e.,* the VMT and trip levels from the first estimate) and all of the TCSs and TCMs expected to be in place and for which the SIP will take credit in the area's attainment year, including any TCMs and TCSs put in place since the base year. This represents the ''projected actual'' attainment year scenario. If this emissions estimate is less than or equal to the emissions ceiling that was established in the second of the attainment year calculations, the TCSs or TCMs for the attainment year would be enough to fully offset the identified hypothetical growth in emissions.

Alternatively, if the estimated projected actual attainment year emissions are still greater than the ceiling which was established in the second of the attainment year emissions calculations, even after accounting for post-baseline year TCSs and TCMs, the state would need to adopt and implement additional TCSs or TCMs to further offset the growth in emissions. The additional TCSs or TCMs would need to bring the actual emissions down to at least the VMT offset ceiling estimated in the second of the attainment year calculations, in order to meet the VMT offset requirement of section 182(d)(1)(A) as interpreted by the Court.

2. Summary of State's Submission

CARB prepared the VMT emissions offset demonstration for the Sacramento Metro Area for the 2008 ozone NAAQS, and the Districts included it in the 2017 Sacramento Regional Ozone Plan as Appendix C (''VMT Offset Demonstration''). In addition to the VMT emissions offset demonstration, the 2017 Sacramento Regional Ozone Plan includes a discussion of the TCSs adopted by CARB since 1990, and a discussion of the TCMs developed by SACOG for the Sacramento Metro Area region as part of the 2016 MTP/SCS that are subject to timely implementation reporting requirements.[123]

For the VMT emissions offset demonstration, CARB used EMFAC2014, the latest EPA-approved motor vehicle emissions model for California at the time the plan was produced. The EMFAC2014 model estimates the on-road emissions from two combustion processes (*i.e.,* running exhaust and start exhaust) and four evaporative processes (*i.e.,* hot soak, running losses, diurnal losses, and resting losses). The EMFAC2014 model combines trip based VMT data from the regional transportation planning agency (*i.e.,* SACOG), starts data based on household travel surveys, and vehicle population data from the California Department of Motor Vehicles. These sets of data are combined with corresponding emission rates to calculate emissions.

Emissions from running exhaust, start exhaust, hot soak, and running losses are a function of how much a vehicle is driven. Emissions from these processes are thus directly related to VMT and vehicle trips, and CARB included emissions from them in the calculations that provide the basis for the Sacramento Metro Area VMT emissions offset demonstration. CARB did not include emissions from resting loss and diurnal loss processes in the analysis because such emissions are related to vehicle population, not to VMT or vehicle trips, and thus are not part of ''any growth in emissions from growth in vehicle miles traveled or numbers of vehicle trips in such area'' under CAA section 182(d)(1)(A).

The Sacramento Metro Area VMT emissions offset demonstration uses 2012 as the ''base year.'' The base year for VMT emissions offset demonstration purposes should generally be the same base year used for nonattainment planning purposes. In section III.A of this document, the EPA is proposing to approve the 2012 base year inventory for the Sacramento Metro Area for the purposes of the 2008 ozone NAAQS, and thus, CARB's selection of 2012 as the base year for the Sacramento Metro Area VMT emissions offset demonstration for the 2008 ozone NAAQS is appropriate.

The Sacramento Metro Area VMT emissions offset demonstration also includes the previously described three different attainment year scenarios (*i.e.,* no action, VMT offset ceiling, and projected actual). The 2017 Sacramento Regional Ozone Plan provides a demonstration of attainment of the 2008 ozone NAAQS in the Sacramento Metro Area by the applicable attainment date, based on the controlled 2024 emissions inventory. As described in section III.D of this document, the EPA is proposing to approve the attainment demonstration for the 2008 ozone NAAQS for the Sacramento Metro Area, and thus, we find CARB's selection of 2024 as the attainment year for the VMT emissions offset demonstration for the 2008 ozone NAAQS to be acceptable.

Table 8 summarizes the relevant distinguishing parameters for each of the emissions scenarios and shows CARB's corresponding VOC emissions estimates for the demonstration for the 2008 ozone NAAQS.

TABLE 8—VMT EMISSIONS OFFSET INVENTORY SCENARIOS AND RESULTS FOR 2008 OZONE NAAQS

Scenario	VMT		Starts		Controls	VOC emissions
	Year	1,000/day	Year	1,000/day	Year	tpd
Base Year	2012	60,570	2012	11,739	2012	28
No Action	2024	69,579	2024	11,965	2012	16
VMT Offset Ceiling	2012	60,570	2012	11,739	2012	15
Projected Actual	2024	69,579	2024	11,965	2024	11

Source: 2017 Sacramento Regional Ozone Plan, Appendix C.

[123] 2017 Sacramento Regional Ozone Plan, sections 7.2 and 7.6–7.8.

For the base year scenario, CARB ran the EMFAC2014 model for the 2012 base year using VMT and starts data corresponding to that year. As shown in Table 8, CARB estimates the Sacramento Metro Area VOC emissions at 28 tpd in 2012.

For the ''no action'' scenario, CARB first identified the on-road motor vehicle control programs (*i.e.,* TCSs or TCMs) put in place since the base year and incorporated into EMFAC2014 and then ran EMFAC2014 with the VMT and starts data corresponding to the 2024 attainment year without the emissions reductions from the on-road motor vehicle control programs put in place after the base year. Thus, the no action scenario reflects the hypothetical VOC emissions that would occur in the attainment year in the Sacramento Metro Area if CARB had not put in place any additional TCSs or TCMs after 2012. As shown in Table 8, CARB estimates the ''no action'' Sacramento Metro Area VOC emissions at 16 tpd in 2024.

For the ''VMT offset ceiling'' scenario, CARB ran the EMFAC2014 model for the attainment years but with VMT and starts data corresponding to base year values. Like the no action scenario, the EMFAC2014 model was adjusted to reflect the VOC emissions levels in the attainment years without the benefits of the post-base-year on-road motor vehicle control programs. Thus, the VMT offset ceiling scenario reflects hypothetical VOC emissions in the Sacramento Metro Area if CARB had not put in place any TCSs or TCMs after the base year and if there had been no growth in VMT or vehicle trips between the base year and the attainment year.

The hypothetical growth in emissions due to growth in VMT and trips can be determined from the difference between the VOC emissions estimates under the ''no action'' scenario and the corresponding estimates under the ''VMT offset ceiling'' scenario. Based on the values in Table 8, the hypothetical growth in emissions due to growth in VMT and trips in the Sacramento Metro Area would have been 1 tpd (*i.e.,* 16 tpd minus 15 tpd). This hypothetical difference establishes the level of VMT growth-caused emissions that need to be offset by the combination of post-baseline year TCMs and TCSs and any necessary additional TCMs and TCSs.

For the ''projected actual'' scenario calculation, CARB ran the EMFAC2014 model for the attainment year with VMT and starts data at attainment year values and with the full benefits of the relevant post-baseline year motor vehicle control programs. For this scenario, CARB included the emissions benefits from TCSs and TCMs put in place since the base year. The most significant measures reducing VOC emissions during the 2012 to 2024 timeframe include the ACC program, ZEV requirements, and more stringent on-board diagnostics requirements.[124]

As shown in Table 8, the projected actual attainment-year VOC emissions is 11 tpd. CARB then compared this value against the corresponding VMT offset ceiling value to determine whether additional TCMs or TCSs would need to be adopted and implemented in order to offset any increase in emissions due solely to VMT and trips. Because the projected actual emissions are less than the corresponding VMT offset ceiling emissions, CARB concluded that the demonstration shows compliance with the VMT emissions offset requirement and that there are sufficient adopted TCSs and TCMs to offset the growth in emissions from the growth in VMT and vehicle trips in the Sacramento Metro Area for the 2008 ozone NAAQS.

3. The EPA's Review of the State's Submission

Based on our review of revised Sacramento Metro Area VMT emissions offset demonstration in Appendix C of the 2017 Sacramento Regional Ozone Plan, we find CARB's analysis to be consistent with the August 2012 Guidance and consistent with the emissions and vehicle activity estimates found elsewhere in the 2017 Sacramento Regional Ozone Plan. We agree that CARB and SACOG have adopted sufficient TCSs and TCMs to offset the growth in emissions from growth in VMT and vehicle trips in the Sacramento Metro Area for the purposes of the 2008 ozone NAAQS. As such, we propose to approve the Sacramento Metro Area VMT emissions offset demonstration element of the Sacramento Metro Area Ozone SIP as meeting the requirements of CAA section 182(d)(1)(A).

G. Contingency Measures

1. Statutory and Regulatory Requirements

Under the CAA, 8-hour ozone nonattainment areas classified under subpart 2 as Moderate or above must include in their SIPs contingency measures consistent with sections 172(c)(9) and 182(c)(9). Contingency measures are additional controls or measures to be implemented in the event the area fails to make RFP or to attain the NAAQS by the attainment date. The SIP should contain trigger mechanisms for the contingency measures, specify a schedule for implementation, and indicate that the measure will be implemented without significant further action by the state or the EPA.[125]

Neither the CAA nor the EPA's implementing regulations establish a specific level of emissions reductions that implementation of contingency measures must achieve, but the EPA's 2008 Ozone SRR reiterates the EPA's policy that contingency measures should generally provide for emissions reductions approximately equivalent to one year's worth of progress, amounting to reductions of 3 percent of the baseline emissions inventory for the nonattainment area.[126] Where a failure to attain or meet RFP can be corrected in less than one year, the EPA may accept a proportionally lesser amount sufficient to correct the identified failure.[127]

It has been the EPA's longstanding interpretation of CAA section 172(c)(9) that states may meet the contingency measure requirement by relying on federal measures (*e.g.,* federal mobile source measures based on the incremental turnover of the motor vehicle fleet each year) and local measures already scheduled for implementation that provide emissions reductions in excess of those needed to provide for RFP or expeditious attainment. The key is that the Act requires that contingency measures provide for additional emissions reductions that are not relied on for RFP or attainment and that are not included in the RFP or attainment demonstrations as meeting part of or all the contingency measure requirements. The purpose of contingency measures is to provide continued emissions reductions while a plan is being revised to meet the missed milestone or attainment date.

The EPA has approved numerous SIPs under this interpretation—*i.e.,* SIPs that use as contingency measures one or more federal or local measures that are in place and provide reductions that are in excess of the reductions required by the attainment demonstration or RFP plan,[128] and there is case law

[124] Section 7.2 of the 2017 Sacramento Regional Ozone Plan includes a discussion of the State's transportation control strategies adopted by CARB since 1990. Also, refer to the EPA's final actions on CARB mobile source SIP submittals at 81 FR 39424 (June 16, 2016), 82 FR 14446 (March 21, 2017), and 83 FR 23232 (May 18, 2018).

[125] 70 FR 71612 (November 29, 2005). Also, see the 2008 Ozone SRR, 80 FR 12264, 12285 (March 6, 2015).

[126] 80 FR 12264, 12285 (March 6, 2015).

[127] General Preamble, 57 FR 13498, 13511 (April 16, 1992).

[128] See, *e.g.,* 62 FR 15844 (April 3, 1997) (direct final rule approving an Indiana ozone SIP revision);

Continued

supporting the EPA's interpretation in this regard.[129] However, in *Bahr* v. *EPA,* the Ninth Circuit rejected the EPA's interpretation of CAA section 172(c)(9) as allowing for early implementation of contingency measures.[130] The Ninth Circuit concluded that contingency measures must take effect at the time the area fails to make RFP or attain by the applicable attainment date, not before.[131] Consequently, within the geographic jurisdiction of the Ninth Circuit, states cannot rely on early-implemented measures to comply with the contingency measure requirements under CAA section 172(c)(9) and 182(c)(9).[132]

2. Summary of the State's Submission

The District and CARB had largely prepared the 2017 Sacramento Regional Ozone Plan prior to the *Bahr* v. *EPA* decision; therefore, the plan relies solely upon surplus emissions reductions from already implemented control measures in the RFP milestone years to demonstrate compliance with the RFP milestone contingency measure requirements of CAA sections 172(c)(9) and 182(c)(9).[133]

In the 2018 SIP Update, CARB revised the RFP demonstration for the 2008 ozone NAAQS for the Sacramento Metro Area and recalculated the extent of surplus emission reductions (*i.e.,* surplus to meeting the RFP milestone requirement for a given milestone year) in the milestone years. In light of the *Bahr* v. *EPA* decision, the 2018 SIP Update, however, does not rely on the surplus or incremental emissions reductions to comply with the contingency measures requirements of sections 172(c)(9) and 182(c)(9) but, to provide context in which to review contingency measures for the 2008 ozone NAAQS, the 2018 SIP Update documents the extent to which future baseline emissions would provide surplus emissions reductions beyond those required to meet applicable RFP milestones. More specifically, the 2018 SIP Update identifies one year's worth of RFP as approximately 3.3 tpd and estimates surplus NO_X reductions as ranging from approximately 35.8 tpd to 38.1 tpd depending upon the given RFP milestone year.[134]

To comply with sections 172(c)(9) and 182(c)(9), as interpreted in the *Bahr* v. *EPA* decision, a state must develop, adopt and submit a contingency measure to be triggered upon a failure to meet RFP milestones or failure to attain the NAAQS by the applicable attainment date regardless of the extent to which already-implemented measures would achieve surplus emissions reductions beyond those necessary to meet RFP milestones and beyond those predicted to achieve attainment of the NAAQS. Therefore, to fully address the contingency measure requirement for the 2008 ozone NAAQS in the Sacramento Metro Area, the Districts have committed to develop, adopt and submit contingency measures to CARB in sufficient time for CARB to submit the contingency measures as a SIP revision to the EPA within 12 months of the EPA's final conditional approval of the contingency measure element of the Sacramento Metro Area Ozone SIP.[135]

The Districts' commitment is to amend or adopt the rules listed below, through the required public review and subsequent District board approval processes, to apply more stringent requirements upon a determination that the Sacramento Metro Area failed to meet an RFP milestone or failed to attain the 2008 ozone NAAQS by the applicable attainment date. The Districts' specific commitments are described below.

- The Districts will amend their respective ''Architectural Coatings'' rule (*i.e.,* FRAQMD Rule 315, EDAQMD Rule 245, SMAQMD Rule 442, PCAPCD Rule 218, and YSAQMD Rule 2.14) to lower the VOC limit for several coating categories, delete coating categories for non-flats, stains, floor, and other specialty coatings, and establish new VOC content limits for colorants.
- The SMAQMD will adopt a new rule for reducing VOC emissions from liquified petroleum gas transfer and dispensing commensurate with South Coast Air Quality Management District Rule 1177.

CARB has committed to adopt and submit the revised rules to the EPA within 12 months of the EPA's final conditional approval of the contingency measure element of the Sacramento Metro Area Ozone SIP.[136] Within its 2018 SIP Update, CARB estimated that nonattainment area VOC and NO_X emissions are expected to be approximately 0.5 and 1.8 tpd, respectively, or 2.3 tpd lower in 2025 than in 2024. Also, in their commitment letter, the Districts estimated the potential additional emission reductions from their contingency measure commitments at 0.6 tpd of VOC.

3. The EPA's Review of the State's Submission

Sections 172(c)(9) and 182(c)(9) require contingency measures to address potential failure to achieve RFP milestones or failure to attain the NAAQS by the applicable attainment date. To evaluate the contingency measure element of the Sacramento Metro Area Ozone SIP, we find it useful to distinguish between contingency measures to address potential failure to achieve RFP milestones (''RFP contingency measures'') and contingency measures to address potential failure to attain the NAAQS (''attainment contingency measures'').

With respect to the RFP contingency measure requirement, we have reviewed the surplus emissions estimates in each of the RFP milestone years, as shown in the 2018 SIP Update, and find that the calculations are correct. Therefore, we agree that the Sacramento Metro Area Ozone SIP provides surplus emissions reductions well beyond those necessary to demonstrate RFP in all the RFP milestone years. While such surplus emissions reductions in the RFP milestone years do not represent contingency measures themselves, we believe they are relevant in evaluating the adequacy of RFP contingency measures that are submitted (or will be submitted) to meet the requirements of sections 172(c)(9) and 182(c)(9).

In this case, the Districts and CARB have committed to develop, adopt, and submit revised and new rules as an RFP contingency measure within 12 months of our final action on the Sacramento Metro Area Ozone SIP. The specific

62 FR 66279 (December 18, 1997) (final rule approving an Illinois ozone SIP revision); 66 FR 30811 (June 8, 2001) (direct final rule approving a Rhode Island ozone SIP revision); 66 FR 586 (January 3, 2001) (final rule approving District of Columbia, Maryland, and Virginia ozone SIP revisions); and 66 FR 634 (January 3, 2001) (final rule approving a Connecticut ozone SIP revision).

[129] See, *e.g., LEAN* v. *EPA,* 382 F.3d 575 (5th Cir. 2004) (upholding contingency measures that were previously required and implemented where they were in excess of the attainment demonstration and RFP SIP).

[130] *Bahr* v. *EPA,* 836 F.3d 1218, 1235–1237 (9th Cir. 2016).

[131] Id. at 1235–1237.

[132] The *Bahr* v. *EPA* decision involved a challenge to an EPA approval of contingency measures under the general nonattainment area plan provisions for contingency measures in CAA section 172(c)(9), but, given the similarity between the statutory language in section 172(c)(9) and the ozone-specific contingency measure provision in section 182(c)(9), we find that the decision affects how both sections of the Act must be interpreted.

[133] 2017 Sacramento Regional Ozone Plan, 7–18, 8–5 and 12–5.

[134] 2018 SIP Update, chapter V, tables V–5 and V–6.

[135] Letter dated May 26, 2020, from the Districts respective Executive Officer or Air Pollution Control Officer, Alberto Ayala-SMAQMD, Dave Johnston-EDCAQMD, Christopher Brown-FRAQMD, Erik White-PCAPCD, Mat Ehrhardt-YSAQMD to Richard Corey, Executive Officer, CARB.

[136] Letter dated July 7, 2020, from Richard W. Corey, Executive Officer, CARB, to John Busterud, Regional Administrator, EPA Region IX.

types of revisions the Districts have committed to make upon an RPF milestone failure (*i.e.,* increasing the stringency of existing requirements and adopting a new rule) comply with the requirements in CAA sections 172(c)(9) and 182(c)(9) because they would be undertaken if the area fails to meet an RFP milestone and would take effect without significant further action by the state or the EPA.

Next, we considered the adequacy of the RFP contingency measure (once adopted and submitted) from the standpoint of the magnitude of emissions reductions the measure would provide if triggered. Neither the CAA nor the EPA's implementing regulations for the ozone NAAQS establish a specific amount of emissions reductions that implementation of contingency measures must achieve, but we generally expect that contingency measures should provide for emissions reductions approximately equivalent to one year's worth of RFP, which, for ozone, amounts to reductions of 3 percent of the baseline emissions inventory for the nonattainment area. For the 2008 ozone NAAQS in the Sacramento Metro Area, one year's worth of RFP is approximately 3.3 tpd of VOC or NO_X reductions.[137] In their commitment letter, the Districts estimated the potential additional emission reductions from their contingency measure commitments at 0.6 tpd, an amount less than one year's worth of RFP.

The 2018 SIP Update, however, provides the larger SIP planning context with which to judge the adequacy of the to-be-submitted District contingency measures by calculating the surplus emissions reductions estimated to be achieved in the RFP milestone years and the year after the attainment year. More specifically, the 2018 SIP Update identified surplus NO_X reductions in the various RFP milestone years for the Sacramento Metro Area. The estimates of surplus NO_X reductions range from 33.9 to 38.1 tpd, depending on the RFP year, and are ten or more times greater than one year's worth of progress (3.2 tpd of NO_X).[138] The surplus reflects already implemented regulations and is primarily the result of vehicle turnover, which refers to the ongoing replacement by individuals, companies, and government agencies of older, more polluting vehicles and engines with newer vehicles and engines. In light of these surplus NO_X emissions reductions in the RFP milestone years, the emissions reductions from the Districts' contingency measures are adequate to meet the contingency measure requirements of the CAA with respect to RFP milestones, even though the measures by themselves produce fewer emission reductions than what the EPA normally recommends for reductions from such contingency measures.

For attainment contingency measure purposes, we evaluate the emissions reductions from the Districts' contingency measures in the context of the expected reduction in emissions within the Sacramento Metro Area in the year following the attainment year relative to those occuring in the attainment year. Based on the emission inventories in Appendix A to the 2018 SIP Update, we note that nonattainment area VOC and NO_X emissions are expected to be approximately 0.5 and 1.8 tpd, respectively, or 2.3 tpd lower in 2025 than in 2024. When considered together, these baseline measures and the Districts' contingency measures provide for an emissions reduction (2.9 tpd) that is near to, but slightly below, one year's worth of progress (*i.e.,* 3.3 tpd of VOC). Given that the attainment demonstration interpolates a 2024 design value (0.072 ppm) well below the 2008 8-hour ozone NAAQS (0.075 ppm), we project that this amount will be sufficient to correct any failure to attain the 2008 8-hour ozone NAAQS in less than one year from the attainment date; therefore, these estimated emission reductions represent continued progress for purposes of the attainment contingency measure requirements.

For these reasons, we propose to conditionally approve the contingency measures element of the Sacramento Metro Area Ozone SIP, as supplemented by the commitments from the Districts and CARB to adopt and submit additional contingency measures, to meet the contingency measure requirements of CAA sections 172(c)(9) and 182(c)(9). Our proposed approval is conditional because it relies upon commitments to adopt and submit specific enforceable contingency measures (*i.e.,* revised rules with contingent provisions). Conditional approvals are authorized under CAA section 110(k)(4).

H. Motor Vehicle Emissions Budgets for Transportation Conformity

1. Statutory and Regulatory Requirements

Section 176(c) of the CAA requires federal actions in nonattainment and maintenance areas to conform to the SIP's goals of eliminating or reducing the severity and number of violations of the NAAQS and achieving timely attainment of the standards. Conformity to the SIP's goals means that such actions will not: (1) Cause or contribute to violations of a NAAQS, (2) worsen the severity of an existing violation, or (3) delay timely attainment of any NAAQS or any interim milestone.

Actions involving Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) funding or approval are subject to the EPA's transportation conformity rule, codified at 40 CFR part 93, subpart A. Under this rule, metropolitan planning organizations (MPOs) in nonattainment and maintenance areas coordinate with state and local air quality and transportation agencies, the EPA, the FHWA, and the FTA to demonstrate that an area's regional transportation plans and transportation improvement programs conform to the applicable SIP. This demonstration is typically done by showing that estimated emissions from existing and planned highway and transit systems are less than or equal to the motor vehicle emissions budgets (MVEBs or ''budgets'') contained in all control strategy SIPs. Budgets are generally established for specific years and specific pollutants or precursors. Ozone plans should identify budgets for on-road emissions of ozone precursors (NO_X and VOC) in the area for each RFP milestone year and, if the plan demonstrates attainment, the attainment year.[139]

For budgets to be approvable, they must meet, at a minimum, the EPA's adequacy criteria at 40 CFR 93.118(e)(4). To meet these requirements, the budgets must be consistent with the attainment and RFP requirements and reflect all the motor vehicle control measures contained in the attainment and RFP demonstrations.[140] Budgets may include a safety margin representing the difference between projected emissions and the total amount of emissions estimated to satisfy any requirements for attainment or RFP.

The EPA's process for determining adequacy of a budget consists of three basic steps: (1) Providing public notification of a SIP submission; (2) providing the public the opportunity to comment on the budget during a public

[137] The 2011 baseline for VOC and NO_X is 111.6 tpd and 107.7 tpd, respectively, as shown in tables V–1 of the 2018 SIP Update. Three percent of these baselines is 3.3 tpd of VOC and 3.2 tpd of NO_X.

[138] 2018 SIP Update, Table V–6.

[139] 40 CFR 93.102(b)(2)(i).

[140] 40 CFR 93.118(e)(4)(iii), (iv) and (v). For more information on the transportation conformity requirements and applicable policies on MVEBs, please visit our transportation conformity website at: *http://www.epa.gov/otaq/stateresources/transconf/index.htm.*

comment period; and (3) making a finding of adequacy or inadequacy.[141]

2. Summary of the State's Submission

The 2017 Sacramento Regional Ozone Plan includes budgets for the 2018 and 2021 RFP milestone years, and the 2024 attainment year. The budgets for 2018, 2021, and 2024 were derived from the 2012 RFP baseline year and the associated RFP milestone years. Consequently, these budgets are affected by the *South Coast II* decision vacating the alternative baseline year provision; therefore, the EPA has not acted on the budgets.

On December 5, 2018, CARB submitted the 2018 SIP Update, which revises the RFP demonstration consistent with the *South Coast II* decision (*i.e.,* by using a 2011 RFP baseline year) and identifies new VOC and NO_X budgets for the Sacramento Metro Area for each updated RFP milestone year, 2020 and 2023, and for the attainment year, 2024. The budgets in the 2018 SIP Update replace the budgets contained in the 2017 Sacramento Regional Ozone Plan. In the submittal letter for the 2018 SIP Update, CARB requested that the EPA limit the duration of our approval of the budgets in the 2018 SIP Update to last only until the effective date of future EPA adequacy findings for replacement budgets.[142] Subsequent to this request, CARB has decided not to limit the duration of the budgets submitted in the 2018 SIP Update.[143]

Like the budgets in the 2017 Sacramento Regional Ozone Plan, the budgets in the 2018 SIP Update were calculated using EMFAC2014, CARB's latest approved version of the EMFAC model for estimating emissions from on-road vehicles operating in California available at the time the 2018 SIP Update was developed. The 2018 SIP Update budgets are rounded up to the nearest whole number, after adding safety margins in specific years for specific pollutants. The following safety margins have been added to the baseline budgets: 0.5 tpd of VOC in 2024; 0.41 tpd of NO_X in 2020; 0.92 tpd of NO_X in 2020; and 1.17 tpd of NO_X in 2024.[144] These safety margins are included to accommodate increased emissions seen in EMFAC2017, the EMFAC model that will likely be used in future conformity determinations.[145] The conformity budgets for NO_X and VOC in the 2018 SIP Update for the Sacramento Metro Area are provided in Table 9.

TABLE 9—TRANSPORTATION CONFORMITY MOTOR VEHICLE EMISSIONS BUDGETS FOR THE 2008 OZONE NAAQS IN THE SACRAMENTO METRO AREA

[Summer planning inventory, tpd]

Budget year	VOC	NO_X
2023	15	22
2024	15	21

Source: Table V–4 of the 2018 SIP Update.

The budgets in the 2018 SIP Update reflect VMT estimates from SACOG's long range 2016 MTP/SCS as updated in the 2017 MTIP–20 Metropolitan Transportation;[146] SACOG also coordinated with the MTC in obtaining and using transportation data for the eastern portion of Solano County that is in the Sacramento Metro Area.[147]

3. The EPA's Review of the State's Submission

As part of our review of the approvability of the budgets in the Sacramento Metro Area Ozone SIP, we have evaluated the budgets using our adequacy criteria specified in the transportation conformity rule.[148] We will complete the adequacy review concurrent with our final action on the Sacramento Metro Area Ozone SIP. The EPA is not required under its transportation conformity rule to find budgets adequate prior to our proposing approval of them.[149] Today, the EPA is announcing that the adequacy process for these budgets begins, and the public has 30 days to comment on the budgets presented here and in the Sacramento Metro Area Ozone SIP.[150]

As documented in a memorandum included in the docket for this rulemaking, we provisionally conclude that the budgets in the Sacramento Metro Area Ozone SIP meet each adequacy criterion.[151] In this memorandum, we evaluated the safety margins and rounding margins that CARB added to the baseline budgets. Given the use of updated travel data in the motor vehicle emissions estimates, the safety margins, and CARB's convention of rounding emissions up to the nearest whole number, there are small differences between the budgets and the planning emissions inventories in the 2018 SIP Update and the 2017 Sacramento Regional Ozone Plan. We examined the potential effect of those differences and found that the inclusion of the small motor vehicle emissions budget increases would still result in demonstrations that show RFP and attainment are met.[152]

While a finding of adequacy and approval are two separate actions, reviewing the budgets for their adequacy against the criteria in the transportation conformity rule informs the EPA's decision to propose our approval of the budgets. We have completed our detailed review of the Sacramento Metro Area Ozone SIP and are proposing herein to approve the attainment and RFP demonstrations in sections III.D and III.E, respectively. We have also reviewed the budgets in the Sacramento Metro Area Ozone SIP and found that they are consistent with the attainment and RFP demonstrations for which we are proposing approval, are based on control measures that have already been adopted and implemented, and meet all other applicable statutory and regulatory requirements including the adequacy criteria in 40 CFR 93.1118(e)(4) and (5). Therefore, we are proposing to approve the 2023 RFP budget and the 2024 RFP/attainment budget in the Sacramento Metro Area Ozone SIP. At the time when we either finalize the adequacy process or approve the budgets for the 2008 ozone NAAQS in the Sacramento Metro Area

[141] 40 CFR 93.118(f)(2).

[142] Letter dated December 5, 2018, from Richard Corey, Executive Officer, CARB, to Mike Stoker, Regional Administrator, EPA Region IX.

[143] Email dated September 9, 2020, from Nesamani Kalandiyur, CARB, to Jerry Wamsley, EPA Region IX.

[144] 2018 SIP Update, 31, Table V–4.

[145] As previously noted, EMFAC2014 is CARB's model for estimating emissions from on-road vehicles operating in California; 80 FR 77337 (December 14, 2015). We have recently announced the availability of an updated version of EMFAC, referred to as EMFAC2017; 84 FR 41717 (August 15, 2019). For the 2017 Sacramento Regional Ozone Plan and the 2018 SIP Update, EMFAC2014 was the appropriate model to use for SIP development purposes at the time the Plan and update were prepared.

[146] 2018 SIP Update, 31; 2017 Sacramento Regional Ozone Plan, 10–2—10–6.

[147] 2017 Sacramento Regional Ozone Plan, Sections 10.4 and 10.5. 2018 SIP Update, 31.

[148] 40 CFR 93.118(e)(4) and (5).

[149] Under the transportation conformity regulations, the EPA may review the adequacy of submitted motor vehicle emission budgets simultaneously with the EPA's approval or disapproval of the submitted implementation plan. 40 CFR 93.118(f)(2).

[150] 40 CFR 93.118(f)(2)(i) and (ii).

[151] Memorandum dated September 17, 2020, from Jerry Wamsley, Air Planning Office, EPA Region IX, titled ''Adequacy Review of Motor Vehicle Emissions Budgets in California's Sacramento Metro Area Ozone SIP for the 2008 National Ambient Air Quality Standard for Ozone.''

[152] Id. In our Memorandum, we summarize and reference ''Assessment of Sacramento Metro NAA Conformity Motor Vehicle Emissions Budget Consistency with O_3 NAAQS Attainment,'' September 14, 2020, EPA Region IX, which provides the EPA's more detailed discussion and calculations concerning the 2018 SIP Update effects, along with the companion Excel spreadsheet, (Copy of) Sac_O3_scaling _for_ Update_MVEB.xlsx; both are in the docket for this rulemaking.

Ozone SIP, as proposed (whichever occurs first; note that they could also occur concurrently per 40 CFR 93.118(f)(2)(iii)), they will replace the budgets that we previously found adequate for use in transportation conformity determinations.[153]

I. Other Clean Air Act Requirements Applicable to Severe Ozone Nonattainment Areas

In addition to the SIP requirements discussed in the previous sections, the CAA includes certain other SIP requirements applicable to Severe ozone nonattainment areas, such as the Sacramento Metro Area. We describe these provisions and their current status below.

1. Enhanced Vehicle Inspection and Maintenance Programs

Section 182(c)(3) of the CAA requires states with ozone nonattainment areas classified under subpart 2 as Serious or above to implement an enhanced motor vehicle inspection/maintenance (I/M) program in those areas. The requirements for those programs are provided in CAA section 182(c)(3) and 40 CFR part 51, subpart S.

Consistent with the 2008 Ozone SRR, no new I/M programs are currently required for nonattainment areas for the 2008 ozone NAAQS.[154] The EPA previously approved California's I/M program in the Sacramento Metro Area as meeting the requirements of the CAA and applicable EPA regulations for enhanced I/M programs.[155]

2. New Source Review Rules

Section 182(a)(2)(C) of the CAA requires a state to develop SIP revisions containing permit programs for each of its ozone nonattainment areas. The SIP revisions are to include requirements for permits in accordance with CAA sections 172(c)(5) and 173 for the construction and operation of each new or modified major stationary source for VOC and NO_X anywhere in the nonattainment area. The EPA has previously approved the Districts' new source review (NSR) rules into the SIP based on our conclusion that the rules adequately addressed the NSR requirements.[156] We will address the NSR requirements for the 2008 ozone NAAQS in the Sacramento Metro Area in a separate action.

3. Clean Fuels Fleet Program

Sections 182(c)(4)(A) and 246 of the CAA require California to submit to the EPA for approval measures to implement a Clean Fuels Fleet Program in ozone nonattainment areas classified as Serious and above. Section 182(c)(4)(B) of the CAA allows states to opt out of the federal clean-fuel vehicle fleet program by submitting a SIP revision consisting of a program or programs that will result in at least equivalent long-term reductions in ozone precursors and toxic air emissions.

In 1994 CARB submitted a SIP revision to the EPA to opt out of the federal Clean Fuels Fleet Program. The submittal included a demonstration that California's low-emissions vehicle program achieved emissions reductions at least as large as would be achieved by the federal program. The EPA approved the SIP revision to opt out of the federal program on August 27, 1999.[157] There have been no changes to the federal Clean Fuels Fleet Program since the EPA approved the California SIP revision to opt out of the federal program; therefore, no corresponding changes to the SIP are required. Consequently, we find that the California SIP revision to opt out of the federal program, as approved in 1999, meets the requirements of CAA sections 182(c)(4)(A) and 246 for Sacramento Metro Area for the 2008 ozone NAAQS.

4. Gasoline Vapor Recovery

Section 182(b)(3) of the CAA requires states to submit a SIP revision by November 15, 1992, that requires owners or operators of gasoline dispensing systems to install and operate gasoline vehicle refueling vapor recovery (''Stage II'') systems in ozone nonattainment areas classified as Moderate and above. California's ozone nonattainment areas implemented Stage II vapor recovery well before the passage of the CAA Amendments of 1990.[158]

Section 202(a)(6) of the CAA requires the EPA to promulgate standards requiring motor vehicles to be equipped with onboard refueling vapor recovery (ORVR) systems. The EPA promulgated the first set of ORVR system regulations in 1994 for phased implementation on vehicle manufacturers, and since the end of 2006, essentially all new gasoline-powered light and medium-duty vehicles are ORVR-equipped.[159] Section 202(a)(6) also authorizes the EPA to waive the SIP requirement under CAA section 182(b)(3) for installation of Stage II vapor recovery systems after such time as the EPA determines that ORVR systems are in widespread use throughout the motor vehicle fleet. Effective May 16, 2012, the EPA waived the requirement of CAA section 182(b)(3) for Stage II vapor recovery systems in ozone nonattainment areas regardless of classification.[160] Thus, a SIP submittal meeting CAA section 182(b)(3) is not required for the 2008 ozone NAAQS.

While a SIP submittal meeting CAA section 182(b)(3) is not required for the 2008 ozone NAAQS, under California state law (*i.e.,* Health and Safety Code section 41954), CARB is required to adopt procedures and performance standards for controlling gasoline emissions from gasoline marketing operations, including transfer and storage operations. State law also authorizes CARB, in cooperation with local air districts, to certify vapor recovery systems, to identify defective equipment and to develop test methods. CARB has adopted numerous revisions to its vapor recovery program regulations and continues to rely on its vapor recovery program to achieve emissions reductions in ozone nonattainment areas in California.

In the Sacramento Metro Area, the installation and operation of CARB-certified vapor recovery equipment is required and enforced by the respective rules for each of the Districts, which govern gasoline transfer and dispensing, and organic liquid loading. Each of the Districts have adopted such rules, and the EPA has approved these rules into the SIP.[161]

5. Enhanced Ambient Air Monitoring

Section 182(c)(1) of the CAA requires that all ozone nonattainment areas classified as Serious or above implement measures to enhance and

[153] On July 25, 2014, we found adequate the 2017 and 2018 budgets from the ''Sacramento Regional 8-Hour Ozone Attainment Plan and Reasonable Further Progress Plan,'' September 26, 2013; 79 FR 46436 (August 8, 2014). This plan and the budgets were approved in January 2015; 80 FR 4795 (January 29, 2015). The budgets are as follows: For VOC, 18 tpd for 2017 and 17 tpd for 2018; and for NO_X, 39 tpd for 2017 and 37 tpd for 2018.

[154] 2008 Ozone SRR, 80 FR 12264, 12283 (March 6, 2015).

[155] 75 FR 38023 (July 1, 2010).

[156] The Districts' NSR rules were approved by the EPA as follows: EDCAQMD Rule 523, 65 FR 4887 (February 5, 2000); FRAQMD Rule 10.1, 80 FR 60047 (October 5, 2015); PCAPCD Rule 502, 79 FR 58264 (September 29, 2014); SMAQMD Rule 214, 78 FR 53271 (August 29, 2013); and YSAQMD Rule 3.4, 62 FR 36214 (July 7, 1997).

[157] 64 FR 46849 (August 27, 1999).

[158] General Preamble, 57 FR 13498, 13514 (April 16, 1992).

[159] 77 FR 28772, 28774 (May 16, 2012).

[160] See 40 CFR 51.126(b).

[161] EDCAQMD Rule 238, at 66 FR 44974 (August 27, 2001), and Rule 244, at 67 FR 45066 (July 8, 2002); FRAQMD Rule 3.8, at 80 FR 38959 (July 8, 2015); PCAPCD Rule 214, at 80 FR 7345 (February 10, 2015) and Rule 215, at 76 FR 5277 (January 31, 2011); SMAQMD Rule 447, at 64 FR 66393 (November 26, 1999) and Rule 449, at 78 FR 897 (January 7, 2013); and YSAQMD Rule 2.21, at 71 FR 63694 (October 31, 2006), and Rule 2.22, at 81 FR 6763 (February 9, 2016).

improve monitoring for ambient concentrations of ozone, NO_X, and VOC, and to improve monitoring of emissions of NO_X and VOC. The enhanced monitoring network for ozone is referred to as the photochemical assessment monitoring station (PAMS) network. The EPA promulgated final PAMS regulations on February 12, 1993.[162]

On November 10, 1993, CARB submitted to the EPA a SIP revision addressing the PAMS network for six ozone nonattainment areas in California, including the Sacramento Metro Area, to meet the enhanced monitoring requirements of CAA section 182(c)(1) and the PAMS regulations. The EPA determined that the PAMS SIP revision met all applicable requirements for enhanced monitoring and approved the PAMS submittal into the California SIP.[163]

Prior to 2006, the EPA's ambient air monitoring regulations in 40 CFR part 58 (''Ambient Air Quality Surveillance'') set forth specific SIP requirements (see former 40 CFR 52.20). In 2006, the EPA significantly revised and reorganized 40 CFR part 58.[164] Under revised 40 CFR part 58, SIP revisions are no longer required; rather, compliance with EPA monitoring regulations is established through review of required annual monitoring network plans.[165] The 2008 Ozone SRR made no changes to these requirements.[166]

The Sacramento Metro Area Ozone SIP does not address specifically the enhanced ambient air monitoring requirement in CAA section 182(c)(1). We note, however, that the ambient monitoring network within the Sacramento Metro Area is described in the SMAQMD's annual monitoring network plan for sites in Sacramento County and in CARB's annual monitoring network plan for sites outside Sacramento County, including those sites within the other four Sacramento Metro Area districts. These plans are submitted annually to the EPA, and we have approved both the most recent annual monitoring network plan for the SMAQMD (''2019 Annual Monitoring Network Plan''),[167] as well as the most recent annual monitoring network plan for CARB (''Annual Network Plan Covering Monitoring Operations in 25 California Air Districts, July 2019'') with respect to the other four district's elements.[168] In addition, CARB has fulfilled the requirement under 40 CFR part 58, Appendix D, section 5(h), to submit an Enhanced Monitoring Plan for the Sacramento Metro Area.[169] Based on our review and approval of the SMAQMD and CARB annual monitoring network plans with respect to the Districts and our earlier approval of the PAMS SIP revision, we propose to find that CARB and the Districts meet the enhanced monitoring requirements under CAA section 182(c)(1) for the Sacramento Metro Area with respect to the 2008 ozone NAAQS.

6. CAA Section 185 Fee Program

Sections 182(d)(3) and 185 of the CAA require that the SIP for each Severe and Extreme ozone nonattainment area provide that, if the area fails to attain by its applicable attainment date, each major stationary source of VOC and NO_X located in the area shall pay a fee to the state as a penalty for such failure for each calendar year beginning after the attainment date, until the area is redesignated as an attainment area for ozone. States are not yet required to submit a SIP revision that meets the requirements of CAA section 185 for the 2008 ozone NAAQS.[170]

IV. Proposed Action

For the reasons discussed in this document, under CAA section 110(k)(3), the EPA is proposing to approve as a revision to the California SIP the following portions of the Sacramento Metro Area Ozone SIP, submitted by CARB on December 18, 2017 and December 5, 2018:

- Base year emissions inventory element in the 2017 Sacramento Regional Ozone Plan as meeting the requirements of CAA sections 172(c)(3) and 182(a)(1) and 40 CFR 51.1115 for the 2008 ozone NAAQS;
- RACM demonstration element in the 2017 Sacramento Regional Ozone Plan as meeting the requirements of CAA section 172(c)(1) and 40 CFR 51.1112(c) for the 2008 ozone NAAQS;
- Attainment demonstration element for the 2008 ozone NAAQS in the 2017 Sacramento Regional Ozone Plan as meeting the requirements of CAA section 182(c)(2)(A) and 40 CFR 51.1108;
- ROP demonstration element in the 2017 Sacramento Regional Ozone Plan as meeting the requirements of CAA 182(b)(1) and 40 CFR 51.1110(a)(2) for the 2008 ozone NAAQS;
- RFP demonstration element in Section V—SIP Elements for the Sacramento Metropolitan Area of the 2018 SIP Update (as clarified) as meeting the requirements of CAA sections 172(c)(2), 182(b)(1), and 182(c)(2)(B), and 40 CFR 51.1110(a)(2)(ii) for the 2008 ozone NAAQS;
- VMT emissions offset demonstration element in the 2017 Sacramento Regional Ozone Plan as meeting the requirements of CAA section 182(d)(1)(A) and 40 CFR 51.1102 for the 2008 ozone NAAQS;
- Motor vehicle emissions budgets in Section V—SIP Elements for the Sacramento Metropolitan Area of the 2018 SIP Update for the RFP milestone year of 2023, and the attainment year of 2024 (see Table 9) because they are consistent with the RFP and attainment demonstrations for the 2008 ozone NAAQS proposed for approval herein and meet the other criteria in 40 CFR 93.118(e).

We are also proposing to find that the:

- Emissions statement element of the 2017 Sacramento Regional Ozone Plan satisfies the requirements under CAA section 182(a)(3)(B) based on our prior approval of the Districts' emission statement rules;
- Enhanced vehicle inspection and maintenance program in the Sacramento Metro Area meets the requirements of CAA section 182(c)(3) and 40 CFR 51.1102 for the 2008 ozone NAAQS;
- California SIP revision to opt out of the federal Clean Fuels Fleet Program meets the requirements of CAA sections 182(c)(4)(A) and 246 and 40 CFR 51.1102 for the 2008 ozone NAAQS with respect to the Sacramento Metro Area; and
- Enhanced monitoring in the Sacramento Metro Area meets the requirements of CAA section 182(c)(1) and 40 CFR 51.1102 for the 2008 ozone NAAQS.

Lastly, we are proposing, under CAA section 110(k)(4), to approve conditionally the contingency measures element of the Sacramento Metro Area Ozone SIP as meeting the requirements

[162] 58 FR 8452 (February 12, 1993).

[163] 82 FR 45191 (September 28, 2017).

[164] 71 FR 61236 (October 17, 2006).

[165] 40 CFR 58.2(b) now provides that, ''The requirements pertaining to provisions for an air quality surveillance system in the SIP are contained in this part.''

[166] The 2008 ozone SRR addresses PAMS-related requirements at 80 FR 12264, 12291 (March 6, 2015).

[167] Letter dated March 3, 2020, from Gwen Yoshimura, Manager, Air Quality Analysis Office, EPA Region IX, to Alberto Ayala, Air Pollution Control Officer, Sacramento Metropolitan Air Quality Management District.

[168] Letter dated November 26, 2019, from Gwen Yoshimura, Manager, Air Quality Analysis Office, EPA Region IX, to Ravi Ramalingam, Chief, Consumer Products and Air Quality Assessment Branch, Air Quality Planning and Science Division, CARB.

[169] Letter dated November 25, 2019, from Dr. Michael T. Benjamin, Chief, Air Quality Planning and Science Division, CARB, to Mr. Mike Stoker, Regional Administrator, EPA Region IX.

[170] See 40 CFR 51.1117. For the Sacramento Metro Area, a section 185 SIP revision for the 2008 ozone NAAQS will be due on July 20, 2022.

of CAA sections 172(c)(9) and 182(c)(9) for RFP contingency measures. Our proposed approval is based on commitments by the Districts and CARB to supplement the element through submission, as a SIP revision (within one year of final conditional approval action), of new or revised Districts' rules that would amend or adopt specific rules with more stringent requirements sufficient to produce near to one year's RFP if an RFP milestone is not met.

The EPA is soliciting public comments on the issues discussed in this proposed rule. We will accept comments from the public on this proposal for the next 30 days and will consider comments before taking final action.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve, or conditionally approve, state plans 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 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 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 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: October 10, 2020.

John Busterud,

Regional Administrator, Region IX.

[FR Doc. 2020–23032 Filed 10–28–20; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2018–0732; FRL–10016–04–Region 5]

Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of the Southwest Indiana Sulfur Dioxide Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In accordance with the Clean Air Act, the Environmental Protection Agency (EPA) is proposing to redesignate the Southwest Indiana nonattainment area, which consists of a portion of Daviess County and a portion of Pike County (Veale Township in Daviess County and Washington Township in Pike County), to attainment for the 2010 primary, health-based 1-hour sulfur dioxide (SO_2) National Ambient Air Quality Standard (NAAQS). EPA is also proposing to approve Indiana's maintenance plan for the Southwest Indiana SO_2 nonattainment area. Indiana submitted the request for approval of the Southwest Indiana nonattainment area's redesignation and maintenance plan on October 24, 2018, and supplemental information on August 25, 2020. EPA has previously approved Indiana's attainment plan for the Southwest Indiana area.

DATES: Comments must be received on or before November 30, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2018–0732 at *http://www.regulations.gov* or via email to *aburano.douglas@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, 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 *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Abigail Teener, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–7314, *teener.abigail@epa.gov.* The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding

Federal holidays and facility closures due to COVID–19.

SUPPLEMENTARY INFORMATION: This supplementary information section is arranged as follows:

I. Background and Redesignation Requirements
II. Determination of Attainment
III. Indiana's State Implementation Plan (SIP)
IV. Permanent and Enforceable Emission Reductions
V. Maintenance Plan
VI. Requirements for the Area Under Section 110 and Part D
VII. What action is EPA taking?
VIII. Statutory and Executive Order Reviews

I. Background and Redesignation Requirements

In 2010, EPA established a revised primary, health-based 1-hour SO_2 NAAQS of 75 parts per billion (ppb) (75 FR 35520, June 22, 2010). On August 5, 2013 (78 FR 47191), EPA designated the Southwest Indiana area as nonattainment for the 2010 SO_2 NAAQS based on air quality monitoring data for calendar years 2009–2011. The Southwest Indiana nonattainment area is comprised of Veale Township in Daviess County and Washington Township in Pike County. EPA approved Indiana's plan for bringing the Southwest Indiana area into attainment on August 17, 2020 (85 FR 49967). The approved attainment plan includes SO_2 emission limits for facilities in the area and modeling to show that compliance with emission limits results in attainment of the standard and ongoing maintenance. On October 24, 2018, Indiana submitted a request to redesignate the Southwest Indiana area to attainment. Indiana sent a letter to EPA, dated August 25, 2020, with information supplementing the previously submitted redesignation request. The letter provided information showing that the most recent data from both the Pike County monitor and the Daviess County monitor indicate attainment of the standard, and confirmed, based on first quarter 2020 emission data, that the Indianapolis Power & Light Company (IPL) Petersburg Generating Station continues to meet the emission limits. The August 25, 2020 letter is included in the docket for this action.

Under Clean Air Act section 107(d)(3)(E), there are five criteria which must be met before a nonattainment area may be redesignated to attainment:

1. EPA has determined that the relevant NAAQS has been attained in the area.
2. The applicable implementation plan has been fully approved by EPA under section 110(k).
3. EPA has determined that improvement in air quality is due to permanent and enforceable reductions in emissions resulting from the SIP, Federal regulations, and other permanent and enforceable reductions.
4. EPA has fully approved a maintenance plan, including a contingency plan, for the area under section 175A of the Clean Air Act.
5. The State has met all applicable requirements for the area under section 110 and part D.

II. Determination of Attainment

The first requirement for redesignation is to demonstrate that the NAAQS has been attained in the area. As stated in EPA's April 2014 ''Guidance for 1-Hour SO_2 Nonattainment Area SIP Submissions,'' there are two components needed to support an attainment determination: A review of representative air quality monitoring data, and a further analysis, generally requiring air quality modeling, to demonstrate that the entire area is attaining the applicable NAAQS, based on current actual emissions or the fully implemented control strategy. Indiana has addressed both components.

Under EPA regulations at 40 CFR 50.17, the SO_2 NAAQS is met at an ambient air quality monitoring site when the three-year average of the annual 99th percentile of one-hour daily maximum concentrations is less than or equal to 75 ppb, as determined in accordance with appendix T of 40 CFR part 50 at all relevant monitoring sites in the subject area. The Southwest Indiana nonattainment area had two SO_2 monitoring sites: One located in Daviess County (AES/IPL Petersburg—West off SR 57; Site ID#18–027–0002), and one located in Pike County (Petersburg–Arda Lane; Site ID# 18–125–0005). Both monitors were operated by IPL. The monitor in Pike County was approved by EPA for discontinuation on August 22, 2019. The Daviess County monitor is still in operation. EPA has reviewed the ambient air monitoring data for both sites, focusing on air quality data collected from 2012 through 2019. Through the end of 2019 for the Daviess County site, and through the morning of August 22, 2019 for the Pike County site, these data are complete, quality-assured, certified, and recorded in EPA's Air Quality System database.

Table 1 shows the 99th percentile results and three-year average design values for the Southwest Indiana nonattainment area monitors for 2012–2019. The 2016–2018 design values for Southwest Indiana are 17 ppb for the Daviess County monitor and 23 ppb for the Pike County monitor, which are both below the SO_2 NAAQS. Using the full year of 2019 data collected at the Daviess County monitor and the partial year of data at the Pike County monitor, the 2017–2019 design values are 14 ppb and 19 ppb for the monitors, respectively, which are also below the NAAQS. Therefore, EPA finds that Indiana has demonstrated that Southwest Indiana's SO_2 monitors show attainment.

TABLE 1—INDIANA'S MONITORING DATA FOR THE SOUTHWEST INDIANA SO_2 NONATTAINMENT AREA FOR 2012–2019

[ppb]

Site ID	Location	99th percentile values								3-Year design values					
		2012	2013	2014	2015	2016	2017	2018	2019	2012–2014	2013–2015	2014–2016	2015–2017	2016–2018	2017–2019
18–027–0002	Daviess County	78	150	107	93	22	16	13	12	112	117	74	44	17	14
18–125–0005	Pike County	140	169	157	74	26	24	19	*13	155	133	86	41	23	*19

*Includes partial 2019 data before the Pike County monitor was approved by EPA for discontinuation on August 22, 2019.

In addition to ambient air quality monitoring data, Indiana utilized an approach based on computer modeling which relied on allowable emissions in Indiana's attainment SIP to additionally characterize the attainment status of the SO_2 NAAQS and to provide for maintaining SO_2 emissions in Southwest Indiana below the SO_2 NAAQS through 2030. This modeling was approved by EPA on August 17, 2020 as part of Indiana's attainment SIP.

Indiana evaluates the emissions from the IPL Petersburg Generating Station, the remaining SO_2 source in the Southwest Indiana area, to demonstrate compliance with its emission limits. Table 2 shows Indiana's emission limits

and data for the IPL Petersburg Generating Station for the first quarter of 2020, using 30-day rolling average limits and emissions. EPA has verified that the IPL Petersburg Generating Station is currently complying with its emission limits based on data from the first and second quarters of 2020.

TABLE 2—INDIANA'S 30-DAY AVERAGE EMISSION LIMITS AND DATA FOR THE IPL PETERSBURG GENERATING STATION—1ST QUARTER 2020

	Unit 1	Unit 2	Unit 3	Unit 4
SO_2 Emission Limit (lb/hr) [1]	263	495.4	1633.7	1548.2
IPL—SO_2 Maximum (lb/hr)	153	262	639	717
SO_2 Emission Limit (lb/MMBtu)	0.10	0.10	0.25	0.24
IPL—SO_2 Maximum (lb/MMBtu)	0.07	0.06	0.17	0.17

[1] These lb/hr limits were not incorporated into the SIP, in part due to questions about the adjustment factor used to derive these 30-day average limits. Nevertheless, evidence of compliance with these state limits supplements the evidence of compliance with the lb/MMBtu limits in support of the finding that the IPL Petersburg Generating Station is emitting at levels low enough for the area to attain the SO_2 NAAQS.

Although the predominant emissions at the IPL Petersburg Generating Station are from the coal fired units, the state also restricts the emissions from the diesel generating units at the source, in part by limiting the allowable number of operating hours. Table 3 shows Indiana's diesel generator operating limits and data for the IPL Petersburg Generating Station. Based on the 2019 and partial 2020 data, the IPL Petersburg Generating Station diesel generator operating durations are well under the limits.

TABLE 3—INDIANA'S DIESEL GENERATOR DATA FOR THE IPL PETERSBURG GENERATING STATION

Diesel generator	2019 Operating hours	2020 1st quarter operating hours	Operating limit
PB–2	33.8	4.7	500-hour calendar year operating limit (each).
PB–3	3.4	0.0	
PB–4	20.3	3.3	

Due to a Federal Consent Decree (Civil Action No. 3:20–cv–202–RLY–MPB) lodged by the United States and Indiana against IPL on August 31, 2020, EPA expects that emissions will be limited to levels even lower than those EPA found adequate to provide for attainment.

As described above, Indiana has addressed both the modeling and monitoring components needed to support an attainment determination. EPA proposes to find that this modeling analysis and the monitored air quality data demonstrate that the Southwest Indiana area has attained the 2010 SO_2 NAAQS.

III. Indiana's State Implementation Plan (SIP)

EPA's approval of Indiana's attainment SIP for the Southwest Indiana area (85 FR 49967) included revised emission limits for the IPL Petersburg Generating Station and emission limits for the Hoosier Energy Ratts Generating Station, which were the two SO_2 sources (both Electrical Generating Units (EGUs)) in Southwest Indiana before the Ratts Generating Station was shut down in 2015. In that action, EPA found that Indiana had satisfied requirements for providing for attainment of the 1-hour SO_2 NAAQS in the Southwest Indiana area. Indiana has adopted its SO_2 SIP regulations, including those which cover the Southwest Indiana area, at Indiana Administrative Code (IAC) Title 326, consisting of 326 IAC 7–4–15 (entitled ''Pike County sulfur dioxide emission limitations''); 326 IAC 7–1.1–3 (''Compliance date''); and 326 IAC 7–2–1 (''Reporting requirements; methods to determine compliance''). These rules are supplemented with Commissioner's Order 2019–02 limiting emissions from the IPL Petersburg Generating Station described above. Indiana has shown that it maintains an active enforcement program to ensure ongoing compliance with these requirements. Indiana's new source review/prevention of significant deterioration program will address emissions from potential new sources in the area.

IV. Permanent and Enforceable Emission Reductions

For an area to be redesignated, the state must be able to reasonably attribute the improvement in air quality to emission reductions which are permanent and enforceable. Indiana has established SO_2 emission limits for each of the four units at the IPL Petersburg Generating Station. In 2017, these emission limits resulted in an actual decrease of 26,761 tons per year (tpy) of SO_2 (77.06 percent) from 2011 actual emissions. EPA included the revised limits in the approval of Indiana's SIP on August 17, 2020 (85 FR 49967), which renders the limits federally enforceable.

The other SO_2 source in the Southwest Indiana area, Hoosier Energy Ratts Generating Station, was permanently shut down in March 2015 and dismantled in late 2016. Thus, its emissions are zero.

As shown in Table 1, the monitored design values in the Southwest Indiana area at the time of its nonattainment designation were above the NAAQS of 75 ppb. Subsequent monitoring data in the Southwest Indiana area indicate that the 99th percentile ambient SO_2 levels dropped below the NAAQS after the imposition of enforceable limits at the IPL Petersburg Generating Station and the shutdown of Hoosier Energy Ratts Generating Station. EPA proposes to find that the improvement in air quality in the Southwest Indiana area can be attributed to permanent and enforceable emission reductions at the IPL Petersburg Generating Station and the Hoosier Energy Ratts Generating Station.

V. Maintenance Plan

Clean Air Act section 175A sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under

section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the nonattainment area is redesignated to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the ten years following the initial ten-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures as EPA deems necessary to assure prompt correction of any future one-hour violations.

Specifically, the maintenance plan should address five requirements: the attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. Indiana's October 24, 2018 redesignation request contains its maintenance plan, which Indiana has committed to review eight years after redesignation.

In their redesignation request, Indiana provided an emission inventory which addresses the 2011 base year actual emissions of 34,728 tpy for EGU sources. Indiana chose 2017 as an attainment year in order to demonstrate actual emissions reductions that have occurred in an attaining year. The 2017 attainment year inventory included actual reductions due to the shutdown of the Hoosier Energy Ratts Generating Station. Total actual SO_2 emissions in the Southwest Indiana area for the attainment year were 7,967 tpy.

Indiana calculated allowable emissions inventories, both including and excluding the Hoosier Energy Ratts Generating Station, by multiplying the 1-hour pound per hour (lb/hr) emission limits by the number of hours in a year. However, as the IPL Petersburg Generating Station is subject to 30-day average limits instead of 1-hour limits, which allow less emissions in a year than the 1-hour limits, EPA believes that the 30-day average limits are a more appropriate basis for calculating allowable emissions. Indiana determined its 30-day average limits on pounds per million British Thermal Units (lb/MMBtu) by multiplying the 1-hour average limits by an adjustment factor of 68 percent. At maximum heat inputs for the four units at the IPL Petersburg Generating Station, the 1-hr limits in lb/MMBtu result in the quantity of emissions given in the 1-hr lb/hr limits. Indiana has not calculated a 30-day average lb/hr limit using EPA guidance. Nevertheless, the establishment of appropriately adjusted 30-day average lb/MMBtu limits, determined by multiplying the 1-hr lb/MMBtu limits by 68 percent, will result in emissions at maximum heat input that equal 68 percent of the 1-hr lb/hr limits. Therefore, the allowable emissions as calculated by EPA are 68 percent of the allowable emissions as calculated by Indiana, and thus the allowable emissions for the area are even lower than those on which Indiana based its request.

EPA's calculated allowable emissions for the Southwest Indiana area, which are equivalent to the projected emissions for the maintenance year of 2030, are 14,729 tpy, all allowable from the IPL Petersburg Generating Station. This quantity is 57.59 percent lower than actual emissions in 2011. Indiana demonstrated a 77.06 percent reduction in actual emissions between 2011 and 2017, which is more than sufficient to attain the SO_2 NAAQS in the Southwest Indiana area.

Indiana's maintenance demonstration consists of the nonattainment SIP air quality analysis showing that the emission reductions now in effect in the Southwest Indiana area will provide for attainment of the SO_2 NAAQS. The permanent and enforceable SO_2 emission reductions described above ensure that area emissions will be equal to or less than the emission levels which were evaluated in the air quality analysis, and Indiana's enforceable emission requirements will ensure that the Southwest Indiana SO_2 emission limits are met continuously.

For continuing verification, Indiana has committed to track the emissions and compliance status of the major facilities in the Southwest Indiana area so that future emissions will not exceed the allowable emissions-based attainment inventory. All major sources in Indiana are required to submit annual emissions data, which the State uses to update its emission inventories as required by the Clean Air Act.

The requirement to submit contingency measures in accordance with section 172(c)(9) of the Clean Air Act can be adequately addressed for SO_2 by the operation of a comprehensive enforcement program which can quickly identify and address sources that might be causing exceedances of the NAAQS. Indiana's enforcement program is active and capable of prompt action to remedy compliance issues. In particular, Indiana's October 24, 2018 redesignation request discusses its two-tiered plan to respond to reported emissions that would cause modeled exceedances of the SO_2 NAAQS in the maintenance area. Indiana commits to study SO_2 emission trends and identify areas of concern and potential additional measures, and if necessary, Indiana will consider additional control measures which can be implemented quickly. Indiana has the authority to expeditiously adopt, implement, and enforce any subsequent emissions control measures deemed necessary to correct any future SO_2 violations.

Indiana commits to adopt and implement such corrective actions as necessary to address trends of increasing emissions or modeled ambient impacts. The public will have the opportunity to participate in the contingency measure implementation process. Based on the foregoing, EPA proposes to find that Indiana has addressed the contingency measure requirement. Further, EPA proposes to find that Indiana's maintenance plan adequately addresses the five basic components necessary to maintain the SO_2 NAAQS in the Southwest Indiana nonattainment area.

VI. Requirements for the Area Under Section 110 and Part D

Indiana has submitted information demonstrating that it meets all of the SIP requirements of the Clean Air Act for the Southwest Indiana nonattainment area. EPA approved Indiana's infrastructure SIP for SO_2 on August 14, 2015 (80 FR 48733). This infrastructure SIP approval confirms that Indiana's SIP meets the requirements of Clean Air Act section 110(a)(1) and 110(a)(2) to contain the basic program elements, such as an active enforcement program and permitting program.

Section 191 of the Clean Air Act requires Indiana to submit a part D SIP for the Southwest Indiana nonattainment area by April 4, 2015. Indiana submitted its part D SIP on October 2, 2015 and supplemented it on November 15, 2017 and September 18, 2019. The SIP included a demonstration of attainment and the emission limits for the IPL Petersburg Generating Station and the Hoosier Energy Ratts Generating Station. EPA approved the Southwest Indiana attainment plan on August 17, 2020 (85 FR 49967) with revised limits for the IPL Petersburg Generating Station. In that rulemaking, EPA concluded that Indiana had satisfied the various requirements under Clean Air Act section 110 and part D for the Southwest Indiana SO_2 nonattainment area. For example, EPA concluded that Indiana satisfied requirements for an attainment inventory of the SO_2 emissions from sources in the nonattainment area (required under section 173(c)(3)), reasonably available control measures (required under section 173(c)(1)), and

reasonable further progress (required under section 173(c)(2)).

Indiana chose 2011 for its base year emissions inventory, as comprehensive emissions data were available and updated that year, which satisfies the 172(c)(3) requirements. In that year, two EGU sources (the IPL Petersburg Generating Station and the Hoosier Energy Ratts Generating Station) were the main sources in the nonattainment area.

Table 4 compares Indiana's SO_2 emissions data for EGU sources for 2011 (the base nonattainment year identified by Indiana) and 2017 (the most recent certified attainment year at the time of the redesignation request submission), as well as EPA's projected allowable emissions for the maintenance year of 2030. Although Indiana calculated allowable 2030 emissions for the IPL Petersburg Generating Station by multiplying the 1-hour lb/hr emission limits by the number of hours in a year, EPA calculated the allowable 2030 emissions by multiplying Indiana's projected emissions by the adjustment factor needed for the 30-day average limits to be comparably stringent to 1-hour limits, as the IPL Petersburg Generating Station is subject to 30-day average emission limits.

By providing actual emissions from the two main SO_2 sources from a time period when the area was not meeting the SO_2 NAAQS, and from a time period when the area was attaining the NAAQS, Indiana demonstrates a 77.06 percent reduction in actual SO_2 emissions. Indiana's submittal shows that actual 2017 EGU SO_2 emissions in the Southwest Indiana area were 22.94 percent of the actual emissions in 2011. Indiana also shows by modeling that continued compliance with now federally enforceable emission limits for the remaining contributing SO_2 source will result in the area maintaining attainment of the SO_2 NAAQS.

TABLE 4—ACTUAL AND PROJECTED EGU POINT SOURCES IN THE SOUTHWEST INDIANA AREA

[Tons per year]

Affected source	Type of reduction	2011 Nonattainment year (actual)	2017 Attainment year (actual)	2011–2017 Change (actual)	2030 Maintenance year (projected)
IPL—Petersburg Generating Station	Emission Limits/Improved Controls	25,232	7,967	−17,265	14,729
Hoosier Energy—Ratts Generating Station.	Facility Closed	9,496	0	−9,496	0
Total		34,728	7,967	−26,761	14,729

Section 176(c) of the Clean Air Act requires states to establish criteria and procedures to ensure that federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects that are developed, funded, or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement, and enforceability that EPA promulgated pursuant to its authority under the Clean Air Act. On June 4, 2010, Indiana submitted documentation establishing transportation conformity procedures in its SIP. EPA approved these procedures on August 17, 2010 (75 FR 50708).

Based on the above, EPA is proposing to find that Indiana has satisfied the applicable requirements for the redesignation of the Southwest Indiana nonattainment area under section 110 and part D of title I of the Clean Air Act.

VII. What action is EPA taking?

In accordance with Indiana's October 24, 2018 request and August 25, 2020 supplemental letter, EPA is proposing to redesignate the Southwest Indiana nonattainment area from nonattainment to attainment of the 2010 SO_2 NAAQS. EPA finds that Indiana has demonstrated that the area is attaining the 2010 SO_2 NAAQS and that the improvement in air quality is due to permanent and enforceable SO_2 emission reductions in the area. EPA is also proposing to approve Indiana's maintenance plan, which is designed to ensure that the area will continue to maintain the SO_2 NAAQS.

VIII. Statutory and Executive Order Reviews

Under the Clean Air Act, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the Clean Air Act for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because it is not a significant regulatory action under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive

Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: October 19, 2020.

Kurt Thiede,

Regional Administrator, Region 5.

[FR Doc. 2020–23496 Filed 10–28–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R08–OAR–2020–0516; FRL–10015–82—Region 8]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; South Dakota; Control of Emissions From Existing Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a Clean Air Act (CAA or the ''Act'') section 111(d) state plan submitted by the South Dakota Department of Environment and Natural Resources (DENR or the ''Department'') on January 3, 2020. This plan was submitted to fulfill the requirements of the CAA and is responsive to the EPA's promulgation of Emission Guidelines and Compliance Times for existing municipal solid waste (MSW) landfills. The South Dakota state plan establishes performance standards and other operating requirements for existing MSW landfills within the State of South Dakota and provides for the implementation and enforcement of those standards and requirements by the Department.

DATES: Written comments must be received on or before November 30, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2020–0516, 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/commenting-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 either electronically in *www.regulations.gov* or in hard copy at the Air and Radiation Division, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4 p.m., excluding federal holidays and facility closures.

FOR FURTHER INFORMATION CONTACT: Gregory Lohrke, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD–TRM, 1595 Wynkoop Street, Denver, Colorado, 80202–1129, (303) 312–6396, *lohrke.gregory@epa.gov.*

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

I. Background

On August 29, 2016, the EPA finalized revised Standards of Performance (NSPS) for new MSW landfills and Emission Guidelines and Compliance Times (EG) for existing MSW landfills in 40 CFR part 60, subparts XXX and Cf, respectively. See 81 FR 59331 and 59313. These rulemaking actions were taken in accordance with section 111 of the CAA. Section 111(d) of the Act requires the EPA establish procedures for a state to submit a plan to the Agency that establishes standards of performance for any 'existing' source for any air pollutant, (1) for which air quality criteria have not been issued or which is not included on a list published under CAA section 108, or emitted from a source category which is regulated under CAA section 112, but (2) to which a new source performance standard under section 111(b) would apply if such existing source were a 'new' source. The EPA established general provisions for submittal of state plans for 111(d) sources in 40 CFR part 60,

subpart B and has recently promulgated revised general provisions for CAA 111(d) state plans in Subpart Ba of that same Part and Title of the CFR. See 84 FR 32575. State plan submittals for CAA section 111(d) sources must be consistent with the requirements of these general provisions and also establish performance standards and other requirements at least as stringent as those established by the relevant EG as published in 40 CFR part 60. Upon state plan submittal, the EPA reviews a state's plan for consistency with the requirements of the general provisions and specific EG. If the state plan is complete and approvable with reference to these requirements, the Agency notifies the public, promulgates the plan in 40 CFR part 62 and delegates implementation and enforcement of the standards and requirements of the EG to the state under the terms of the state plan as published in the CFR. Today's action concerns the completeness and approvability of South Dakota's CAA section 111(d) state plan for existing MSW landfills.

Under the new Ba implementing regulations and Section 111(d), state plan submittal must meet the completeness requirements of 40 CFR part 60, subpart Ba, sections 60.23a and 60.27a(g). Section 60.27a(g) states that: ''Any plan or plan revision that a State submits to the EPA, and that has not been determined by the EPA by the date 6 months after receipt of the submission to have failed to meet the minimum criteria, shall on that date be deemed by operation of law to meet such minimum criteria.'' 40 CFR 60.27a(g)(1).

The Secretary of the South Dakota DENR submitted a final CAA section 111(d) state plan for existing MSW landfills on January 3, 2020 in response to the August 29, 2016 promulgation, mentioned above in this preamble, of the EG for such designated facilities at 40 CFR part 60, subpart Cf. Six months have passed since the date of the plan submission. Therefore, the plan is deemed to have met the completeness criteria in 40 CFR 60.27a(g).

II. Summary and Analysis of the Plan Submittal

The EPA has reviewed the South Dakota 111(d) plan submittal in the context of the plan completeness and approvability requirements found in 40 CFR part 60, subparts B, Ba and Cf, and part 62, subpart A. The EPA is proposing with this action to determine that the submitted section 111(d) plan meets the above cited requirements. The South Dakota state plan submittal package includes all materials necessary to be deemed administratively and technically complete according to the criteria of 40 CFR 60.27a(g). South Dakota has chosen to author a state plan document and provide all implementation and enforcement authority for all state plan requirements through revisions to the Administrative Rules of South Dakota (ARSD). Specifically, the State has appropriately incorporated all EG performance standards and other source requirements in ARSD article 74:36, section 01:19 and sections 07:94–145. Both the State plan document, the relevant ARSD sections, and all other relevant plan submittal materials may be found in the docket for this action. Necessary State legal and enforcement authorities required for plan approval are located elsewhere in South Dakota statute, rules and regulations and have been reviewed and approved of by the EPA in the course of prior CAA section 111(d) or 111(d)/129 state plan approvals. See 40 CFR 62.10350–10362. Following the EPA's review of the submittal materials, the Agency finds the State plan package to be approvable according to all plan requirements.

In this action, EPA is proposing to incorporate by reference (IBR) Article 74:36, Chapter 1, section 19 and Chapter 7, sections 94–145 of the ARSD, which became effective in the State of South Dakota on November 25, 2019. Analysis of the submitted plan's completeness and approvability, with reference to the relevant general and source category specific plan requirements of 40 CFR part 60, subparts B, Ba and Cf, and a detailed explanation of the rationale supporting this proposed approval is available in the Technical Support Document (TSD) in the docket of this proposed rule.

III. Proposed Action

The EPA is proposing to approve the South Dakota section 111(d) state plan for MSW landfills pursuant to 40 CFR part 60, subparts B, Ba, and Cf. Therefore, the EPA is proposing to amend 40 CFR part 62, subpart QQ to reflect this approval action. This approval is based on the rationale provided in section II of this preamble and discussed in detail in the TSD associated with this rulemaking action. The scope of the proposed approval is limited to the provisions of 40 CFR parts 60 and 62. The EPA's proposed approval of the South Dakota plan is limited to those landfills that meet the criteria established in 40 CFR part 60, subpart Cf.

The EPA Administrator continues to retain authority for approval of alternative methods to determine the nonmethane organic compound concentration or a site-specific methane generation rate constant (k), as stipulated in 40 CFR 60.30f(c).

IV. Incorporation by Reference

In this document, the EPA is proposing to incorporate by reference DENR rules regarding MSW landfills discussed in section II of this preamble in accordance with the requirements of 1 CFR 51.5. The EPA has made, and will continue to make, these materials available through the docket for this action, EPA–R08–OAR–2020–0516, at *https://www.regulations.gov,* and at the EPA Region VIII Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

In reviewing state plan submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this 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 2, 2017) regulatory action because 111(d) plan 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 South Dakota state plan for existing MSW landfills 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 62

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

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

Dated: October 23, 2020.

Gregory Sopkin,

Regional Administrator, EPA Region 8.

[FR Doc. 2020–23985 Filed 10–28–20; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 100

RIN 0906–AB24

National Vaccine Injury Compensation Program: Revisions to the Vaccine Injury Table

AGENCY: Health Resources and Services Administration (HRSA), U.S. Department of Health and Human Services (HHS).

ACTION: Notification.

SUMMARY: This document announces a public hearing to receive information and views on the Notice of Proposed Rulemaking (NPRM) entitled ''National Vaccine Injury Compensation Program: Revisions to the Vaccine Injury Table.''

DATES: November 9, 2020, 10:00 a.m.–2:00 p.m. Eastern Time (ET).

The ending time of this public hearing may change based on public interest. The most up-to-date information about the public hearing will be available on the National Vaccine Injury Compensation (VICP) website, *https://www.hrsa.gov/vaccine-compensation/index.html.*

ADDRESSES: This meeting will be held by Adobe Connect webinar and teleconference.

The public can join the meeting by:

1. (Audio Portion) Calling the conference phone number 800–988–0218 and providing the following information:

Leader: Tamara Overby
Password: 46525

2. (Visual Portion) Connecting to the Public Hearing Adobe Connect Pro Meeting using the following URL: *https://hrsa.connectsolutions.com/VICPPublicHearing* (copy and paste the link into your browser if it does not work directly, and enter as a guest). Participants should call and connect 15 minutes prior to the meeting in order for logistics to be set up. If you have never attended an Adobe Connect meeting, please test your connection using the following URL: *https://hrsa.connectsolutions.com/common/help/en/support/meeting_test.htm* and get a quick overview by following URL: *http://www.adobe.com/go/connectpro_overview.* Call (301) 443–6634 or send an email to *aherzog@hrsa.gov* if you are having trouble connecting to the meeting site.

FOR FURTHER INFORMATION CONTACT: Tamara Overby, Acting Director, Division of Injury Compensation Programs (DICP), Healthcare Systems Bureau (HSB), HRSA, 5600 Fishers Lane, 08N–142, Rockville, Maryland 20857; 855–266–2427 or by email *TOverby@hrsa.gov.*

SUPPLEMENTARY INFORMATION: The Secretary proposes to amend the Vaccine Injury Table (Table) by regulation. The proposed regulation will have effect only for petitions for compensation under the VICP filed after the final regulation become effective. The Secretary is seeking public comment on the proposed revisions to the Table.

The NPRM went on public display on July 16, 2020. The public comment period closes on January 12, 2021. 85 FR 43794 (July 20, 2020) *https://www.govinfo.gov/content/pkg/FR-2020-07-20/pdf/2020-15673.pdf.*

The public hearing will be held within the 180-day public comment period. This hearing is to provide an open forum for the presentation of information and views concerning all aspects of the NPRM by interested persons.

In preparing a final regulation, the Secretary will consider the administrative record of this hearing along with all other written comments received during the comment period specified in the NPRM. Individuals or representatives of interested organizations are invited to participate in the public hearing in accordance with the schedule and procedures set forth below.

The presiding officer representing the Secretary of HHS will be Tamara Overby, Acting Director, DICP, HSB, HRSA.

Persons who wish to participate are requested to file a notice of participation with HHS on or before October 26, 2020. The notice should be mailed to the National Vaccine Injury Compensation Program, DICP, HSB, 08N146B, 5600 Fishers Lane, Rockville, Maryland 20857 or emailed to *aherzog@hrsa.gov.* To ensure timely handling, any outer envelope or the subject line of an email should be clearly marked ''VICP NPRM Hearing.'' The notice of participation should contain the interested person's name, address, email address, telephone number, any business or organizational affiliation of the person desiring to make a presentation, a brief summary of the presentation, and the approximate time requested for the presentation. Groups that have similar interests should consolidate their comments as part of one presentation. Time available for the hearing will be allocated among the persons who properly file notices of participation. If time permits, interested parties attending the hearing who did not submit notice of participation in advance will be allowed to make an oral presentation at the conclusion of the hearing.

Persons who find that there is insufficient time to submit the required information in writing may give oral notice of participation by calling Annie Herzog, DICP, at (301) 443–6634, no later than October 26, 2020.

After reviewing the notices of participation and accompanying information, HHS will schedule each appearance and notify each participant by mail, email, or telephone of the time allotted to the person(s) and the approximate time the person's oral presentation is scheduled to begin.

A summary of comments and a recording of the hearing will be made available for public inspection at the VICP website, *https://www.hrsa.gov/vaccine-compensation/index.html,* as soon as they have been prepared.

Dated: October 15, 2020.

Alex M. Azar II,

Secretary, Department of Health and Human Services.

[FR Doc. 2020–23340 Filed 10–28–20; 8:45 am]

BILLING CODE 4165–15–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 20–334; RM–11864; DA 20–1193; FRS 17155]

Television Broadcasting Services Portland, Oregon

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has before it a petition for rulemaking filed by Sander Operating Co. III LLC (Sander), licensee of KGW, requesting the substitution of channel 26 for channel 8 at Portland in the DTV Table of Allotments. The Commission instituted a freeze on the acceptance of rulemaking petitions by full power television stations requesting channel substitutions in May 2011, and Sander asks that the Commission waive the freeze to permit KGW to change from a VHF to a UHF channel to better serve its over-the-air viewers. Sander states that the Commission has recognized that VHF channels have certain propagation characteristics which may cause reception issues for some viewers. While Sander acknowledges that VHF reception issues are not universal, it states that since the 2009 digital transition, when it began operating exclusively on digital channel 8, KGW has received a steady stream of complaints from viewers unable to receive the station's over-the-air signal, despite being able to receive signals from other local stations. Sander believes that waiver of the channel substitution freeze would serve the public interest.

DATES: Comments must be filed on or before November 13, 2020 and reply comments on or before November 23, 2020.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 45 L Street NE, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: Michael Beder, Esq., Associate General Counsel, TEGNA, Inc., 8350 Broad Street, Suite 2000, Tysons, Virginia 22102.

FOR FURTHER INFORMATION CONTACT: Joyce Bernstein, Media Bureau, at (202) 418–1647; or Joyce Bernstein, Media Bureau, at *Joyce.Bernstein@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rulemaking,* MB Docket No. 20–334; RM–11864; DA 20–1193, adopted October 13, 2020, and released October 13, 2020. The full text of this document is available for download at *https://www.fcc.gov/edocs.* To request materials in accessible formats (braille, large print, computer diskettes, or audio recordings), please send an email to *FCC504@fcc.gov* or call the Consumer & Government Affairs Bureau at (202) 418–0530 (VOICE), (202) 418–0432 (TTY).

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed 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). Provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to this proceeding.

Members of the public should note that all *ex parte* contacts are prohibited from the time a Notice of Proposed Rulemaking is issued to the time the matter is no longer subject to Commission consideration or court review, *see* 47 CFR 1.1208. There are, however, exceptions to this prohibition, which can be found in Section 1.1204(a) of the Commission's rules, 47 CFR 1.1204(a).

See Sections 1.415 and 1.420 of the Commission's rules for information regarding the proper filing procedures for comments, 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Thomas Horan

Chief of Staff, Media Bureau.

Proposed Rule

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICE

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

§ 73.622 [Amended]

■ 2. Amend § 73.622(i), the Post-Transition Table of DTV Allotments under Oregon, by removing channel 8 and adding channel 26 at Portland.

[FR Doc. 2020–23310 Filed 10–28–20; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 571 and 585

[Docket No. NHTSA–2020–0094]

RIN 2127–AL90

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: NHTSA is proposing to amend Federal Motor Vehicle Safety Standard (FMVSS) No. 208, ''Occupant crash protection,'' to update the child restraint systems (CRSs) listed in Appendix A–1 of the standard. NHTSA uses the CRSs in Appendix A–1 to test the performance of advanced air bag suppression and low risk deployment systems in either suppressing or deploying the air bag in a low-risk manner in the presence of a CRS. The proposed amendments would ensure that the CRSs used by NHTSA to test advanced air bags are representative of the current CRS fleet, and would make it easier for vehicle manufacturers and test laboratories to acquire CRSs for testing purposes.

DATES: You should submit your comments early enough to be received not later than December 28, 2020. Under a proposed phase-in of final rule requirements, 50 percent of vehicles manufactured on or after the first September 1st after the publication date of the final rule would have to be certified as meeting FMVSS No. 208 when tested with the CRSs on the revised Appendix A–1, and all vehicles manufactured on or after the second September 1st after the publication date of the final rule would have to be so certified.

ADDRESSES: You may submit comments to the docket number identified in the heading of this document by any of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the

online instructions for submitting comments.

• *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

• *Hand Delivery or Courier:* 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

• *Fax:* 202–493–2251.

Instructions: All submissions must include the agency name and docket number. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act discussion below. We will consider all comments received before the close of business on the comment closing date indicated above. To the extent possible, we will also consider comments filed after the closing date.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* at any time or to 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. Telephone: (202) 366–9826.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000, (Volume 65, Number 70; Pages 19477–78).

Confidential Business Information: If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to the Docket at the address given above. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation (49 CFR part 512).

FOR FURTHER INFORMATION CONTACT: You may contact Ms. Carla Rush, Office of Crashworthiness Standards, Telephone: 202–366–4583, Facsimile: 202–493–2739 or Mr. Daniel Koblenz, Office of Chief Counsel, Telephone: 202–366–2992, Facsimile: 202–366–3820. The mailing address of these officials is: the National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

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I. Executive Summary

NHTSA is proposing to amend FMVSS No. 208 to update the CRSs listed in Appendix A–1 of the standard. The CRSs in Appendix A–1 are used by NHTSA to test advanced air bag suppression or low risk deployment systems to ensure that they mitigate the risk of harm to children and infants by either suppressing or deploying the air bag in a low-risk manner in the presence of a child in a CRS. NHTSA seeks to update Appendix A–1 to reflect the changes to the availability of CRSs in the marketplace since 2008, when the Appendix was last updated.

The amendments proposed today would replace or update the identifying information for all the CRSs listed in Appendix A–1. This proposal would allow a phase-in of the amendment to give manufacturers reasonable time to certify their advanced air bag systems using the new CRSs. To effectuate the phase-in using the regulatory framework of FMVSS No. 208, this update would move the CRSs that are now in Appendix A–1 to Appendix A, and reference the new proposed CRSs in Appendix A–1.

If the changes proposed in this NPRM are adopted, NHTSA would test advanced air bags with CRSs more representative of current CRSs than those now in Appendix A–1. Accordingly, air bag systems would be assessed using CRSs that consumers are using in vehicles. In addition, since the last significant update to the appendix was in 2008, many CRS models listed in the current appendix have been discontinued, and so are difficult and time-consuming to acquire. Updating the list of CRSs would make it easier for vehicle manufacturers and test laboratories to acquire the CRSs for testing purposes.

II. Background on Advanced Air Bags and Appendices A and A–1

On May 12, 2000, NHTSA issued the Advanced Air Bag Rule (65 FR 30680) in order to reduce the frequency and severity of air bag-related injuries to small adults and young children. One of the specific risks that the Advanced Air Bag Rule was intended to address was the risk that front passenger air bags pose to young children in CRSs. To this end, the Advanced Air Bag Rule amended FMVSS No. 208 to add new performance requirements for how the front passenger air bag must operate in the presence of a child in a CRS.

The Advanced Air Bag Rule allows manufacturers to provide child protections using one of three compliance options. The first option requires the front passenger air bag system to automatically suppress when a child (whether in a CRS or not) is present (''suppression''). The second option requires that the front passenger air bag deploy only at a low level of force when a child (whether in a CRS or not) is present (''low risk deployment'' or ''LRD''). For these first two options, the vehicle must provide passenger-side protections for child-sized test dummies in various positions, including in a CRS. The third compliance option requires the tracking of the passenger occupant's motion and suppresses the air bag if they are too close to the air bag (''dynamic automatic suppression system'' or ''DASS''). To comply using dynamic automatic suppression, a manufacturer must develop an acceptable test procedure, which must be adopted into FMVSS No. 208 through an expedited rulemaking procedure. To date, no manufacturer has attempted to certify using the DASS option. FMVSS No. 208 permits vehicle manufacturers to choose different compliance options for different performance tests, and is technology neutral with regard to how a vehicle complies.

For tests that involve air bag performance in the presence of anthropomorphic test dummies in CRSs, the manufacturers are required to certify that their vehicles will comply with the advanced air bag requirements when tested by NHTSA using the CRSs identified in Appendix A of FMVSS No. 208. As we explained in the Advanced

Air Bag Rule, NHTSA intended for the CRSs listed in Appendix A to be representative of a large portion of the CRS market across many CRS manufacturers. To keep Appendix A up to date, NHTSA amended it in final rules issued in December 2001 (66 FR 65375) and November 2003 (68 FR 65179) to replace certain CRSs that were no longer in production and to add two LATCH-compatible CRSs, respectively.[1]

NHTSA most recently updated Appendix A in a final rule issued in November 2008 (73 FR 66786). NHTSA created a new ''Appendix A–1'' to facilitate phasing-in the requirement to certify vehicles with the updated CRSs.[2] Today, Appendix A–1 is the only appendix in effect.

The CRSs listed in Appendix A–1 are broken up into four subparts. Subpart A lists ''car bed'' CRSs that can be used to test the suppression system of a vehicle that has been certified as complying with S19 of FMVSS No. 208. Subpart B lists rear-facing infant CRSs that can be used by the agency to test the suppression system or the LRD capabilities of a vehicle that is certified as complying with S19 of FMVSS No. 208. Subpart C lists forward-facing toddler and convertible[3] CRSs that can be used by the agency to test the suppression system or the LRD capabilities of a vehicle that has been certified as complying with S19 or S21 of FMVSS No. 208. Subpart D lists CRSs that are or can be used as a belt-positioning seat (commonly called belt-positioning booster seats (BPBs)) (*e.g.,* combination and 3-in-1 CRSs) and BPBs that can be used by the agency to test the suppression system or the LRD capabilities of a vehicle that has been certified as complying with S21 or S23 of FMVSS No. 208.[4]

III. Development of Today's NPRM

When deciding whether to update Appendix A–1 (68 FR 65188) NHTSA considers whether a particular CRS (from the appendix in effect and from the latest Ease of Use (EOU) data) has been a high-volume model, whether it has mass and dimensions that are representative of many CRSs on the market, whether its mass and dimensions represent outliers, and whether a variety of CRS manufacturers are represented in the appendix. The agency also assesses whether the assortment of CRSs in the appendix assures that NHTSA will be adequately testing the robustness of air bag automatic suppression systems under real world conditions.

To develop today's NPRM, NHTSA conducted a systematic evaluation of the CRSs currently in Appendix A, and of data collected through the agency's EOU program.[5] The agency assessed child restraint system physical dimensions and weight (mass) to identify which CRSs have dimensions that were representative of the average restraint in today's market, and which were possible outliers, with dimensions, weight[6] and/or footprints[7] markedly outside of those of the ''average'' CRS. In addition, the agency identified which CRSs had high production totals (based on confidential manufacturers' data) to determine which CRSs were likely to have the greatest market share (highest sales volume).

We note that, in choosing which CRSs to include in the updated appendix, the agency sought to ensure that advanced air bag systems would be designed and calibrated to perform satisfactorily when used with a wide range of CRSs. For example, because rear-facing CRSs with either low or high seat back heights can pose challenges for LRD systems, the agency sought to include rear-facing CRSs of varying seat back heights for LRD testing purposes. Similarly, because the agency believes that certain features like handles and sunshields on rear-facing infant carrier CRSs can lead to false readings by vision-based sensors used in some advanced air bag systems, the agency includes rear-facing CRSs that have handles and sunshields in the appendix.[8]

IV. Proposed Changes

After considering the factors discussed in the previous section of this preamble, NHTSA has tentatively decided there is a need to replace or update all the CRSs in Appendix A–1 of FMVSS No. 208. This includes replacing seventeen (17) existing CRSs with eighteen (18) new CRSs, and updating model identification information for two (2) existing CRSs. Tables 1–3 below summarize the proposed changes to Appendix A–1. The following sections will discuss our proposed replacements or updates, along with corresponding rationale for these proposals.

[1] FMVSS No. 225, *Child restraint anchorage systems,* requires certain vehicles and DSPs to be equipped with LATCH systems. FMVSS No. 213 requires CRSs (except for harnesses, car beds and booster seats) to be equipped with attachments that enable the CRS to attach to the vehicle's LATCH system.

[2] The purpose of the one-year phase-in was to make the test burdens on manufacturers more reasonable, as manufacturers had to certify the compliance of *all* their vehicles' advanced air bag systems using the new CRSs. Appendix A–1 listed the new CRSs. Appendix A was retained with the CRSs it had listed. During the first year of the one-year phase-in, a specified portion of a manufacturer's new vehicles had to be certified as meeting the advanced air bag requirements when tested with the new CRSs in Appendix A–1, while the remaining portion could continue to be certified with the existing CRSs in Appendix A. Starting at the end of the phase-in, all vehicles had to be certified as meeting the requirements using the new CRSs in Appendix A–1.

[3] A convertible CRS can be used as is or ''converts'' between rear-facing and forward-facing use.

[4] ''Belt-positioning seat'' is defined in FMVSS No. 213 S4 as ''a child restraint system that positions a child on a vehicle seat to improve the fit of a vehicle Type II belt system on the child and that lacks any component, such as a belt system or a structural element, designed to restrain forward movement of the child's torso in a forward impact.'' A combination CRS can be used forward-facing or as a booster seat. A 3-in-1 CRS is a convertible CRS that can be used as a booster seat.

[5] The EOU program is a program in which NHTSA rates different usability aspects of CRSs currently on the market. It is part of the New Car Assessment Program (NCAP), and is updated annually. The details of this data collection process are discussed in the November 2008 final rule (73 FR 66786). NHTSA primarily used EOU data collected in 2015, which included data on 53 different CRSs from 27 different manufacturers. EOU data from previous years or more recent years were used as needed if a specific type of CRS was not assessed in the 2015 program. In light of the availability of newer EOU data, references to the 2015 EOU data averages have been updated to reflect the 2019 EOU data averages.

[6] Since the CRSs are used to test air bag suppression systems, it was important to identify which CRSs were the lightest and heaviest, and those that are representative of the average restraint in today's market in terms of weight.

[7] The footprint on every CRS is unique. Some air bag suppression systems have trouble sensing a CRS if the footprint is shaped in a way that loads the air bag suppression system sensors or load cells differently than the CRSs for which the suppression system was designed to recognize.

[8] NHTSA compliance test procedures specify adjustments of the handles and sunshields to the positions specified in the standard to ensure the robustness of the advanced air bag system being tested.

TABLE 1—DELETIONS TO APPENDIX A–1

Model name	Appendix subpart	Model type
DELETIONS		
ANGEL GUARD ANGELRIDE #AA243FOF	A	Car Bed.
CENTURY SMART FIT 4543	B	Rear-Facing Infant.
GRACO SNUGRIDE	B	Rear-Facing Infant.
GRACO INFANT 8457	B	Rear-Facing Infant.
COSCO ARRIVA 22–013 PAW & 22–999 WHO	B	Rear-Facing Infant.
PEG PEREGO PRIMO VIAGGIO SIP IMUN00US	B	Rear-Facing Infant.
COSCO TOURIVA 02519	C	Convertible.
EVENFLO TRIBUTE V 379XXXX	C	Convertible.
EVENFLO MEDALLION 254	C	Convertible.
GRACO COMFORTSPORT	C	Convertible.
GRACO TODDLER SAFESEAT STEP 2	C	Forward-Facing.
COSCO SUMMIT DELUXE HIGH BACK BOOSTER 22–262	C&D	Combination.
COSCO HIGH BACK BOOSTER 22–209	C&D	Combination.
EVENFLO GENERATIONS 352XXXX	C&D	Combination.
GRACO PLATINUM CARGO	C&D	Combination.
BRITAX ROADSTER 9004	D	BPB.
EVENFLO RIGHT FIT 245	D	BPB.

TABLE 2—UPDATES TO APPENDIX A–1

Model name	Appendix subpart	Model type
UPDATING MODEL IDENTIFICATION INFORMATION		
EVENFLO DISCOVERY ADJUST RIGHT IS NOW CALLED EVENFLO NURTURE #362———	B	Rear-Facing Infant.
BRITAX ROUNDABOUT E9L02XX IS NOW THE BRITAX ALLEGIANCE #E9LR4———	C	Convertible.

TABLE 3—ADDITIONS TO APPENDIX A–1

Model name	Appendix subpart	Model type
ADDITIONS		
SAFETY 1ST DREAMRIDE SE LATCH #IC238—	A	Car Bed.
CHICCO KEYFIT 30 #04061472——	B	Rear-Facing Infant.
EVENFLO EMBRACE #315——	B	Rear-Facing Infant.
DOONA CAR SEAT & STROLLER	B	Rear-Facing Infant.
BRITAX B–SAFE 35 #E1A72—	B	Rear-Facing Infant.
CYBEX ATON 2	B	Rear-Facing Infant.
BRITAX MARATHON CLICKTIGHT #E1A38—	C	Convertible.
COSCO SCENERA NEXT #CC123—	C	Convertible.
GRACO 4EVER ALL–IN–1	C	3-in-1.
GRACO CONTENDER 65	C	Convertible.
CYBEX ETERNIS	C&D	3-in-1.
SAFETY 1ST GROW AND GO #CC138—	C&D	3-in-1.
EVENFLO CHASE #306——	C&D	Combination.
COSCO FINALE #BC121—	C&D	Combination.
CHICCO MYFIT #04079783—0070	C&D	Combination.
COSCO RISE #BC126—	D	BPB.
GRACO BACKLESS TURBOBOOSTER	D	BPB.
BRITAX GROW WITH YOU #E1C19—	D	Combination.

a. Deletions

Our proposed deletions are based generally on which CRSs do not offer any unique characteristics and those that have not been in production for several years. If we propose to eliminate a CRS that offered a unique characteristic, we attempt to add a CRS that possesses the same unique characteristic or replace it with a CRS that offers an alternative unique characteristic. The quantitative details and photographs of the CRSs currently in Appendix A–1 are found in the Technical Assessment docketed in conjunction with the 2008 update.[9]

[9] Docket ID: NHTSA–2008–0168–0002.

1. Deletion of Discontinued CRSs

Appendix A–1 includes several carry-over CRSs that were also in Appendix A. These older CRS models and their corresponding sections are listed below:

- Subpart B
  - Century Smart Fit 4543
  - Graco Infant 8457
- Subpart C
  - Cosco Touriva 02519

- Evenflo Medallion 254
- Subpart D
  - Britax Roadster 9004
  - Evenflo Right Fit 245

The agency has confirmed that all of these CRSs have been out of production for many years and are not readily available for purchase. Given this, and the fact that most CRSs have an expiration date that is 6 years from the date of manufacture, we believe the proposed deletion of these CRSs is warranted.[10]

In addition to these carry-over CRSs from Appendix A, we have identified CRSs in Appendix A–1 that have also been discontinued, making them difficult to acquire for testing purposes and reducing the likelihood they are in actual use by consumers. These CRSs and their corresponding subparts are listed below:

- Subpart A
  - Angel Guard AngelRide AA243FOF
- Subpart B
  - Cosco Arriva 22–013 PAW with the 22–999 WHO base
- Subpart C
  - Graco Toddler SafeSeat Step 2
  - Evenflo Generations #352
  - Graco Platinum Cargo
- Subpart D
  - Evenflo Generations #352
  - Graco Platinum Cargo

The Angel Guard AngelRide #AA2403FOF, is a car bed with a 3-point harness. This car bed is no longer in production; therefore, we propose deleting this car bed from Subpart A.

The Cosco Arriva 22–013 PAW with the 22–999 WHO base is a rear-facing infant CRS. The model number for this CRS was updated in Appendix A–1 in 2008 since the previous model number was no longer available. As explained in the 2008 final rule, this was a CRS that was mainly distributed to hospitals, health departments or other organizations. However, the 2008 final rule also noted that the manufacturer was contemplating phasing-out this CRS, and ultimately, it was discontinued. This seat was not considered an outlier, and we are proposing to add a new CRS with similar characteristics.

The Graco Toddler SafeSeat Step 2 is a forward-facing only CRS with a 5-point safety harness. It was added with Appendix A–1 and it was among the heavier forward-facing CRSs on the market at that time. The rationale for including it in Appendix A–1 was its weight and its uniquely flat footprint. We are proposing to add heavy CRSs to Subpart C as well as CRSs with footprints that are flat (*e.g.,* large contact surface area).

The Evenflo Generations is a forward-facing-only combination CRS with a 5-point safety harness. At the time of the 2008 final rule, it was among the lighter forward-facing CRSs. It was included in Appendix A–1 because its footprint was unique and because it was lightweight for this CRS category. We are proposing to include a lightweight CRS in Subparts C and D to replace the Evenflo Generations.

The Graco Platinum Cargo is a forward-facing-only combination CRS with a 5-point harness listed in both Subparts C and D of Appendix A–1. As part of the 2008 final rule, this CRS was a replacement for the Century Next Step 4920, and there are no remarkable features that would warrant finding a comparable replacement for it in this update.

In light of the fact that these CRSs are discontinued and the fact that many years have passed since our last update, we propose deleting these CRSs to allow the inclusion of newer CRS models.

2. Deletion of the Graco Snugride #E9L02XX From Subpart B

The Graco Snugride #E9L02XX is a rear-facing infant CRS in Subpart B of Appendix A–1, with a detachable base. The Graco Snugride was included in Appendix A–1 in the previous update because it was lightweight and had a high sales volume in the U.S.[11] This specific model of the Graco Snugride is no longer in production. There is a newer model available, but as will be shown, there are newer lightweight infant CRSs that are also popular in the market now. As a result, we propose deleting this CRS from Subpart B.

3. Deletion of the Peg Perego Primo Viaggio From Subpart B

The Peg Perego Primo Viaggio is a rear-facing infant CRS, with a detachable base and a 5-point safety harness. It is heavier than the average rear-facing infant CRSs and has a relatively large base. This CRS was added in Appendix A–1 in 2008 because we concluded that this CRS is somewhat of an outlier in terms of its dimensions and unique footprint, and we believed that testing an air bag suppression system using this CRS would be a good measure of a system's robustness. This specific model of the Primo Viaggio is no longer in production. There is a newer model available, but as will be shown, there are heavier infant CRSs in the market now and we are proposing one of these with a similar footprint as the Primo Viaggio. As a result, we propose deleting this CRS from Subpart B.

4. Deletion of the Evenflo Tribute V #379XXXX From Subpart C

The Evenflo Tribute V #379XXXX, is a convertible CRS with a 5-point harness. The design and characteristics of this CRS were not evaluated in the previous update because it was a replacement for a CRS listed in Appendix A. While this CRS is still under production with a different model number, we have been informed that it will be phased-out in the near future. We do not see a need to find an equivalent replacement for this CRS because it would be redundant with the Cosco Scenera Next, a proposed addition to Subpart C discussed in the additions section. Therefore, we propose deleting this CRS from Subpart C.

5. Deletion of the Graco ComfortSport From Subpart C

The Graco ComfortSport is a convertible CRS with a 5-point harness. The design and characteristics of this CRS were not evaluated in the previous update because the mold for this CRS closely resembled a CRS listed in Appendix A. While this CRS is still in production we have identified other CRSs to add to the appendix with unique footprints and or dimensional characteristics. In order to properly assess the robustness of air bag systems we deem it necessary to delete this CRS in order to accommodate adding one of these newly identified CRSs.

6. Deletion of the Cosco Summit Deluxe High Back Booster #22–262 From Subparts C and D

The Cosco Summit Deluxe High Back Booster #22–262 is a forward-facing CRS with 5-point safety harness that can also be used as a BPB. The Cosco Summit Deluxe High Back Booster was included in Appendix A–1 because of its wide base and because it was a tall CRS. The agency has identified CRSs that are taller and wider that we are proposing be included in the revised appendix. While, this CRS is still being produced under a different model name (with cosmetic differences) we think it would be prudent to delete this CRS in order to include newer CRSs on the market that are taller and or have a wider base.

[10] NHTSA does not require ''expiration dates'' on child restraint systems. CRS manufacturers developed the expiration date idea and label CRSs with an expiration date following industry practice.

[11] The inclusion of lightweight and heavy rear-facing infant CRSs ensure that air bag suppression systems consider a wide range of weights when identifying these CRSs.

7. Deletion of the Cosco High Back Booster #22–209 From Sections C and D

The Cosco High Back Booster #22–209 is a forward-facing only combination CRS with a 5-point harness in Subparts C and D of Appendix A–1. The 2008 final rule modified the identification information for this CRS to one that was more readily available at the time; therefore, no inclusion criteria was established for this CRS in the previous update. While this CRS is still in production it is available under a different model number. Rather than updating the model number again for this CRS, we are proposing that it be removed to accommodate other newer CRSs.

b. Updating Existing CRSs With Newer Models

1. Updating the Evenflo Discovery Adjust Right 212 in Subpart B

The Evenflo Discovery Adjust Right 212 is a rear-facing infant CRS with a detachable base, in Subpart B of Appendix A–1. This CRS was a carry-over from Appendix A. This CRS is now being manufactured under the model name Evenflo Nurture, but is equivalent [12] to the Evenflo Discovery Adjust Right 212. The Evenflo Nurture #362——— [13] weighs less than the average rear-facing infant CRSs in the 2019 EOU program and is a rear-facing infant CRS with high sales volume in the U.S. We propose updating the Evenflo Discovery Adjust Right 212 with its equivalent newer model the Evenflo Nurture #362———.

2. Updating the Britax Roundabout #E9L02XX in Subpart C

The Britax Roundabout #E9L02XX is a convertible CRS in Subpart C of Appendix A–1. The 2008 final rule modified the model number for this CRS to one that was more readily available at the time. Consequently, its dimensions and design were not taken into consideration in the previous appendix update. The Britax Roundabout #E9L02XX is no longer in production. Britax has replaced it with a newer version called the Britax Allegiance #E9LR4—. The Britax Roundabout had undergone changes to the design and mold since the last update and most recently it was renamed to the Britax Allegiance. The Britax Allegiance would not be considered an equivalent CRS to the Britax Roundabout #E9L02XX, but it would be equivalent to the Britax Roundabout G4.1 which was its predecessor. We propose updating to the newer Britax Allegiance because it is wider than the average footprint of convertible CRSs and its footprint is uniquely shaped.

c. Additions

Other than the updating of older CRS models with newer CRS models discussed in the previous section, we are not proposing to maintain any of the current CRSs in the revised Appendix A–1. This section will discuss the proposed CRS additions that will comprise the revised Appendix A–1. (See docketed Technical Assessment for basic measurements, pictures, and statistical analysis of the proposed CRS additions.)

1. Addition of the Safety 1st Dreamride SE LATCH #IC238— to Subpart A

The Safety 1st Dreamride SE LATCH #IC238— is an infant car bed, with a 3-point safety harness and handle bar. It is one of the only readily available car beds on the market; therefore, we propose its addition to Subpart A.

2. Addition of the Evenflo Embrace #315— to Subpart B

The Evenflo Embrace #315— is a rear-facing infant CRS, with a detachable base, sunshield, and handle bar. It is lighter than the average rear-facing infant CRSs in the 2019 EOU program with and without the base. This CRS captures a significant portion of the rear-facing infant CRS market. This CRS also has a unique footprint configuration. We believe that testing an air bag suppression system using this CRS would be a good measure of a system's robustness because of the CRS's unique base footprint. Therefore, we propose its addition to Subpart B.

3. Addition of the Doona Car Seat & Stroller to Subpart B

The Doona Car Seat & Stroller is a rear-facing infant CRS and stroller combo with a detachable base, a sunshield, and a handle bar. It is significantly heavier than the average weight, with and without the base, of rear-facing infant CRSs in the 2019 EOU program. Its base is wider than the average for the rear-facing infant CRSs in the 2019 EOU program. What is of particular interest about this CRS, for testing purposes, is the weight, the base width, and overall design of the car seat. This CRS also captures a significant portion of the rear-facing infant CRS market. Therefore, we propose its addition to Subpart B.

4. Addition of the Britax B-Safe 35 #E1A72— to Subpart B

The Britax B-Safe 35 #E1A72— is a rear-facing infant CRS, with a detachable base, sunshield, and handle bar. It is heavier than the average rear-facing infant CRSs in the 2019 EOU program with the base. It has a large base footprint compared to the average rear-facing infant CRSs in the 2019 EOU data. This CRS has a unique base footprint because of its flatness. This CRS captures a significant portion of the rear-facing infant CRS market. Because of its large flat base footprint, high sales volume, and weight, we believe this CRS can be considered a good replacement for the Peg Perego Primo Viaggio, which we are proposing to delete. Therefore, we propose its addition to Subpart B.

5. Addition of the Cybex Aton 2 #518000— to Subpart B

The Cybex Aton 2 #518000— is a rear-facing infant CRS, with a detachable base, sunshield, and handle bar. It is heavier than the average rear-facing infant CRSs in the 2019 EOU program with and without the base. Its base footprint is unique among rear-facing infant CRSs in the 2019 EOU data because of its shape and because it is designed to accommodate a load leg (see docketed Technical Assessment for pictures).

The load leg is an optional installation feature for this CRS. Based on our analysis we believe that this CRS is somewhat of an outlier in terms of its weight and by having a unique base footprint. In addition, if the seat is installed without the steel-enforced load leg and it is stowed away we think this may challenge air bag suppression systems that use capacitive sensors. We believe that testing an air bag suppression system using this CRS would be a good measure of a system's robustness. Therefore, we propose its addition to Subpart B.

6. Addition of the Chicco KeyFit 30 #04061472— to Subpart B

The Chicco KeyFit 30 #04061472— is a rear-facing infant CRS, with a detachable base, sunshield, and handle bar. It is lighter than the average rear-facing infant CRSs in the 2019 EOU program with the base. This CRS captures a significant portion of the rear-facing infant CRS market. This CRS also has a unique footprint configuration. It has a wide base footprint compared to the average rear-facing infant CRSs in the 2019 EOU

[12] Equivalent CRS models have no significant structural or physical differences.

[13] When selecting new CRSs for the appendix, the agency sought to provide, to the extent possible, generic model numbers. Therefore, the use of hyphens indicates digits in the model number that are not needed because they indicate changes in soft goods.

data. We believe that testing an air bag suppression system using this CRS would be a good measure of a system's robustness because of the CRS's unique base footprint. Because of its high sales volume, wide base, and weight, we believe this CRS can be considered a good replacement for the Graco Snugride, which we are proposing to delete. Therefore, we propose its addition to Subpart B.

7. Addition of the Britax Marathon ClickTight #E1A38— to Subpart C

The Britax Marathon ClickTight #E1A38— is a convertible CRS. It is significantly heavier than the convertibles in the 2019 EOU data. Its footprint is wider than the average for convertible CRSs in the 2019 EOU program. This CRS also has a unique footprint configuration.

This is a convertible CRS with high sales volume and Britax uses this same shell for other similar CRS models (*e.g.,* Britax Advocate ClickTight and Britax Boulevard ClickTight), which increases this shell's market representation. Based on our analysis of this CRS it meets the inclusion criteria because it is a heavy CRS and has a wide unique footprint and our data indicates it captures a significant portion of the CRS market. Therefore, we propose adding it to Subpart C.

8. Addition of the Cosco Scenera Next #CC123— to Subpart C

The Cosco Scenera Next #CC123— is a convertible CRS. It is the significantly lighter than the lightest convertible CRS in the 2019 EOU data. It has a smaller than average convertible footprint. This CRS also has a unique footprint that would have minimal surface area contact with the vehicle seat. In addition, this CRS captures a significant portion of the CRS market. Based on our findings we tentatively conclude these qualities warrant its addition to Subpart C.

9. Addition of the Graco 4Ever All-in-1 to Subpart C

The Graco 4Ever All-in-1 is a 3-in-1 CRS. It is heavier than the average weight for 3-in-1 CRSs in the 2019 EOU data and heavier than the average convertible CRS in the 2019 EOU data. It has a wider than average footprint compared to the averages for convertible and 3-in-1 CRSs in the 2019 EOU program. It also has a flat footprint. Based on its weight and footprint width and style we propose adding it to Subpart C.

10. Addition of the Graco Contender 65 to Subpart C

The Graco Contender 65 is a convertible CRS. It was evaluated in the 2014 EOU program. It weighs less than the average weight of convertible CRSs in the 2019 EOU program. It has a narrow and deep footprint compared to the average footprint of convertible CRSs in the 2019 EOU program. The footprint has a unique shape and changes between the rear and forward-facing installation modes. Based on the dimensions of the footprint and its uniqueness we propose adding it to Subpart C.

11. Addition of the Cybex Eternis to Subparts C&D

The Cybex Eternis is a 3-in-1 CRS. It is significantly heavier than the average weight of all 2019 EOU program forward-facing capable CRSs with a harness. This CRS is also much heavier than the average weight of BPBs in the 2019 EOU program. Its footprint is larger than the average footprint of 3-in-1 CRSs in the 2019 EOU program. It also has a unique footprint configuration. Based on its weight and footprint characteristics we propose adding it to Subparts C and D.

12. Addition of the Safety 1st Grow and Go #CC138— to Subparts C&D

The Safety 1st Grow and Go #CC138— is a 3-in-1 CRS. It weighs less than the average forward-facing capable CRSs with a harness in the 2019 EOU program. Its footprint width is narrower than the average forward-facing capable CRS with a harness in the 2019 EOU program. It also has a unique footprint. Based on these evaluated characteristics we propose adding it to Subparts C and D.

13. Addition of the Evenflo Chase #306— to Subparts C&D

The Evenflo Chase #306— is a combination CRS. It weighs less than the average weight of all 2019 EOU program forward-facing capable CRSs with a harness and BPBs. Its footprint is wider than the average footprint of combination CRSs in the 2019 EOU program. It also has a unique footprint with limited seat contact surface area. Based on its footprint characteristics we propose adding it to Subparts C and D.

14. Addition of the Cosco Finale #BC121— to Subparts C&D

The Cosco Finale #BC121— is a combination CRS. Its weight is lighter than the average weight of combination CRSs in the 2019 EOU program and, as a BPB, its weight is lighter than the average weight of BPBs in the 2019 EOU program. The footprint is smaller than the average footprint of combination CRSs in the 2019 EOU program. It also has a unique footprint shape. Based on its footprint characteristics we propose adding it to Subparts C and D.

15. Addition of the Chicco MyFit #04079783—0070 to Subparts C&D

The Chicco MyFit #04079783—0070 is a combination CRS. It is slightly heavier than the average weight of combination CRSs in the 2019 EOU program. Its footprint is slightly smaller than the average footprint of combination CRSs in the 2019 EOU program. It is a combination with high sales volume. Based on its weight, footprint size, and high sales volume we propose adding it to Subparts C and D.

16. Addition of the Cosco Rise Belt-Positioning Booster Seat #BC126— to Subpart D

The Cosco Rise Belt-Positioning Booster Seat #BC126— is a backless BPB that was evaluated in the 2018 EOU program. Its weight is lighter than the average weight of backless BPBs in the 2019 EOU program. It is a BPB with high sales volume. It also has a unique footprint configuration. Based on its weight and high sales volume we propose adding it to Subpart D.

17. Addition of the Graco Backless TurboBooster to Subpart D

The Graco Backless TurboBooster is a backless BPB. Its weight is lighter than the average weight of backless BPBs in the 2019 EOU program. Its footprint is wider than the average footprint of all BPBs in the 2019 EOU program. It is a BPB with high sales volume. It also has a unique footprint shape. Therefore, based on its footprint characteristics, weight, and high sales volume we propose adding it to Subpart D.

18. Addition of the Britax Grow with You #E1C19— to Subpart D

The Britax Grow with You #E1C19— is a combination CRS that was evaluated in the 2018 EOU program. Its weight is heavier than the average weight of combination CRSs in the 2019 EOU program. Its footprint is representative of the average footprint of all combination CRSs in the 2019 EOU program. It also has a flat footprint. Therefore, based on its footprint characteristics and weight we propose adding it to Subpart D.

19. Further Analysis of Proposed Rear-Facing CRS Additions

As discussed in the earlier section titled ''Additional Considerations for Rear-Facing CRSs,'' we analyzed the

height of the proposed CRS additions to ensure that the appendix would have a wide range of rear-facing child restraint seat back heights. In the 2019 EOU program, the seat back heights for rear-facing infant and other rear-facing capable CRSs range from 14.875 inch (in.) to 26.75 in.[14] [15] The proposed additions to Subpart B have seat back heights that range from 14.875 in. to 26.25 in. Furthermore, CRSs that are being added to Subpart C that have the capability of being installed in a rear-facing or forward-facing mode can also be used for testing in the rear-facing mode. We are proposing to add eight CRSs to Subpart C that are convertible between rear and forward-facing and their seat back heights in the rear-facing mode range from 18.375 in. to 19.75 in.

In addition, the ''Additional Considerations for Rear-Facing CRSs'' section also discussed the need to include in Appendix A–1 rear-facing infant CRSs with sunshields and handle bars. All the proposed rear-facing infant CRS additions have sunshields and handle bars.

V. Integration of New Appendix A–1 in the Regulatory Text

NHTSA therefore proposes to remove the current Appendix A (which has been phased out), redesignate Appendix A–1 as Appendix A, and add the new list of CRSs described above as Appendix A–1. Designating the current CRS list ''Appendix A'' and the updated CRS list ''Appendix A–1'' simplifies the implementation of this proposed rule because it allows NHTSA to use the phase-in schedule from the 2008 final rule (located in FMVSS No. 208, S14.8) by simply adjusting the mandatory compliance dates to correspond to this rulemaking.

VI. Proposed Compliance Dates and Phase-in Period

NHTSA is proposing a phase-in of the requirement to test with the child restraints in the revised appendix. Under the phase-in, 50 percent of vehicles manufactured on or after the first September 1st after the publication date of the final rule must be certified as meeting FMVSS No. 208 when tested with the CRSs on the revised Appendix A–1, and all vehicles manufactured on or after the second September 1st after the publication date of the final rule must be so certified.[16]

This approach would provide manufacturers with sufficient lead time to purchase and implement the new CRSs in their compliance testing, and allow manufacturers to tie their certification to the automatic suppression requirements or LRD requirement with the introduction of a new model year, thereby reducing testing burden. In addition, this phase-in ensures that suppression and LRD systems will be tested with representative child restraints in an expeditious manner and thus maintains the robustness of the FMVSS No. 208 test and the soundness of the child protection systems in recognizing today's CRSs.

As in the past, we are in support of early compliance with the appendix, *i.e.,* a manufacturer may choose to certify more than 50 percent of their vehicles in the first year of the phase-in. However, we note that, within the phase-in period manufacturers are not permitted to pick and choose among the CRSs in Appendix A and A–1 within an individual vehicle certification. This restriction on voluntary early compliance is necessary for the agency to best use its resources in enforcing the phase-in requirements. Permitting manufacturers to selectively apply portions of Appendix A and A–1 for an individual vehicle would impede NHTSA's ability to conduct compliance testing because the agency would need to know how a manufacturer certified each individual CRS-related requirement in FMVSS No. 208 for the vehicle in question. Collecting this additional data would require additional agency time and enforcement resources, as well as a more expansive information collection process of manufacturers' compliance data than we believe is appropriate. We do not believe that the safety benefits of allowing manufacturers to pick and choose among the CRSs in the appendices for a single vehicle outweigh these additional burdens on the agency's enforcement of the advanced air bag requirements.

VII. Benefits and Costs Associated With the Proposed Rule

The proposed rule does not amend any of the FMVSS No. 208 performance test requirements; it merely updates the list of CRSs NHTSA can use for advanced air bag performance compliance tests. The proposed update would mitigate the risk of injury to children in CRSs from air bags by testing with CRSs that are representative of those that are in production today. However, we cannot quantify the incremental benefits of testing with these new CRSs over those listed in the current Appendix A–1, due to a lack of field performance test data. We are not aware of any injuries to children caused by vehicle manufacturers using outdated (unrepresentative) CRSs to certify their advanced air bag systems. Relatedly, we also note that most children are seated in rear seats as passengers, so they are not exposed to advanced air bag systems. However, if there were a child in the front passenger seat, we believe that there is an unreasonable risk of injury associated with an advanced air bag system either not ''recognizing'' the CRS and/or not interacting with it in a low risk manner during deployment. Updating the CRSs used to assess the performance of advanced air bags mitigates that risk by enabling manufacturers to design advanced air bag systems to factor in the features and characteristics of the CRSs used today.

Compliance with the proposal would result in a nominal cost to vehicle manufacturers for the purchase of the new CRSs. The agency estimates that a complete set of all the CRSs (20 CRSs) in the proposed new Appendix A–1 is $3,364 in 2020 dollars. However, the proposed rule not only adds 18 unique CRSs to the appendices, but also removes 17 unique CRSs. Thus, in the absence of a large change in the price of a CRS on the list, the net change to the list is the addition of a unique CRS to the collection expected to be purchased by manufacturers. Since the $3,364 represents 20 CRSs, one of which is an incremental addition, 1/20th of that price is the incremental cost due to the proposed rule. Thus, the proposed rule would create an increased cost of $168.20 per model, per year for manufacturers.

Based on previous experience, we assume that after 10 years all CRSs in the appendix will no longer be in production and might require another update to Appendix A–1.[17] Additionally, we estimate that each vehicle manufacturer will purchase 10 complete sets for each production line over that time or on average 1 complete set per year per line. Based on the 2017 Wards Automotive Yearbook,[18] we estimate that there were a total of 248

[14] The upper end of the spectrum represents convertible CRSs with inherently higher seat back heights in the rear-facing mode.

[15] The height measurement used for the rear-facing infant CRSs is the height with their base.

[16] As with all phase-ins, the agency is adopting a reporting and recordkeeping requirement to facilitate the agency's enforcement of the standard. The existing reporting and recordkeeping requirements, set forth in 49 CFR part 585, subpart D, will be updated per the proposed compliance dates.

[17] We note that the frequency of past updates to the Appendix is not determinative of future updates. However, a shorter update period would likely mean fewer changes would be made.

[18] Published by WardsAuto, a division of Penton.

production lines among the U.S. vehicle manufacturers in 2021. In other words, we expect the entire 248 production lines will be updated (to be in compliance with the proposed rule) in a period of 10 years. Therefore, the total 10 year cost to all vehicle manufacturers cumulatively would be $417,136 (=$168.20 × 248 × 10) over 10 years for those vehicle lines. Assuming an annual production of 16 million vehicles,[19] there would be 160 million vehicles for the same period of 10 year. Thus, the per vehicle cost is $0.003 ($417,136/160 million) annually. We believe that these minor changes in the content of the appendix will not significantly impact the cost of compliance testing over manufacturer's current practice.

We believe this is a conservative estimate (*i.e.,* an overestimate) for the following reasons. We acknowledge that some manufacturers may purchase fewer of some CRSs (if their vehicles are equipped with air bag suppression systems) or more of some CRSs (if they are equipped with LRD air bags).[20] Therefore, we consider this a high estimate for the number of complete sets vehicle manufacturers will purchase, because, based on our experience, one set can be used to certify several vehicle models for several years. Vehicle manufacturers would also save an unquantified amount of time and money because they will no longer need to acquire the existing Appendix A–1 CRSs that are out of production. In addition, we believe vehicle manufacturers are testing their advanced air bag systems with CRSs that are not in the appendix, so it is possible that they already possess and have conducted testing with most of the proposed CRS additions, particularly the popular CRSs.

VIII. Public Participation

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Comments may also be submitted to the docket electronically by logging onto the Docket website at *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at *http://www.whitehouse.gov/omb/fedreg/reproducible.html.*

How can I be sure that my comments were received?

If you wish the Docket to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, the Docket will return the postcard by mail.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit a copy, from which you have deleted the claimed confidential business information, to the docket at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

Will the agency consider late comments?

We will consider all comments received before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that the docket receives after that date. If the docket receives a comment too late for us to consider in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How can I read the comments submitted by other people?

You may read the comments received by the docket at the address given above under **ADDRESSES**. The hours of the docket are indicated above in the same location. You may also see the comments on the internet. To read the comments on the internet, go to *http://www.regulations.gov.* Follow the online instructions for accessing the dockets.

Please note that even after the comment closing date, we will continue to file relevant information in the docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material. You can arrange with the docket to be notified when others file comments in the docket. See *www.regulations.gov* for more information.

IX. Rulemaking Analyses and Notices

Executive Order 12866 and DOT Order 2100.6

We have considered the potential impact of this proposed rule under Executive Order (E.O.) 12866 and DOT Order 2100.6 and have determined that it is nonsignificant. This rulemaking document was not reviewed by the Office of Management and Budget (OMB) under E.O. 12866. The costs and benefits of advanced air bags are discussed in the agency's Final Economic Assessment for the May 2000 final rule (Docket No. NHTSA–00–7013). The cost and benefit analysis provided in that document would not be affected by this NPRM, since this NPRM only adjusts and updates the CRSs used in test procedures of that final rule.

The agency estimates that compliance with the proposal would result in a nominal total annual cost to all vehicle manufacturers cumulatively of $417,136 (over ten years) for the purchase of the new CRSs. Assuming an annual production of 16 million vehicles (with a GVWR of 8,500 lb or less), the per vehicle cost is $0.003 annually for the purchase of the new CRSs. More information can be found in the ''Benefits and Costs Associated with the Proposed Rule'' section above in this preamble. The minimal impacts of today's proposed amendment do not warrant preparation of a regulatory evaluation.

[19] This rulemaking would only affect vehicles with advanced air bags. We estimate that 16 million vehicles are produced annually with a gross vehicle weight rating (GVWR) of 8,500 lb or less.

[20] The lineup of CRSs that a manufacturer actually purchases will likely vary depending on what type of advanced air bag system the manufacturer chooses for its vehicles. For example, a manufacturer that chooses the LRD compliance option for all the child-sized dummies may purchase 10 sets of the CRSs in Subpart B, 3 sets of the CRSs in Subpart C, and none of the CRSs in Subpart A and D (Subpart A and D CRSs are not used for LRD testing). Alternatively, a manufacturer that chooses the suppression option for all the child-sized dummies may purchase just one set of all the CRSs.

Executive Order 13771

E.O. 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' directs that, unless prohibited by law, whenever an executive department or agency publicly proposes for notice and comment or otherwise promulgates a new regulation, it shall identify at least two existing regulations to be repealed. In addition, any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs. Only those rules deemed significant under section 3(f) of E.O. 12866, ''Regulatory Planning and Review,'' are subject to these requirements. This proposed rule is not expected to be an E.O. 13771 regulatory action because this proposed rule is not significant under E.O. 12866.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act, 5 U.S.C. 60l *et seq.,* NHTSA has evaluated the effects of this action on small entities. I hereby certify that this proposed rule would not have a significant impact on a substantial number of small entities. The NPRM would affect motor vehicle manufacturers, multistage manufacturers and alterers, but the entities that qualify as small businesses would not be significantly affected by this rulemaking because they are already required to comply with the advanced air bag requirements. This proposed rule would not establish new requirements, but instead would only adjust and update the CRSs used in FMVSS No. 208's test procedures for advanced air bags. The small manufacturers would continue to certify their vehicles as meeting the advanced air bag requirements using the same methods and procedures they use today, only with more current CRSs.

Executive Order 13132 (Federalism)

NHTSA has examined today's proposed rule pursuant to E.O. 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments or their representatives is mandated beyond the rulemaking process. The agency has concluded that the rulemaking would not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. Today's proposed rule would 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.''

NHTSA rules can have preemptive effect in two ways. First, the National Traffic and Motor Vehicle Safety Act contains an express preemption provision stating that, if NHTSA has established a standard for an aspect motor vehicle or motor vehicle equipment performance a State may only prescribe or continue in effect a standard for that same aspect of performance if the State standard is identical to the Federal standard. 49 U.S.C. 30103(b)(1). It is this statutory command by Congress that preempts any non-identical State legislative and administrative law addressing the same aspect of performance.

The express preemption provision described above is subject to a savings clause under which ''[c]ompliance with a motor vehicle safety standard prescribed under this chapter does not exempt a person from liability at common law.'' 49 U.S.C. 30103(e). Pursuant to this provision, State common law tort causes of action against motor vehicle manufacturers that might otherwise be preempted by the express preemption provision are generally preserved. However, the Supreme Court has recognized the possibility, in some instances, of implied preemption of State common law tort causes of action by virtue of NHTSA's rules—even if not expressly preempted.

This second way that NHTSA rules can preempt is dependent upon the existence of an actual conflict between an FMVSS and the higher standard that would effectively be imposed on motor vehicle manufacturers if someone obtained a State common law tort judgment against the manufacturer—notwithstanding the manufacturer's compliance with the NHTSA standard. Because most NHTSA standards established by an FMVSS are minimum standards, a State common law tort cause of action that seeks to impose a higher standard on motor vehicle manufacturers will generally not be preempted. However, if and when such a conflict does exist—for example, when the standard at issue is both a minimum and a maximum standard—the State common law tort cause of action is impliedly preempted. *See Geier* v. *American Honda Motor Co.,* 529 U.S. 861 (2000).

Pursuant to E.O. 13132, NHTSA has considered whether this proposed rule could or should preempt State common law causes of action. The agency's ability to announce its conclusion regarding the preemptive effect of one of its rules reduces the likelihood that preemption will be an issue in any subsequent tort litigation.

To this end, the agency has examined the nature (*e.g.,* the language and structure of the regulatory text) and objectives of today's proposed rule and finds that this proposed rule, like many NHTSA rules, prescribes only a minimum safety standard. Accordingly, NHTSA does not intend that this proposed rule preempt state tort law that would effectively impose a higher standard on motor vehicle manufacturers than that established by today's proposal. Establishment of a higher standard by means of State tort law would not conflict with the minimum standard proposed in this document. Without any conflict, there could not be any implied preemption of a State common law tort cause of action.

National Environmental Policy Act

NHTSA has analyzed this NPRM for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any significant impact on the quality of the human environment.

Paperwork Reduction Act

Under the procedures established by the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. This proposed rule contains a collection of information because of the phase-in reporting requirements being established. There is no burden to the general public. We will be submitting a request for OMB clearance for the collection of information required for this proposed rule.

These requirements and our estimates of the burden to vehicle manufacturers are as follows:

NHTSA estimates there are 20 manufacturers of passenger cars, multipurpose passenger vehicles, trucks, and buses having a GVWR of 3,856 kg (8,500 lb) or less.

NHTSA estimates that the annual reporting and recordkeeping burden on each manufacturer resulting from the collection of information is one (1) hour. NHTSA estimates that the annual cost burden on each manufacturer, in U.S. dollars, on each manufacturer will be $42.71. No additional resources will be expended by vehicle manufacturers to gather annual production information because they already compile this data for their own use.

The purpose of the reporting requirements will be to aid NHTSA in determining whether a manufacturer

has complied with the requirements of FMVSS No. 208 during the phase-in of the proposed requirements.

National Technology Transfer and Advancement Act

Under the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104–113), ''all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments.'' There are no voluntary consensus standards that address the CRSs that should be included in Appendix A–1.

Executive Order 12988 (Civil Justice Reform)

With respect to the review of the promulgation of a new regulation, section 3(b) of Executive Order 12988, ''Civil Justice Reform'' (61 FR 4729, February 7, 1996) requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect; (2) clearly specifies the effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden reduction; (4) clearly specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. This document is consistent with that requirement.

Pursuant to this Order, NHTSA notes as follows. The preemptive effect of this proposed rule is discussed above. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceeding before they may file suit in court.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 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 more than $100 million annually (adjusted for inflation with base year of 1995). This NPRM would not result in expenditures by State, local or tribal governments, in the aggregate, or by the private sector in excess of $100 million annually.

Executive Order 13045

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental, health, or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. This rulemaking is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866.

Executive Order 13211

Executive Order 13211 (66 FR 28355, May 18, 2001) applies to any rulemaking that: (1) Is determined to be economically significant as defined under E.O. 12866, and is likely to have a significantly adverse effect on the supply of, distribution of, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. This rulemaking is not subject to E.O. 13211.

Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this proposal.

Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

List of Subjects

49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements, Rubber and rubber products.

49 CFR Part 585

Reporting and recordkeeping requirements.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR chapter V as set forth below.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

■ 1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.95.

■ 2. Amend Section 571.208 by adding a sentence to the end of S1 and revising S14.8 appendix A, and appendix A–1 to read as follows:

§ 571.208 Standard No. 208; Occupant crash protection.

* * * * *

S14.8 *Vehicles manufactured on or after [DATE OF FIRST SEPTEMBER 1ST AFTER PUBLICATION OF FINAL RULE] and before [DATE OF SECOND SEPTEMBER 1ST AFTER PUBLICATION OF FINAL RULE].* Vehicles manufactured on or after [DATE OF FIRST SEPTEMBER 1ST AFTER PUBLICATION OF FINAL RULE] and before [DATE OF SECOND SEPTEMBER 1ST AFTER PUBLICATION OF FINAL RULE], shall comply with S14.8.1 through S14.8.4. At any time during the production year ending August 31, [Year of first September 1st after publication of final rule], each manufacturer shall, upon request from the Office of Vehicle Safety Compliance, provide information identifying the vehicles by make, model and vehicle identification number that have been certified as complying with S19, S21, and S23 of this standard (in addition to the other requirements specified in this standard) when using the child restraint systems specified in appendix A–1 of this standard. The manufacturer's designation of a vehicle as meeting the requirements when using the child restraint systems in appendix A–1 of this standard is irrevocable.

S14.8.1 Subject to S14.8.2, for vehicles manufactured on or after [DATE OF FIRST SEPTEMBER 1ST AFTER PUBLICATION OF FINAL RULE], the number of vehicles certified as complying with S19, S21, and S23 of this standard when using the child

restraint systems specified in appendix A–1 of this standard shall be not less than 50 percent of:

(a) The manufacturer's average annual production of vehicles subject to S19, S21, and S23 of this standard manufactured on or after [Three years prior to DATE OF FIRST SEPTEMBER 1ST AFTER PUBLICATION OF FINAL RULE] and before [DATE OF FIRST SEPTEMBER 1ST AFTER PUBLICATION OF FINAL RULE]; or

(b) The manufacturer's production of vehicles subject to S19, S21, and S23 of this standard manufactured on or after [DATE OF FIRST SEPTEMBER 1ST AFTER PUBLICATION OF FINAL RULE] and before [DATE OF SECOND SEPTEMBER 1ST AFTER PUBLICATION OF FINAL RULE].

S14.8.2 For the purpose of calculating average annual production of vehicles for each manufacturer and the number of vehicles manufactured by each manufacturer under S14.8.1, a vehicle produced by more than one manufacturer shall be attributed to a single manufacturer as provided in S14.8.2(a) through (c), subject to S14.8.3.

(a) A vehicle which is imported shall be attributed to the importer.

(b) A vehicle manufactured in the United States by more than one manufacturer, one of which also markets the vehicle, shall be attributed to the manufacturer which markets the vehicle.

(c) A vehicle produced by more than one manufacturer shall be attributed to any one of the vehicle's manufacturers specified by an express written contract, reported to the National Highway Traffic Safety Administration under 49 CFR part 585, between the manufacturer so specified and the manufacturer to which the vehicle would otherwise be attributed under S14.8.2(a) or (b).

S14.8.3 For the purposes of calculating average annual production of vehicle for each manufacturer and the number of vehicles by each manufacturer under S14.8.1, each vehicle that is excluded from the requirement to test with child restraints listed in appendix A or A–1 of this standard is not counted.

S14.8.4 Until [DATE OF THIRD SEPTEMBER 1ST AFTER PUBLICATION OF FINAL RULE], vehicles manufactured by a final-stage manufacturer or alterer could be certified as complying with S19, S21, and S23 of this standard when using the child restraint systems specified in appendix A of this standard. Vehicles manufactured on or after [Date of third September 1st after publication of final rule] by these manufacturers must be certified as complying with S19, S21, and S23 when using the child restraint systems specified in appendix A–1.

S14.8.5 Until [DATE OF THIRD SEPTEMBER 1ST AFTER PUBLICATION OF FINAL RULE], manufacturers selling fewer than 5,000 vehicles per year in the U.S. may certify their vehicles as complying with S19, S21, and S23 when using the child restraint systems specified in Appendix A. Vehicles manufactured on or after [Date of third September 1st after publication of final rule] by these manufacturers must be certified as complying with S19, S21, and S23 of this standard when using the child restraint systems specified in Appendix A–1 of this standard.

* * * * *

Appendix A to § 571.208—Selection of Child Restraint Systems

This appendix A applies to vehicles manufactured before [DATE OF FIRST SEPTEMBER 1ST AFTER PUBLICATION OF FINAL RULE] and to not more than 50 percent of a manufacturer's vehicles manufactured on or after [DATE OF FIRST SEPTEMBER 1ST AFTER PUBLICATION OF FINAL RULE] and before [DATE OF SECOND SEPTEMBER 1ST AFTER PUBLICATION OF FINAL RULE], as specified in S14.8 of this standard. This appendix does not apply to vehicles manufactured on or after [DATE OF SECOND SEPTEMBER 1ST AFTER PUBLICATION OF FINAL RULE].

A. The following car bed, manufactured on or after the date listed, may be used by the National Highway Traffic Safety Administration to test the suppression system of a vehicle that has been certified as being in compliance with S19 of this standard:

SUBPART A—CAR BED CHILD RESTRAINTS OF APPENDIX A

	Manufactured on or after
Angel Guard Angel Ride XX2403XXX.	September 25, 2007.

B. Any of the following rear-facing child restraint systems specified in the table below, manufactured on or after the date listed, may be used by the National Highway Traffic Safety Administration to test the suppression or low risk deployment (LRD) system of a vehicle that has been certified as being in compliance with S19 of this standard. When the restraint system comes equipped with a removable base, the test may be run either with the base attached or without the base.

SUBPART B—REAR-FACING CHILD RESTRAINTS OF APPENDIX A

	Manufactured on or after
Century Smart Fit 4543	December 1, 1999.
Cosco Arriva 22–013 PAW and base 22–999 WHO.	September 25, 2007.
Evenflo Discovery Adjust Right 212.	December 1, 1999.
Graco Infant 8457	December 1, 1999.
Graco Snugride	September 25, 2007.
Peg Perego Primo Viaggio SIP IMUN00US.	September 25, 2007.

C. Any of the following forward-facing child restraint systems, and forward-facing child restraint systems that also convert to rear-facing, manufactured on or after the date listed, may be used by the National Highway Traffic Safety Administration to test the suppression or LRD system of a vehicle that has been certified as being in compliance with S19 or S21 of this standard. (*Note:* Any child restraint listed in this subpart that does not have manufacturer instructions for using it in a rear-facing position is excluded from use in testing in a belted rear-facing configuration under S20.2.1.1(a) and S20.4.2 of this standard):

SUBPART C—FORWARD-FACING AND CONVERTIBLE CHILD RESTRAINTS OF APPENDIX A

	Manufactured on or after
Britax Roundabout E9L02xx	September 25, 2007.
Graco ComfortSport	September 25, 2007.
Cosco Touriva 02519	December 1, 1999.
Evenflo Tribute V 379xxxx or Evenflo Tribute 381xxxx.	September 25, 2007.
Evenflo Medallion 254	December 1, 1999.
Cosco Summit Deluxe High Back Booster 22–262.	September 25, 2007.
Evenflo Generations 352xxxx	September 25, 2007.
Graco Toddler SafeSeat Step 2	September 25, 2007.
Graco Platinum Cargo	September 25, 2007.
Cosco High Back Booster 22–209.	September 25, 2007.

D. Any of the following forward-facing child restraint systems and belt positioning seats, manufactured on or after the date listed, may be used by the National Highway Traffic Safety Administration as test devices to test the suppression system of a vehicle that has been certified as being in compliance with r S23 of this standard:

SUBPART D—FORWARD-FACING CHILD RESTRAINTS AND BELT POSITIONING SEATS OF APPENDIX A

	Manufactured on or after
Britax Roadster 9004	December 1, 1999.
Graco Platinum Cargo	September 25, 2007.
Cosco High Back Booster 22–209.	September 25, 2007.
Evenflo Right Fit 245	December 1, 1999.
Evenflo Generations 352xxxx	September 25, 2007.
Cosco Summit Deluxe High Back Booster 22–262.	September 25, 2007.

Appendix A–1 to § 571.208—Selection of Child Restraint Systems

This appendix A–1 applies to not less than 50 percent of a manufacturer's vehicles manufactured on or after [DATE OF FIRST SEPTEMBER 1ST AFTER PUBLICATION OF FINAL RULE] and before [DATE OF SECOND SEPTEMBER 1ST AFTER PUBLICATION OF FINAL RULE], as specified in S14.8 of this standard. This appendix applies to all vehicles manufactured on or after [DATE OF SECOND SEPTEMBER 1ST AFTER PUBLICATION OF FINAL RULE].

A. The following car bed, manufactured on or after [*Date of publication of final rule*], may be used by the National Highway Traffic Safety Administration to test the suppression system of a vehicle that has been certified as being in compliance with S19 of this standard:

Subpart A—Car Bed Child Restraints of Appendix A–1

Safety 1st Dreamride SE LATCH #IC238—

B. Any of the following rear-facing child restraint systems specified in the table below, manufactured on or after [*Date of publication of final rule*], may be used by the National Highway Traffic Safety Administration to test the suppression or low risk deployment (LRD) system of a vehicle that has been certified as being in compliance with S19 of this standard. When the restraint system comes equipped with a removable base, the test may be run either with the base attached or without the base.

Subpart B—Rear-Facing Child Restraints of Appendix A–1

Evenflo Embrace #315—
Chicco Keyfit 30 #04061472—
Doona Car Seat & Stroller
Britax B-Safe 35 #E1A72—
Cybex Aton 2
Evenflo Nurture #362—

C. Any of the following forward-facing child restraint systems, and forward-facing child restraint systems that also convert to rear-facing, manufactured on or after [*Date of publication of final rule*], may be used by the National Highway Traffic Safety Administration to test the suppression or LRD system of a vehicle that has been certified as being in compliance with S19 or S21 of this standard. (*Note:* Any child restraint listed in this subpart that does not have manufacturer instructions for using it in a rear-facing position is excluded from use in testing in a belted rear-facing configuration under S20.2.1.1(a) and S20.4.2 of this standard):

Subpart C—Forward-Facing and Convertible Child Restraints of Appendix A–1

Britax Marathon ClickTight #E1A38—
Cosco Scenera Next #CC123—
Graco 4Ever All-in-1
Britax Allegiance # E9LR4—
Graco Contender 65
Cybex Eternis
Safety 1st Grow and Go #CC138—
Evenflo Chase #306—
Cosco Finale #BC121—
Chicco MyFit #04079783—0070

D. Any of the following forward-facing child restraint systems and belt positioning seats, manufactured on or after [DATE OF PUBLICATION OF FINAL RULE], may be used by the National Highway Traffic Safety Administration as test devices to test the suppression system of a vehicle that has been certified as being in compliance with S21 or S23 of this standard:

Subpart D—Forward-Facing Child Restraints and Belt Positioning Seats of Appendix A–1

Chicco MyFit #04079783—0070
Cybex Eternis
Safety 1st Grow and Go #CC138—
Evenflo Chase #306—
Cosco Finale #BC121—
Cosco Rise Belt-Positioning Booster Seat #BC126—
Graco Backless TurboBooster
Britax Grow with You #E1C19—

* * * * *

PART 585—PHASE-IN REPORTING REQUIREMENTS

■ 3. The authority citation for part 585 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.95.

■ 4. Revise sections 585.35 through 585.37 to read as follows:

* * * * *

Sec.
585.35 Response to inquiries.
585.36 Reporting requirements.
585.37 Records.

* * * * *

§ 585.35 Response to inquiries.

At any time during the production year ending [DATE OF SECOND AUGUST 31ST AFTER PUBLICATION OF FINAL RULE], each manufacturer shall, upon request from the Office of Vehicle Safety Compliance, provide information identifying the vehicles (by make, model and vehicle identification number) that have been certified as complying with the requirements of 49 CFR 571.208 (Standard No. 208) when using the child restraint systems specified in appendix A–1 of that standard. The manufacturer's designation of a vehicle as a certified vehicle is irrevocable.

§ 585.36 Reporting requirements.

(a) *Phase-in reporting requirements.* Within 60 days after the end of the production year ending [DATE OF SECOND AUGUST 31ST AFTER PUBLICATION OF FINAL RULE], each manufacturer shall submit a report to the National Highway Traffic Safety Administration concerning its compliance with requirements of 49 CFR 571.208 (Standard No. 208) when using the child restraint systems specified in appendix A–1 of that standard for its vehicles produced in that year. Each report shall provide the information specified in paragraph (b) of this section and in § 585.2.

(b) *Phase-in report content*—(1) *Basis for phase-in production goals.* Each manufacturer shall provide the number of vehicles manufactured in the current production year, or, at the manufacturer's option, in each of the three previous production years. A new manufacturer that is, for the first time, manufacturing passenger cars, trucks, multipurpose passenger vehicles or buses for sale in the United States must report the number of passenger cars, trucks, multipurpose passenger vehicles or buses manufactured during the current production year.

(2) *Production of complying vehicles.* Each manufacturer shall report on the number of vehicles that meet the requirements of Standard No. 208 when using the child restraint systems specified in appendix A–1 of that standard.

§ 585.37 Records.

Each manufacturer shall maintain records of the Vehicle Identification Number for each vehicle for which information is reported under § 585.36 until [DATE OF FIFTH DECEMBER 31ST AFTER PUBLICATION OF FINAL RULE].

* * * * *

Issued in Washington, DC under authority delegated in 49 CFR 1.95 and 501.8.

James C. Owens,

Deputy Administrator.

[FR Doc. 2020–21476 Filed 10–28–20; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register

Vol. 85, No. 210

Thursday, October 29, 2020

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

October 26, 2020.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by November 30, 2020 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food and Nutrition Service

Title: Supplemental Nutrition Assistance Program Regulations, Part 275—Quality Control.

OMB Control Number: 0584–0303.

Summary of Collection: Section 16 of the Food and Nutrition Act of 2008, provides the legislative basis for the operation of the Supplemental Nutrition Assistance Program (SNAP) Quality Control system. The Food and Nutrition Service (FNS), as administrator of the SNAP, requires each State agency to implement a quality control system to provide basis for determining each State agency's error rates through review of a sample of SNAP cases. Each State agency is responsible for the design and selection of the quality control samples and must submit a quality control sampling plan for approval to FNS. However, State agencies are required to maintain case records for three years to ensure compliance with provisions of the Food and Nutrition Act of 2008. In addition, the date of an administrative closure could cause the case to be kept more than three years after the initial case review. This particularly impacts the arbitration component of this collection.

Need and Use of the Information: The quality control sampling plan is necessary for FNS to monitor State operations and is essential to the determination of a State agency's error rate and corresponding entitlement to increased Federal share of its administrative costs or liability for sanctions.

Description of Respondents: State, Local, or Tribal Government; Federal Government.

Number of Respondents: 53.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Annually.

Total Burden Hours: 2,136.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2020–23934 Filed 10–28–20; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2020–0090]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Self-Certification Medical Statement

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the regulations permitting applicants to self-certify certain medical statements when applying for positions with the Federal Government.

DATES: We will consider all comments that we receive on or before December 28, 2020.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2020-0090.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2020–0090, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2020-0090* or in our reading room, which is located in room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the regulations related to the use of a self-certification medical statement, contact Ms. Beverly Cassidy, Human Resources Policy Specialist, Human Resources Division, MRPBS,

APHIS, 4700 River Road, Unit 21, Riverdale, MD 20737–1236; (301) 851–2914. For information on the information collection process, contact Mr. Joseph Moxey, APHIS' Information Collection Coordinator, at (301) 851–2483.

SUPPLEMENTARY INFORMATION:

Title: Self-Certification Medical Statement.

OMB Control Number: 0579–0196.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: The Marketing and Regulatory Programs (MRP) of the U.S. Department of Agriculture facilitate the domestic and international marketing of U.S. agricultural products and protect the health of domestic animal and plant resources. Resource management and administrative services, including human resources management, for MRP agencies are provided by the MRP Business Services (MRPBS) unit of the Animal and Plant Health Inspection Service (APHIS).

MRP agencies are authorized by 5 CFR 339 and 29 CFR 1630 to obtain medical information from applicants and employees for positions that have approved medical standards due to duties that are arduous or hazardous, or require a certain level of health status or fitness. These agencies have positions with duties that extend beyond sedentary and require specific medical standards and/or physical requirements to be performed successfully and safely. The medical qualifications standards for appointment to the covered positions listed in the MRP Medical Examination Requirements Charts are justified on the basis that the duties are arduous or hazardous and require a certain level of health status and fitness, and the nature of the positions involves a high degree of responsibility toward the public.

This information collection is necessary for making a preliminary determination regarding a candidate's physical fitness and ability to perform the duties of a covered position. MRP uses the Self-Certification Medical Statement for positions requiring verification of fitness and ability for duty. Applicants may also submit a request for waiver of standards and requirements. Inability to collect this information would adversely affect the MRP agencies' ability to make employment decisions and determinations regarding an applicant's physical fitness to safely and efficiently perform assigned duties.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 0.167 hours per response.

Respondents: Private citizens.

Estimated annual number of respondents: 1,826.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 1,827.

Estimated total annual burden on respondents: 306 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 23rd day of October 2020 .

Mark Davidson,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2020–23925 Filed 10–28–20; 8:45 am]

BILLING CODE 3410–34–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meetings of the New Jersey Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meetings.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that four meetings of the New Jersey Advisory Committee to the Commission will each convene by conference call. Each will be a briefing to be held on the following dates and times: Thursday, November 12 at 3:15 p.m. (ET); Tuesday, November 17 at 2:15 p.m. (ET); Wednesday, November 18 2:15 p.m. (ET); and Thursday, November 19, 2020 at 2:15 p.m. (ET). Each briefing will hear from a panel of invited experts on the collateral consequences that a criminal record has on either asset forfeiture or access to employment-occupational licenses in New Jersey.

DATES:

- Thursday, November 12, 2020 at 3:15 p.m. (ET). Topic: Criminal Records and Access to Employment & Occupational Licenses in New Jersey;
- Wednesday, November 18, 2020 at 2:15 p.m. (ET). Topic: Legal Process of Asset Forfeiture in New Jersey;
- Wednesday, November 18, 2020 at 2:15 p.m. (ET). Topic: Criminal Records: Civil Rights Impacts on Access to Employment-Occupational Licenses in New Jersey;
- Thursday, November 19, 2020 at 2:15 p.m. (ET). Topic: Civil Rights Testimonials on Asset Forfeiture in New Jersey.

FOR FURTHER INFORMATION CONTACT: Ivy L. Davis, at *ero@usccr.gov* or by phone at 202–376–7533.

SUPPLEMENTARY INFORMATION:

Public Call-In Information for All Briefings: Conference call number: 1–800–667–5617 and conference call ID number: 7386659.

Virtual Platform Information: Please contact Evelyn Bohor at *ero@usccr.gov* at least five calendar days before each scheduled meeting to determine if video conference will be available for that particular meeting.

Interested members of the public may listen to the discussion by calling the following toll-free conference call number: 1–800–667–5617 and conference call ID number: 7386659. Please be advised that before placing them into the conference calls, the conference call operator may ask callers to provide their names, their organizational affiliations, if any, and email addresses, so that callers may be notified of the Committee's future meetings and activities. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number herein.

Individuals who are deaf, deafblind and hard of hearing may also follow the

proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Federal Relay Service operator with the conference call-in numbers: 1–800–667–5617 and conference call ID number: 7386659.

Each panel presentation will run for approximately two-hours. At the conclusion of each panel presentation, interested members of the public will be invited to make brief statements during the Public Comment section of each meeting or to submit written comments. The comments must be received in the regional office approximately 30 days after each scheduled meeting via email to Ivy Davis at *ero@usccr.gov.*

Records and documents discussed during the meeting will be available for public viewing, as they become available, at *www.facadatabase.gov.* Persons interested in the work of this advisory committee may go to the Commission's website, *www.usccr.gov,* or to contact the Eastern Regional Office at the above email address.

Agenda for: Thursday, November 12 at 3:15 p.m. (ET); Tuesday, November 17 at 2:15 p.m. (ET); Wednesday, November 18 at 2:15 p.m. (ET); and Thursday, November 19, 2020 at 2:15 p.m. (ET)

I. Roll Call
II. Welcome
III. Briefing on Collateral Consequences that a Criminal Record has on either Asset Forfeiture or access to Employment-Occupational Licensing in New Jersey.
IV. Public Comments. Immediately following the conclusion of each meeting.
V. Adjourn

Dated: October 23, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–23931 Filed 10–28–20; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–52–2020]

Foreign-Trade Zone 38—Spartanburg County, South Carolina; Application for Production Authority; Teijin Carbon Fibers, Inc.; Extension of Rebuttal Comment Period

The rebuttal period for the application for production authority within FTZ 38 on behalf of Teijin Carbon Fibers, Inc. in Greenwood, South Carolina, submitted by the South Carolina Ports Authority (85 FR 49359, August 13, 2020), is being extended based on a request from the applicant to November 10, 2020, to allow additional time for the submission of rebuttal comments. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.*

For further information, contact Diane Finver at *Diane.Finver@trade.gov* or (202) 482–1367.

Dated: October 26, 2020.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2020–23989 Filed 10–28–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Denying Export Privileges; In the Matter of: Junior Joel Joseph, 5808 Turkey Lake Road, Orlando, FL 32819

On April 12, 2019, in the U.S. District Court for the Southern District of Florida, Junior Joel Joseph (''Junior Joseph'') was convicted of violating 18 U.S.C. 371, Section 38 of the Arms Export Control Act, 22 U.S.C.A. 2778 (2012) (''AECA''), the International Emergency Economic Powers Act (50 U.S.C 1701, *et seq.* (2012)) (''IEEPA'') and 18 U.S.C. 554(a). Specifically, Junior Joseph was convicted of conspiring to illegally export and send firearms and ammunition from the United States to Haiti without having obtained the required authorization, license, or approval, in violation of 18 U.S.C. 371; of knowingly and willfully exporting and causing to be exported from the United States to Haiti, defense articles, AR–15 Type Rifles, Glock semi-automatic pistols, and ammunition, without first having obtained the required authorization from the U.S. Department of State, in violation of Section 38 of the AECA; of knowingly and willfully exporting and causing to be exported from the United States to Haiti, Standard Manufacturing Model DP–12 shotguns and Rossi Model ST12 shotguns with a barrel length in excess of eighteen (18) inches, without first having obtained the required authorization from the U.S. Department of Commerce, in violation of IEEPA; and of fraudulently and knowingly exporting, sending, and attempting to export AR–15 Type Rifles, Glock semi-automatic pistols, and ammunition from the United States to Haiti, in violation 18 U.S.C. 554. Junior Joseph was sentenced to 16 months in prison, three years of supervised release, and a $500 assessment.

Pursuant to Section 1760(e) of the Export Control Reform Act (''ECRA''),[1] the export privileges of any person who has been convicted of certain offenses, including, but not limited to, violations of 18 U.S.C. 371, Section 38 of the AECA, IEEPA and 18 U.S.C. 554(a), may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e) (Prior Convictions). In addition, any Bureau of Industry and Security (BIS) licenses or other authorizations issued under ECRA in which the person had an interest at the time of the conviction may be revoked. *Id.*

BIS received notice of Junior Joseph's conviction for violating 18 U.S.C. 371, Section 38 of the AECA, IEEPA and 18 U.S.C. 554(a), and has provided notice and opportunity for Junior Joseph to make a written submission to BIS, as provided in Section 766.25 of the Export Administration Regulations (''EAR'' or the ''Regulations''). 15 CFR 766.25.[2] BIS has not received a written submission from Junior Joseph.

Based upon my review of the record and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Junior Joseph's export privileges under the Regulations for a period of seven years from the date of Junior Joseph's conviction. I have also decided to revoke any BIS-issued licenses in which Junior Joseph had an interest at the time of his conviction.

Accordingly, it is hereby *ordered*:

First, from the date of this Order until April 12, 2026, Junior Joseph, with a last known address of 5808 Turkey Lake Road, Orlando, FL 32819, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied

[1] ECRA was enacted as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801–4852. Junior Joseph's conviction post-dates ECRA's enactment on August 13, 2018.

[2] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2020). The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. 4601–4623 (Supp. III 2015) (''EAA''), which lapsed on August 21, 2001. The President, through Executive Order 13,222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which was extended by successive Presidential Notices, continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. 1701, *et seq.* (2012) (''IEEPA''). Section 1768 of ECRA, 50 U.S.C. 4826, provides in pertinent part that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA. *See* note 1, *supra.*

Person''), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to Section 1760(e) of the Export Control Reform Act (50 U.S.C. 4819(e)) and Sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Junior Joseph by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Junior Joseph may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Junior Joseph and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until April 12, 2026.

Hillary Hess,

Acting Director, Office of Exporter Services.

[FR Doc. 2020–23998 Filed 10–28–20; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Denying Export Privileges; In the Matter of: Jimy Joseph, 5764 Grand Canyon Drive, Orlando, FL 32810

On May 22, 2019, in the U.S. District Court for the Southern District of Florida, Jimy Joseph was convicted of violating 18 U.S.C. 371 and 18 U.S.C. 554(a). Specifically, Jimy Joseph was convicted of conspiring to illegally export and send firearms and ammunition from the United States to Haiti without having obtained the required authorization, license, or approval, in violation of 18 U.S.C. 371; and for fraudulently and knowingly exporting, sending, and attempting to export AR–15 Type Rifles, Glock semi-automatic pistols, and ammunition from the United States to Haiti, in violation 18 U.S.C. 554. Jimy Joseph was sentenced to 16 months in prison, three years of supervised release, and a $200 assessment.

Pursuant to Section 1760(e) of the Export Control Reform Act (''ECRA''),[1] the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 371 and 18 U.S.C. 554(a), may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e) (Prior Convictions). In addition, any Bureau of Industry and Security (BIS) licenses or other authorizations issued under ECRA in which the person had an interest at the time of the conviction may be revoked. *Id.*

BIS received notice of Jimy Joseph's conviction for violating 18 U.S.C. 371 and 18 U.S.C. 554(a), and has provided notice and opportunity for Jimy Joseph to make a written submission to BIS, as provided in Section 766.25 of the Export Administration Regulations (''EAR'' or the ''Regulations''). 15 CFR 766.25.[2] BIS has received written submissions from Jimy Joseph.

Based upon my review of the record, including Jimy Joseph's written submissions, and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Jimy Joseph's export privileges under the Regulations for a period of seven years from the date of Jimy Joseph's conviction. I have also decided to revoke any BIS-issued licenses in which Jimy Joseph had an interest at the time of his conviction.

Accordingly, it is hereby *ordered*:

First, from the date of this Order until May 22, 2026, Jimy Joseph, with a last known address of 5764 Grand Canyon Drive, Orlando, FL 32810, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter

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[1] ECRA was enacted as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801–4852. Jimy Joseph's conviction post-dates ECRA's enactment on August 13, 2018.

[2] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2020). The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. 4601–4623 (Supp. III 2015) (''EAA''), which lapsed on August 21, 2001. The President, through Executive Order 13,222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which was extended by successive Presidential Notices, continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. 1701, *et seq.* (2012) (''IEEPA''). Section 1768 of ECRA, 50 U.S.C. 4826, provides in pertinent part that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA. *See* note 1, *supra.*

collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to Section 1760(e) of the Export Control Reform Act (50 U.S.C. 4819(e)) and Sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Jimy Joseph by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Jimy Joseph may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Jimy Joseph and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until May 22, 2026.

Hillary Hess,

Acting Director, Office of Exporter Services.

[FR Doc. 2020–24000 Filed 10–28–20; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–135]

Certain Chassis and Subassemblies Thereof From the People's Republic of China: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation

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

DATES: Applicable October 29, 2020.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla at (202) 482–3477 or Jason Willoughby at (202) 482–5509, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On August 19, 2020, the Department of Commerce (Commerce) initiated a less-than-fair-value (LTFV) investigation of imports of certain chassis and subassemblies thereof (chassis) from the People's Republic of China.[1] Currently, the deadline for the preliminary determination is January 6, 2021.

Postponement of Preliminary Determination

Section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), requires Commerce to issue the preliminary determination in an LTFV investigation within 140 days after the date on which Commerce initiated the investigation. However, section 733(c)(1) of the Act permits Commerce to postpone the preliminary determination until no later than 190 days after the date on which Commerce initiated the investigation if: (A) The petitioner makes a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny the request.

On September 17, 2020, the petitioner[2] submitted a timely request that Commerce postpone the preliminary determination in this LTFV investigation.[3] The petitioner stated that it requests postponement in order to collect the necessary information for determining the most accurate possible dumping margins, and that Commerce will need additional time to fully review questionnaire responses and issue supplementary questionnaire responses.[4] Additionally, Commerce granted the petitioner's September 4, 2020, request[5] that Commerce issue additional quantity and value questionnaires to Chinese producers of in-scope merchandise. The petitioner claims that additional time will be necessary for Commerce to issue these additional questionnaires and follow up on any responses. The petitioner requests that Commerce fully extend the preliminary determination by 50 days.

[1] *See Certain Chassis and Subassemblies Thereof from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation,* 85 FR 52552 (August 26, 2020).

[2] The petitioner is the Coalition of American Chassis Manufacturers.

[3] *See* Petitioner's Letter, ''Certain Chassis and Subassemblies Thereof from the People's Republic of China: Request for Postponement of Preliminary Determination,'' dated September 17, 2020.

[4] *Id.*

[5] *See* Petitioner's Letter, ''Certain Chassis and Subassemblies Thereof from the People's Republic of China: Request for Additional Quantity and Value Questionnaires,'' dated September 4, 2020.

For the reasons stated above and because there are no compelling reasons to deny the request, Commerce, in accordance with section 733(c)(1)(A) of the Act and 19 CFR 351.205(e), is postponing the deadline for the preliminary determination by 50 days (*i.e.,* 190 days after the date on which the investigation was initiated). As a result, Commerce will issue its preliminary determination no later than February 25, 2021. In accordance with section 735(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determination in this investigation will continue to be 75 days after the date of the preliminary determination, unless postponed at a later date.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: October 20, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2020–23972 Filed 10–28–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–845]

Agreement Suspending the Antidumping Duty Investigation on Sugar From Mexico: Final Results of the 2017–2018 Administrative Review

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

SUMMARY: The Department of Commerce (Commerce) continues to find that the respondents selected for individual examination were in compliance with the Agreement Suspending the Antidumping Duty Investigation on Sugar from Mexico (AD Agreement), as amended on June 30, 2017, (collectively, amended AD Agreement), during the period of review (POR) from December 1, 2017 through November 30, 2018, and that the amended AD Agreement is meeting the statutory requirements under sections 734(c) and (d) of the Tariff Act of 1930, as amended (the Act).

DATES: Applicable October 29, 2020.

FOR FURTHER INFORMATION CONTACT: Sally C. Gannon or David Cordell, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0162 or (202) 482–0408, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 6, 2020, Commerce published the *Preliminary Results* of this administrative review.[1] On February 20, 2020, Commerce issued a second supplemental questionnaire to the respondents, Ingenio Pánuco, S.A.P.I. de C.V. (Pánuco) and Ingenio Adolfo López Mateos S.A. de C.V. and its affiliates [2] (Grupo PIASA).[3] Pánuco and Grupo PIASA each filed responses on March 20, 2020.[4] On March 6, 2020, the American Sugar Coalition and its Members (collectively, ASC),[5] the petitioners in this case, requested a hearing, which they later withdrew.[6] On June 24, 2020, Commerce set the briefing schedule for the final results of this review.[7] On July 6, 2020, both the respondents and ASC filed briefs.[8] On July 13, 2020, the respondents a filed rebuttal brief.[9]

On April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days.[10] On July 14, 2020, Commerce extended the deadline for the final results of this review by 30 days.[11] On July 21, 2020, Commerce tolled all deadlines in administrative reviews by an additional 60 days.[12] As a result, the final results of this administrative review are due no later than October 23, 2020.

For its final analysis, Commerce considered briefs from interested parties that commented on the *Preliminary Results.*

Scope of Amended AD Agreement

The product covered by this amended AD Agreement is raw and refined sugar of all polarimeter readings derived from sugar cane or sugar beets.

Merchandise covered by this amended AD Agreement is typically imported under the following headings of the Harmonized Tariff Schedule of the United States (HTSUS): 1701.12.1000, 1701.12.5000, 1701.13.1000, 1701.13.5000, 1701.14.1000, 1701.14.1020, 1701.14.1040,1701.14.5000, 1701.91.1000, 1701.91.3000, 1701.99.1010, 1701.99.1015, 1701.99.1017, 1701.99.1025, 1701.99.1050, 1701.99.5010, 1701.99.5015,170.99.5017,1701.99.5025, 1701.99.5050, 1702.90.4000 and 1703.10.3000. The tariff classification is provided for convenience and customs purposes; however, the written description of the scope of this amended AD Agreement is dispositive.

A full description of the scope of the order is contained in the Issues and Decision Memorandum.[13]

[1] *See Suspension Agreement on Sugar From Mexico; 2018 Administrative Review of the Agreement Suspending the Antidumping Duty Investigation on Sugar From Mexico (as Amended),* 85 FR 6894 (February 6, 2020) (*Preliminary Results*).

[2] Ingenio Adolfo López Mateos, S.A. de C.V. and its affiliates Ingenio Tres Valles, S.A. de C.V. and Piasa Ingenio Plan de San Luis, S.A. de C.V. (collectively, Grupo PIASA).

[3] *See* Letters to Pánuco and Grupo PIASA, ''Agreement Suspending the Antidumping Duty Investigation on Sugar from Mexico: 2018 Administrative Review—Second Supplemental Questionnaire,'' dated February 20, 2020.

[4] *See* ''Sugar from Mexico—Grupo PIASA's Second Supplemental Questionnaire Response,'' and ''Sugar from Mexico—Panuco's Supplemental Questionnaire Response,'' both dated March 20, 2020.

[5] The Members of the ASC are as follows: American Sugar Cane League, American Sugarbeet Growers Association, American Sugar Refining, Inc., Florida Sugar Cane League, Rio Grande Valley Sugar Growers, Inc., Sugar Cane Growers Cooperative of Florida, and the United States Beet Sugar Association.

[6] *See* Petitioners' Letter, ''Sugar from Mexico: Request for Hearing,'' dated March 6, 2020; *see also* ''Sugar from Mexico: Withdrawal of Request for a Hearing,'' dated July 16, 2020.

[7] See Memorandum, ''Establishment of Briefing Schedule for the 2017–2018 Administrative Reviews of the Agreement Suspending the Antidumping Investigation on Sugar from Mexico and the Agreement Suspending the Countervailing Duty Investigation on Sugar from Mexico,'' dated June 24, 2020.

[8] *See* Cámara Nacional de Las Industrias Azucarera y Alcoholera (Cámara) Case Brief, ''Sugar from Mexico—Case Brief'' and ASC Case Brief, ''Case Brief filed by the American Sugar Coalition and its Members,'' dated July 6, 2020. Note that Cámara's case brief was in the form of a letter in lieu of a case brief in which Cámara argued that Commerce ''should continue to find that the Mexican sugar industry is in full compliance with the AD Agreement.''

[9] *See* Rebuttal brief filed by Cámara, ''Sugar from Mexico—Rebuttal Brief'' (July 13, 2020).

[10] *See* Memorandum to the Record, from Jeffrey I. Kessler, ''Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID–19,'' dated April 24, 2020.

[11] *See* Memorandum to Joseph A. Laroski Jr., Deputy Assistant Secretary for Policy & Negotiations, ''Extension of Deadlines for Final Results of the Administrative Review of the Agreement Suspending the Antidumping Duty Investigation on Sugar from Mexico and for Final Results of the Administrative Review of the Agreement Suspending the Countervailing Duty Investigation on Sugar from Mexico,'' dated July 14, 2020.

[12] *See* Memorandum to the Record, from Jeffrey I. Kessler, ''Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews,'' dated July 21, 2020.

[13] *See* Memorandum to Jeffrey I. Kessler, Assistant Secretary for Enforcement and Compliance, from Joseph A. Laroski, Jr., Deputy Assistant Secretary for Policy & Negotiations, ''Issues and Decision Memorandum for the Final Results of the Administrative Review of the Agreement Suspending the Antidumping Duty Investigation on Sugar from Mexico, for the period December 1, 2017 through November 30, 2018,'' dated concurrently, and hereby adopted by, this notice (Issues and Decision Memorandum). Commerce notes it has added the following HTSUS codes to the scope: 1701.14.1020, 1701.14.1040, 1701.99.1015, 1701.99.1017, 1701.99.5015, and 1701.99.5017. *See* footnote 2 of the Issues and Decision Memorandum for a full explanation.

Analysis

Commerce continues to find, based on record evidence, that the selected respondents, Pánuco and Grupo PIASA, were in compliance with the terms of the amended AD Agreement [14] during the POR, including the polarity testing requirements and reference price provisions. We also determine that the amended AD Agreement is preventing price suppression or undercutting and can be effectively monitored, and there have been no violations by the selected respondents of the amended AD Agreement during the POR.

The issues raised in the case and rebuttal briefs are addressed in the accompanying Issues and Decision Memorandum and business proprietary memorandum.[15] The issues are identified in the Appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://trade.gov/enforcement/frn/index.html.* The signed Issues and Decision Memorandum and electronic versions of the Issues and Decision Memorandum are identical in content.

Notification Regarding 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 results of review in accordance with sections 751(a)(l) and 777(i)(l) of the Act and 19 CFR 351.213 and 19 CFR 351.221(b)(5).

Dated: October 21, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

Issues and Decision Memorandum

I. Summary
II. Scope of the Agreement
III. Background
IV. Discussion of the Issues
Issue 1: Alleged Possible Violations of the Amended AD Agreement
- Certain Sales in the Home Market
- Sales for Home Market Calculation

Issue 2: Status of the Amended AD Agreement.
V. Recommendation

[FR Doc. 2020–23923 Filed 10–28–20; 8:45 am]

BILLING CODE 3510–DS–P

[14] *See Agreement Suspending the Antidumping Duty Investigation of Sugar from Mexico,* 79 FR 78039 (December 29, 2014) and *Sugar From Mexico: Amendment to the Agreement Suspending the Antidumping Duty Investigation,* 82 FR 31945 (July 11, 2017) (AD Amendment). Consistent with a ruling from the Court of International Trade, Commerce published in the **Federal Register** a notice of the termination of the 2017 AD Amendment (which was in effect during period of review), with an applicable date of December 7, 2019. *See Sugar from Mexico: Notice of Termination of Amendment to the Agreement Suspending the Antidumping Duty Investigation,* 84 FR 67711 (December 11, 2019).

[15] *See* Issues and Decision Memorandum; *see also* Memorandum to the File from David Cordell, through Sally C. Gannon, Director for Bilateral Agreements, ''Proprietary Discussion of Issues for the Final Results of the Administrative Review of the Agreement Suspending the Antidumping Duty Investigation on Sugar from Mexico, for the period December 1, 2017 through November 30, 2018,'' dated concurrently and hereby adopted by this notice.

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–980]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results of Countervailing Duty Administrative Review and Notice of Amended Final Results of Review

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

SUMMARY: On October 19, 2020, the United States Court of International Trade (the Court) entered final judgment sustaining the final results of remand redetermination pursuant to court order by the Department of Commerce (Commerce) pertaining to the 2015 countervailing duty (CVD) administrative review of the order on crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells), from the People's Republic of China (China). Commerce is notifying the public that the final judgment in this case is not in harmony with Commerce's final results in the 2015 administrative review of solar cells from China, and that Commerce is amending the final results.

DATES: *Applicable:* October 29, 2020.

FOR FURTHER INFORMATION CONTACT: Caitlin Monks, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2670.

SUPPLEMENTARY INFORMATION:

Background

On July 23, 2018, Commerce published its final results of the 2015 administrative review of solar cells.[1] Commerce reached affirmative determinations for mandatory respondents Canadian Solar Inc. and its cross-owned affiliates (collectively, Canadian Solar) and Changzhou Trina Solar Energy Co., Ltd. and its cross-owned affiliates (collectively, Trina Solar), as well as numerous other producers and exporters not selected for individual review. Commerce requested a voluntary remand regarding four issues before the Court: (1) Its finding, based on adverse facts available, that the respondents used the Export Buyer's Credit Program; (2) its determination that China's provision of aluminum extrusions is a specific subsidy; (3) the decision to average two datasets from IHS technology and U.N. Comtrade in calculating the benchmark for aluminum extrusions; and (4) the determination that China's provision of electricity is a specific subsidy.

On February 25, 2020, the Court granted Commerce's requests for voluntary remands, and remanded additional aspects of Commerce's *Final Results.*[2] Specifically, the Court concluded that Commerce did not adequately explain how the polysilicon market in China is distorted through GOC intervention and how that distortion affects prices for imported products.[3] Additionally, the Court found that Commerce had misinterpreted evidence regarding the

[1] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2015,* 83 FR 34828 (July 23, 2018) (*Final Results*), and accompanying Issues and Decision Memorandum, as amended by *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Amended Final Results of Countervailing Duty Administrative Review; 2015,* 83 FR 54566 (October 30, 2018) (*Amended Final Results*).

[2] *See Canadian Solar Inc., et al.* v. *United States,* Slip Op. 20–23 (CIT February 25, 2020) (*Remand Order*).

[3] *Id.* at 6 (citing *Changzhou 3rd Review 2nd Remand Order,* Slip Op. 19–137 at 20).

inclusion of terminal handling charges in the Xeneta ocean freight data,[4] and that Commerce had erred in not fixing an allegedly mistranslated heading on the GOC's electricity tariff schedules.[5]

Commerce issued its final remand redetermination in June 2020.[6] In its final remand redetermination, Commerce explained that, although it continues to believe that it is not possible to verify whether respondents used the Export Buyer's Credit Program without the cooperation of the Government of China (GOC), it found the program not used, under protest, to comply with the Court's order in the third administrative review.[7] For aluminum extrusions, Commerce offered additional explanation regarding the specificity of aluminum extrusions provided at less than adequate remuneration (LTAR) and revised its benefit calculations to use the more product-specific annual data from IHS exclusively rather than averaging them with less specific monthly Comtrade data.[8] For electricity, Commerce also fixed a translation error in the electricity tariff schedules on the record[9] and offered additional explanation regarding its conclusion that the provision of electricity for LTAR is specific, and thus, countervailable.[10] Commerce also solicited new information regarding the polysilicon industry in China and placed additional information on the record that supported its finding that the polysilicon market in China is distorted by government involvement, such that we cannot rely on prices for polysilicon imported into China.[11] Regarding international freight costs, Commerce revised its benchmark calculations to include the Xeneta data on the record, in compliance with the Court's order.[12]

The Court sustained Commerce's remand redetermination in full.[13] Specifically, the Court found that Commerce's determinations regarding the Export Buyer's Credit Program, as well as the aluminum extrusions and polysilicon benchmarks, complied with the options the Court provided in previous remand orders.[14] For polysilicon, the Court explained that Commerce reasonably identified further evidence supporting its finding of market distortion.[15] The Court also concluded that Commerce's decision to average the Xeneta data with the Maersk data in computing an ocean freight benchmark, and its decision to correct the translation error on the electricity schedules complied with the Court's order.[16] Finally, the Court found that Commerce appropriately identified the missing information and facts that, when combined with an adverse inference, supported finding that the provision of electricity is regionally specific.[17]

Timken Notice

In its decision in *Timken,*[18] as clarified by *Diamond Sawblades,*[19] the Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not ''in harmony'' with a Commerce determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The Court's October 19, 2020 judgment constitutes a final decision of that court that is not in harmony with Commerce's *Final Results* and *Amended Final Results.* This notice is published in fulfillment of the publication requirements of *Timken.* Accordingly, Commerce will continue suspension of liquidation of subject merchandise pending expiration of the period of appeal or, if appealed, pending a final and conclusive court decision.

Amended Final Results

Because there is now a final court decision, Commerce is amending the *Amended Final Results* with respect to Canadian Solar, Trina Solar, and all other producers and exporters subject to this review. The revised total subsidy rates for the period January 1, 2015 through December 31, 2015 are as follows:[20]

Exporter or producer	Subsidy rate (percent *ad valorem*)
Canadian Solar Inc. and its Cross-Owned Affiliates[21]	5.02
Changzhou Trina Solar Energy Co., Ltd. and its Cross-Owned Affiliates[22]	2.93
Baoding Jiasheng Photovoltaic Technology Co., Ltd	4.22
Baoding Tianwei Yingli New Energy Resources Co., Ltd	4.22
Beijing Tianneng Yingli New Energy Resources Co., Ltd	4.22
Canadian Solar International, Ltd	4.22
Chint Solar (Zhejiang) Co., Ltd	4.22
Dongguan Sunworth Solar Energy Co., Ltd	4.22
ERA Solar Co., Ltd	4.22
ET Solar Energy Limited	4.22
ET Solar Industry Limited	4.22
Hainan Yingli New Energy Resources Co., Ltd	4.22
Hangzhou Sunny Energy Science and Technology Co., Ltd	4.22
Hangzhou Zhejiang University Sunny Energy Science and Technology Co., Ltd	4.22
Hengdian Group DMEGC Magnetics Co., Ltd	4.22
Hengshui Yingli New Energy Resources Co., Ltd	4.22

[4] *Id.* at 9.

[5] *Id.* at 11.

[6] *See Canadian Solar Inc., et al.* v. *United States,* Consol. Court No. 18–00184; Slip Op. 20–23 (CIT February 25, 2020), ''Final Results of Redetermination Pursuant to Court Remand,'' dated June 26, 2020 (Final Remand Redetermination).

[7] *Id.* at 11–12.

[8] *Id.* at 12–13.

[9] *Id.* at 30.

[10] *Id.* at 2.

[11] *Id.* at 20–30.

[12] *Id.* at 30.

[13] *See Changzhou Trina Solar Energy Co., Ltd.* v. *United States,* Slip Op. 20–108 (October 19, 2020).

[14] *Id.* at 5–6 (Export Buyer's Credit Program) and 6–10 (aluminum extrusions) (citing, *e.g., Changzhou Trina Solar Energy Co., Ltd.* v. *United States,* Slip Op. 20–108 (CIT 2020)).

[15] *Id.* at 13–15.

[16] *Id.* at 15–16.

[17] *Id.* at 12–13.

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

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

[20] *See* Second Remand Redetermination at 48.

[21] *See Amended Final Results,* 83 FR at 54567. Cross-owned affiliates are: Canadian Solar Inc.; Canadian Solar Manufacturing (Luoyang) Inc.; Canadian Solar Manufacturing (Changshu) Inc.; CSI Cells Co., Ltd.; CSI Solar Power (China) Inc.; CSI Solartronics (Changshu) Co., Ltd.; CSI Solar Technologies Inc.; CSI Solar Manufacture Inc. (name was changed to CSI New Energy Holding Co., Ltd. in July 2015); CSI–GCL Solar Manufacturing (Yancheng) Co., Ltd.; Changshu Tegu New Materials Technology Co., Ltd.; Changshu Tlian Co., Ltd.; and Suzhou Sanysolar Materials Technology Co., Ltd.

[22] *Id.* Cross-owned affiliates are: Changzhou Trina Solar Energy Co., Ltd.; Trina Solar (Changzhou) Science and Technology Co., Ltd.; Yancheng Trina Solar Energy Technology Co., Ltd.; Changzhou Trina Solar Yabang Energy Co., Ltd.; Hubei Trina Solar Energy Co., Ltd.; Turpan Trina Solar Energy Co., Ltd.; and Changzhou Trina PV Ribbon Materials Co., Ltd.

Exporter or producer	Subsidy rate (percent *ad valorem*)
JA Solar Technology Yangzhou Co., Ltd	4.22
Jiangsu High Hope Int'l Group	4.22
Jiawei Solarchina Co., Ltd	4.22
Jiawei Solarchina (Shenzhen) Co., Ltd	4.22
JingAo Solar Co., Ltd	4.22
Jinko Solar Co., Ltd	4.22
Jinko Solar Import and Export Co., Ltd	4.22
Jinko Solar International Limited	4.22
Jinko Solar (U.S.) Inc	4.22
Lightway Green New Energy Co., Ltd	4.22
Lixian Yingli New Energy Resources Co., Ltd	4.22
Luoyang Suntech Power Co., Ltd	4.22
Ningbo Qixin Solar Electrical Appliance Co., Ltd	4.22
Risen Energy Co., Ltd	4.22
Shanghai JA Solar Technology Co., Ltd	4.22
Shenzhen Glory Industries Co., Ltd	4.22
Shenzhen Topray Solar Co., Ltd	4.22
Sumec Hardware & Tools Co. Ltd	4.22
Systemes Versilis, Inc	4.22
Taizhou BD Trade Co., Ltd	4.22
tenKsolar (Shanghai) Co., Ltd	4.22
Tianjin Yingli New Energy Resources Co., Ltd	4.22
Toenergy Technology Hangzhou Co., Ltd	4.22
Wuxi Suntech Power Co., Ltd	4.22
Yingli Energy (China) Co., Ltd	4.22
Zhejiang Era Solar Technology Co., Ltd	4.22
Zhejiang Jinko Solar Co., Ltd	4.22
Zhejiang Sunflower Light Energy Science & Technology Limited Liability Company	4.22

Amended Cash Deposit Rates

Commerce will issue revised cash deposit instructions to U.S. Customs and Border Protection, based on the rates indicated above, for all firms that do not have a superseding cash deposit rate (*e.g.,* from a subsequent administrative review).

Notification to Interested Parties

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

Dated: October 23, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2020–23959 Filed 10–28–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–201–846]

Agreement Suspending the Countervailing Duty Investigation on Sugar From Mexico: Final Results of the 2018 Administrative Review

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

SUMMARY: The Department of Commerce (Commerce) continues to find that the respondents selected for individual examination were in compliance with the Agreement Suspending the Countervailing Duty Investigation on Sugar from Mexico (CVD Agreement), as amended on June 30, 2017 (collectively, amended CVD Agreement), and that the amended CVD Agreement is meeting the statutory requirements under sections 704(c) and (d) of the Tariff Act of 1930, as amended (the Act), during the period of review (POR) from January 1, 2018, through December 31, 2018.

DATES: Applicable October 29, 2020.

FOR FURTHER INFORMATION CONTACT: Sally C. Gannon or David Cordell, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0162 or (202) 482–0408, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 6, 2020, Commerce published the *Preliminary Results* of this administrative review.[1] On March 6, 2020, the American Sugar Coalition and its members (collectively ASC),[2] the petitioners, filed a request for a hearing, which they later withdrew.[3] On June 24, 2020, Commerce set the briefing schedule for the final results of this review.[4] On July 6, 2020, the ASC filed a case brief and the Government of Mexico (GOM) filed a letter in lieu of a case brief.[5] On July 13, 2020, the respondents filed a letter in lieu of a rebuttal brief.[6]

On April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days.[7] On July 14, 2020, Commerce extended the deadline for the

[1] *See Suspension Agreement on Sugar From Mexico; 2018 Administrative Review of the Agreement Suspending the Countervailing Duty Investigation on Sugar From Mexico (as Amended),* 85 FR 6906 (February 6, 2020) (*Preliminary Results*).

[2] The members of the ASC are as follows: American Sugar Cane League, American Sugarbeet Growers Association, American Sugar Refining, Inc., Florida Sugar Cane League, Rio Grande Valley Sugar Growers, Inc., Sugar Cane Growers Cooperative of Florida, and the United States Beet Sugar Association.

[3] *See* Petitioners' Letter, ''Sugar from Mexico: Request for Hearing'' dated March 6, 2020; *see also* ''Sugar from Mexico: Withdrawal of Request for a Hearing,'' dated July 16, 2020.

[4] *See* Memorandum, ''Establishment of Briefing Schedule for the 2017–2018 Administrative Reviews of the Agreement Suspending the Antidumping Investigation on Sugar from Mexico and the Agreement Suspending the Countervailing Duty Investigation on Sugar from Mexico,'' dated June 24, 2020.

[5] *See* GOM Letter, ''Administrative Review of the Agreement Suspending the Countervailing Duty Investigation on Sugar from Mexico: Letter in Lieu of Case Brief,'' dated July 6, 2020; *see also* ASC Case Brief, ''Case Brief filed by the American Sugar Coalition and its Members,'' dated July 6, 2020.

[6] *See* Letter in Lieu of Rebuttal brief filed by Cámara Nacional de Las Industrias Azucarera y Alcoholera (Cámara) ''Sugar from Mexico—Rebuttal Brief,'' dated July 13, 2020.

[7] *See* Memorandum to the Record, from Jeffrey I. Kessler, ''Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID–19,'' dated April 24, 2020.

final results of this review by 30 days.[8] On July 21, 2020, Commerce tolled all deadlines in administrative reviews by an additional 60 days.[9] As a result, the final results of this administrative review are due no later than October 23, 2020.

Scope of Amended CVD Agreement

The product covered by this amended CVD Agreement is raw and refined sugar of all polarimeter readings derived from sugar cane or sugar beets.

Merchandise covered by this amended CVD Agreement is typically imported under the following headings of the Harmonized Tariff Schedule of the United States (HTSUS): 1701.12.1000, 1701.12.5000, 1701.13.1000, 1701.13.5000, 1701.14.1000, 1701.14.1020, 1701.14.1040, 1701.14.5000, 1701.91.1000, 1701.91.3000, 1701.99.1010, 1701.99.1015, 1701.99.1017, 1701.99.1025, 1701.99.1050, 1701.99.5010, 1701.99.5015, 170.99.5017, 1701.99.5025, 1701.99.5050, 1702.90.4000, and 1703.10.3000. The tariff classification is provided for convenience and customs purposes; however, the written description of the scope of this amended CVD Agreement is dispositive.

A full description of the scope of the amended CVD Agreement is contained in the Issues and Decision Memorandum.[10]

Analysis

Commerce continues to find that the GOM and selected respondents, Ingenio Adolfo López Mateos S.A. de C.V. and its affiliates [11] (Grupo PIASA) and Ingenio Pánuco S.A.P.I. de C.V. (Pánuco), were in compliance with the terms of the amended CVD Agreement [12] during the POR, and that the amended CVD Agreement is functioning as intended. Further, we continue to determine that the amended CVD Agreement is meeting its statutory requirements under sections 704(c) and (d) of the Act. Finally, we determine that the amended CVD Agreement can be effectively monitored, and there have been no violations by the selected respondents of the amended CVD Agreement during the POR.

The issue raised in the case and rebuttal briefs is addressed in the accompanying Issues and Decision Memorandum and business proprietary memorandum.[13] The issue is also identified in the Appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://trade.gov/enforcement/frn/index.html.* The signed Issues and Decision Memorandum and electronic versions of the Issues and Decision Memorandum are identical in content.

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Notification to Interested Parties

We are issuing and publishing these results of review in accordance with sections 751(a)(l) and 777(i)(l) of the Act and 19 CFR 351.213 and 19 CFR 351.221(b)(5).

Dated: October 21, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

Issues and Decision Memorandum

I. Summary
II. Scope of the Agreement
III. Background
IV. Discussion of the Issues
Comment 1: Whether Certain Behavior of Mexican Sugar Mills Violated the Terms of the Amended CVD Agreement
V. Recommendation

[FR Doc. 2020–23924 Filed 10–28–20; 8:45 am]

BILLING CODE 3510–DS–P

[8] *See* Memorandum to Joseph A. Laroski Jr., Deputy Assistant Secretary for Policy & Negotiations, ''Extension of Deadlines for Final Results of the Administrative Review of the Agreement Suspending the Antidumping Duty Investigation on Sugar from Mexico and for Final Results of the Administrative Review of the Agreement Suspending the Countervailing Duty Investigation on Sugar from Mexico,'' dated July 14, 2020.

[9] *See* Memorandum to the Record, from Jeffrey I. Kessler, ''Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews,'' dated July 21, 2020.

[10] *See* Memorandum to Jeffrey I. Kessler, Assistant Secretary for Enforcement and Compliance, from Joseph A. Laroski, Jr., Deputy Assistant Secretary for Policy & Negotiations, ''Issues and Decision Memorandum for the Final Results of the Administrative Review of the Agreement Suspending the Countervailing Duty Investigation on Sugar from Mexico, for the period January 1, 2018 through December 31, 2018,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[11] The affiliates of Ingenio Adolfo L6pez Mateos, S.A. de C.V. are Ingenio Tres Valles, S.A. de C.V. and Piasa Ingenio Plan de San Luis, S.A. de C.V. (collectively, Grupo PIASA).

[12] *See Agreement Suspending the Countervailing Duty Investigation of Sugar from Mexico,* 79 FR 78044 (December 29, 2014) and *Sugar From Mexico: Amendment to the Agreement Suspending the Countervailing Duty Investigation,* 82 FR 31942 (July 11, 2017) (CVD Amendment). Consistent with a ruling from the Court of International Trade, Commerce published in the **Federal Register** a notice of the termination of the 2017 CVD Amendment (which was in effect during period of review), with an applicable date of December 7, 2019. *See Sugar from Mexico: Notice of Termination of Amendment to the Agreement Suspending the Countervailing Duty Investigation,* 84 FR 67718 (December 11, 2019).

[13] *See* Issues and Decision Memorandum; *see also* Memorandum to the File from David Cordell, through Sally C. Gannon, Director for Bilateral Agreements, ''Proprietary Analysis of Final Results of the Administrative Review of the Agreement Suspending the Countervailing Duty Investigation on Sugar from Mexico, for the Period January 1, 2018, through December 31, 2018'' dated concurrently with, and hereby adopted by, this notice.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA600]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will hold a public hearing via webinar to discuss Reef Fish Amendment 48—Amendment Reef Fish 48/Red Drum 5: Status Determination Criteria and Optimum Yield for Reef Fish and Red Drum.

DATES: The webinar will be held on Tuesday, November 17, 2020, 6 p.m. EST; and will conclude no later than 8 p.m.

ADDRESSES: The public hearing will be held via webinar.

Council address: Gulf of Mexico Fishery Management Council, 4107 W Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Dr. John Froeschke, Deputy Director and Emily Muehlstein, Public Information Officer, Gulf of Mexico Fishery Management Council; *emily.muehlstein@gulfcouncil.org,*

telephone: (813) 348–1630. The Council's website, *www.gulfcouncil.org.*

SUPPLEMENTARY INFORMATION:

Tuesday, November 17, 2020; 6 p.m.–8 p.m., EST

Council staff will brief the public on the purpose and need of the amendment. The actions in the document will establish or modify Maximum Sustainable Yield (MSY) proxies, Maximum Fishing Mortality Threshold (MFMT), Minimum Stock Size Threshold (MSST), and Optimum Yield (OY) for reef fish stocks and red drum that are consistent with the Magnuson-Stevens Fishery Conservation and Management Act and the current National Standard 1 guidelines.

The meeting will be held via webinar. You may register for the webinar by visiting *www.gulfcouncil.org* and clicking on the meeting on the calendar. The agenda is subject to change, and the latest version along with other meeting materials will be posted on as they become available.

—*Meeting Adjourns*

The meeting will be broadcast via webinar. You may register for the listen-in access by visiting *www.gulfcouncil.org* and clicking on the AP meeting on the calendar.

The Agenda is subject to change, and the latest version along with other meeting materials will be posted on *www.gulfcouncil.org* as they become available.

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

Dated: October 26, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–23955 Filed 10–28–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA599]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission) will hold a joint webinar meeting of their Summer Flounder, Scup, and Black Sea Bass Advisory Panels.

DATES: The meeting will be held on Thursday, November 19, 2020, from 4 p.m. to 6 p.m. EST. See **SUPPLEMENTARY INFORMATION** for more details.

ADDRESSES: The meeting will be held via webinar. Connection information will be posted to *http://www.mafmc.org/council-events.*

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; website: *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Council and the Commission have scheduled a joint meeting of their Summer Flounder, Scup, and Black Sea Bass Advisory Panels to review public comments on the Council's Black Sea Bass Commercial State Allocation Amendment the Commission's Draft Addendum XXXIII and, as well as to provide recommendations for final action on the addendum and amendment. The amendment and draft addendum consider alternative approaches for allocating the coastwide black sea bass commercial quota among the states as well as Council management of state allocations and changes to certain federal regulations regarding quota management.

Additional information on this action is available at: *http://www.mafmc.org/actions/bsb-commercial-allocation.*

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders at the Mid-Atlantic Council Office, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: October 26, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–23950 Filed 10–28–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA592]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Habitat Joint Committee and Advisory Panel via webinar to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Tuesday, November 17, 2020 at 12:30 p.m.

ADDRESSES: All meeting participants and interested parties can register to join the webinar at *https://attendee.gotowebinar.com/register/371121868592311568.*

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Joint Committee and Advisory Panel plan to review and revise Council policies on submarine cables and aquaculture, and recommend to the full Council for approval, if ready. They also plan to discuss specific cable and aquaculture projects and develop comments as necessary. They will also receive and discuss other updates and briefings related to habitat projects and offshore wind. They will review planning for completion of 2021 work priorities. Other business may be discussed as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been

notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the date. This meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

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

Dated: October 26, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–23953 Filed 10–28–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA590]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (MAFMC's) Bluefish Monitoring Committee will hold a public meeting.

DATES: The meeting will be held on Tuesday, November 17, 2020, from 9 a.m. to 11:30 a.m. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held via webinar, which can be accessed at: *http://mafmc.adobeconnect.com/bf_mc_rm_nov_2020/.* Meeting audio can also be accessed via telephone by dialing 1–800–832–0736 and entering room number 5068609.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Bluefish Monitoring Committee will meet to develop recommendations for 2021 federal waters recreational management measures (*i.e.,* possession limits, fish size limits, and/or open and closed seasons).

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders at the Mid-Atlantic Council Office, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: October 26, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–23951 Filed 10–28–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA596]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will hold a one-day meeting via webinar of its Shrimp Advisory Panel (AP).

DATES: The webinar will convene on Monday, November 16, 2020, 10:30 a.m. to 5 p.m., EST. For agenda details, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The meeting will be held via webinar. Please visit the Gulf Council website *www.gulfcouncil.org* for meeting materials and webinar registration information.

Council address: Gulf of Mexico Fishery Management Council, 4107 W. Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Dr. Matt Freeman, Economist, Gulf of Mexico Fishery Management Council; *matt.freeman@gulfcouncil.org,* telephone: (813) 348–1630. The Council's website, *www.gulfcouncil.org* also has details on the meeting location, proposed agenda, webinar listen-in access, and other materials.

SUPPLEMENTARY INFORMATION: The following items are on the agenda, though agenda items may be addressed out of order (changes will be noted on the Council's website when possible.)

Monday, November 16, 2020; 10:30 a.m.–5 p.m.

Meeting will begin with adoption of agenda, approval of minutes from the March 24, 2020 webinar; and, a review of scope of work with its members. The AP will receive an update on Shrimp Working Groups, a presentation on data issues with unmatched trips, and a presentation on a pilot program to evaluate use of a vessel navigation system to measure shrimping effort. The AP will discuss better Bycatch Reduction Devices (BRD) for the Gulf of Mexico Commercial Shrimp Trawl Fishery, Small Bar Turtle Excluder devices (TED), and any other business items.

—*Meeting Adjourns*

The meeting will be broadcast via webinar. You may register by visiting *www.gulfcouncil.org* and clicking on the AP meeting on the calendar.

The Agenda is subject to change, and the latest version along with other meeting materials will be posted on *www.gulfcouncil.org* as they become available.

Although other non-emergency issues not on the agenda may come before the group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during this meeting. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency at least 5 working days prior to the meeting.

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

Dated: October 26, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–23952 Filed 10–28–20; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 9:30 a.m. EST, Monday, November 2, 2020.

PLACE: Virtual meeting.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commodity Futures Trading Commission (''Commission'' or

''CFTC'') will hold this meeting to consider the following matter:

• *Final Rule:* Amendments to Part 50 Clearing Requirement Exemptions for Central Banks, Sovereigns, IFIs, Bank Holding Companies, and CDFIs.

The agenda for this meeting will be available to the public and posted on the Commission's website at *https://www.cftc.gov.* Instructions for public access to the live feed of the meeting will also be posted on the Commission's website. In the event that the time, date, or place of this meeting changes, an announcement of the change, along with the new time, date, or place of the meeting, will be posted on the Commission's website.

CONTACT PERSON FOR MORE INFORMATION: Christopher Kirkpatrick, Secretary of the Commission, 202–418–5964.

Authority: 5 U.S.C. 552b.

Dated: October 26, 2020.

Christopher Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2020–24039 Filed 10–27–20; 11:15 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Members of the 2020 Performance Review Board

AGENCY: Department of the Air Force, DOD.

ACTION: Notice.

SUMMARY: Notice is given of the names of members of the 2020 Performance Review Board for the Department of the Air Force effective December 4, 2020.

FOR FURTHER INFORMATION CONTACT: Please direct any written comments or requests for information to Ms. Stacia Thompson, Air Force Civilian Senior Executive Management Office, AF/A1LS, 1040 Air Force Pentagon, Washington, DC 20330–1040, (PH: 703–693–6447; or via email at *stacia.thompson@us.af.mil*).

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 4314(c)(4), the Department of the Air Force announces the appointment of the following members to its 2020 Senior Executive Service Performance Review Board:

1. Mr. John Roth, Assistant Secretary of the Air Force for Financial Management and Comptroller
2. Gen Stephen Wilson, Vice Chief of Staff of the United States Air Force
3. Gen Arnold Bunch, Jr. (Chair), Commander, Air Force Materiel Command
4. Hon. Shon Manasco (Co-Chair), (SAF/MR) Assistant Secretary of the Air Force for Manpower and Reserve Affairs
5. Gen David Thompson, Vice Commander, Air Force Space Command
6. Lt Gen Richard Clark, Superintendent, United States Air Force Academy
7. Lt Gen Thomas Bussiere, Deputy Commander, United States Strategic Command
8. Lt Gen Mary O'Brien, Deputy Chief of Staff, Intelligence, Surveillance, Reconnaissance, and Cyber Effects Operations
9. Mr. John Fedrigo, Principal Deputy Assistant Secretary of the Air Force for Manpower and Reserve Affairs
10. Mr. Anthony Reardon, Administrative Assistant to the Secretary of the Air Force
11. Ms. Gwendolyn R. DeFilippi, Assistant Deputy Chief of Staff for Manpower, Personnel and Services
12. Ms. Patricia M. Young, Executive Director, Air Force Materiel Command
13. Ms. Darlene Costello, Principal Deputy Assistant Secretary of the Air Force Acquisition, Technology & Logistics
14. Mr. James Brooks, Assistant Deputy Chief of Staff for Strategic Deterrence and Nuclear Integration
15. Mr. Joseph McDade, Assistant Deputy Chief of Staff for Plans and Programs
16. Mr. Craig Smith, Principal Deputy General Counsel of the Air Force
17. Mr. Andrew Cox, Director, Space Security and Defense Program
18. Mr. John Salvatori, Director, Concepts, Development, and Management Office or Director, Capabilities Management Office

The following Tier 3 Career SES members will serve as alternates:

1. Mr. Douglas Bennett, Auditor General of the Air Force
2. Mr. Richard Lombardi, Deputy Chief Management Officer
3. Ms. Kelli Seybolt, Deputy Under Secretary of the Air Force, International Affairs
4. Mr. Randall Walden, Director and Program Executive Officer for the Air Force Rapid Capabilities Office,
5. Mr. Daniel Fri, Assistant Deputy Chief of Staff, Logistics, Engineering and Force Support
6. Mr. Douglas Sanders, Deputy Administrative Assistant to the Secretary of the Air Force
7. Mr. Michael Shoults, Assistant Deputy Chief of Staff, Strategy Integration and Requirements
8. Ms. Jennifer Miller, Principal Deputy Assistant Secretary of the Air Force for Installations, Environment and Energy
9. Ms. Lauren Knausenberger, Deputy Chief Information Officer

Adriane Paris,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2020–23963 Filed 10–28–20; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2020–OS–0087]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense (OSD), Department of Defense (DoD).

ACTION: Notice of a modified system of records.

SUMMARY: The OSD is modifying a system of records titled, ''Science, Mathematics, and Research for Transformation (SMART) Information Management System,'' DUSDA 14. This system of records enables the SMART program officials to select qualified scholarship applicants and monitor their progress in the program.

DATES: This system of records modification is effective upon publication; however, comments on the Routine Uses will be accepted on or before November 30, 2020. The Routine Uses are effective at the close of the comment period.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal Rulemaking Portal: https://www.regulations.gov.*

Follow the instructions for submitting comments.

• *Mail:* The Department of Defense (DoD) cannot receive written comments at this time due to the COVID–19 pandemic. Comments should be sent electronically to the docket listed above.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *https://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Lyn Kirby, Defense Privacy, Civil Liberties, and Transparency Division, Directorate for Oversight and Compliance, Department of Defense, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700; *OSD.DPCLTD@mail.mil;* (703) 571–0070.

SUPPLEMENTARY INFORMATION: This update reflects considerable administrative changes warranting a modification to the system of records notice. Changes include: Security

classification, system location, system manager(s), purpose(s) of the system, categories of records in the system, record source categories, routine uses of records maintained in the system, including categories of users and purposes of such uses, policies and practices for the retention and disposal of records, administrative, technical, and physical safeguards, record access procedures, contesting records procedures, and notification procedures. The information collected consists of applications submitted by members of the general public and current DoD personnel actively seeking involvement in the SMART Program and thus becoming subject to information collection. The applications include information on academic records, community and volunteer activities, letters of recommendations from faculty and community leaders, a list of publications, work experience, certification of citizenship and personal contact information. This information is necessary to evaluate and rank each candidate's credentials for awarding scholarships and determining whether the candidate meets specific DoD facility workforce needs. If an applicant is selected by the SMART Program, additional information will be collected from them such as but not limited to: educational work plans, transcripts, internship report and degree completion report.

The DoD notices for systems of records subject to the Privacy Act of 1974, as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy, Civil Liberties, and Transparency Division website at *https://dpcld.defense.gov.*

In accordance with 5 U.S.C. 552a(r) and Office of Management and Budget (OMB) Circular No. A–108, the DoD has provided a report of this system of records to the OMB and to Congress.

Dated: October 23, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

SYSTEM NAME AND NUMBER:

Science, Mathematics, and Research for Transformation (SMART) Information Management System, DUSDA 14.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Logistics Management Institute (LMI), Ashburn Data Center, Ashburn, VA 20147–6011.

LMI San Antonio Office, 1777 NE Interstate 410 Loop #808, San Antonio, TX 78217–0000.

LMI Tyson's Office, 7940 Jones Branch Drive, Tysons, VA 22102–3381.

Scholarship America, One Scholarship Way, St. Peter, MN 56082–1693.

Mark Center, 4800 Mark Center Drive, Alexandria, VA 22350–1700.

SYSTEM MANAGER(S):

Program Manager, SMART Scholarship for Service Program, 4800 Mark Center Drive, Alexandria, VA 22350–3600. *OSD.SMART@mail.mil,* 571–372–6535.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3304, Competitive Service, Examinations; 10 U.S.C. 2192a, Science, Mathematics, and Research for Transformation (SMART) Defense Education Program; 20 U.S.C. 17, National Defense Education Program; DoD Instruction 1400.25, Volume 410, DoD Civilian Personnel Management System: Training, Education, and Professional Development; and E.O. 9397 (SSN), as amended.

PURPOSE(S) OF THE SYSTEM:

To enable SMART officials to select qualified applicants, to award SMART scholarships, and monitor participant progress and status through the program. Also, the system is used as a management tool for statistical analysis, tracking, reporting, evaluating program effectiveness, and conducting research.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants and participants of the SMART Scholarship for Service Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information includes full name and any other names used, Social Security Number (SSN), home and school mailing addresses, home and cell phone numbers, school and alternate email addresses.

Additional information collected may include SMART Program identification number, resumes and/or curricula vitae, publications, citizenship status, Selective Service registration status, birth date, employment status, state and country of birth, race/ethnicity, gender, security clearance status, veterans preference, academic status, assessment test scores, copies of transcripts, bank account numbers, Individualized Education Program (IEP) or special accommodation testing requirements, projected and actual graduation dates, and projected and actual award amounts.

RECORD SOURCE CATEGORIES:

The SMART Program manages individual source records using the SMART Information Management System (SIMS). The SIMS collects the following information and forms to confirm scholar compliance: Applicant transcripts, educational work plan and declaration of Federal Employment (OF–306). In addition, the SIMS uses a form (application) to collect eligibility information. The applicants report citizenship status, if they are 18 years of age, their proposed degree completion date, their proposed STEM discipline, and whether they are willing to complete an internship period and an employment period. The SIMS tracks individual compliance and non-compliance using a data table and trackers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, the records contained herein may specifically be disclosed outside the DoD as a routine use pursuant to § 552a(b)(3) as follows:

a. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the federal government when necessary to accomplish an agency function related to this system of records.

b. To academic institutions for the purpose of providing progress reports for applicants and participants.

c. To consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The purpose of this disclosure is to aid in the collection of outstanding debts owed to the Federal government, typically to provide an incentive for debtors to repay delinquent Federal government debts by making these debts part of their credit records.

d. To the appropriate Federal, State, local, territorial, tribal, foreign, or international law enforcement authority or other appropriate entity where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether criminal, civil, or regulatory in nature.

e. To any component of the Department of Justice for the purpose of representing the DoD, or its components, officers, employees, or members in pending or potential

litigation to which the record is pertinent.

f. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body or official, when the DoD or other Agency representing the DoD determines the records are relevant and necessary to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

g. To the National Archives and Records Administration for the purpose of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

h. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

i. To appropriate agencies, entities, and persons when (1) the DoD suspects or confirms a breach of the system of records; (2) the DoD determines as a result of the suspected or confirmed breach there is a risk of harm to individuals, the DoD (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the DoD's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

j. To another Federal agency or Federal entity, when the DoD determines information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Paper and electronic storage media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by name and SMART Program identification number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Participant information. Delete/Destroy 6 years and 3 months after completion of service commitment, or upon repayment of funds. Records of individuals not chosen for participation in the program. Delete 3 years after final decision. DoD research and engineering facility data. Delete/Destroy upon termination of affiliation.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to records is permission-granted based on the role of the individual (need-to-know) and further restricted to individuals who require the data in the performance of official duties. Electronic records are maintained on servers in controlled areas accessible only to authorized personnel. Access to storage areas is restricted to personnel with a valid requirement and authorization to enter. Hardcopy records are kept in locked safes. Physical entry is restricted by the use of one or more of the following: security guards, identification badges, cipher locks, electronic locks, combination locks, key card access and closed circuit TV. Technical controls consist of user identification, passwords, intrusion detection systems, encryption, External Certificate Authority, firewalls, Virtual Private Network (VPN), DoD Public Key Infrastructure certificates, and Common Access Cards (CACs). Administrative controls consist of periodic security audits, regular monitoring of users' security practices, methods to ensure only authorized personnel have access to Personally Identifiable Information (PII), and personnel with access to SMART PII completing annual Information Assurance and Privacy Act training, as required by the DoD.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Office of the Secretary of Defense/Joint Staff, Freedom of Information Act Requester Service Center, 1155 Defense Pentagon, Washington, DC 20301–1155. Signed, written requests should contain the individual's full name and SMART Program identification number, and the name and number of this system of records notice. In addition, the requester must provide either a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

CONTESTING RECORD PROCEDURES:

The DoD rules for accessing records, for contesting contents and appealing initial agency determinations are published in 32 CFR part 310, or may be obtained from the system manager.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information about themselves may address their inquiries to the Director, SMART Scholarship for Service Program, 4800 Mark Center Drive, Alexandria, VA 22350–3600. Signed, written requests should contain the individual's full name and SMART Program identification number. In addition, the requester must provide either a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

October 20, 2016, 81 FR 72577.

[FR Doc. 2020–23914 Filed 10–28–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

[FE Docket No. 16–144–LNG]

Driftwood LNG LLC; Application To Amend Export Term for Existing Long-Term Authorization Through December 31, 2050

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice (Notice) of receipt of an application (Application), filed on October 19, 2020, by Driftwood LNG LLC (Driftwood). Driftwood seeks to amend the export term set forth in its current authorization to export liquefied

natural gas (LNG) to non-free trade agreement countries, DOE/FE Order No. 4373, to a term ending on December 31, 2050. Driftwood filed the Application under the Natural Gas Act (NGA) and DOE's policy statement entitled, ''Extending Natural Gas Export Authorizations to Non-Free Trade Agreement Countries Through the Year 2050'' (Policy Statement). Protests, motions to intervene, notices of intervention, and written comments on the requested term extension are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, November 13, 2020.

ADDRESSES:

Electronic Filing by Email

fergas@hq.doe.gov

Regular Mail

U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375

Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.)

U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585

FOR FURTHER INFORMATION CONTACT:

Benjamin Nussdorf or Amy Sweeney, U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–7893; (202) 586–2627, *benjamin.nussdorf@hq.doe.gov* or *amy.sweeney@hq.doe.gov*

Cassandra Bernstein or Christopher Drake, U.S. Department of Energy (GC–76), Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, Room 6D–033, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–9793; (202) 586–2919, *cassandra.bernstein@hq.doe.gov* or *christopher.drake@hq.doe.gov*

SUPPLEMENTARY INFORMATION: On May 2, 2019, in Order No. 4373, DOE/FE authorized Driftwood to export domestically produced LNG in a volume equivalent to 1,415.3 billion cubic feet per year of natural gas, pursuant to NGA section 3(a), 15 U.S.C. 717b(a).[1] Driftwood is authorized to export this LNG by vessel from the proposed Driftwood LNG Facility to be located in Calcasieu Parish, Louisiana, to any country with which the United States has not entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (non-FTA countries) for a 20-year term. In the Application,[2] Driftwood asks DOE to extend its current export term to a term ending on December 31, 2050, as provided in the Policy Statement.[3] Additional details can be found in the Application, posted on the DOE/FE website at: *https://www.energy.gov/sites/prod/files/2020/10/f79/Driftwood%20DOE%20Application-Term%20Extension_101920.pdf.*

DOE/FE Evaluation

In the Policy Statement, DOE adopted a term through December 31, 2050 (inclusive of any make-up period), as the standard export term for long-term non-FTA authorizations.[4] As the basis for its decision, DOE considered its obligations under NGA section 3(a), the public comments supporting and opposing the proposed Policy Statement, and a wide range of information bearing on the public interest.[5] DOE explained that, upon receipt of an application under the Policy Statement, it would conduct a public interest analysis of the application under NGA section 3(a). DOE further stated that ''the public interest analysis will be limited to the application for the term extension—meaning an intervenor or protestor may challenge the requested extension but not the existing non-FTA order.''[6]

Accordingly, in reviewing Driftwood's Application, DOE/FE will consider any issues required by law or policy under NGA section 3(a), as informed by the Policy Statement. To the extent appropriate, DOE will consider the study entitled, *Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports* (2018 LNG Export Study),[7] DOE's response to public comments received on that Study,[8] and the following environmental documents:

- *Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States,* 79 FR 48132 (Aug. 15, 2014);[9]
- *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States,* 79 FR 32260 (June 4, 2014);[10] and
- *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update,* 84 FR 49278 (Sept. 19, 2019), and DOE/FE's response to public comments received on that study.[11]

Parties that may oppose the Application should address these issues and documents in their comments and/or protests, as well as other issues deemed relevant to the Application.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable, addressing the Application. Interested parties will be provided 15 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, or notices of intervention. The public previously was given an opportunity to intervene in, protest, and

[1] *Driftwood LNG LLC,* DOE/FE Order No. 4373, FE Docket No. 16–144–LNG, Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations (May 2, 2019).

[2] Driftwood LNG LLC, Application to Amend Export Term for Existing Long-Term Authorization Through December 31, 2050, FE Docket No. 16–144–LNG (Oct. 19, 2020).

[3] U.S. Dept of Energy, Extending Natural Gas Export Authorizations to Non-Free Trade Agreement Countries Through the Year 2050; Notice of Final Policy Statement and Response to Comments, 85 FR 52237 (Aug. 25, 2020) [hereinafter Policy Statement].

[4] *See id.,* 85 FR 52247.

[5] *See id.,* 85 FR 52247.

[6] *Id.,* 85 FR 52247.

[7] *See* NERA Economic Consulting, Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports (June 7, 2018), *available at: https://www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf.*

[8] U.S. Dep't of Energy, Study on Macroeconomic Outcomes of LNG Exports: Response to Comments Received on Study; Notice of Response to Comments, 83 FR 67251 (Dec. 28, 2018).

[9] The Addendum and related documents are available at: *http://energy.gov/fe/draft-addendum-environmental-review-documents-concerning-exports-natural-gas-united-states.*

[10] The 2014 Life Cycle Greenhouse Gas Report is available at: *http://energy.gov/fe/life-cycle-greenhouse-gas-perspective-exporting-liquefied-natural-gas-united-states.*

[11] U.S. Dep't of Energy, Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update—Response to Comments, 85 FR 72 (Jan. 2, 2020). The 2019 Update and related documents are available at: *https://fossil.energy.gov/app/docketindex/docket/index/21.*

comment on Driftwood's long-term non-FTA application. Therefore, DOE will not consider comments or protests that do not bear directly on the requested term extension.

Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) Emailing the filing to *fergas@hq.doe.gov,* with FE Docket No. 16–144–LNG in the title line; (2) mailing an original and three paper copies of the filing to the Office of Regulation, Analysis, and Engagement at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Regulation, Analysis, and Engagement at the address listed in **ADDRESSES**. All filings must include a reference to FE Docket No. 16–144–LNG. *Please Note:* If submitting a filing via email, please include all related documents and attachments (*e.g.,* exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

A decisional record on the Application will be developed through responses to this Notice by parties, including the parties' written comments and replies thereto. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The Application is available for inspection and copying in the Office of Regulation, Analysis, and Engagement docket room, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The Application and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going to the following DOE/FE web address: *https://www.energy.gov/fe/services/natural-gas-regulation.*

Signed in Washington, DC, on October 26, 2020.

Amy Sweeney,

Director, Office of Regulation, Analysis, and Engagement, Office of Fossil Energy.

[FR Doc. 2020–24004 Filed 10–28–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open virtual meeting.

SUMMARY: This notice announces an online virtual meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada. The Federal Advisory Committee Act requires that public notice of this online virtual meeting be announced in the **Federal Register**.

DATES: Wednesday, November 18, 2020; 4:00 p.m.–6:00 p.m.

ADDRESSES: Online Virtual Meeting. To attend, please send an email to: *nssab@emcbc.doe.gov* by no later than 4:00 p.m. PST on Monday, November 16, 2020.

To Submit Public Comments: Public comments will be accepted via email prior to and after the meeting. Comments received by no later than 4:00 p.m. PST on Monday, November 16, 2020 will be read aloud during the virtual meeting. Comments will also be accepted after the meeting, by no later than 4:00 p.m. PST on Friday, December 4, 2020. Please submit comments to *nssab@emcbc.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Barbara Ulmer, Board Administrator, by Phone: (702) 523–0894 or Email: *nssab@emcbc.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. Nevada Site Specific Advisory Board Long-term Strategy Briefing and Path Forward—Work Plan Item #4

Public Participation: The online virtual meeting is open to the public. Written statements may be filed with the Board either before or after the meeting as there will not be opportunities for live public comment during this online virtual meeting. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to submit public comments should email them as directed above.

Minutes: Minutes will be available by writing or calling Barbara Ulmer, NSSAB Administrator, U.S. Department of Energy, EM Nevada Program, 100 North City Parkway, Suite 1750, Las Vegas, NV 89106; Phone: (702) 523–0894. Minutes will also be available at the following website: *http://www.nnss.gov/NSSAB/pages/MM_FY21.html.*

Signed in Washington, DC on October 26, 2020.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2020–23979 Filed 10–28–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open virtual meeting.

SUMMARY: This notice announces an online virtual meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Northern New Mexico. The Federal Advisory Committee Act requires that public notice of this conference call be announced in the **Federal Register**.

DATES: Wednesday, November 18, 2020; 1:00 p.m.–4:00 p.m.

ADDRESSES: This meeting will be held virtually via Webex. To attend, please contact Menice Santistevan by email, *Menice.Santistevan@em.doe.gov,* no later than 5:00 p.m. MST on Tuesday, November 17, 2020.

To Sign Up for Public Comment: Please contact Menice Santistevan by email, *Menice.Santistevan@em.doe.gov,* no later than 5:00 p.m. MST on Friday, November 13, 2020.

FOR FURTHER INFORMATION CONTACT: Menice Santistevan, Northern New Mexico Citizens' Advisory Board (NNMCAB), 94 Cities of Gold Road, Santa Fe, NM 87506. Phone (505) 995–0393 or Email: *Menice.Santistevan@em.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

- Call to Order
- Welcome and Introductions
- Roll Call
- Overview and Approval of Agenda
- Approval of September 23, 2020 Minutes
- Old Business
  - Report from NNMCAB Chair and Vice Chair
  - Report from Committee Chairs
  - Other Items
- New Business
- Presentation on the Defense Nuclear Facilities Safety Board (DNFSB)
- Update from EM Los Alamos Field Office
- Update from N3B
- Update from New Mexico Environment Department
- Presentation on Rendija Canyon
- Public Comment Period
- Future Presentation Requests
- Wrap-Up and Comments from NNMCAB Members
- Adjourn

Public Participation: The online virtual meeting is open to the public. Written statements may be filed with the Board either before or within five days after the meeting by sending them to Menice Santistevan at the aforementioned email address. The Deputy Designated Federal Officer is empowered to conduct the conference call in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Menice Santistevan at the address or telephone number listed above. Minutes and other Board documents are on the internet at: *https://www.energy.gov/em/nnmcab/meeting-materials.*

Signed in Washington, DC, on October 26, 2020.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2020–23980 Filed 10–28–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Methane Hydrate Advisory Committee

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a virtual meeting of the Methane Hydrate Advisory Committee. The Federal Advisory Committee Act requires that notice of these meetings be announced in the **Federal Register**.

DATES:

Tuesday, December 1, 2020

1:30 p.m. to 2:00 p.m. (EST)—Virtual Registration
2:00 p.m. to 6:00 p.m. (EST)—Virtual Meeting

Wednesday, December 2, 2020

12:45 p.m. to 1:00 p.m. (EST)—Virtual Registration
1:00 p.m. to 6:00 p.m. (EST)—Virtual Meeting

ADDRESSES:

WebEx: Join meeting (*https://doe.webex.com/doe/j.php?MTID=m91258c1161d177971c02fb7ffa9bdc4c*)

Join by phone: +1–415–527–5035 US Toll, +1–929–251–9612 USA Toll 2.

Meeting number (access code): 199 136 9930.

FOR FURTHER INFORMATION CONTACT: Gabby Intihar, U.S. Department of Energy, Office of Oil and Natural Gas, 1000 Independence Avenue SW, Washington, DC 20585. *Phone:* (202) 586–2092; email: *gabby.intihar@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: The purpose of the Methane Hydrate Advisory Committee is to provide advice on potential applications of gas hydrates to the Secretary of Energy, and assist in developing recommendations and priorities for the Department of Energy's Gas Hydrates Research and Development Program.

Tentative Agenda: The agenda will include: Welcome and Introduction by the Designated Federal Officer; Committee Business; Update on Gas Hydrates Major Projects; International R&D Activities; Gas Hydrates Presentations from Committee Members; Advisory Committee Discussion; and Public Comments, if any.

Public Participation: The meeting is open to the public. The Designated Federal Officer and the Chair of the Committee will conduct the meeting to facilitate the orderly conduct of business. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Gabby Intihar at the phone number listed above. You must make your request for an oral statement at least five business days prior to the meeting, and reasonable provisions will be made to include the presentation on the agenda. Public comment will follow the three-minute rule.

Minutes: The minutes of this meeting will be available for public review and copying within 60 days at the following website: *https://energy.gov/fe/services/advisory-committees/methane-hydrate-advisory-committee.*

Signed in Washington, DC, on October 26, 2020.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2020–23981 Filed 10–28–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 8051–012]

Willimantic Power Corporation; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 8051–012.

c. *Date Filed:* August 31, 2020.

d. *Submitted By:* Willimantic Power Corporation (Willimantic Power).

e. *Name of Project:* Willimantic #1 Hydroelectric Project.

f. *Location:* On the Willimantic River in Windham County, Connecticut. No federal lands are occupied by the project works or located within the project boundary.

g. *Filed Pursuant to:* 18 CFR 5.3 and 5.5 of the Commission's regulations.

h. *Potential Applicant Contact:* Randald Bartlett, Senior Director O&M Hydro, Enel Green Power North America, 100 Brickstone Square, Suite 300, Andover, MA 01810; (978) 447–4408; email at *Randald.Bartlett@enel.com.*

i. *FERC Contact:* Bill Connelly at (202) 502–8587; or email at *william.connelly@ferc.gov.*

j. Willimantic Power filed its request to use the Traditional Licensing Process on August 31, 2020, and provided public notice of the request on September 3, 2020. In a letter dated October 23, 2020, the Director of the Division of Hydropower Licensing approved Willimantic Power's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish

and Wildlife Service and NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the Connecticut State Historic Preservation Officer, as required by section 106 of the National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Willimantic Power as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act; and consultation pursuant to section 106 of the National Historic Preservation Act.

m. On August 31, 2020, Willimantic Power filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD may be viewed and/or printed on the Commission's website (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

o. The licensee states its unequivocal intent to submit an application for a subsequent license for Project No. 8051. Pursuant to 18 CFR 16.20, each application for a subsequent license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by November 30, 2023.

p. Register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: October 23, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–23967 Filed 10–28–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 8047–015]

Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process; Willimantic Power Corporation

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 8047–015.

c. *Date Filed:* August 31, 2020.

d. *Submitted By:* Willimantic Power Corporation (Willimantic Power).

e. *Name of Project:* Willimantic #2 Hydroelectric Project.

f. *Location:* On the Willimantic River in Windham County, Connecticut. No federal lands are occupied by the project works or located within the project boundary.

g. *Filed Pursuant to:* 18 CFR 5.3 and 5.5 of the Commission's regulations.

h. *Potential Applicant Contact:* Randald Bartlett, Senior Director O&M Hydro, Enel Green Power North America, 100 Brickstone Square, Suite 300, Andover, MA 01810; (978) 447–4408; email at *Randald.Bartlett@enel.com.*

i. *FERC Contact:* Bill Connelly at (202) 502–8587; or email at *william.connelly@ferc.gov.*

j. Willimantic Power filed its request to use the Traditional Licensing Process on August 31, 2020, and provided public notice of the request on September 3, 2020. In a letter dated October 23, 2020, the Director of the Division of Hydropower Licensing approved Willimantic Power's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the Connecticut State Historic Preservation Officer, as required by section 106 of the National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Willimantic Power as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act; and consultation pursuant to section 106 of the National Historic Preservation Act.

m. On August 31, 2020, Willimantic Power filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD may be viewed and/or printed on the Commission's website (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

o. The licensee states its unequivocal intent to submit an application for a subsequent license for Project No. 8047. Pursuant to 18 CFR 16.20, each application for a subsequent license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by September 30, 2023.

p. Register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: October 23, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–23971 Filed 10–28–20; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10016–25–OLEM]

Thirty-Eighth Update of the Federal Agency Hazardous Waste Compliance Docket

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Since 1988, the Environmental Protection Agency (EPA) has maintained a Federal Agency Hazardous Waste Compliance Docket (''Docket'') under section 120(c) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Section 120(c) requires EPA to establish a Docket that contains certain information reported to EPA by Federal facilities that manage hazardous waste or from which a reportable quantity of hazardous substances has been released. As explained further below, the Docket is used to identify Federal facilities that should be evaluated to determine if they pose a threat to public health or welfare and the environment and to provide a mechanism to make this information available to the public. This notice identifies the Federal facilities not previously listed on the Docket and identifies Federal facilities reported to EPA since the last update on April 29, 2020. In addition to the list of additions to the Docket, this notice includes a section with revisions of the previous Docket list and a section of Federal facilities that are to be deleted from the Docket. Thus, the revisions in this update include eight additions, six deletions, and zero corrections to the Docket since the previous update. At the time of publication of this notice, the new total number of Federal facilities listed on the Docket is 2,380.

DATES: This list is current as of September 30, 2020.

FOR FURTHER INFORMATION CONTACT: Electronic versions of the Docket and more information on its implementation can be obtained at *http://www.epa.gov/fedfac/previous-federal-agency-hazardous-waste-compliance-docket-updates* by clicking on the link for *Cleanups at Federal Facilities* or by contacting Benjamin Simes (*Simes.Benjamin@epa.gov*), Federal Agency Hazardous Waste Compliance Docket Coordinator, Federal Facilities Restoration and Reuse Office. Additional information on the Docket and a complete list of Docket sites can be obtained at: *https://www.epa.gov/fedfac/fedfacts.*

SUPPLEMENTARY INFORMATION:

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1.0 Introduction
2.0 Regional Docket Coordinators
3.0 Revisions of the Previous Docket
4.0 Process for Compiling the Updated Docket
5.0 Facilities Not Included
6.0 Facility NPL Status Reporting, Including NFRAP Status
7.0 Information Contained on Docket Listing

1.0 Introduction

Section 120(c) of CERCLA, 42 U.S.C. 9620(c), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), requires EPA to establish the Federal Agency Hazardous Waste Compliance Docket. The Docket contains information on Federal facilities that manage hazardous waste and such information is submitted by Federal agencies to EPA under sections 3005, 3010, and 3016 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6925, 6930, and 6937. Additionally, the Docket contains information on Federal facilities with a reportable quantity of hazardous substances that has been released and such information is submitted by Federal agencies to EPA under section 103 of CERCLA, 42 U.S.C. 9603. Specifically, RCRA section 3005 establishes a permitting system for certain hazardous waste treatment, storage, and disposal (TSD) facilities; RCRA section 3010 requires waste generators, transporters and TSD facilities to notify EPA of their hazardous waste activities; and RCRA section 3016 requires Federal agencies to submit biennially to EPA an inventory of their Federal hazardous waste facilities. CERCLA section 103(a) requires the owner or operator of a vessel or onshore or offshore facility to notify the National Response Center (NRC) of any spill or other release of a hazardous substance that equals or exceeds a reportable quantity (RQ), as defined by CERCLA section 101. Additionally, CERCLA section 103(c) requires facilities that have ''stored, treated, or disposed of'' hazardous wastes and where there is ''known, suspected, or likely releases'' of hazardous substances to report their activities to EPA.

CERCLA section 120(d) requires EPA to take steps to assure that a Preliminary Assessment (PA) be completed for those sites identified in the Docket and that the evaluation and listing of sites with a PA be completed within a reasonable time frame. The PA is designed to provide information for EPA to consider when evaluating the site for potential response action or inclusion on the National Priorities List (NPL).

The Docket serves three major purposes: (1) To identify all Federal facilities that must be evaluated to determine whether they pose a threat to human health and the environment sufficient to warrant inclusion on the National Priorities List (NPL); (2) to compile and maintain the information submitted to EPA on such facilities under the provisions listed in section 120(c) of CERCLA; and (3) to provide a mechanism to make the information available to the public. Previous Docket updates are available at *https://www.epa.gov/fedfac/previous-federal-agency-hazardous-waste-compliance-docket-updates.*

This notice provides some background information on the Docket. Additional information on the Docket requirements and implementation are found in the Docket Reference Manual, Federal Agency Hazardous Waste Compliance Docket found at *http://www.epa.gov/fedfac/docket-reference-manual-federal-agency-hazardous-waste-compliance-docket-interim-final* or obtained by calling the Regional Docket Coordinators listed below. This notice also provides changes to the list of sites included on the Docket in three areas: (1) Additions, (2) Deletions, and (3) Corrections. Specifically, additions are newly identified Federal facilities that have been reported to EPA since the last update and now are included on the Docket; the deletions section lists Federal facilities that EPA is deleting from the Docket.[1] The information submitted to EPA on each Federal facility is maintained in the Docket repository located in the EPA Regional office of the Region in which the Federal facility is located; for a description of the information required under those provisions, *see* 53 FR 4280 (February 12, 1988). Each repository contains the documents submitted to EPA under the reporting provisions and correspondence relevant to the reporting provisions for each Federal facility.

In prior updates, information was also provided regarding No Further Remedial Action Planned (NFRAP) status changes. However, information on NFRAP and NPL status is no longer being provided separately in the Docket update as it is now available at: *http://www.epa.gov/fedfac/fedfacts* or by contacting the EPA HQ Docket Coordinator at the address provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

[1] See Section 3.2 for the criteria for being deleted from the Docket.

2.0 Regional Docket Coordinators

Contact the following Docket Coordinators for information on Regional Docket repositories:

- *U.S. EPA Region 1.* Martha Bosworth (HBS), 5 Post Office Square, Suite 100, Mail Code: OSRR07–2, Boston MA 02109–3912, (617) 918–1407.
- *U.S. EPA Region 2.* Cathy Moyik (ERRD), 290 Broadway, New York, NY 10007–1866, (212) 637–4339.
- *U.S. EPA Region 3.* Joseph Vitello (3HS12), 1650 Arch Street, Philadelphia, PA 19107, (215) 814–3354.
- *U.S. EPA Region 3.* Dawn Fulsher (3HS12), 1650 Arch Street, Philadelphia, PA 19107, (215) 814–3270.
- *U.S. EPA Region 4.* Alayna Famble (9T25), 61 Forsyth St., SW, Atlanta, GA 30303, (404) 564–8444.
- *U.S. EPA Region 5.* David Brauner (SR–6J), 77 W. Jackson Blvd., Chicago, IL 60604, (312) 886–1526.
- *U.S. EPA Region 6.* Philip Ofosu (6SF–RA), 1445 Ross Avenue, Dallas, TX 75202–2733, (214) 665–3178.
- *U.S. EPA Region 7.* Todd H Davis (SUPRERSP), 11201 Renner Blvd., Lenexa, KS 66219, (913) 551–7749.
- *U.S. EPA Region 8.* Ryan Dunham (EPR–F), 1595 Wynkoop Street, Denver, CO 80202, (303) 312–6627.
- *U.S. EPA Region 9.* Leslie Ramirez (SFD–6–1), 75 Hawthorne Street, San Francisco, CA 94105, (415) 972–3978.
- *U.S. EPA Region 10.* Ken Marcy, Oregon Operations Office, 805 SW Broadway, Suite 500, Portland, OR 97205, (503) 326–3269.

3.0 Revisions of the Previous Docket

This section includes a discussion of the additions, deletions and corrections to the list of Docket facilities since the previous Docket update.

3.1 Additions

These Federal facilities are being added primarily because of new information obtained by EPA (for example, recent reporting of a facility pursuant to RCRA sections 3005, 3010, or 3016 or CERCLA section 103). CERCLA section 120, as amended by the Defense Authorization Act of 1997, specifies that EPA take steps to assure that a Preliminary Assessment (PA) be completed within a reasonable time frame for those Federal facilities that are included on the Docket. Among other things, the PA is designed to provide information for EPA to consider when evaluating the site for potential response action or listing on the NPL. This notice includes eight additions.

3.2 Deletions

There are no statutory or regulatory provisions that address deletion of a facility from the Docket. However, if a facility is incorrectly included on the Docket, it may be deleted from the Docket. The criteria EPA uses in deleting sites from the Docket include: A facility for which there was an incorrect report submitted for hazardous waste activity under RCRA (*e.g.,* 40 CFR 262.44); a facility that was not Federally-owned or operated at the time of the listing; a facility included more than once (*i.e.,* redundant listings); or when multiple facilities are combined under one listing. (*See* Docket Codes (*Reasons for Deletion of Facilities*) for a more refined list of the criteria EPA uses for deleting sites from the Docket.) Facilities being deleted no longer will be subject to the requirements of CERCLA section 120(d). This notice includes six deletions.

3.3 Corrections

Changes necessary to correct the previous Docket are identified by both EPA and Federal agencies. The corrections section may include changes in addresses or spelling, and corrections of the recorded name and ownership of a Federal facility. In addition, changes in the names of Federal facilities may be made to establish consistency in the Docket or between the Superfund Enterprise Management System (SEMS) and the Docket. For the Federal facility for which a correction is entered, the original entry is as it appeared in previous Docket updates. The corrected update is shown directly below, for easy comparison. This notice includes zero corrections.

4.0 Process for Compiling the Updated Docket

In compiling the newly reported Federal facilities for the update being published in this notice, EPA extracted the names, addresses, and identification numbers of facilities from four EPA databases—the WebEOC, the Biennial Inventory of Federal Agency Hazardous Waste Activities, the Resource Conservation and Recovery Act Information System (RCRAInfo), and SEMS—that contain information about Federal facilities submitted under the four provisions listed in CERCLA section 120(c).

EPA assures the quality of the information on the Docket by conducting extensive evaluation of the current Docket list and contacts the other Federal Agency (OFA) with the information obtained from the databases identified above to determine which Federal facilities were, in fact, newly reported and qualified for inclusion on the update. EPA is also striving to correct errors for Federal facilities that were previously reported. For example, state-owned or privately-owned facilities that are not operated by the Federal government may have been included. Such problems are sometimes caused by procedures historically used to report and track Federal facilities data. Representatives of Federal agencies are asked to contact the EPA HQ Docket Coordinator at the address provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice if revisions of this update information are necessary.

5.0 Facilities Not Included

Certain categories of facilities may not be included on the Docket, such as: (1) Federal facilities formerly owned by a Federal agency that at the time of consideration was not Federally-owned or operated; (2) Federal facilities that are small quantity generators (SQGs) that have not, more than once per calendar year, generated more than 1,000 kg of hazardous waste in any single month; (3) Federal facilities that are very small quantity generators (VSQGs) that have never generated more than 100 kg of hazardous waste in any month; (4) Federal facilities that are solely hazardous waste transportation facilities, as reported under RCRA section 3010; and (5) Federal facilities that have mixed mine or mill site ownership.

An EPA policy issued in June 2003 provided guidance for a site-by-site evaluation as to whether ''mixed ownership'' mine or mill sites, typically created as a result of activities conducted pursuant to the General Mining Law of 1872 and never reported under section 103(a) of CERCLA, should be included on the Docket. For purposes of that policy, mixed ownership mine or mill sites are those located partially on private land and partially on public land. This policy is found at *http://www.epa.gov/fedfac/policy-listing-mixed-ownership-mine-or-mill-sites-created-result-general-mining-law-1872.* The policy of not including these facilities may change; facilities now omitted may be added at some point if EPA determines that they should be included.

6.0 Facility NPL Status Reporting, Including NFRAP Status

EPA tracks the NPL status of Federal facilities listed on the Docket. An updated list of the NPL status of all Docket facilities, as well as their NFRAP status, is available at *http://*

www.epa.gov/fedfac/fedfacts or by contacting the EPA HQ Docket Coordinator at the address provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice. In prior updates, information regarding NFRAP status changes was provided separately.

7.0 Information Contained on Docket Listing

The information is provided in three tables. The first table is a list of additional Federal facilities that are being added to the Docket. The second table is a list of Federal facilities that are being deleted from the Docket. The third table is for corrections.

The Federal facilities listed in each table are organized by the date reported. Under each heading is listed the name and address of the facility, the Federal agency responsible for the facility, the statutory provision(s) under which the facility was reported to EPA, and a code.[2]

The statutory provisions under which a Federal facility is reported are listed in a column titled ''Reporting Mechanism.'' Applicable mechanisms are listed for each Federal facility: For example, Sections 3005, 3010, 3016, 103(c), or Other. ''Other'' has been added as a reporting mechanism to indicate those Federal facilities that otherwise have been identified to have releases or threat of releases of hazardous substances. The National Contingency Plan at 40 CFR 300.405 addresses discovery or notification, outlines what constitutes discovery of a hazardous substance release, and states that a release may be discovered in several ways, including: (1) A report submitted in accordance with section 103(a) of CERCLA, *i.e.,* reportable quantities codified at 40 CFR 302; (2) a report submitted to EPA in accordance with section 103(c) of CERCLA; (3) investigation by government authorities conducted in accordance with section 104(e) of CERCLA or other statutory authority; (4) notification of a release by a Federal or state permit holder when required by its permit; (5) inventory or survey efforts or random or incidental observation reported by government agencies or the public; (6) submission of a citizen petition to EPA or the appropriate Federal facility requesting a preliminary assessment, in accordance with section 105(d) of CERCLA; (7) a report submitted in accordance with section 311(b)(5) of the Clean Water Act; and (8) other sources. As a policy matter, EPA generally believes it is appropriate for Federal facilities identified through the CERCLA discovery and notification process to be included on the Docket.

The complete list of Federal facilities that now make up the Docket and the NPL and NFRAP status are available to interested parties and can be obtained at *http://www.epa.gov/fedfac/fedfacts* or by contacting the EPA HQ Docket Coordinator at the address provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice. As of the date of this notice, the total number of Federal facilities that appear on the Docket is 2,380.

Dated: October 21, 2020.

Gregory Gervais,

Acting Director, Federal Facilities Restoration and Reuse Office, Office of Land and Emergency Management.

7.1 Docket Codes/Reasons for Deletion of Facilities

- *Code 1.* Small-Quantity Generator and Very Small Quantity Generator. Show citation box
- *Code 2.* Never Federally Owned and/or Operated.
- *Code 3.* Formerly Federally Owned and/or Operated but not at time of listing.
- *Code 4.* No Hazardous Waste Generated.
- *Code 5.* (This code is no longer used.)
- *Code 6.* Redundant Listing/Site on Facility.
- *Code 7.* Combining Sites Into One Facility/Entries Combined.
- *Code 8.* Does Not Fit Facility Definition.

7.2 Docket Codes/Reasons for Addition of Facilities

- *Code 15.* Small-Quantity Generator with either a RCRA 3016 or CERCLA 103 Reporting Mechanism.
- *Code 16.* One Entry Being Split Into Two (or more)/Federal Agency Responsibility Being Split.
- *Code 16A.* NPL site that is part of a Facility already listed on the Docket.
- *Code 17.* New Information Obtained Showing That Facility Should Be Included.
- *Code 18.* Facility Was a Site on a Facility That Was Disbanded; Now a Separate Facility.
- *Code 19.* Sites Were Combined Into One Facility.
- *Code 19A.* New Currently Federally Owned and/or Operated Facility Site.

7.3 Docket Codes/Types of Corrections of Information About Facilities

- *Code 20.* Reporting Provisions Change.
- *Code 20A.* Typo Correction/Name Change/Address Change.
- *Code 21.* Changing Responsible Federal Agency. (If applicable, new responsible Federal agency submits proof of previously performed PA, which is subject to approval by EPA.)
- *Code 22.* Changing Responsible Federal Agency and Facility Name. (If applicable, new responsible Federal Agency submits proof of previously performed PA, which is subject to approval by EPA.)
- *Code 24.* Reporting Mechanism Determined To Be Not Applicable After Review of Regional Files.

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #38—ADDITIONS

Facility name	Address	City	State	Zip code	Agency	Reporting mechanism	Code	Date
NPS—DEAD HORSE BAY.	FLATBUSH AVENUE ..	BROOKLYN	NY	11234	INTERIOR	CERCLA 103.	19A ..	UPDATE #38
NATIONAL SECURITY AGENCY.	SAVAGE RD	FORT MEADE	MD	20755	DEFENSE	RCRA 3010	19A ..	UPDATE #38
SMITHSONIAN INSTITUTE, MUSEUM SUPPORT CENTER.	JEFFERSON DRIVE. SW.	WASHINGTON	DC	20560–0016	SMITHSONIAN BOARD OF REGENTS.	RCRA 3010	19A ..	UPDATE #38
BALTIMORE VAMC 512	10 N GREENE ST	BALTIMORE	MD	21201	VETERAN AFFAIRS	RCRA 3010	19A ..	UPDATE #38

[2] Each Federal facility listed in the update has been assigned a code that indicates a specific reason for the addition or deletion. The code precedes this list.

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #38—ADDITIONS—Continued

Facility name	Address	City	State	Zip code	Agency	Reporting mechanism	Code	Date
LIBRARY OF CONGRESS PACKARD CAMPUS AUDIO VISUAL CONVERSION CENTER.	MOUNT PONY ROAD	CULPEPER	VA	22701	ARCHITECT OF THE CAPITOL.	RCRA 3010	19A	UPDATE #38
GROSSE ILE FIELD OFFICE.	9311 GROH RD	GROSSE ILE TOWNSHIP.	MI	48138	EPA	RCRA 3010	19A	UPDATE #38
BLM—GEBO WIRE BURN.	2 23RD ST	WORLAND	WY	82401	INTERIOR	RCRA 3010	19A	UPDATE #38
USCG QUARTER 9	9 HILLCREST RD, YERBA BUENA ISLAND.	SAN FRANCISCO	CA	94130	HOMELAND SECURITY.	RCRA 3010	19A	UPDATE #38

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #38—DELETIONS

Facility name	Address	City	State	Zip code	Agency	Reporting mechanism	Code	Date
FWS–GUAM NATIONAL WILDLIFE REFUGE–RITIDIAN UNIT.	RITIDIAN POINT	DEDEDO	GU	96912	INTERIOR	RCRA 3016	4	19–Jul–04
FWS–HAWAIIAN ISLANDS NATIONAL WILDLIFE REFUGE–PEARL.	PEARL AND HERMES REEF.		HI		INTERIOR	RCRA 3016	4	19–Jul–04
FWS–JARVIS ISLAND NATIONAL WILDLIFE REFUGE.	JARVIS ISLAND		PI		INTERIOR	RCRA 3016	4	19–Jul–04
BLM BRAWLEY DRUG LAB.	NEAR BRAWLEY	BRAWLEY	CA		INTERIOR	CERCLA 103.	6	15–Dec–89
BLM–DUCK FLAT	T36NR19E SEC7NWSE.		CA		INTERIOR	CERCLA 103.	6	15–Dec–89
BLM INDIO HILLS	1 MI E OF DILLON RD		CA		INTERIOR	CERCLA 103.	6	15–Dec–89

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #38—CORRECTIONS

Facility name	Address	City	State	Zip code	Agency	Reporting mechanism	Code	Date

[FR Doc. 2020–23708 Filed 10–28–20; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMMISSION

Sunshine Act Notice

DATE AND TIME: Monday, November 2, 2020, 1 p.m. Eastern Time.

PLACE: Because of the COVID–19 pandemic, the meeting will be held as an audio-only conference.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED: The following item will be considered at the meeting:

Memorandum of Understanding among the U.S. Department of Labor, the Equal Employment Opportunity Commission, and the U.S. Department of Justice

Note: (In addition to publishing notices on EEOC Commission meetings in the **Federal Register,** the Commission also provides information about Commission meetings on its Website, *www.eeoc.gov.,* and provides a recorded announcement a week in advance on future Commission sessions.)

Please telephone (202) 663–7100 (voice) or email *commissionmeetingcomments@eeoc.gov* at any time for information on this meeting.

CONTACT PERSON FOR MORE INFORMATION: Bernadette B. Wilson, Executive Officer on (202) 663–4077.

Raymond L. Peeler,

Assistant Legal Counsel, Office of Legal Counsel.

[FR Doc. 2020–24036 Filed 10–27–20; 11:15 am]

BILLING CODE 6570–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0550 and OMB 3060–0560; FRS 17185]

Information Collections Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the

Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before December 28, 2020. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0550.

Title: Local Franchising Authority Certification, FCC Form 328; Section 76.910, Franchising Authority Certification.

Form No.: FCC Form 328.

Type of Review: Extension of a currently approved collection.

Respondents: State, local or tribal governments; Businesses or other for-profit entities.

Number of Respondents and Responses: 7 respondents; 13 responses.

Estimated Time per Response: 2 hours.

Frequency of Response: One-time reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in section 3 of the Cable Television Consumer Protection and Competition Act of 1992 (47 U.S.C. 543), as well as sections 4(i), 4(j), and 623 of the Communications Act of 1934, as amended, and section 111 of the STELA Reauthorization Act of 2014.

Total Annual Burden: 26 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: On June 3, 2015, the Commission released a Report and Order, MB Docket No. 15–53; FCC 15–62. The Report and Order adopted a rebuttable presumption that cable operators are subject to competing provider effective competition. The information collection requirements have not changed since they were last approved by the Office of Management and Budget (OMB). The information collection requirements consist of:

FCC Form 328. Pursuant to section 76.910, a franchising authority must be certified by the Commission to regulate the basic service tier and associated equipment of a cable system within its jurisdiction. To obtain this certification, the franchising authority must prepare and submit FCC Form 328. The Report and Order revises section 76.910 to require a franchising authority filing Form 328 to submit specific evidence demonstrating its rebuttal of the presumption in section 76.906 that the cable system is subject to competing provider effective competition pursuant to section 76.905(b)(2). The franchising authority bears the burden of submitting evidence rebutting the presumption that competing provider effective competition, as defined in section 76.905(b)(2), exists in the franchise area. Unless a franchising authority has actual knowledge to the contrary, it may rely on the presumption in section 76.906 that the cable system is not subject to one of the other three types of effective competition.

Evidence establishing lack of effective competition. If the evidence establishing the lack of effective competition is not otherwise available, section 76.910(b)(4) provides that franchising authorities may request from a multichannel video programming distributor (''MVPD'') information regarding the MVPD's reach and number of subscribers. An MVPD must respond to such request within 15 days. Such responses may be limited to numerical totals.

Franchising authority's obligations if certified. Section 76.910(e) of the Commission's rules currently provides that, unless the Commission notifies the franchising authority otherwise, the certification will become effective 30 days after the date filed, provided, however, that the franchising authority may not regulate the rates of a cable system unless it: (1) Adopts regulations (i) consistent with the Commission's regulations governing the basic tier and (ii) providing a reasonable opportunity for consideration of the views of interested parties, within 120 days of the effective date of the certification; and (2) notifies the cable operator that the franchising authority has been certified and has adopted the required regulations.

OMB Control Number: 3060–0560.

Title: Section 76.911, Petition for Reconsideration of Certification.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: State, local or tribal governments; Businesses or other for-profit entities.

Number of Respondents and Responses: 15 respondents; 25 responses.

Estimated Time per Response: 2–10 hours.

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

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in sections 4(i) and 623 of the Communications Act of 1934, as amended.

Total Annual Burden: 130 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: On June 3, 2015, the Commission released a Report and Order, MB Docket No. 15–53; FCC 15–62. The Report and Order adopted a rebuttable presumption that cable operators are subject to competing provider effective competition. Reversing the previous rebuttable presumption of no effective competition and adopting the procedures discussed in the Report and Order will result in changes to the information collection burdens.

The information collection requirements consist of: Petitions for reconsideration of certification, oppositions and replies thereto, cable operator requests to competitors for information regarding the competitor's reach and number of subscribers if evidence establishing effective competition is not otherwise available, and the competitors supplying this information. They have not changed since they were last approved by OMB.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2020–23908 Filed 10–28–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation has been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Update listing of financial institutions in liquidation.

SUMMARY: Notice is hereby given that the Federal Deposit Insurance Corporation (Corporation) has been appointed the sole receiver for the following financial institution effective as of the Date Closed as indicated in the listing.

SUPPLEMENTARY INFORMATION: This list (as updated from time to time in the **Federal Register**) may be relied upon as ''of record'' notice that the Corporation has been appointed receiver for purposes of the statement of policy published in the July 2, 1992, issue of the **Federal Register** (57 FR 29491). For further information concerning the identification of any institutions which have been placed in liquidation, please visit the Corporation website at *www.fdic.gov/bank/individual/failed/banklist.html,* or contact the Manager of Receivership Oversight at *RO@fdic.gov* or at Division of Resolutions and Receiverships, FDIC, 1601 Bryan Street, Suite 34100, Dallas, TX 75201–3401.

INSTITUTIONS IN LIQUIDATION

[In alphabetical order]

FDIC Ref. No.	Bank name	City	State	Date closed
10538	Almena State Bank	Almena	KS	10/23/2020

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on October 26, 2020.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2020–23966 Filed 10–28–20; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have applied to the Board for approval, pursuant to the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*) (HOLA), Regulation LL (12 CFR part 238), and Regulation MM (12 CFR part 239), and all other applicable statutes and regulations to become a savings and loan holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a savings association.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on whether the proposed transaction complies with the standards enumerated in the HOLA (12 U.S.C. 1467a(e)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 10(c)(4)(B) of the HOLA (12 U.S.C. 1467a(c)(4)(B)). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than November 13, 2020.

A. Federal Reserve Bank of Minneapolis (Chris P. Wangen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Ameriprise Financial, Inc., Minneapolis, Minnesota, to engage, through its subsidiaries Threadneedle Asset Management Holdings Limited; Threadneedle Portfolio Services Limited; Threadneedle Property Investments Limited, all of London, United Kingdom; Threadneedle Investments (Channel Islands) Limited, St. Helier, Jersey; and Lionstone Partners, LLC, Houston, Texas;* in real estate activities permissible under sections 238.53(b)(4)–(b)(8) of Regulation LL.

Board of Governors of the Federal Reserve System, October 23, 2020.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2020–23930 Filed 10–28–20; 8:45 am]

BILLING CODE P

GENERAL SERVICES ADMINISTRATION

[Notice–C–2020–02; Docket No. 2020–0002; Sequence No. 38]

Office of Human Resources Management; SES Performance Review Board

AGENCY: Office of Human Resources Management (OHRM), General Services Administration (GSA).

ACTION: Notice.

SUMMARY: Notice is hereby given of the appointment of new members to the General Services Administration Senior Executive Service Performance Review Board. The Performance Review Board assures consistency, stability, and objectivity in the performance appraisal process.

DATES: *Applicable:* October 29, 2020.

FOR FURTHER INFORMATION CONTACT: Ms. Shonna James, Director, Executive Resources HR Services Center, Office of Human Resources Management, General Services Administration, 1800 F Street, NW, Washington, DC 20405, 703 887–2571.

SUPPLEMENTARY INFORMATION: Section 4314 (c)(1) through (5) of title 5 U.S.C requires each agency to establish, in accordance with regulation prescribed by the Office of Personnel Management, one or more SES performance review board(s). The board is responsible for making recommendations to the appointing and awarding authority on the performance appraisal ratings and performance awards for employees in the Senior Executive Service.

The following have been designated as members of the Performance Review Board of GSA:

- Allison Brigati, Deputy Administrator—PRB Chair.
- Allison Azevedo, Deputy Commissioner, Public Buildings Service.
- Giancarlo Brizzi, Regional Commissioner, Public Buildings Service, Greater Southwest Region.
- Traci DiMartini, Chief Human Capital Officer, Office of Human Resources Management.
- Eugenia Ellison, Associate General Counsel for Ethics Law, Office of General Counsel.
- Tiffany Hixson, Regional Commissioner, Federal Acquisition Service, Northwest/Arctic Region.
- Thomas Howder, Deputy Commissioner, Federal Acquisition Service.
- Jeffrey Lau, Regional Commissioner, Federal Acquisition Service, Northeast and Caribbean Region.
- Jessica Salmoiraghi, Associate Administrator for Governmentwide Policy, Office of Governmentwide Policy.

Emily W. Murphy,

Administrator, General Services Administration.

[FR Doc. 2020–23964 Filed 10–28–20; 8:45 am]

BILLING CODE 6820–FM–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[OMB 0970–0196]

Submission for OMB Review; Multistate Financial Institution Data Match With Federally Assisted State Transmitted Levy

AGENCY: Office of Child Support Enforcement, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families' (ACF) Office of Child Support Enforcement (OCSE) is requesting a 3-year extension of the currently approved Multistate Financial Institution Data Match with Federally Assisted State Transmitted Levy (MSFIDM/FAST Levy) (current OMB approval expires 1/31/2021).

DATES: *Comments due within 30 days of publication.* OMB must make a decision about the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION:

Description: State child support enforcement agencies are statutorily required to enter into data matching agreements with financial institutions doing business in their state to locate obligors' accounts. OCSE operates the MSFIDM program through the Federal Parent Locator Service (FPLS) and facilitates the required data match between state child support agencies and financial institutions doing business in multiple states. State child support enforcement agencies use the data match outcomes to fulfill a statutory requirement to seize an obligor's assets to satisfy overdue child support payments.

OCSE also operates FAST Levy, which is an automated application within the FPLS to exchange electronic lien/levy information securely and efficiently. State child support enforcement agencies and multistate financial institutions (MSFIs) use FAST Levy to seize financial assets more quickly and efficiently.

Respondents: MSFIs and state child support agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Annual number of respondents	Annual number of responses per respondent	Average annual burden hours per response	Annual burden hours
Financial Data Match Record Specifications: Match File Upload/Download: Portal Users	184	4	.083	61.1
Election Form	15	1	.5	7.5
FAST Levy Response Withhold Record Specifications: Financial Institutions	1	1	1,716	1,716.0
FAST Levy Request Withhold Record Specifications: State Child Support Agencies	1	1	1,610	1,610.0

Estimated Total Annual Burden Hours: 3,394.6.

Authority: 42 U.S.C. 652(l), 42 U.S.C. 666(a)(2) and (c)(1)(G)(ii), 42 U.S.C. 666(a)(17)(A), 42 U.S.C. 652(a)(7), and 45 CFR 303.7(a)(5).

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2020–24008 Filed 10–28–20; 8:45 am]

BILLING CODE 4184–41–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Notice of Meeting

AGENCY: Office on Trafficking in Persons, Administration for Children and Families (ACF), HHS.

ACTION: Notice of meeting and call for public comments on strategies to engage stakeholders to improve the Nation's response to the sex trafficking of children and youth.

SUMMARY: Notice is hereby given, pursuant to the provisions of the Federal Advisory Committee Act (FACA) and the Preventing Sex Trafficking and Strengthening Families Act, that a meeting of the National Advisory Committee on the Sex Trafficking of Children and Youth in the United States (Committee) will be held on December 9 and 10, 2020. The purpose of the meeting is for the Committee to discuss state efforts in implementing the recommendations described in its interim report, Best Practices and Recommendations for States, as well as discuss gap areas and

barriers to addressing the sex trafficking of children and youth in the United States as it relates to demand, online exploitation, interstate compacts, and other issue areas. The Committee requests any examples and comments from the public to inform their work and also requests input on barriers pertaining to the recommendations in its interim report, including strategies to ensure that policies and procedures related to interstate compacts (*e.g.,* Interstate Compact on the Placement of Children; Interstate Commission for Juveniles), as well as the implementation of interstate compacts, work to combat the sex trafficking of children and youth; strategies for states to address demand (for the purposes of this discussion, demand reduction refers to any effort to reduce the purchase of sex from a minor); and, strategies for states to address vulnerabilities for human trafficking as it relates to online exploitation, recruitment, and grooming of children and youth, specifically as it relates to engaging with tech companies. Please submit your examples and/or comments to *NAC@nhttac.org* with the subject ''NAC Comments'' as soon as possible and before December 1, 2020.

DATES: The meeting will be held on December 9 and 10, 2020.

ADDRESSES: The meeting will be held virtually. Please register for this event online at *https://www.acf.hhs.gov/otip/resource/nacagenda1220.*

FOR FURTHER INFORMATION CONTACT: Katherine Chon (Designated Federal Officer) at *EndTrafficking@acf.hhs.gov* or (202) 205–5778 or 330 C Street SW, Washington, DC 20201. Additional information is available at *https://www.acf.hhs.gov/otip/partnerships/the-national-advisory-committee.*

SUPPLEMENTARY INFORMATION: The formation and operation of the Committee are governed by the provisions of Public Law 92–463, as amended (5 U.S.C. App. 2), which sets forth standards for the formation and use of federal advisory committees.

Purpose of the Committee: The purpose of the Committee is to advise the Secretary and the Attorney General on practical and general policies concerning improvements to the nation's response to the sex trafficking of children and youth in the United States. HHS established the Committee pursuant to Section 121 of the Preventing Sex Trafficking and Strengthening Families Act of 2014 (Pub. L. 113–183).

Tentative Agenda: The agenda can be found at *https://www.acf.hhs.gov/otip/partnerships/the-national-advisory-committee.* To submit written statements, email *NAC@nhttac.org* by December 1, 2020. Please include your name, organization, and phone number. More details on these options are below.

Public Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and subject to the availability of space, this meeting is open to the public virtually.

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public may submit written statements in response to the stated agenda of the meeting or to the committee's mission in general. Organizations with recommendations on strategies to engage states and stakeholders are encouraged to submit their comments or resources (hyperlinks preferred). Written comments or statements received after December 1, 2020, may not be provided to the Committee until its next meeting.

Verbal Statements: Pursuant to 41 CFR 102–3.140d, the Committee is not obligated to allow a member of the public to speak or otherwise address the Committee during the meeting. Members of the public are invited to provide verbal statements during the Committee meeting only at the time and manner described in the agenda. The request to speak should include a brief statement of the subject matter to be addressed and should be relevant to the stated agenda of the meeting or the Committee's mission in general.

Minutes: The minutes of this meeting will be available for public review and copying within 90 days at *https://www.acf.hhs.gov/otip/partnerships/the-national-advisory-committee.*

Dated: October 23, 2020.

Megan E. Steel,

Office of the Executive Secretariat.

[FR Doc. 2020–23910 Filed 10–28–20; 8:45 am]

BILLING CODE 4184–40–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Administration and Oversight of the Unaccompanied Alien Children Program (0970–0547)

AGENCY: Office of Refugee Resettlement; Administration for Children and Families; Department of Health and Human Services

ACTION: Request for public comment.

SUMMARY: The Office of Refugee Resettlement (ORR) Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is proposing to continue to collect information that will allow ORR to monitor Unaccompanied Alien Children (UAC) Program care provider facility compliance with Federal laws and regulations, legal agreements, and ORR policies and procedures; and perform other administrative tasks related to the UAC Program. These information collections were originally approved under emergency approval for 6 months. This request is to continue data collection. Information collections related to other aspects of the UAC Programs, such as sponsorship and health care, are covered under OMB Numbers 0970–0278, 0970–0385, 0970–0466, 0970–0490, 0970–0498, 0970–0509, and 0970–0543.

DATES: *Comments due within 30 days of publication.* OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION:

Description: The components of this information request include:

1. *Care Provider Facility Tour Request (Form A–1A):* This instrument is used by advocacy groups, faith-based organizations, researchers, government officials and other stakeholders to request tours of ORR care provider facilities. After the request is received, ORR documents its decision and details regarding date and location of the tour, if applicable, and provides the completed form to the requester. This instrument was previously approved under OMB No. 0970–0498.

2. *Notice to UAC for Flores Visits (Forms A–4 & A–4s):* This instrument is used by care provider facilities to notify UAC of upcoming visits by Flores counsel (lawyers and volunteers from the organization that originally participated in the creation of the Flores Settlement Agreement) and allow UAC to add their name to a sign-up sheet if

they are willing to speak with Flores counsel.

3. *Authorization for Release of Records (Form A–5):* This instrument is used by attorneys, legal service providers, child advocates, government agencies, and other stakeholders to request UAC case file records. In most cases, requesters are required to obtain the signature of the subject of the record request (UAC or their parent/legal guardian or sponsor) and a witness.

4. *Program Level Event (PLE) Report (Form A–9):* This instrument is used by ORR care provider programs to inform ORR of events that may affect the entire care provider facility, such as an active shooter or natural disaster. An updated PLE Report is required for events that occur over multiple days or if the situation changes regarding the event.

5. *Emergency Significant Incident Report (SIR) and Addendum (Forms A–10A & A–10B):* This instrument is used by ORR care provider programs to inform ORR of urgent situations in which there is an immediate threat to a child's safety and well-being that require instantaneous action. In some cases, an Emergency SIR Addendum may be required to provide additional information obtained after the initial report.

6. *Significant Incident Report (SIR) and Addendum (Forms A–10C & A–10D):* This instrument is used by ORR care provider programs to inform ORR of situations that affect, but do not immediately threaten, the safety and well-being of a child. In some cases, an SIR Addendum may be required to provide additional information obtained after the initial report.

7. *Sexual Abuse Significant Incident Report (SA/SIR) and Addendum (Forms A–10E & A–10F):* This instrument is used by ORR care provider programs to inform ORR of allegations of sexual harassment, sexual abuse, and inappropriate sexual behavior. In some cases, an SA/SIR Addendum may be required to provide additional information obtained after the initial report.

8. *Hotline Alert (A–12):* This instrument is used by ORR's National Call Center to inform ORR of allegations sexual harassment, sexual abuse, inappropriate sexual behavior, and physical abuse that occurred while the UAC was in ORR custody.

ORR no longer plans to implement the UAC Satisfaction Survey (Form A–11 & A–11s) or the UAC Satisfaction Survey Aggregate Data instruments, which were included in the 60-Day **Federal Register** Notice (85 FR 21240) for this information collection. ORR is removing these two instruments from this information collection request.

Respondents: ORR grantee and contractor staff; advocacy groups, faith-based organizations, researchers, and government officials; attorneys, legal service providers, child advocates, and government agencies; and other stakeholders.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Annual number of responses per respondent	Average burden minutes per response	Annual burden minutes
Care Provider Facility Tour Request (Form A–1A)	200	1	10	2,000
Notice to UAC for Flores Visits (Forms A–4 & A–4s)	20	1	15	300
Authorization for Release of Records (Form A–5)	4,000	1	10	40,000
Program Level Event (Form A–9)	1,500	1	20	30,000
Emergency Significant Incident Report (Form A–10A)	1,640	1	20	32,800
Emergency Significant Incident Report Addendum (Form A–10B)	1,360	1	15	20,400
Significant Incident Report (Form A–10C)	80,340	1	20	1,606,800
Significant Incident Report Addendum (Form A–10D)	25,630	1	15	384,450
Sexual Abuse Significant Incident Report (Form A–10E)	5,980	1	20	119,600
Sexual Abuse Significant Incident Report Addendum (Form A–10F)	4,190	1	15	62,850
Hotline Alert (Form A–12)	80	1	15	1,200
Estimated Annual Burden Total				2,300,400

Authority: 6 U.S.C. 279; 8 U.S.C. 1232; *Flores* v. *Reno Settlement Agreement,* No. CV85–4544–RJK (C.D. Cal. 1996).

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2020–24006 Filed 10–28–20; 8:45 am]

BILLING CODE 4184–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–D–2583]

Nonclinical Testing of Orally Inhaled Nicotine-Containing Drug Products; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance for industry entitled ''Nonclinical Testing of Orally Inhaled Nicotine-Containing Drug Products.'' The document provides guidance about the nonclinical information FDA recommends to support development and approval of orally inhaled nicotine-containing drug products, including electronic nicotine delivery systems intended for smoking cessation and related chronic indications. This guidance finalizes the draft guidance of the same name issued August 6, 2018.

DATES: The announcement of the guidance is published in the **Federal Register** on October 29, 2020.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or

confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• Mail/Hand Delivery/Courier (for written/paper submissions): Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–D–2583 for ''Nonclinical Testing of Orally Inhaled Nicotine-Containing Drug Products.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Alina Salvatore, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 5418, Silver Spring, MD 20903–0002, 240–402–0379.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a final guidance for industry entitled ''Nonclinical Testing of Orally Inhaled Nicotine-Containing Drug Products.'' The recommended nonclinical assessment as outlined in the guidance addresses safety of novel chemicals of the drug product formulation, novel chemicals generated from any chemical of the drug product formulation by the delivery system, and novel impurities. As used in the guidance, the phrase novel chemicals of the drug product formulation refers to active and inactive ingredients intentionally added to the drug product that have not been approved in drugs at an equal or greater dose, for an equal or greater duration of use, or by a relevant route of administration sufficient to characterize toxicity via local and systemic exposure. FDA expects that in many cases use of the delivery system will generate novel chemicals (*e.g.,* heat-generated products).

Orally inhaled nicotine-containing drug products developed for smoking cessation and related chronic indications are expected to involve continuous use or chronic intermittent use resulting in 6 months or more exposure over a lifetime. Because of the duration of use, the nonclinical assessment for marketing approval should include general toxicity studies, developmental and reproductive toxicity studies, an assessment of carcinogenic potential, and supporting toxicokinetic and pharmacokinetic studies.

FDA is aware of the serious risk associated with smoking and is committed to facilitating the development of therapies to support smoking-cessation efforts. This guidance focuses on novel chemicals of the drug product formulation, heat-generated products, and impurities that are generally not well characterized. Orally inhaled nicotine-containing tobacco products, including electronic nicotine delivery systems currently marketed in the United States, have already been associated with toxicity concerns. An adequate nonclinical assessment, as described in this guidance, can address the potential toxicity of chemicals from orally inhaled nicotine-containing drug products. As noted in the guidance, sponsors can use an alternative approach if that approach provides adequate safety information.

This guidance finalizes the draft guidance of the same name issued August 6, 2018 (83 FR 38315). Changes from the draft to the final include the following:

• More information to guide the nonclinical development of an active ingredient in addition to nicotine
• Clarification on absorption, distribution, metabolism, and excretion studies, consistent with previous reference to the International Council for Harmonisation guidance for industry entitled ''M3(R2) Nonclinical Safety Studies for the Conduct of Human Clinical Trials and Marketing Authorization for Pharmaceuticals'' (January 2010)
• Reference to the draft guidance for industry entitled ''Formal Meetings Between the FDA and Sponsors or Applicants of PDUFA [Prescription Drug User Fee Amendments] Products'' (December 2017), which describes the process through which sponsors can request meetings
• Clarification on how sponsors can compare the exposure to nicotine in an approved drug by providing

pharmacokinetic information (*e.g.,* C_{max}, T_{max}, area under the curve) from the proposed drug product

- An example of how systemic toxicity could be addressed by a nonclinical toxicity study conducted with a noninhalation route of exposure
- Clarification that local effects in oral or respiratory tract tissues are best addressed with a nonclinical inhalation study

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Nonclinical Testing of Orally Inhaled Nicotine-Containing Drug Products.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014. The collections of information resulting from special protocol assessments have been approved under OMB control number 0910–0470.

III. Electronic Access

Persons with access to the internet may obtain the guidance at either *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs* or *https://www.regulations.gov.*

Dated: October 23, 2020.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2020–23999 Filed 10–28–20; 8:45 am]

BILLING CODE 4164–01–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 Emergency Awards: Rapid Investigation of Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV–2) and Coronavirus Disease 2019 (COVID–19) (R01, R21 Clinical Trial Not Allowed).

Date: November 20, 2020.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G62, Rockville, MD 20892, (Virtual Meeting).

Contact Person: Lynn Rust, 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 3G62, Bethesda, MD 20892, (240) 669–5069. *lrust@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: October 23, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–23965 Filed 10–28–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of The Director, National Institutes of Health Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Council of Councils.

The meeting will be held as a virtual meeting and will be open to the public. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting, should notify the Contact Person listed below in advance of the meeting. The meeting will be videocast and can be accessed from the NIH Videocasting and Podcasting website (*http://videocast.nih.gov/*).

Name of Committee: Council of Councils.

Open: November 13, 2020.

Time: 2:00 p.m. to 3:00 p.m.

Agenda: Presentation and discussion of the draft NIH-Wide Strategic Plan (2021–2025).

Place: National Institutes of Health, Building 1, One Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Franziska Grieder, D.V.M., Ph.D., Executive Secretary, Council of Councils, Director, Office of Research Infrastructure Programs, Division of Program Coordination, Planning, and Strategic Initiatives, Office of the Director, NIH, 6701 Democracy Boulevard, Room 948, Bethesda, MD 20892, *GriederF@mail.nih.gov,* 301–435–0744.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Council of Council's home page at *http://dpcpsi.nih.gov/council/* where an agenda will be posted before the meeting date.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: October 26, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–23996 Filed 10–28–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2020–0002; Internal Agency Docket No. FEMA–B–2062]

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 27, 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–2062, 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
Gilpin County, Colorado and Incorporated Areas Project: 19–08–0004S Preliminary Date: June 2, 2020	
City of Black Hawk	Community Planning and Development, 211 Church Street, Black Hawk, CO 80422.
City of Central City	City Hall, 141 Nevada Street, Central City, CO 80427.
Unincorporated Areas of Gilpin County	Gilpin County Courthouse, 203 Eureka Street, 2nd Floor, Central City, CO 80427.

Community	Community map repository address
Franklin County, Florida and Incorporated Areas Project: 12–04–0465S Preliminary Date: June 13, 2019	
City of Apalachicola	Planning and Community Development Department, 192 Coach Wagoner Boulevard, Apalachicola, FL 32320.
City of Carrabelle	City Hall, 1206 Highway 98 East, Carrabelle, FL 32322.
Unincorporated Areas of Franklin County	Franklin County Emergency Management Department, 28 Airport Road, Apalachicola, FL 32320.
Bradley County, Tennessee and Incorporated Areas Project: 18–04–0036S Preliminary Date: March 27, 2020	
City of Cleveland	Development and Engineering Services Department, 185 2nd Street Northeast, Cleveland, TN 37311.
Unincorporated Areas of Bradley County	Bradley County Building, 155 Broad Street Northwest, Cleveland, TN 37311.
Hamilton County, Tennessee and Incorporated Areas Project: 19–04–0011S Preliminary Date: March 27, 2020	
City of Chattanooga	Zoning Office, 1250 Market Street, Suite 1000, Chattanooga, TN 37402.
City of Red Bank	City Hall, 3105 Dayton Boulevard, Red Bank, TN 37415.
City of Soddy-Daisy	City Hall, 9835 Dayton Pike, Soddy-Daisy, TN 37379.
Unincorporated Areas of Hamilton County	Hamilton County Engineering Department, 1250 Market Street, Suite 3046, Chattanooga, TN 37402.
Williamson County, Tennessee and Incorporated Areas Project: 19–04–0010S Preliminary Date: March 27, 2020	
City of Brentwood	City Hall, 5211 Maryland Way, Brentwood, TN 37027.
City of Franklin	City Hall, 109 3rd Avenue South, Suite 110, Franklin, TN 37064.
Unincorporated Areas of Williamson County	Williamson County Administration Complex, 1320 West Main Street, Suite 400, Franklin, TN 37064.
Victoria County, Texas and Incorporated Areas Project: 15–06–0744S Preliminary Date: April 30, 2020	
City of Victoria	700 Main Center, Engineering Office, 702 North Main Street, Suite 107, Victoria, TX 77901.
Unincorporated Areas of Victoria County	Dr. Pattie Dodson Public Health Center, 2805 North Navarro Street, Suite 106, Victoria, TX 77901.

[FR Doc. 2020–23975 Filed 10–28–20; 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–2064]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Alabama:.						
Madison	City of Madison (19–04–3126P).	The Honorable Paul Finley, Mayor, City of Madison, 100 Hughes Road, Madison, AL 35758.	Engineering Department, 100 Hughes Road, Madison, AL 35758.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 13, 2020	010308
Colorado:						
Boulder	City of Boulder (20–08–0376P).	The Honorable Sam Weaver, Mayor, City of Boulder, P.O. Box 791, Boulder, CO 80306.	Central Records Department, 1777 Broadway, Boulder, CO 80306.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 7, 2021	080024
Boulder	Town of Jamestown (20–08–0179P).	The Honorable Tara Schoedinger, Mayor, Town of Jamestown, P.O. Box 298, Jamestown, CO 80455.	Town Hall, 118 Main Street, Jamestown, CO 80455.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 11, 2021	080216
Florida:						
Collier	City of Naples (20–04–3512P).	The Honorable Teresa Heitmann, Mayor, City of Naples, 735 8th Street South, 2nd Floor, Naples, FL 34102.	Building Department, 295 Riverside Circle, Naples, FL 34102.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 19, 2021	125130
Lee	Town of Fort Myers Beach (20–04–2530P).	The Honorable Ray Murphy, Mayor, Town of Fort Myers Beach, 2525 Estero Boulevard, Fort Myers Beach, FL 33931.	Community Development Department, 2525 Estero Boulevard, Fort Myers Beach, FL 33931.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 24, 2020	120673
Monroe	Unincorporated areas of Monroe County (20–04–3334P).	The Honorable Heather Carruthers, Mayor, Monroe County Board of Commissioners, 500 Whitehead Street, Suite 102, Key West, FL 33040.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 4, 2021	125129
Palm Beach	City of Westlake (20–04–1257P).	The Honorable Roger Manning, Mayor, City of Westlake, 4001 Seminole Pratt Whitney Road, Westlake, FL 33470.	City Hall, 4001 Seminole Pratt Whitney Road, Westlake, FL 33470.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 29, 2020	120018
Georgia:						
Mitchell	Unincorporated areas of Mitchell County (20–04–3145P).	The Honorable Benjamin Hayward, Chairman, Mitchell County Board of Commissioners, 26 North Court Street, Camilla, GA 31730.	Mitchell County Building and Zoning Department, 26 North Court Street, Camilla, GA 31730.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 7, 2021	130438

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.
Oconee	City of Watkinsville (19–04–6350P).	The Honorable Bob Smith, Mayor, City of Watkinsville, 191 VFW Drive, Watkinsville, GA 30677.	City Hall, 191 VFW Drive, Watkinsville, GA 30677.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 8, 2021	130369
North Carolina:						
Brunswick.	Unincorporated areas of Brunswick County (20–04–4291P).	The Honorable Frank Williams, Chairman, Brunswick County Board of Commissioners, P.O. Box 249, Bolivia, NC 28422.	Brunswick County Department of Floodplain Management Department, 75 Courthouse Drive, Building 1, Bolivia, NC 28422.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 4, 2021	370295
South Carolina:						
Berkeley	Unincorporated areas of Berkeley County (19–04–6176P).	The Honorable Johnny Cribb, Chairman, Berkeley County Council, 1003 Highway 52, Moncks Corner, SC 29461.	Berkeley County Administration Building, 1003 Highway 52, Moncks Corner, SC 29461.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 31, 2020	450029
Lexington	Unincorporated areas of Lexington County (20–04–1249P).	The Honorable Scott Whetstone, Chairman, Lexington County Council, 212 South Lake Drive, Suite 601, Lexington, SC 29072.	Lexington County Community Development Department, 212 South Lake Drive, Suite 601, Lexington, SC 29072.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 22, 2021	450129
Texas:						
Bexar	City of San Antonio (20–06–2465P).	The Honorable Ron Nirenberg, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capitol Improvements Department, Storm Water Division, 114 West Commerce Street, 7th Floor, San Antonio, TX 78205.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 28, 2020	480045
Bexar	Unincorporated areas of Bexar County (19–06–3962P).	The Honorable Nelson W. Wolff, Bexar County Judge, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 1948 Probandt Street, San Antonio, TX 78214.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 28, 2020	480035
Bexar	Unincorporated areas of Bexar County (20–06–0078P).	The Honorable Nelson W. Wolff, Bexar County Judge, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 1948 Probandt Street, San Antonio, TX 78214.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 28, 2020	480035
Bexar	Unincorporated areas of Bexar County (20–06–2465P).	The Honorable Nelson W. Wolff, Bexar County Judge, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 1948 Probandt Street, San Antonio, TX 78214.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 28, 2020	480035
Collin and Dallas.	City of Sachse (20–06–1068P).	Ms. Gina Nash, Manager, City of Sachse, 3815 Sachse Road, Building B, Sachse, TX 75048.	Engineering Department, 3815 Sachse Road, Building B, Sachse, TX 75048.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 8, 2021	480186
Ellis	City of Midlothian (20–06–1890P).	The Honorable Richard Reno, Mayor, City of Midlothian, 104 West Avenue E, Midlothian, TX 76065.	City Hall, 104 West Avenue E, Midlothian, TX 76065.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 15, 2021	480801
Ellis	Unincorporated areas of Ellis County (20–06–1084P).	The Honorable Todd Little, Ellis County Judge, 101 West Main Street, Waxahachie, TX 75165.	Ellis County Engineering Department, 109 South Jackson Street, Waxahachie, TX 75165.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 4, 2021	480798
Guadalupe	City of Cibolo (20–06–0736P).	Mr. Robert T. Herrera, Manager, City of Cibolo, 200 South Main Street, Cibolo, TX 78108.	Geographic Information Systems (GIS) Department, 200 South Main Street, Cibolo, TX 78108.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 7, 2021	480267
Guadalupe	City of Schertz (20–06–0736P).	Mr. Mark Browne, Manager, City of Schertz, 1400 Schertz Parkway, Schertz, TX 78154.	Geographic Information Systems (GIS) Department, 10 Commercial Place, Schertz, TX 78154.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 7, 2021	480269
Harris	Unincorporated areas of Harris County (20–06–2070P).	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. 28, 2020	480287
Johnson	City of Venus (20–06–1084P).	The Honorable James L. Burgess, Mayor, City of Venus, 700 West Highway 67, Venus, TX 76084.	Public Works and Water/Sewer Department, 700 West Highway 67, Venus, TX 76084.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 4, 2021	480883

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.
Midland	City of Midland (19–06–3886P).	The Honorable Patrick Payton, Mayor, City of Midland, 300 North Loraine Street, Midland, TX 79701.	City Hall, 300 North Loraine Street, Midland, TX 79701.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 29, 2020	480477
Tarrant	City of Fort Worth (20–06–1803P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 200 Texas Street, Fort Worth, TX 76102.	Transportation and Public Works Department, Engineering Vault, 200 Texas Street, Fort Worth, TX 76102.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 25, 2021	480596
Utah:						
Davis	City of Clearfield (20-08-0266P).	Mr. J.J. Allen, Manager, City of Clearfield, 55 South State Street, Clearfield, UT 84015.	City Hall, 55 South State Street, Clearfield, UT 84015.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 19, 2021	490041
Davis	City of Clearfield (20-08-0267P).	Mr. J.J. Allen, Manager, City of Clearfield, 55 South State Street, Clearfield, UT 84015.	City Hall, 55 South State Street, Clearfield, UT 84015.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 4, 2021	490041
Virginia: Loudoun	Unincorporated areas of Loudoun County (20–03–0748P).	Mr. Tim Hemstreet, Loudoun County Administrator, P.O. Box 7000, Leesburg, VA 20177.	Loudoun County Mapping and Geographic Information Department, 1 Harrison Street Southeast, Leesburg, VA 20175.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 28, 2020	510090

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BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2020–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *https://msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Alabama:					
Baldwin (FEMA Docket No.: B–2059).	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.	Sep. 28, 2020	010009
Madison (FEMA Docket No.: B–2044)	City of Madison (19–04–6821P).	The Honorable Paul Finley, Mayor, City of Madison, 100 Hughes Road, Madison, AL 35758.	Engineering Department, 100 Hughes Road, Madison, AL 35758.	Oct. 5, 2020	010308
Madison (FEMA Docket No.: B–2044).	Unincorporated areas of Madison County (19–04–6821P).	The Honorable Dale W. Strong, Chairman, Madison County Commission, 100 North Side Square, Huntsville, AL 35801.	Madison County Public Works Department, 266–C Shields Road, Huntsville, AL 35811.	Oct. 5, 2020	010151
St. Clair (FEMA Docket No.: B–2059).	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.	Sep. 25, 2020	010289
Colorado:					
Arapahoe (FEMA Docket No.: B–2040).	City of Aurora (19–08–0731P).	The Honorable Mike Coffman, Mayor, City of Aurora, 15151 East Alameda Parkway, Aurora, CO 80012.	Public Works Department, 15151 East Alameda Parkway, Aurora, CO 80012.	Oct. 2, 2020	080002
Arapahoe (FEMA Docket No.: B–2042).	City of Aurora (20–08–0058P).	The Honorable Mike Coffman, Mayor, City of Aurora, 15151 East Alameda Parkway, Aurora, CO 80012.	Public Works Department, 15151 East Alameda Parkway, Aurora, CO 80012.	Oct. 9, 2020	080002
Arapahoe (FEMA Docket No.: B–2040).	City and County of Denver (19–08–0731P).	The Honorable Michael B. Hancock, Mayor, City and County of Denver, 1437 North Bannock Street, Room 350, Denver, CO 80202.	Department of Public Works, 201 West Colfax Avenue, Denver, CO 80202.	Oct. 2, 2020	080046
Arapahoe (FEMA Docket No.: B–2042).	Unincorporated areas of Arapahoe County (20–08–0058P).	The Honorable Nancy N. Sharpe, Chair, Arapahoe County, Board of Commissioners, 5334 South Prince Street, Littleton, CO 80120.	Arapahoe County Public Works and Development Department, 6924 South Lima Street, Centennial, CO 80112.	Oct. 9, 2020	080011
Jefferson (FEMA Docket No.: B–2043).	City of Arvada (19–08–0970P).	The Honorable Marc Williams, Mayor, City of Arvada, 8101 Ralston Road, Arvada, CO 80002.	Engineering Department, 8101 Ralston Road, Arvada, CO 80002.	Oct. 9, 2020	085072
Jefferson (FEMA Docket No.: B–2043).	Unincorporated areas of Jefferson County (19–08–0970P).	The Honorable Lesley Dahlkemper, Chairman, Jefferson County, Board of Commissioners, 100 Jefferson County Parkway, Suite 5550, Golden, CO 80419.	Jefferson County Department of Planning and Zoning, 100 Jefferson County Parkway, Suite 3550, Golden, CO 80419.	Oct. 9, 2020	080087
Jefferson (FEMA Docket No.: B–2042).	Unincorporated areas of Jefferson County (20–08–0630P).	The Honorable Lesley Dahlkemper, Chairman, Jefferson County Board of Commissioners, 100 Jefferson County Parkway, Suite 5550, Golden, CO 80419.	Jefferson County Department of Planning and Zoning, 100 Jefferson County Parkway, Suite 3550, Golden, CO 80419.	Oct. 9, 2020	080087
Connecticut:					
Fairfield (FEMA Docket No.: B–2044).	Town of Darien (20–01–0946P).	The Honorable Jayme J. Stevenson, First Selectman, Town of Darien Board of Selectmen, 2 Renshaw Road, Room 202, Darien, CT 06820.	Planning and Zoning Department, 2 Renshaw Road, Darien, CT 06820.	Oct. 2, 2020	090005
Fairfield (FEMA Docket No.: B–2044).	Town of Westport (20–01–0945P).	The Honorable James Marpe, First Selectman, Town of Westport Board of Selectmen, 110 Myrtle Avenue, Westport, CT 06880.	Planning and Zoning Department, 110 Myrtle Avenue, Room 203, Westport, CT 06880.	Oct. 5, 2020	090019
Florida:					
Indian River (FEMA Docket No.: B–2044).	Unincorporated areas of Indian River County (19–04–6224P).	The Honorable Susan Adams, Chair, Indian River County Board of Commissioners, 1801 27th Street, Vero Beach, FL 32960.	Indian River County Community Development Department, 1801 27th Street, Vero Beach, FL 32960.	Oct. 9, 2020	120119
Lee (FEMA Docket No.: B–2040).	City of Sanibel (20–04–3626P).	The Honorable Kevin Ruane, Mayor, City of Sanibel, 800 Dunlop Road, Sanibel, FL 33957.	Community Services Department, 800 Dunlop Road, Sanibel, FL 33957.	Sep. 29, 2020	120402
Monroe (FEMA Docket No.: B–2042).	Unincorporated areas of Monroe County (20–04–2206P).	The Honorable Heather Carruthers, Mayor, Monroe County Board of Commissioners, 500 Whitehead Street, Suite 102, Key West, FL 33040.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	Oct. 5, 2020	125129
Monroe (FEMA Docket No.: B–2042).	Unincorporated areas of Monroe County (20–04–3627P).	The Honorable Heather Carruthers, Mayor, Monroe County Board of Commissioners, 500 Whitehead Street, Suite 102, Key West, FL 33040.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	Oct. 5, 2020	125129
Monroe (FEMA Docket No.: B–2042).	Unincorporated areas of Monroe County (20–04–3628P).	The Honorable Heather Carruthers, Mayor, Monroe County Board of Commissioners, 500 Whitehead Street, Suite 102, Key West, FL 33040.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	Oct. 5, 2020	125129
Monroe (FEMA Docket No.: B–2042).	Unincorporated areas of Monroe County (20–04–3629P).	The Honorable Heather Carruthers, Mayor, Monroe County Board of Commissioners, 500 Whitehead Street, Suite 102, Key West, FL 33040.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	Oct. 1, 2020	125129
Sarasota (FEMA Docket No.: B–2043).	Town of Longboat Key (20–04–1892P).	Mr. Tom Harmer, Manager, Town of Longboat Key, 501 Bay Isles Road, Longboat Key, FL 34228.	Planning, Zoning and Building Department 600 General Harris Street, Longboat Key, FL 34228.	Sep. 28, 2020	125126

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Sarasota (FEMA Docket No.: B–2043).	Unincorporated areas of Sarasota County (20–04–1846P).	The Honorable Charles D. Hines, Chairman, Sarasota County Board of Commissioners, 1660 Ringling Boulevard, Sarasota, FL 34236.	Sarasota County Planning and Development Services Department, 1001 Sarasota Center Boulevard, Sarasota, FL 34240.	Sep. 30, 2020	125144
Massachusetts: Bristol (FEMA Docket No.: B–2044).	City of Taunton (20–01–0947P).	The Honorable Shaunna O'Connell, Mayor, City of Taunton, 141 Oak Street, Taunton, MA 02780.	Engineering Department, 90 Ingell Street, Taunton, MA 02780.	Oct. 5, 2020	250066
North Carolina:					
Buncombe (FEMA Docket No.: B–2044).	Unincorporated areas of Buncombe County (20–04–3616P).	The Honorable Brownie Newman, Chairman, Buncombe County Board of Commissioners, 200 College Street, Suite 300, Asheville, NC 28801.	Buncombe County Planning Department, 46 Valley Street, Asheville, NC 28801.	Oct. 8, 2020	370031
Wake (FEMA Docket No.: B–2042).	Town of Wake Forest (20–04–3617P).	The Honorable Vivian A. Jones, Mayor, Town of Wake Forest, 301 South Brooks Street, Wake Forest, NC 27587.	Engineering Department, 234 Friendship Chapel Road, Wake Forest, NC 27587.	Oct. 2, 2020	370244
Wayne (FEMA Docket No.: B–2049).	City of Goldsboro (20–04–0269P).	The Honorable Chuck Allen, Mayor, City of Goldsboro, 200 North Center Street, Goldsboro, NC 27530.	City Hall, 200 North Center Street, Goldsboro, NC 27530.	Oct. 9, 2020	370255
Wayne (FEMA Docket No.: B–2049).	Unincorporated areas of Wayne County (20–04–0269P).	The Honorable E. Ray Mayo, Chairman, Wayne County Board of Commissioners, 224 East Walnut Street, Goldsboro, NC 27530.	Wayne County Planning Department, 134 North John Street, 3rd Floor, Goldsboro, NC 27530.	Oct. 9, 2020	370254
Pennsylvania:					
Allegheny (FEMA Docket No.: B–2044).	Municipality of Mt. Lebanon (20–03–1146P).	Mr. Keith McGill, Manager, Municipality of Mt. Lebanon, 710 Washington Road, Pittsburgh, PA 15228.	Inspection Department, 710 Washington Road, Pittsburgh, PA 15228.	Oct. 8, 2020	421272
Washington (FEMA Docket No.: B–2043).	Township of Union (20–03–1148P).	The Honorable Heather Daerr, Chair, Township of Union Board of Supervisors, 3904 Finleyville-Elrama Road, Finleyville, PA 15332.	Township Hall, 3904 Finleyville-Elrama Road, Finleyville, PA 15332.	Oct. 8, 2020	420860
York (FEMA Docket No.: B–2044).	Borough of Hanover (20-03-1145P).	The Honorable William W. Reichart II, President, Borough of Hanover Council, 44 Frederick Street, Hanover, PA 17331.	Borough Hall, 44 Frederick Street, Hanover, PA 17331.	Oct. 5, 2020	422212
York (FEMA Docket No.: B–2044).	Township of Penn (20-03-1145P).	The Honorable Justin J. Heiland, President, Township of Penn Board of Commissioners, 20 Wayne Avenue, Hanover, PA 17331.	Zoning Department, 20 Wayne Avenue, Hanover, PA 17331.	Oct. 5, 2020	421025
South Carolina: Charleston (FEMA Docket No.: B–2040).	City of Isle of Palms (20–04–2088P).	The Honorable Jimmy Carroll, Mayor, City of Isle of Palms, 1207 Palm Boulevard, Isle of Palms, SC 29451.	Building and Planning Department, 1207 Palm Boulevard, Isle of Palms, SC 29451.	Sep. 28, 2020	455416
South Dakota: Lincoln (FEMA Docket No.: B–2044).	City of Harrisburg (20-08-0017P).	The Honorable Julie Burke-Van Luvanee, Mayor, City of Harrisburg, 301 East Willow Street, Harrisburg, SD 57032.	City Hall, 301 East Willow Street, Harrisburg, SD 57032.57.	Oct. 2, 2020	460114
Pennington (FEMA Docket No.: B–2044).	City of Rapid City (19-08-0857P).	The Honorable Steve Allender, Mayor, City of Rapid City, 300 6th Street, Rapid City, SD 57701.	Public Works Department, Engineering Services Division, 300 6th Street, Rapid City, SD 57701.	Oct. 5, 2020	465420
Texas:					
Chambers (FEMA Docket No.: B–2040).	City of Cove (19–06–3771P).	The Honorable Leroy Stevens, Mayor, City of Cove, 7911 Cove Loop Road, Cove, TX 77523.	Chambers County Road and Bridge Department, 201 Airport Road, Anahuac, TX 77514.	Oct. 2, 2020	481510
Chambers (FEMA Docket No.: B–2040).	City of Mont Belvieu (19–06–3771P).	The Honorable Nick Dixon, Mayor, City of Mont Belvieu, P.O. Box 1048, Mont Belvieu, TX 77580.	City Hall, 11607 Eagle Drive, Mont Belvieu, TX 77580.	Oct. 2, 2020	480122
Chambers (FEMA Docket No.: B–2040).	Unincorporated areas of Chambers County (19–06–3771P).	The Honorable Jimmy Sylvia, Chambers County Judge, P.O. Box 939, Anahuac, TX 77514.	Chambers County Road and Bridge Department, 201 Airport Road, Anahuac, TX 77514.	Oct. 2, 2020	480119
Collin (FEMA Docket No.: B–2042).	City of Frisco (20–06–0590P).	The Honorable Jeff Cheney, Mayor, City of Frisco, 6101 Frisco Square Boulevard, Frisco, TX 75034.	Engineering Services Department, 6101 Frisco Square Boulevard, Frisco, TX 75034.	Sep. 28, 2020	480134
Comal (FEMA Docket No.: B–2040).	City of New Braunfels (20–06–1144P).	The Honorable Barron Casteel, Mayor, City of New Braunfels, 550 Landa Street, New Braunfels, TX 78130.	City Hall, 550 Landa Street, New Braunfels, TX 78130.	Sep. 30, 2020	485493
Comal (FEMA Docket No.: B–2042).	City of New Braunfels (20–06–2307P).	The Honorable Barron Casteel, Mayor, City of New Braunfels, 550 Landa Street, New Braunfels, TX 78130.	City Hall, 550 Landa Street, New Braunfels, TX 78130.	Oct. 5, 2020	485493
Comal (FEMA Docket No.: B–2042).	Unincorporated areas of Comal County (20–06–2307P).	The Honorable Sherman Krause, Comal County Judge, 100 Main Plaza, New Braunfels, TX 78130.	Comal County Engineering Department, 195 David Jonas Drive, New Braunfels, TX 78132.	Oct. 5, 2020	485463
Dallas (FEMA Docket No.: B–2040).	City of Carrollton (19–06–3556P).	Ms. Erin Rinehart, Manager, City of Carrollton, 1945 East Jackson Road, Carrollton, TX 75006.	Engineering Department, 1945 East Jackson Road, Carrollton, TX 75006.	Sep. 28, 2020	480167
Denton (FEMA Docket No.: B–2043).	City of Denton (20–06–2308P).	The Honorable Chris Watts, Mayor, City of Denton, 215 East McKinney Street, Denton, TX 76201.	Engineering Department, 901–A Texas Street, Denton, TX 76209.	Oct. 8, 2020	480194

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Denton (FEMA Docket No.: B–2043).	Town of Argyle (19–06–2972P).	The Honorable Donald Moser, Mayor, Town of Argyle, P.O. Box 609, Argyle, TX 76226.	Town Hall, 308 Denton Street, Argyle, TX 76226.	Oct. 9, 2020	480775
Denton (FEMA Docket No.: B–2043).	Unincorporated areas of Denton County (20–06–2308P).	The Honorable Andy Eads, Denton County Judge, 110 West Hickory Street, 2nd Floor, Denton, TX 76201.	Denton County Public Works—Engineering Department, 1505 East McKinney Street, Suite 175, Denton, TX 76209.	Oct. 8, 2020	480774
Ellis (FEMA Docket No.: B–2040).	City of Ennis (20–06–2306P).	The Honorable Angeline Juenemann, Mayor, City of Ennis, P.O. Box 220, Ennis, TX 75120.	Inspection Services Department, 108 West Knox Street, Ennis, TX 75119.	Oct. 5, 2020	480207
Ellis (FEMA Docket No.: B–2040).	Unincorporated areas of Ellis County (20–06–2306P).	The Honorable Todd Little, Ellis County Judge, 101 West Main Street, Waxahachie, TX 75165.	Ellis County Engineering Department, 109 South Jackson Street, Waxahachie, TX 75165.	Oct. 5, 2020	480798
Guadalupe (FEMA Docket No.: B–2042).	City of Cibolo (20–06–2304P).	The Honorable Stosh Boyle, Mayor, City of Cibolo, P.O. Box 826, Cibolo, TX 78108.	City Hall, 200 South Main Street, Cibolo, TX 78108.	Oct. 8, 2020	480267
Parker (FEMA Docket No.: B–2042).	City of Willow Park (20–06–0011P).	The Honorable Doyle Moss, Mayor, City of Willow Park, 516 Ranch House Road, Willow Park, TX 76087.	City Hall, 516 Ranch House Road, Willow Park, TX 76087.	Oct. 7, 2020	481164
Tarrant (FEMA Docket No.: B–2040).	City of Grapevine (19–06–3994P).	The Honorable William D. Tate, Mayor, City of Grapevine, P.O. Box 95104, Grapevine, TX 76099.	City Hall, 200 South Main Street, Grapevine, TX 76051.	Sep. 28, 2020	480598

[FR Doc. 2020–23973 Filed 10–28–20; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

[GX21LR000F60100; OMB Control Number 1028–0053/Renewal]

Agency Information Collection Activities; Nonferrous Metals Surveys

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of Information Collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Geological Survey (USGS) are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before December 28, 2020.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to U.S. Geological Survey, Information Collections Officer, 12201 Sunrise Valley Drive MS 159, Reston, VA 20192; or by email to *gs-info_collections@usgs.gov.* Please reference OMB Control Number 1028–0053 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Elizabeth S. Sangine by email at *escottsangine@usgs.gov,* or by telephone at 703–648–7720.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the USGS; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the USGS enhance the quality, utility, and clarity of the information to be collected; and (5) how might the USGS minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: Respondents to these forms supply the USGS with domestic production and consumption data for 22 ores, concentrates, and metals, some of which are considered strategic and critical, to assist in determining National Defense Stockpile goals. These data and derived information will be published as chapters in Minerals Yearbooks, monthly Mineral Industry Surveys, annual Mineral Commodity Summaries, and special publications, for use by Government agencies, industry education programs, and the general public.

Title of Collection: Nonferrous Metals Surveys.

OMB Control Number: 1028–0053.

Form Number: Various (27 forms).

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Business or Other-For-Profit Institutions: U.S. nonfuel minerals producers and consumers of nonferrous metals and related materials.

Total Estimated Number of Annual Respondents: 1,484.

Total Estimated Number of Annual Responses: 4,930.

Estimated Completion Time per Response: For each form, we will include an average burden time ranging from 10 minutes to 1 hour.

Total Estimated Number of Annual Burden Hours: 3,566.

Respondent's Obligation: Voluntary.

Frequency of Collection: Monthly, Quarterly, or Annually.

Total Estimated Annual Non-hour Burden Cost: There are no ''non-hour cost'' burdens associated with this IC.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The authorities for this action are the Paperwork Reduction Act of 1995 (44

U.S.C. 3501 *et seq.*), the National Materials and Minerals Policy, Research and Development Act of 1980 (30 U.S.C. 1601 *et seq.*), the National Mining and Minerals Policy Act of 1970 (30 U.S.C. 21(a)), the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 *et seq.*), and the Defense Production Act (50 U.S.C. 2061 *et seq.*).

Michael Magyar,

Acting Director, National Minerals Information Center, U.S. Geological Survey.

[FR Doc. 2020–23990 Filed 10–28–20; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

[GX20EB00A181100; OMB Control Number 1028–0101]

Agency Information Collection Activities: The William T. Pecora Award; Application and Nomination Process

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of Information Collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Geological Survey (USGS) are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before December 28, 2020.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to U.S. Geological Survey, Information Collections Officer, 12201 Sunrise Valley Drive MS 159, Reston, VA 20192; or by email to *gs-info_collections@usgs.gov.* Please reference OMB Control Number 1028–0101 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Sarah Cook by email at *scook@usgs.gov,* or by telephone at (703) 648–6136.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the USGS; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the USGS enhance the quality, utility, and clarity of the information to be collected; and (5) how might the USGS minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The William T. Pecora Award is presented annually to individuals or teams using satellite or aerial remote sensing that make outstanding contributions toward understanding the Earth (land, oceans and air), educating the next generation of scientists, informing decision makers or supporting natural or human-induced disaster response. The award is sponsored jointly by the Department of the Interior (DOI) and the National Aeronautics and Space Administration (NASA).

The award was established in 1974 to honor the memory of Dr. William T. Pecora, former Director of the U.S. Geological Survey and Under Secretary, Department of the Interior. Dr. Pecora was a motivating force behind the establishment of a program for civil remote sensing of the Earth from space. His early vision and support helped establish what we know today as the Landsat satellite program. The purpose of the award is to recognize individuals or groups working in the field of remote sensing of the earth. National and international nominations are accepted from the public and private sector individuals, teams, organizations, and professional societies.

Nomination packages include three sections: (A) Cover Sheet, (B) Summary Statement, and (C) Supplemental Materials. The cover sheet includes professional contact information. The Summary Statement is limited to two pages and describes the nominee's achievements in the scientific and technical remote sensing community, contributions leading to successful practical applications of remote sensing, and/or major breakthroughs in remote sensing science or technology. Nominations may include up to 12 pages of supplemental information such as resume, publications list, and/or letters of endorsement.

Title of Collection: The Pecora Award; Application and Nomination Process.

OMB Control Number: 1028–0101.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individuals; Businesses and other academic and non-profit institutions; State, local and tribal governments.

Total Estimated Number of Annual Respondents: 12.

Total Estimated Number of Annual Responses: 12.

Estimated Completion Time per Response: 6 hours.

Total Estimated Number of Annual Burden Hours: 100.

Respondent's Obligation: Voluntary.

Frequency of Collection: Annually.

Total Estimated Annual Non-hour Burden Cost: There are no ''non-hour cost'' burdens associated with this IC.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Timothy Newman,

Program Coordinator, National Land Imaging Program, USGS.

[FR Doc. 2020–23987 Filed 10–28–20; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

United States Geological Survey

[GX21GG009950000]

Request for Nominations for Members To Serve on the Scientific Earthquake Studies Advisory Committee (SESAC), and the National Earthquake Prediction Evaluation Council (NEPEC)

AGENCY: United States Geological Survey, Department of the Interior.

ACTION: Request for Nominations.

SUMMARY: The Department of the Interior is seeking nominations to serve

on the Scientific Earthquake Studies Advisory Committee (SESAC), and the National Earthquake Prediction Evaluation Council (NEPEC). The SESAC advises the Director of the U.S. Geological Survey (USGS) on matters relating to the USGS's participation in the National Earthquake Hazards Reduction Program. The NEPEC provides advice and recommendations to the Director of the USGS on earthquake predictions and related scientific research.

DATES: Nominations for the SESAC and NEPEC must be received by November 30, 2020.

ADDRESSES: SESAC nominations can be sent to Dr. Gavin Hayes at *ghayes@usgs.gov.* Additional information about SESAC may be found at *https://www.usgs.gov/natural-hazards/earthquake-hazards/scientific-earthquake-studies-advisory-committee-sesac.* NEPEC nominations can be sent to Dr. Michael Blanpied at *mblanpied@usgs.gov.* Additional information about the NEPEC may be found at *https://www.usgs.gov/natural-hazards/earthquake-hazards/national-earthquake-prediction-evaluation-council-nepec.*

FOR FURTHER INFORMATION CONTACT: Inquiries regarding SESAC can be directed to Dr. Gavin Hayes, Senior Science Advisor for Earthquake and Geologic Hazards and Designated Federal Officer, *ghayes@usgs.gov,* 303–273–8421. Inquiries regarding NEPEC can be directed to Dr. Michael Blanpied, Associate Coordinator, Earthquake Hazards Program and Designated Federal Officer, *mblanpied@usgs.gov,* 703–648–6696.

SUPPLEMENTARY INFORMATION:

SESAC

The SESAC was established in accordance with the Earthquake Hazards Reduction Authorization Act of 1977. The SESAC advises the Director of the USGS on matters relating to the USGS's participation in the National Earthquake Hazards Reduction Program (NEHRP), including its roles, goals and objectives within that program, its capabilities and research needs, guidance on achieving major objectives, and establishing and measuring performance goals. Membership is composed of non-Federal experts who are qualified in the seismic sciences and other appropriate fields. The USGS Director will give due consideration to recommendations from organizations and societies that may include: National Academy of Sciences; Geological Society of America; Seismological Society of America; American Society of Civil Engineers; American Geophysical Union; Earthquake Engineering Research Institute. Nominees should have established records of distinguished service, be familiar with relevant areas of seismic science and related fields and have at least a general familiarity with USGS programmatic activities relating to its participation in NEHRP.

NEPEC

The NEPEC was established under the Earthquake Hazards Reduction Authorization Act of 1977 and provides advice and recommendations to the Director of the USGS on earthquake predictions, forecasts, advisories, and related scientific research. The Director of the USGS appoints members who are experts in the scientific disciplines that bear on earthquake prediction or other relevant disciplines involved in forecasting natural hazards or public response to such forecasts. Nominations are sought from the private and public sectors and nominees should have established records of distinguished service, be familiar with relevant areas of seismic science and related fields and have at least a general familiarity with USGS programmatic activities relating to its participation in NEHRP.

SESAC and NEPEC nominations should include a resume providing adequate description of the nominee's qualifications, including information that would enable the Department of the Interior to make an informed decision regarding meeting the membership requirements of the SESAC and NEPEC, and permit the Department of the Interior to contact a potential member. Nominations are to be sent to the email address listed under **ADDRESSES**.

Non-Federal members of the SESAC and NEPEC serve without compensation. However, while away from their homes or regular places of business, non-Federal SESAC and NEPEC members engaged in SESAC and NEPEC business, approved by the Designed Federal Officer, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service under 5 U.S.C. 5703.

As appropriate, certain SESAC and NEPEC members may be appointed as special Government employees (SGEs). Please be aware that applicants selected to serve as SGEs will be required, prior to appointment, to file a Confidential Financial Disclosure Report in order to avoid involvement in real or apparent conflicts of interest. You may find a copy of the Confidential Financial Disclosure Report at the following website: *https://www.doi.gov/ethics/special-government-employees/financial-disclosure.*

Additionally, after appointment, members appointed as SGEs will be required to meet applicable financial disclosure and ethics training requirements. Please contact 202–208–7960 or *DOI_Ethics@sol.doi.gov* with any questions about the ethics requirements for members appointed as SGEs.

Authority: 5 U.S.C. Appendix 2.

Linda Huey,

Program Specialist, USGS Natural Hazards Mission Area.

[FR Doc. 2020–23991 Filed 10–28–20; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[201A2100DD/AAKC001030/A0A501010.999900]

HEARTH Act Approval of Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California Leasing Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Indian Affairs (BIA) approved the Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California (Tribe) leasing regulations under the Helping Expedite and Advance Responsible Tribal Homeownership Act of 2012 (HEARTH Act). With this approval, the Tribe is authorized to enter into business, agricultural, residential leases, wind energy evaluation leases, and wind and solar resource leases without further BIA approval.

DATES: BIA issued the approval on October 26, 2020.

FOR FURTHER INFORMATION CONTACT: Ms. Sharlene Round Face, Bureau of Indian Affairs, Division of Real Estate Services, *sharelene.roundface@bia.gov,* (505) 563–3132.

SUPPLEMENTARY INFORMATION:

I. Summary of the HEARTH Act

The HEARTH Act makes a voluntary, alternative land leasing process available to Tribes, by amending the Indian Long-Term Leasing Act of 1955, 25 U.S.C. 415. The HEARTH Act authorizes Tribes to negotiate and enter into agricultural and business leases of Tribal trust lands with a primary term of 25 years, and up to two renewal terms

of 25 years each, without the approval of the Secretary of the Interior (Secretary). The HEARTH Act also authorizes Tribes to enter into leases for residential, recreational, religious or educational purposes for a primary term of up to 75 years without the approval of the Secretary. Participating Tribes develop Tribal leasing regulations, including an environmental review process, and then must obtain the Secretary's approval of those regulations prior to entering into leases. The HEARTH Act requires the Secretary to approve Tribal regulations if the Tribal regulations are consistent with the Department of the Interior's (Department) leasing regulations at 25 CFR part 162 and provide for an environmental review process that meets requirements set forth in the HEARTH Act. This notice announces that the Secretary, through the Assistant Secretary—Indian Affairs, has approved the Tribal regulations for the Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California.

II. Federal Preemption of State and Local Taxes

The Department's regulations governing the surface leasing of trust and restricted Indian lands specify that, subject to applicable Federal law, permanent improvements on leased land, leasehold or possessory interests, and activities under the lease are not subject to State and local taxation and may be subject to taxation by the Indian Tribe with jurisdiction. See 25 CFR 162.017. As explained further in the preamble to the final regulations, the Federal government has a strong interest in promoting economic development, self-determination, and Tribal sovereignty. 77 FR 72440, 72447–48 (December 5, 2012). The principles supporting the Federal preemption of State law in the field of Indian leasing and the taxation of lease-related interests and activities applies with equal force to leases entered into under Tribal leasing regulations approved by the Federal government pursuant to the HEARTH Act.

Section 5 of the Indian Reorganization Act, 25 U.S.C. 5108, preempts State and local taxation of permanent improvements on trust land. *Confederated Tribes of the Chehalis Reservation* v. *Thurston County,* 724 F.3d 1153, 1157 (9th Cir. 2013) (citing *Mescalero Apache Tribe* v. *Jones,* 411 U.S. 145 (1973)). Similarly, section 5108 preempts State taxation of rent payments by a lessee for leased trust lands, because ''tax on the payment of rent is indistinguishable from an impermissible tax on the land.'' *See Seminole Tribe of Florida* v. *Stranburg,* 799 F.3d 1324, 1331, n.8 (11th Cir. 2015). In addition, as explained in the preamble to the revised leasing regulations at 25 CFR part 162, Federal courts have applied a balancing test to determine whether State and local taxation of non-Indians on the reservation is preempted. *White Mountain Apache Tribe* v. *Bracker,* 448 U.S. 136, 143 (1980). The *Bracker* balancing test, which is conducted against a backdrop of ''traditional notions of Indian self-government,'' requires a particularized examination of the relevant State, Federal, and Tribal interests. We hereby adopt the *Bracker* analysis from the preamble to the surface leasing regulations, 77 FR at 72447–48, as supplemented by the analysis below.

The strong Federal and Tribal interests against State and local taxation of improvements, leaseholds, and activities on land leased under the Department's leasing regulations apply equally to improvements, leaseholds, and activities on land leased pursuant to Tribal leasing regulations approved under the HEARTH Act. Congress's overarching intent was to ''allow Tribes to exercise greater control over their own land, support self-determination, and eliminate bureaucratic delays that stand in the way of homeownership and economic development in Tribal communities.'' 158 Cong. Rec. H. 2682 (May 15, 2012). The HEARTH Act was intended to afford Tribes ''flexibility to adapt lease terms to suit [their] business and cultural needs'' and to ''enable [Tribes] to approve leases quickly and efficiently.'' H. Rep. 112–427 at 6 (2012).

Assessment of State and local taxes would obstruct these express Federal policies supporting Tribal economic development and self-determination, and also threaten substantial Tribal interests in effective Tribal government, economic self-sufficiency, and territorial autonomy. *See Michigan* v. *Bay Mills Indian Community,* 572 U.S. 782, 810 (2014) (Sotomayor, J., concurring) (determining that ''[a] key goal of the Federal Government is to render Tribes more self-sufficient, and better positioned to fund their own sovereign functions, rather than relying on Federal funding''). The additional costs of State and local taxation have a chilling effect on potential lessees, as well as on a tribe that, as a result, might refrain from exercising its own sovereign right to impose a Tribal tax to support its infrastructure needs. *See id.* at 810–11 (finding that State and local taxes greatly discourage Tribes from raising tax revenue from the same sources because the imposition of double taxation would impede Tribal economic growth).

Similar to BIA's surface leasing regulations, Tribal regulations under the HEARTH Act pervasively cover all aspects of leasing. *See* 25 U.S.C. 415(h)(3)(B)(i) (requiring Tribal regulations be consistent with BIA surface leasing regulations). Furthermore, the Federal government remains involved in the Tribal land leasing process by approving the Tribal leasing regulations in the first instance and providing technical assistance, upon request by a Tribe, for the development of an environmental review process. The Secretary also retains authority to take any necessary actions to remedy violations of a lease or of the Tribal regulations, including terminating the lease or rescinding approval of the Tribal regulations and reassuming lease approval responsibilities. Moreover, the Secretary continues to review, approve, and monitor individual Indian land leases and other types of leases not covered under the Tribal regulations according to the Part 162 regulations.

Accordingly, the Federal and Tribal interests weigh heavily in favor of preemption of State and local taxes on lease-related activities and interests, regardless of whether the lease is governed by Tribal leasing regulations or Part 162. Improvements, activities, and leasehold or possessory interests may be subject to taxation by the Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California.

Tara Sweeney,

Assistant Secretary, Indian Affairs.

[FR Doc. 2020–23988 Filed 10–28–20; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–31075; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before October 17, 2020, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by November 13, 2020.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on <property or proposed district name, (County) State>.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before October 17, 2020. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers:

FLORIDA

Duval County

Palm Spring Cemetery, (Historic African American Cemeteries in Duval County, Florida (1765–1969) MPS), 11396 Fort Caroline Rd., Jacksonville, MP100005819

Monroe County

Matecumbe Methodist Church, 81831 Overseas Hwy., Islamorada, SG100005820

Volusia County

Tomoka Mound and Midden Complex, Address Restricted, Ormond Beach vicinity, SG100005821,

Pacetti Hotel, 4928 South Peninsula Dr., Ponce Inlet, SG100005822

MICHIGAN

Kent County

American Box Board Company Headquarters and Factory, 470 Market Ave. SW, Grand Rapids, SG100005823

Ottawa County

Lakewood Farm, 264 North Lake Shore Dr., Park Township, SG100005825

NEW YORK

Herkimer County

Hildreth Homestead, 4083 NY 28, Herkimer, SG100005830

Suffolk County

Bell, Mary E., House, 66 Railroad Ave., Center Moriches, SG100005831

OHIO

Noble County

Caldwell Downtown Historic District, Roughly bounded by Spruce, West, Plum, Bridge, and East Sts., Caldwell, SG100005824

VIRGINIA

Arlington County

Glebe Apartments, (Garden Apartments, Apartment Houses and Apartment Complexes in Arlington County, Virginia MPS), 210–212 North Glebe Rd., Arlington, MP100005835

Charlottesville Independent City

Jackson P. Burley High School, 901 Rose Hill Dr., Charlottesville vicinity, SG100005836

Essex County

Occupacia-Rappahannock Rural Historic District, Roughly bounded by the Essex County line, Supply, Clarkes Store, and Pilkington Rds., the Rappahannock R., Blandfield (028–5084–0510), and Tidewater Trail (US 17) through center, Tappahannock vicinity, SG100005837

WEST VIRGINIA

Jackson County

Charmco Building, 606 Morris St., Charleston, SG100005828

Lewis County

Gum Farmstead Historic District, 3414 Freeman's Creek Rd., Camden vicinity, SG100005827

Wayne County

First Congregational Church of Ceredo, 600 C St., Ceredo, SG100005826

Additional documentation has been received for the following resources:

KANSAS

Harvey County

McKinley Residential Historic District (Additional Documentation), Roughly East 5th St., SE 3rd St., Allison St., Walnut St., Newton, AD08000670

Authority: Section 60.13 of 36 CFR part 60.

Dated: October 20, 2020.

Sherry A. Frear,

Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2020–24007 Filed 10–28–20; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Amended Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received an amended complaint entitled *Certain Digital Imaging Devices and Products Containing the Same and Components Thereof, DN 3494;* the Commission is soliciting comments on any public interest issues raised by the amended complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the amended complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.*

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov* . The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received an amended complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Pictos Technologies, Inc. on October 23, 2020. The original complaint was filed on September 25, 2020 and a notice of receipt of complaint; solicitation of comments relating to the public interest published in the **Federal Register** on October 1, 2020. The amended complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain digital imaging devices and products containing the same and components thereof. The amended complaint names as respondents: Samsung Electronics Co., Ltd. of Korea; Samsung Electronics America, Inc. of Ridgefield Park, NJ; and Samsung Semiconductor, Inc. of San Jose, CA. The amended complaint alleges infringement of U.S. Patent Nos. 6,838,651; 7,800,145; 7,323,671; and 7,064,768. The complainant requests that the Commission issue a limited

exclusion order and cease and desist orders.

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the amended complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3494'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: October 26, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–23992 Filed 10–28–20; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

DEPARTMENT OF LABOR

Employment and Training Administration

Native American Employment and Training Council (NAETC)

AGENCY: Employment and Training Administration, U. S. Department of Labor.

ACTION: Notice of Virtual Meeting.

SUMMARY: Notice is hereby given that the NAETC will meet for two days, virtually.

DATES: The meeting will take place over two days, beginning Monday November 9, 2020 and ending Tuesday November 10, 2020. The meetings will begin at 12 p.m. EST and conclude no later than 4 p.m. EST each day. Public statements and requests for special accommodations or to address the Council must be received by November 4, 2020.

ADDRESSES: Information for public attendance at the virtual meeting will be posted at *www.dol.gov/agencies/eta/dinap/council* several days prior to the meeting date. If problems arise accessing the meeting, please contact Suzie Casal, at (202) 309–8589.

FOR FURTHER INFORMATION CONTACT: Athena R. Brown, Chief, Division of Indian and Native American Programs, Employment and Training Administration, U.S. Department of Labor, Room C–4311, 200 Constitution Avenue NW, Washington, DC 20210. Telephone number (202) 693–3737 (VOICE) (this is not a toll-free number) or email at *brown.athena@dol.gov*. Ms. Brown is the Designated Federal Official for the NAETC.

SUPPLEMENTARY INFORMATION: Council members and members of the public are encouraged to log into the Adobe Connect platform early to allow for connection issues and troubleshooting.

Security Instructions: Meeting participants should use the link and dial in instructions received in their email confirmation.

The meeting will be open to the public.

Members of the public not present may submit a written statement by Wednesday, November 4, 2020, to be included in the record of the meeting. Statements are to be submitted via email to the attention of Athena R. Brown, Designated Federal Officer (DFO) at *brown.athena@dol.gov*. Persons who need special accommodations should contact Suzie Casal (202) 309–8589 at least two business days before the meeting. The agenda will include

discussion of previous NAETC recommendations; discussion of NAETC's Strategic Plan for Recommendations; updates on the Indian and Native American Program, including Public Law 102–477, as amended; potential recommendations for training and technical assistance; and subject matter experts from National Congress of American Indians. A detailed agenda will be available at *www.dol.gov/agencies/eta/dinap/council* shortly before the meeting commences. The Council will open the floor for public comment. The first opportunity for public comment is expected to be at 3:00 p.m. EST on November 10, 2020; however, that time may change at the NAETC chair's discretion.

John Pallasch,

Assistant Secretary for Employment and Training.

[FR Doc. 2020–24038 Filed 10–27–20; 11:15 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Department of Labor Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Office of the Assistant Secretary for Administration and Management (OASAM)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before November 30, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Anthony May by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This information collection activity will be used to garner qualitative customer and stakeholder feedback in accordance with the Administration's commitment to improving service delivery. Qualitative feedback, in this context, is defined as information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. These collections will:

- Provide insights into customer or stakeholder perceptions, experiences, and expectations;
- provide an early warning of issues with service;
- focus attention on areas where communication, training, or changes, in operations might improve delivery of products or services;
- provide ongoing, collaborative, and actionable communications between the DOL and its customers and stakeholders. These collections will also allow feedback to contribute directly to the improvement of program management. Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population.

This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results such as, for example, monitoring trends over time or documenting program performance. Those sorts of data usages require more rigorous designs that address:

- The target population to which generalizations will be made;
- the sampling frame;
- the sample design (including stratification and clustering);
- the precision requirements or power calculations that justify the proposed sample size;
- the expected response rate;
- methods for assessing potential nonresponse bias;
- the protocols for data collection; and
- any testing procedures that were or will be undertaken prior fielding the study.

Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative result. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on August 26, 2020 (85 FR 52641).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OASAM.

Title of Collection: Department of Labor Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Control Number: 1225–0088.

Affected Public: Individuals or Households; State, Local, and Tribal Governments; Private Sector: businesses or other for-profits, farms, and not for profit institutions.

Total Estimated Number of Responses: 380,000.

Total Estimated Annual Time Burden: 38,000 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: October 23, 2020.

Anthony May,

Management and Program Analyst.

[FR Doc. 2020–23900 Filed 10–28–20; 8:45 am]

BILLING CODE 4510–04–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Request for Examination and/or Treatment

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Office of Workers' Compensation Programs (OWCP)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before November 30, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Anthony May by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Office of Workers' Compensation Programs administers the Longshore and Harbor Workers' Compensation Act. The Act provides benefits to workers injured in maritime employment on the navigable waters of the United States or in an adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel. In addition, several acts extend the Longshore Act's coverage to certain other employees. Section 33 U.S.C. 907 of the Longshore Act and 20 CFR 702.419, the employer/insurance carrier is responsible for furnishing medical care for the injured employee for such period of time as the injury or recovery period may require. Form LS–1 serves two purposes: It authorizes the medical care, and it provides a vehicle for the treating physician to report the findings, treatment given, and anticipated physical condition of the employee. Legal authority for this information collection is found at 33 U.S.C. 907. Regulatory authority is found at 20 CFR 702.419. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on June 11, 2020 (85 FR 35669).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OWCP.

Title of Collection: Request for Examination and/or Treatment.

OMB Control Number: 1240–0029.

Affected Public: Individuals and households.

Total Estimated Number of Respondents: 90,000.

Total Estimated Number of Responses: 90,000.

Total Estimated Annual Time Burden: 48,750 hours.

Total Estimated Annual Other Costs Burden: $2,544,300.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Dated: October 23, 2020.

Anthony May,

Management and Program Analyst.

[FR Doc. 2020–23902 Filed 10–28–20; 8:45 am]

BILLING CODE 4510–CF–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Notice of Recurrence

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Office of Workers' Compensation Programs (OWCP)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before November 30, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Anthony May by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Office of Workers' Compensation Programs (OWCP) administers the Federal Employees' Compensation Act, which provides for continuation of pay or compensation for work related injuries or disease that result from Federal employment. Under 5 U.S.C. 8149, the Secretary of Labor may prescribe rules and regulations necessary for the administration and enforcement of this

subchapter. Regulation 20 CFR 10.104 designates form CA–2a as the form to be used to request information from claimants with previously-accepted injuries, who claim a recurrence of disability, and from their supervisors. The form requests information relating to the specific circumstances leading up to the recurrence as well as information about their employment and earnings. The information provided is used by OWCP claims examiners to determine whether a claimant has sustained a recurrence of disability related to an accepted injury and, if so, the appropriate benefits payable. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on June 12, 2020 (85 FR 35955).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OWCP.

Title of Collection: Notice of Recurrence.

OMB Control Number: 1240–0009.

Affected Public: Individuals and households.

Total Estimated Number of Respondents: 133.

Total Estimated Number of Responses: 133.

Total Estimated Annual Time Burden: 67 hours.

Total Estimated Annual Other Costs Burden: $77.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: October 23, 2020.

Anthony May,

Management and Program Analyst.

[FR Doc. 2020–23901 Filed 10–28–20; 8:45 am]

BILLING CODE 4510–CH–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0009]

Proposed Extension of Information Collection; Training Plans and Records of Training, for Underground Miners and Miners Working at Surface Mines and Surface Areas of Underground Mines

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 Training Plans and Records of Training, for Underground Miners and Miners Working at Surface Mines and Surface Areas of Underground Mines.

DATES: All comments must be received on or before December 28, 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–2020–0033. 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, as amended (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 (Secretary) 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.

The Mine Act recognizes that education and training is an important element of efforts to make the nation's mines safe. Section 115(a) of the Mine Act states that ''each operator of a coal or other mine shall have a health and safety training program which shall be approved by the Secretary.'' Title 30 CFR 48.3 and 48.23 require training plans for underground and surface mines, respectively. These standards are intended to ensure that miners will be effectively trained in matters affecting their health and safety, with the ultimate goal of reducing the occurrence of injury and illness in the nation's mines.

Training plans are required to be submitted for approval to the MSHA District Manager for the area in which the mine is located. Plans must contain the following: (1) Company name; (2) mine name; (3) MSHA identification number of the mine; (4) the name and position of the person designated by the operator who is responsible for health and safety training at the mine; (5) a list of MSHA-approved instructors with whom the operator proposes to make

arrangements to teach the courses and the courses each instructor is qualified to teach; (6) the location where training will be given for each course; (7) a description of the teaching methods and the course materials which are to be used in training; (8) the approximate number of miners employed at the mine and the maximum number who will attend each session of training; (9) the predicted time or periods of time when regularly scheduled refresher training will be given including the titles of courses to be taught; (10) the total number of instruction hours for each course; and (11) the predicted time and length of each session of training for new task training including a complete list of task assignments, the titles of personnel conducting the training, the outline of training procedures used, and the evaluation procedures used to determine the effectiveness of the training.

Title 30 CFR 48.9 and 48.29 require records of training for underground and surface mines, respectively. Upon completion of each training program, the mine operator certifies on a form approved by the Secretary, MSHA Form 5000–23, Certificate of Training, that the miner has received the specified training in each subject area of the approved health and safety training plan.

The Certificate of Training forms are to be maintained by the operator for a period of 2 years for current employees and for 60 days after termination of a miner's employment, and must be available for inspection at the mine site. In addition, the miner is entitled to a copy of the certificate upon completion of the training and when the miner leaves the operator's employment.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Training Plans and Records of Training, for Underground Miners and Miners Working at Surface Mines and Surface Areas of Underground Mines. 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 Training Plans and Records of Training, for Underground Miners and Miners Working at Surface Mines and Surface Areas of Underground Mines. 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: 1219–0009.

Affected Public: Business or other for-profit.

Number of Respondents: 5,828.

Frequency: On occasion.

Number of Responses: 143,145.

Annual Burden Hours: 14,773 hours.

Annual Respondent or Recordkeeper Cost: $468,122.

MSHA Forms: MSHA Form 5000–23, Certificate of Training.

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. 2020–23899 Filed 10–28–20; 8:45 am]

BILLING CODE 4510–43–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2021–22 and CP2021–23]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* November 2, 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:

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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).:* MC2021–22 and CP2021–23; *Filing Title:* USPS Request to Add Priority Mail Contract 679 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 23, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* November 2, 2020.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2020–23978 Filed 10–28–20; 8:45 am]

BILLING CODE 7710–FW–P

[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).

POSTAL SERVICE

Product Change—Priority Mail Express and Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* October 29, 2020.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 13, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express & Priority Mail Contract 121 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2021–15, CP2021–16.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2020–23904 Filed 10–28–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* October 29, 2020.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 16, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 675 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2021–17, CP2021–18.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2020–23906 Filed 10–28–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* October 29, 2020.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 22, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 678 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2021–21, CP2021–22.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2020–23898 Filed 10–28–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* October 29, 2020.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 21, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 175 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2021–19, CP2021–20.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2020–23896 Filed 10–28–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* October 29, 2020.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 16, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 676 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2021–18, CP2021–19.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2020–23907 Filed 10–28–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* October 29, 2020.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 22, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 677 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2021–20, CP2021–21.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2020–23897 Filed 10–28–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* October 29, 2020.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 13, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 674 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2021–16, CP2021–17.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2020–23905 Filed 10–28–20; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90266; File No. SR–NYSEArca–2020–93]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Equities Fees and Charges

October 23, 2020.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on October 20, 2020, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Equities Fees and Charges (''Fee Schedule'') to reduce the gross FOCUS fee charged to ETP Holders, effective January 1, 2021. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule to reduce the gross FOCUS fee from $0.075 per $1,000 Gross FOCUS Revenue to $0.069 per $1,000 Gross FOCUS Revenue, effective January 1, 2021.[4]

Background

Generally, the Exchange may only use regulatory fees ''to fund the legal, regulatory and surveillance operations'' of the Exchange.[5]

Consistent with the foregoing, the Exchange currently charges each ETP Holder a monthly regulatory fee of $0.075 per $1,000 of gross revenue reported on its FOCUS Report (''Gross FOCUS Fee'').[6] The revenue collected pursuant to the Gross FOCUS Fee funds the performance of the Exchange's regulatory activities with respect to ETP Holders, including surveillance operations expenses. More specifically, the revenue generated by the Gross FOCUS Fee funds a material portion, but not all, of the Exchange's expenses related to third-party service providers and technology and other expenses related to market surveillance.

The Exchange has sought to perform its regulatory functions in an effective and efficient manner. For example, beginning January 2021, the Exchange

[4] The Exchange proposes to immediately reflect the proposed change in its Price List but not implement the proposed rate change until January 1, 2021.

[5] *See* NYSE Arca, Inc. Bylaws, Art. II, Sec. 2.03 (Dividends; Regulatory Fees and Penalties). The Exchange considers surveillance operations of its ETP Holders part of regulatory operations.

[6] FOCUS is an acronym for Financial and Operational Combined Uniform Single Report. FOCUS Reports are filed periodically with the Securities and Exchange Commission (the ''Commission'' or ''SEC'') as SEC Form X–17A–5 pursuant to Rule 17a–5 under the Act.

anticipates that it will have fully transitioned from its existing third-party surveillance system to a lower-cost, cloud-based surveillance solution. Consistent with these anticipated cost savings, the Exchange will be decreasing the Gross FOCUS Fee by approximately 8%.

Proposed Rule Change

Consistent with the anticipated reduced regulatory costs the Exchange proposes to reduce the rate of the Gross FOCUS Fee by approximately 8% from $0.075 per $1,000 of gross revenue to $0.069 per $1,000 of gross revenue, effective January 1, 2021. The Exchange proposes this reduction to reflect cost savings associated with its move to more cost-effective surveillance and regulatory solutions. The Exchange notes that the Gross FOCUS Fee has remained unchanged since February 2013.[7]

The Exchange will continue to monitor the amount of revenue collected from the Gross FOCUS Fee to ensure that it, in combination with its other regulatory fees and fines, does not exceed regulatory costs. The Exchange expects to monitor regulatory costs and revenues on an annual basis, at a minimum. If the Exchange determines that regulatory revenues exceed regulatory costs, the Exchange would adjust the Gross FOCUS Fee downward by submitting a fee change filing to the Commission.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)[8] of the Act, in general, and Section 6(b)(4) and (5)[9] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers, or dealers.

The Proposal Is Reasonable

The Exchange believes the proposed fee change is reasonable because it would help ensure that revenue collected from the Gross FOCUS Fee does not exceed a material portion of the Exchange's regulatory costs. The Exchange has targeted the Gross FOCUS Fee to generate revenues that would be less than or equal to the Exchange's regulatory costs, which is consistent with both Rule 129 and the Commission's view that regulatory fees be used for regulatory purposes. As noted above, the principle that the Exchange may only use regulatory fees ''to fund the legal, regulatory, and surveillance operations'' of the Exchange is reflected in the Exchange's operating agreement.[10] In this regard, the Gross FOCUS Fee has been calculated to recover a material portion, but not all, of the Exchange's expenses related to third-party service providers and technology and other expenses related to market surveillance. The Exchange accordingly believes reducing the Gross FOCUS Fee is fair and reasonable.

The Proposal is an Equitable Allocation of Fees

The Exchange believes its proposal is an equitable allocation of fees among its market participants. The Exchange believes that the proposed Gross FOCUS Fee reduction would benefit all ETP Holders because all ETP Holders would pay the same rate per $1,000 of gross revenue. For the same reasons, the proposed fee reduction neither targets nor will it have a disparate impact on any particular category of market participant. All similarly-situated ETP Holders would be eligible to qualify for the lower Gross FOCUS Fee. Thus, the Exchange believes the decreased Gross FOCUS Fee would be equitably allocated in that it is charged to all ETP Holders equally.

The Proposed Fee Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory. The proposed reduction of the Gross FOCUS Fee would benefit all similarly-situated market participants on an equal and non-discriminatory basis. Moreover, the proposal neither targets nor will it have a disparate impact on any particular category of market participant. The proposed fee change is designed to pass along regulatory cost savings, which would apply to and benefit all ETP Holders equally.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition. The Exchange believes the proposed fee change would not impose an undue burden on competition as it is charged to all ETP Holders to support the Exchange's regulatory program, including its surveillance program. The Exchange believes that the proposed Gross FOCUS Fee would not place certain market participants at an unfair disadvantage because all ETP Holders would pay the same rate per $1,000 of gross revenue. For the same reasons, the proposed fee reduction neither targets nor will it have a disparate impact on any particular category of market participant. All similarly-situated ETP Holders would be eligible to qualify for the lower Gross FOCUS Fee.

Intermarket Competition. The proposed fee change is not designed to address any competitive issues. Rather, the proposed change is designed to help the Exchange adequately fund its regulatory surveillance while seeking to ensure that total regulatory revenues do not exceed total regulatory costs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[11] of the Act and subparagraph (f)(2) of Rule 19b–4[12] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[13] of the Act to determine whether the proposed rule change should be approved or disapproved.

[7] *See* Securities Exchange Act Release No. 69059 (March 7, 2013), 78 FR 16019 (March 13, 2013) (SR–NYSEArca–2013–23).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4) and (5).

[10] *See* note 5, *supra.*

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(2).

[13] 15 U.S.C. 78s(b)(2)(B).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2020–93 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2020–93. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2020–093 and should be submitted on or before November 19, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–23916 Filed 10–28–20; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90265; File No. SR–ISE–2020–34]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Extend the Pilot Period for the Exchange's Nonstandard Expirations Pilot Program

October 23, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 21, 2020, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot period for the Exchange's nonstandard expirations pilot program, currently set to expire on November 2, 2020.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/ise/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

ISE filed a proposed rule change for the listing and trading on the Exchange, on a twelve month pilot basis, of p.m.-settled options on broad-based indexes with nonstandard expirations dates. The pilot program permits both Weekly Expirations and End of Month (''EOM'') expirations similar to those of the a.m.-settled broad-based index options, except that the exercise settlement value of the options subject to the pilot are based on the index value derived from the closing prices of component stocks. This pilot was extended various times with the last extension through November 2, 2020.[3]

Supplementary Material .07(a) to Options 4A, Section 12 provides that the Exchange may open for trading Weekly Expirations on any broad-based index eligible for standard options trading to expire on any Monday, Wednesday, or Friday (other than the third Friday-of- the- month or days that coincide with an EOM expiration). Weekly Expirations are subject to all provisions of Options 4A, Section 12 and are treated the same as options on the same underlying index that expire on the third Friday of the expiration month. Unlike the standard monthly options, however, Weekly Expirations are p.m.-settled.

Pursuant to Supplementary Material .07(b) to Options 4A, Section 12 the Exchange may open for trading EOM expirations on any broad-based index eligible for standard options trading to expire on the last trading day of the month. EOM expirations are subject to all provisions of Options 4A, Section 12 and treated the same as options on the same underlying index that expire on the third Friday of the expiration month. However, the EOM expirations are p.m.-settled.

The Exchange now proposes to amend Supplementary Material .07(c) to Options4A, Section 12 so that the duration of the pilot program for these nonstandard expirations will be through May 4, 2021. The Exchange continues to have sufficient systems capacity to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release Nos. 85030 (February 1, 2019), 84 FR 2633 (February 7, 2019) (SR–ISE–2019–01); 85672 (April 17, 2019), 84 FR 16899 (April 23, 2019) (SR–ISE–2019–11); 87380 (October 22, 2019), 84 FR 57786 (October 28, 2019) (SR–ISE–2019–28); and 88681 (April 17, 2020), 85 FR 22775 (April 23, 2020) (SR–ISE–2020–17).

handle p.m.-settled options on broad-based indexes with nonstandard expirations dates and has not encountered any issues or adverse market effects as a result of listing them. Additionally, there is continued investor interest in these products. The Exchange will continue to make public on its website any data and analysis it submits to the Commission under the pilot program.

The Exchange will be submitting a rule change to request that the pilot program become permanent. In lieu of submitting any additional annual reports, the Exchange would provide additional information requested by the Commission in connection with the permanency rule change for this pilot program.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Section 6(b)(5) of the Act,[5] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The Exchange believes the proposed rule change will protect investors and the public interest by providing the Exchange, the Commission and investors the benefit of additional time to analyze nonstandard expiration options. By extending the pilot program, investors may continue to benefit from a wider array of investment opportunities. Additionally, both the Exchange and the Commission may continue to monitor the potential for adverse market effects of p.m.-settlement on the market, including the underlying cash equities market, at the expiration of these options.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Options with nonstandard expirations would be available for trading to all market participants.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and subparagraph (f)(6) of Rule 19b–4 thereunder.[7]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[8] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[9] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that investors may continue to trade nonstandard expiration options listed by the Exchange as part of the pilot program on an uninterrupted basis. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the pilot program to continue uninterrupted, thereby avoiding investor confusion that could result from a temporary interruption in the pilot program. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[10]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6). In addition, Rule19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6)(iii).

[10] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2020–34 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2020–34. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish

to make available publicly. All submissions should refer to File Number SR–ISE–2020–34, and should be submitted on or before November 19, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–23913 Filed 10–28–20; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90264; File No. SR–FINRA–2020–034]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change To Modify TRACE Dissemination Protocols Regarding Agency Pass-Through MBS or SBA-Backed ABS Traded in Specified Pool Transactions

October 23, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 15, 2020, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to modify Trade Reporting and Compliance Engine (''TRACE'') dissemination protocols regarding Agency Pass-Through Mortgage-Backed Securities or Small Business Administration (SBA)-Backed Asset-Backed Securities traded in Specified Pool Transactions.

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

FINRA commenced dissemination of Specified Pool Transactions in 2013.[3] A ''Specified Pool Transaction'' is defined as a transaction in an Agency Pass-Through Mortgage-Backed Security (''Agency Pass-Through MBS'')[4] or an SBA-Backed Asset-Backed Security (''SBA-Backed ABS'')[5] requiring the delivery at settlement of a pool or pools that is identified by a unique pool identification number at the Time of Execution.[6] As described in the Specified Pool Dissemination Filing, FINRA currently does not disseminate a CUSIP for Specified Pool transactions, but rather disseminates reference data elements, including approximations of information widely used to project cash flows and prepayment rates, such as loan-to-value (LTV) information. FINRA is proposing changes to the LTV rounding convention used for the information publicly disseminated through TRACE for these types of transactions in Agency Pass-Through MBSs and SBA-Backed ABSs.

In the process of developing the approach adopted in the Specified Pool Dissemination Filing, FINRA, among other things, considered industry feedback regarding the nature of the market for Specified Pool Transactions (also, ''Specified Pools''), including concerns regarding information leakage. Market participants' concerns included that dissemination of the specific CUSIP of a Specified Pool may result in information leakage regarding trading strategies, positions and other sensitive information, which may negatively impact trading interest and liquidity in the market for these securities.[7] In response, FINRA modified the proposal such that the disseminated information regarding Specified Pool Transactions would not include the CUSIP. Instead, FINRA adopted an approach whereby, in lieu of a CUSIP, FINRA disseminates reference data elements, including approximations of information widely used to project cash flows and prepayment rates.

Pursuant to this approach, FINRA groups Agency Pass-Through MBSs and SBA-Backed ABSs into cohorts, as discussed further below, using data elements that are integral to describing and valuing these types of securities, such as the pool's LTV ratio. The cohort groupings are established using rounded or truncated figures for the underlying data elements, so that numeric values within each cohort may be understood within defined ranges. Each cohort is assigned a unique identification number—the Reference Data Identifier (''RDID''). After a member reports a Specified Pool Transaction to TRACE, FINRA disseminates the corresponding RDID in lieu of disseminating the CUSIP. The underlying data elements that correspond to each RDID are made available to members through the TRACE system.

Specifically, FINRA uses the following ten data elements[8] to form the RDID cohorts that describe the underlying security traded in a Specified Pool Transaction: (1) Issuer; (2) Product Type; (3) Amortization Type; (4) Coupon; (5) Original Maturity;

[3] *See* Securities Exchange Act Release No. 68084 (October 23, 2012), 77 FR 65436 (October 26, 2012) (Order Approving File No. SR–FINRA–2012–042) (''Specified Pool Dissemination Filing''). Among other things, the filing provided for dissemination of transactions in Agency Pass-Through Mortgage-Backed Securities traded in specified pools and transactions in SBA-Backed Asset-Backed Securities traded in specified pools or to be announced (''TBA''), and reduced the reporting timeframe for such transactions.

[4] FINRA Rule 6710(v) generally defines an ''Agency Pass-Through Mortgage-Backed Security'' as a type of Securitized Product issued in conformity with a program of an Agency or a Government-Sponsored Enterprise (''GSE'') for which the timely payment of principal and interest is guaranteed by the Agency or GSE, representing ownership interest in a pool (or pools) of mortgage loans structured to ''pass through'' the principal and interest payments to the holders of the security on a pro rata basis.

[5] FINRA Rule 6710(bb) defines an ''SBA-Backed ABS'' as a Securitized Product issued in conformity with a program of the SBA, for which the timely payment of principal and interest is guaranteed by the SBA, representing ownership interest in a pool (or pools) of loans or debentures and structured to ''pass through'' the principal and interest payments made by the borrowers in such loans or debentures to the holders of the security on a pro rata basis.

[6] *See* FINRA Rule 6710(x).

[7] *See* Specified Pool Dissemination Filing, *supra* note 3.

[8] Issuing agencies make the data elements publicly available on a monthly basis. Therefore, TRACE updates RDIDs at least monthly.

(6) Weighted Average Coupon (''WAC''); (7) Weighted Average Maturity (''WAM''); (8) Weighted Average Loan Age (''WALA''); (9) Current Average Loan Size (''ALS''); and (10) Loan-to-Value ratio (''LTV''). For example, RDID #A1234 may represent: (1) Issuer = FNMA; (2) Product Type = Co-Op; (3) Amortization Type = ARM; (4) Coupon = 2.0; (5) Original Maturity = 360; (6) WAC = 2.5; (7) WAM = 200; (8) WALA = 160; (9) ALS = 100; and (10) Original LTV = 50. Whenever a transaction in a CUSIP that falls within this cohort occurs, TRACE would disseminate RDID #A1234 along with transaction-related (rather than security-related) information, such as the price, execution time, reporting and contra-party types and whether the transaction was a buy or a sell.

The values for items (4) through (10) are rounded or truncated in creating cohort groupings to reduce the risk that the specific security traded and the market participant that engaged in the transaction may be identified. Currently, the rounding and truncation conventions that are used for Specified Pool Transactions are as follows.[9]

- Coupon—Rounded down to the nearest quarter percentage point—*e.g.,* an interest rate of 5.12% is rounded to 5%.
- Original Maturity—Rounded up to the nearest 10—*e.g.,* an original maturity of 358 months is rounded to 360 months.
- WAC—Truncated to a single decimal—*e.g.,* a WAC of 7.13% is truncated to 7.1%.
- WAM—Rounded down to the nearest 10—*e.g.,* a WAM of 87 months is rounded to 80 months.
- WALA—Rounded up to the nearest 10—*e.g.,* a WALA of 163 months is rounded to 170 months.
- ALS—Rounded down to the nearest 25—*e.g.,* an ALS of 113 (*i.e.,* $113,000 average loan size) is rounded to 100 (*i.e.,* $100,000 average loan size).
- LTV—Rounded down to the nearest 25—*e.g.,* an original LTV of 72% is rounded to 50%.

As noted in the Specified Pool Dissemination Filing, FINRA believes that the transaction information disseminated through TRACE should provide investors with sufficient information to assess the value and price of a security, which, for Securitized Products, includes information necessary to make assumptions about cash flows and prepayment rates. FINRA anticipated that providing the data elements, as described above, would supply market participants with information that would allow them to perform this analysis.

Since that time, FINRA has continued to evaluate the market for Specified Pools, including discussing with market participants the value of the information currently disseminated by TRACE. As a result of these efforts, FINRA is proposing to modify the LTV rounding convention used for purposes of the dissemination protocols for Specified Pool Transactions. FINRA believes that the currently disseminated LTV information is useful, but can be improved upon, as discussed below, to create more granular cohorts and, therefore, more meaningful information to the marketplace.[10]

Proposal

As described above, one of the data elements FINRA uses for organizing cohorts is the original LTV, which currently is rounded down to the nearest 25 (*e.g.,* an original LTV of 72% is shown as 50%). FINRA is proposing to revise the rounding methodology used for purposes of cohort groupings for Specified Pool Transaction dissemination to increase the granularity and usefulness of the information available to market participants. Specifically, FINRA proposes a revised rounding convention whereby LTV ratios would be segmented into eight categories between zero and 121+, and FINRA would organize the cohorts such that each cohort would represent the LTV as the upper limit of the applicable category, as follows: For an LTV up to 20%, the cohorts would represent the LTV as 20% (such that an original LTV of 12% would be shown as 20%); for an LTV between 21% and 40%, the cohorts would represent the LTV as 40% (such that an original LTV of 21% would be shown as 40%); for an LTV between 41% and 60%, the cohorts would represent the LTV as 60% (such that an original LTV of 60% would be shown as 60%); for an LTV between 61% and 80%, the cohorts would represent the LTV as 80% (such that an original LTV of 70% would be shown as 80%); for an LTV between 81% and 93%, the cohorts would represent the LTV as 93% (such that an original LTV of 90% would be shown as 93%); for an LTV between 94% and 100%, the cohorts would represent the LTV as 100% (such that an original LTV of 100% would be shown as 100%); for an LTV between 101% and 120%, the cohorts would represent the LTV as 120% (such that an original LTV of 105% would be shown as 120%); and for an LTV of 121% or greater, the cohorts would represent the LTV as 121+ (such that an original LTV of 125% would be shown as 121+).

PROPOSED LTV RATIO SEGMENTS

LTV ratio (%)	Disseminated (%)
up to 20	20
21 to 40	40
41 to 60	60
61 to 80	80
81 to 93	93
94 to 100	100
101 to 120	120
121 or greater	121+

In developing the proposed approach, FINRA sought to balance the goal of making more detailed information available to the market with concerns regarding the potential risk of identifying the particular security being traded and the market participant that engaged in the transaction. FINRA believes that the revised LTV rounding convention will provide more meaningful information to market participants by grouping securities with more similar characteristics. In particular, the groupings are anticipated to improve how disseminated TRACE data reflects the role of LTV ratios in MBS valuations. For example, separating pools with LTV ratios at or below 80 from those with LTV ratios of 81 or higher delineates the pools with mortgages that may require mortgage insurance from those that may not require mortgage insurance. Similarly, the revised rounding methodology for LTV ratios of 81 or more are more consistent with the way mortgage originators view loan characteristics and the way that the market determines pricing.[11] For instance, a LTV ratio of 95 or higher may reflect a ''pay-up'' in the Fannie Mae market because that is the threshold at which Fannie Mae loan level price adjustments increase significantly.[12]

[9] In *Regulatory Notice* 12–56 (December 2012), FINRA published summary information regarding the data elements and the truncation or rounding conventions that would apply to dissemination for Specified Pools.

[10] The original LTV ratio expresses the amount of a first mortgage lien as a percentage of the total appraised value of real property.

[11] CUSIPs with LTVs from 81% to 100% are likely to have a greater proportion of underlying mortgages that carry insurance or that have the minimum down payment required for a mortgage to conform to GSE guidelines.

[12] ''MBS pools typically receive specified pay-ups when the underlying loans have characteristics that make the borrower less likely to refinance as compared to other loans with similar note rates. . . . Given the projected stable behavior of these loans, investors are willing to pay a premium above generic To Be Announced (TBA) security prices for pools of loans of this type. The premium

FINRA considered that the revised LTV rounding convention may increase the potential risk that market participants may be able to identify the particular security being traded and the market participant that engaged in the transaction. FINRA believes that the highest potential risk regarding information leakage is present for cohorts with only one CUSIP. Therefore, FINRA analyzed the changes to the total number of cohorts, and the total number of cohorts with only one CUSIP. Applying the proposed LTV tiers to TRACE reference data as of December 2019 would have resulted in an increase of 10.9% in the number of total cohorts, and an increase of 14.3% in the number of cohorts with only one CUSIP. FINRA also analyzed the 787,691 Specified Pool Transactions executed in 2019 totaling $5.8 trillion in volume. Applying the proposed LTV tiers to the 2019 transaction data would have resulted in a 12.8% increase in the number of trades for cohorts with only one CUSIP, and a 10.2% increase in the number of trades for cohorts with only one CUSIP and by only one dealer.

FINRA believes, however, that the proposed modifications to the LTV rounding convention represents an improvement to the current framework by increasing the precision in the RDID cohorts, particularly around a significant threshold. Thus, the proposal balances the goal of providing information of increased value to the marketplace with risks relating to the possible reverse engineering of disseminated transactions to identify a specific pool or market participant. FINRA believes that this change to LTV rounding is a measured change that provides more granular information regarding the LTV of the pool traded, which should improve the value of the disseminated information for market participants.

If the Commission approves the proposed rule change, FINRA will announce the effective date of the proposed rule change in a *Regulatory Notice* to be published no later than 60 days following Commission approval. The effective date will be no later than 270 days following publication of the *Regulatory Notice* announcing Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[13] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change to improve transparency for Specified Pool Transactions is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, generally to protect investors and the public.

FINRA believes that the proposed changes to the LTV ratio rounding convention for Specified Pool Transactions should enhance the usefulness of TRACE data. FINRA believes that this change to LTV dissemination is a measured change that provides more granular information regarding the LTV of the pool traded, which should improve the value of the disseminated information for market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. FINRA has undertaken an economic impact assessment, as set forth below, to analyze the regulatory need for the proposed rule change, its potential economic impacts, including anticipated costs and benefits, and the alternatives FINRA considered in assessing how to best meet its regulatory objectives.

Economic Impact Assessment

(a) Regulatory Need

The transaction information made available through TRACE provides market participants with information to assess the value and price of a TRACE-Eligible Security. FINRA is proposing changes to modify the LTV rounding convention to increase the precision of the cohort groupings, thereby providing more valuable information to the market.

(b) Economic Baseline

The economic baseline for the proposal is the current rounding convention for Agency Pass-Through MBS or an SBA-Backed ABS traded in Specified Pool Transactions. The proposal is expected to affect market participants that transact in these securities or related derivatives.

As discussed above, FINRA groups Specified Pools into cohorts identified by a unique RDID. When a transaction in a Specified Pool occurs, FINRA disseminates the corresponding RDID in lieu of the CUSIP to reduce the disclosure of information regarding trading strategies, positions, and other sensitive information. Potential information leakage may negatively impact trading interest and liquidity in the market for these securities. Although disseminating RDIDs in lieu of specific CUSIPs may reduce the amount of information leakage, it also may decrease the value of the disseminated information. The value of RDIDs and corresponding reference information, and its resultant effect on price transparency, is dependent on the similarity of the CUSIPs within each cohort (*i.e.,* how well a cohort assignment represents the characteristics of all CUSIPs within a given cohort).

(c) Economic Impact

The application of the proposed LTV tiers to the December 2019 data would have increased the total number of cohorts by 10.9% (from 287,802 to 319,188). The average number of CUSIPs in a cohort would have decreased by 10.0% (from 4.0 to 3.6), and the number of cohorts with only one CUSIP would have increased 14.3% (from 163,215 to 186,521). We discuss the benefits and costs of the application of the proposed LTV dissemination categories below, including the potential risk to market participants relating to the number of transactions for cohorts with only one CUSIP.[14]

FINRA believes that the proposal will enhance transparency by increasing the precision of the RDID cohorts. The rounding convention under the proposal will create tighter bands around LTVs within a cohort. Currently, the median difference between the minimum and maximum LTV within a cohort (*i.e.,* LTV spread) is 17.0. The LTV spread also has an interquartile range (the difference between the 25th and 75th percentile) of 12.0. Under the proposal, however, the median LTV spread within a cohort would be 11.0, a decrease of 35.3%, and an interquartile range of 10.0.[15]

The tighter bands around LTV would increase the similarity of the CUSIPs within a given cohort, and therefore the

over a TBA security is referred to as the *specified pool pay-up.*'' *See* Fannie Mae, Specified Pay-ups in Pricing & Execution—Whole Loan®, *https://singlefamily.fanniemae.com/media/5056/display.*

[13] 15 U.S.C. 78*o*–3(b)(6).

[14] The economic analysis will more accurately reflect the potential impact of the proposal to the extent that previous market conditions and distribution of LTVs remain similar. For example, the distribution of LTVs remained similar from 2015 to 2019 with a mean and median of approximately 78.

[15] These measures include only those 898,345 CUSIPs that are in a cohort with more than one CUSIP both before and after the application of the proposed revised rounding convention.

representativeness of prices, in the cohort. This would benefit market participants by increasing the value of price information as it relates to LTV, and thereby contributing to more efficient pricing and better execution quality.[16]

The rounding convention under the proposal also would increase the similarity of CUSIPs when LTV is relatively more important for pricing purposes (*i.e.,* LTVs from 81% up to 100%). Various factors may be more important for mortgages in this range (*e.g.,* the premium or ''pay-up'' for Specified Pools relative to generic TBA security prices),[17] and further demarcation around LTV ratios also would mirror mortgage origination practices. The rounding conventions with respect to the other security characteristics and its effect on price variation, however, would not change.

Alternatively, the rounding convention under the proposal could increase the potential for and the costs associated with information leakage. In particular, the rounding convention may increase the potential for information leakage as a result of an increase in the number of cohorts with only one CUSIP and the small number of dealers that trade any one CUSIP.[18] This may negatively impact trading interest and liquidity in the market for these securities.

The proposal would increase the number of cohorts with only one CUSIP from 163,215 to 186,521. As noted above, the number of Specified Pool Transactions for cohorts with only one CUSIP would increase under the proposal by 12.8% from 77,234 (9.8% of all transactions) to 87,096 (11.1% of all transactions). The percentage of transactions for cohorts with only one CUSIP that were made by only one dealer also would increase under the proposal by 10.2% from 12,203 (1.5% of total trades) to 13,445 (1.7% of total trades).

The 12.8% increase in the number of transactions for cohorts with only one CUSIP and the 10.2% increase in the number of transactions for those cohorts by only one dealer may increase the risk to market participants from disclosing information relating to trading strategies, positions, and other sensitive information. As noted above, this may reduce market participation and liquidity in those CUSIPs.[19] However, FINRA believes that the proposal properly balances this potential risk related to information leakage with providing more valuable information to market participants.

(d) Alternatives Considered

Plausible alternatives to the proposal would be using different LTV categories and rounding conventions. For example, the rounding convention could have further segmented the LTV ratios in the range of 81% to 100%. The rounding convention also could have incorporated a catch-all tier of 141+ for LTVs of 141% or more instead of the catch-all tier of 121+ for LTVs of 121% or more. In general, tighter (looser) bands would increase (decrease) the number of cohorts with only one CUSIP but increase (decrease) the similarity of the specified pools within the same cohort. FINRA believes that the costs associated with the LTV rounding convention proposed herein is appropriate given the potential increase in the precision of the cohorts and value of the transaction information. FINRA will continue to evaluate the market for Specified Pools and evaluate the conventions that are used for disseminating these transactions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2020–034 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2020–034. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such

[16] Transactions in Securitized Products began being reported to TRACE in May 2011 on a next-day basis. *See* Securities Exchange Act Release No. 63223 (November 1, 2010), 75 FR 68654 (November 8, 2010) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2010–054). In 2015, transactions were required to be reported to TRACE within 15 minutes of execution. *See* Securities Exchange Act Release No. 71607 (February 24, 2014), 79 FR 11481 (February 28, 2014) (Order Approving File No. SR–FINRA–2013–046). *See* An He & Bruce Mizrach, *Analysis of Securitized Asset Liquidity,* (2017), FINRA Office of the Chief Economist, Research Note. The authors study the changes in the liquidity of securitized assets between 2012 and 2016. Although they did not directly test for a causal link between transparency and liquidity, the improved liquidity for MBS securities during a time of increasing trade transparency is a positive indicator of the value of transparency for these securities. The authors also note that the bid-ask spread for MBSs decreased by 37% during the period while average daily trading volume increased. An improvement in execution quality as a result of the proposal may further decrease the bid-ask spreads for MBSs.

[17] *See supra* note 12.

[18] For example, among the 123,481 CUSIPs that traded in 2019, 47.7% (58,859) were traded by one dealer (as proxied by the market participant identifier (MPID)). In addition, two dealers traded 20.8% (or 25,671) of the CUSIPs, and three dealers traded 12.0% (or 14,840) of the CUSIPs. Four or more dealers traded the remaining 19.5% (or 24,111) of CUSIPs.

[19] The number of counterparties for MBS securities decreased between 2012 and 2016, consistent with brokers experiencing higher risk from increased transparency. *See* He & Mizrach (2017), *supra* note 16.

filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2020–034, and should be submitted on or before November 19, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–23919 Filed 10–28–20; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90263; File No. SR–CBOE–2020–100]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Operation of Its SPXPM Pilot Program

October 23, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 13, 2020, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to extend the operation of its SPXPM pilot program. The text of the proposed rule change is provided below.

(additions are *italicized;* deletions are [bracketed])

* * * * *

Rules of Cboe Exchange, Inc.

* * * * *

Rule 4.13. Series of Index Options

* * * * *

Interpretations and Policies

.01–.12 No change.

.13 In addition to A.M.-settled S&P 500 Stock Index options approved for trading on the Exchange pursuant to Rule 4.13, the Exchange may also list options on the S&P 500 Index whose exercise settlement value is derived from closing prices on the last trading day prior to expiration (P.M.-settled third Friday-of-the-month SPX options series). The Exchange may also list options on the Mini-SPX Index (''XSP'') whose exercise settlement value is derived from closing prices on the last trading day prior to expiration (''P.M.-settled''). P.M.-settled third Friday-of-the-month SPX options series and P.M.-settled XSP options will be listed for trading for a pilot period ending [November 2, 2020] *May 3, 2021.*

* * * * *

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On February 8, 2013, the Securities and Exchange Commission (the ''Commission'') approved a rule change that established a Pilot Program that allows the Exchange to list options on the S&P 500 Index whose exercise settlement value is derived from closing prices on the last trading day prior to expiration (''SPXPM'').[5] On July 31, 2013, the Commission approved a rule change that amended the Pilot Program that allows the Exchange to list options on the Mini-SPX Index (''XSP'') whose exercise settlement value is derived from closing prices on the last trading day prior to expiration (''P.M.-settled XSP'')[6] (together, SPXPM and P.M.-settled XSP to be referred to herein as the ''Pilot Products'').[7] The Exchange has extended the pilot period numerous times, which, pursuant to Rule 4.13.13,[8] is currently set to expire on the earlier of November 2, 2020 or the date on which the pilot program is approved on a permanent basis.[9] The Exchange hereby proposes to further extend the end date of the pilot period to May 3, 2021.

During the course of the Pilot Program and in support of the extensions of the Pilot Program, the Exchange submits reports to the Commission regarding the Pilot Program that detail the Exchange's experience with the Pilot Program, pursuant to the SPXPM Approval Order[10] and the P.M.-settled XSP

[20] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 68888 (February 8, 2013), 78 FR 10668 (February 14, 2013) (SR–CBOE–2012–120) (the ''SPXPM Approval Order''). Pursuant to Securities Exchange Act Release No. 80060 (February 17, 2017), 82 FR 11673 (February 24, 2017) (SR–CBOE–2016–091), the Exchange moved third-Friday P.M.-settled options into the S&P 500 Index options class, and as a result, the trading symbol for P.M.-settled S&P 500 Index options that have standard third Friday-of-the-month expirations changed from ''SPXPM'' to ''SPXW.'' This change went into effect on May 1, 2017, pursuant to Cboe Options Regulatory Circular RG17–054.

[6] *See* Securities Exchange Act Release No. 70087 (July 31, 2013), 78 FR 47809 (August 6, 2013) (SR–CBOE–2013–055) (the ''P.M.-settled XSP Approval Order'').

[7] For more information on the Pilot Products or the Pilot Program, *see* the SPXPM Approval Order and the P.M.-settled XSP Approval Order.

[8] The Exchange recently relocated prior Rule 24.9, containing the provision which governs the Pilot Program, to current Rule 4.13. *See* SR–CBOE–2019–092 (October 4, 2019), which did not make any substantive changes to prior Rule 24.9 and merely relocated it to Rule 4.13.

[9] *See* Securities Exchange Act Release Nos. 71424 (January 28, 2014), 79 FR 6249 (February 3, 2014) (SR–CBOE–2014–004); 73338 (October 10, 2014), 79 FR 62502 (October 17, 2014) (SR–CBOE–2014–076); 77573 (April 8, 2016), 81 FR 22148 (April 14, 2016) (SR–CBOE–2016–036); 80386 (April 6, 2017), 82 FR 17704 (April 12, 2017) (SR–CBOE–2017–025); 83166 (May 3, 2018), 83 FR 21324 (May 9, 2018) (SR–CBOE–2018–036); 84535 (November 5, 2018), 83 FR 56129 (November 9, 2018) (SR–CBOE–2018–069); 85688 (April 18, 2019), 84 FR 17214 (April 24, 2019) (SR–CBOE–2019–023); 87464 (November 5, 2019), 84 FR 61099 (November 12, 2019) (SR–CBOE–2019–107); and 88674 (April 16, 2020), 85 FR 22479 (April 22, 2020) (SR–CBOE–2020–036).

[10] *See supra* note 5.

Approval Order.[11] Specifically, the Exchange submits annual Pilot Program reports to the Commission that contain an analysis of volume, open interest, and trading patterns. The analysis examines trading in Pilot Products as well as trading in the securities that comprise the underlying index. Additionally, for series that exceed certain minimum open interest parameters, the annual reports provide analysis of index price volatility and share trading activity. The Exchange also submits periodic interim reports that contain some, but not all, of the information contained in the annual reports. In providing the annual and periodic interim reports (the ''pilot reports'') to the Commission, the Exchange has previously requested confidential treatment of the pilot reports under the Freedom of Information Act (''FOIA'').[12]

The pilot reports both contain the following volume and open interest data:

(1) Monthly volume aggregated for all trades;

(2) monthly volume aggregated by expiration date;

(3) monthly volume for each individual series;

(4) month-end open interest aggregated for all series;

(5) month-end open interest for all series aggregated by expiration date; and

(6) month-end open interest for each individual series.

The annual reports also contain the information noted in Items (1) through (6) above for Expiration Friday, A.M.-settled, S&P 500 index options traded on Cboe Options, as well as the following analysis of trading patterns in the Pilot Products options series in the Pilot Program:

(1) A time series analysis of open interest; and

(2) an analysis of the distribution of trade sizes.

Finally, for series that exceed certain minimum parameters, the annual reports contain the following analysis related to index price changes and underlying share trading volume at the close on Expiration Fridays:

(1) A comparison of index price changes at the close of trading on a given Expiration Friday with comparable price changes from a control sample. The data includes a calculation of percentage price changes for various time intervals and compare that information to the respective control sample. Raw percentage price change data as well as percentage price change data normalized for prevailing market volatility, as measured by the Cboe Volatility Index (VIX), is provided; and

(2) a calculation of share volume for a sample set of the component securities representing an upper limit on share trading that could be attributable to expiring in-the-money series. The data includes a comparison of the calculated share volume for securities in the sample set to the average daily trading volumes of those securities over a sample period.

The minimum open interest parameters, control sample, time intervals, method for randomly selecting the component securities, and sample periods are determined by the Exchange and the Commission. In proposing to extend the Pilot Program, the Exchange will continue to abide by the reporting requirements described herein, as well as in the SPXPM Approval Order and the P.M.-settled XSP Approval Order.[13] Additionally, the Exchange will provide the Commission with any additional data or analyses the Commission requests because it deems such data or analyses necessary to determine whether the Pilot Program is consistent with the Exchange Act. The Exchange is in the process of making public on its website all data and analyses previously submitted to the Commission under the Pilot Program,[14] and will make public any data and analyses it submits to the Commission under the Pilot Program in the future.

The Exchange proposes the extension of the Pilot Program in order to continue to give the Commission more time to consider the impact of the Pilot Program. To this point, Cboe Options believes that the Pilot Program has been well-received by its Trading Permit Holders and the investing public, and the Exchange would like to continue to provide investors with the ability to trade SPXPM and P.M.-settled XSP options. All terms regarding the trading of the Pilot Products shall continue to operate as described in the SPXPM Approval Order and the P.M.-settled XSP Approval Order. The Exchange merely proposes herein to extend the term of the Pilot Program to May 3, 2021.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[15] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[16] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[17] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed extension of the Pilot Program will continue to provide greater opportunities for investors. Further, the Exchange believes that it has not experienced any adverse effects or meaningful regulatory concerns from the operation of the Pilot Program. As such, the Exchange believes that the extension of the Pilot Program does not raise any unique or prohibitive regulatory concerns. Also, the Exchange believes that such trading has not, and will not, adversely impact fair and orderly markets on Expiration Fridays for the underlying stocks comprising the S&P 500 index. The extension of the Pilot Program will continue to provide investors with the opportunity to trade the desirable products of SPXPM and P.M.-settled XSP, while also providing the Commission further opportunity to observe such trading of the Pilot Products.

B. Self-Regulatory Organization's Statement on Burden on Competition

Cboe Options does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the continuation of the Pilot Program will impose any unnecessary or

[11] *See supra* note 6.

[12] 5 U.S.C. 552.

[13] Pursuant to Securities Exchange Act Release No. 75914 (September 14, 2015), 80 FR 56522 (September 18, 2015) (SR–CBOE–2015–079), the Exchange added SPXPM and P.M.-settled XSP options to the list of products approved for trading during Extended Trading Hours (''ETH''). The Exchange will also include the applicable information regarding SPXPM and P.M.-settled XSP options that trade during ETH in its annual and interim reports.

[14] Available at *https://www.cboe.com/aboutcboe/legal-regulatory/national-market-system-plans/pm-settlement-spxpm-data.*

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] *Id.*

inappropriate burden on intramarket competition because it will continue to apply equally to all Cboe Options market participants, and the Pilot Products will be available to all Cboe Options market participants. The Exchange believes there is sufficient investor interest and demand in the Pilot Program to warrant its extension. The Exchange believes that, for the period that the Pilot Program has been in operation, it has provided investors with desirable products with which to trade. Furthermore, the Exchange believes that it has not experienced any adverse market effects or regulatory concerns with respect to the Pilot Program. The Exchange further does not believe that the proposed extension of the Pilot Program will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it only applies to trading on Cboe Options. To the extent that the continued trading of the Pilot Products may make Cboe Options a more attractive marketplace to market participants at other exchanges, such market participants may elect to become Cboe Options market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [18] and subparagraph (f)(6) of Rule 19b–4 thereunder.[19]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [20] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [21] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the 30-day operative delay will allow it to extend the Pilot Program prior to its expiration on May 3, 2021, and maintain the status quo, thereby reducing market disruption. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Pilot Program to continue uninterrupted, thereby avoiding investor confusion that could result from a temporary interruption in the Pilot Program. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[22]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2020–100 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2020–100. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2020–100, and should be submitted on or before November 19, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–23915 Filed 10–28–20; 8:45 am]

BILLING CODE 8011–01–P

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(6). In addition, Rule19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[20] 17 CFR 240.19b–4(f)(6).

[21] 17 CFR 240.19b–4(f)(6)(iii).

[22] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, the Securities and Exchange Commission will hold an Open Meeting on Monday, November 2, 2020, at 10 a.m.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will begin at 10:00 a.m. (ET) and will be open to the public via audio webcast only on the Commission's website at *http://www.sec.gov.*

MATTERS TO BE CONSIDERED: The Commission will consider whether to adopt rule amendments to facilitate capital formation and increase opportunities for investors by expanding access to capital for small and medium-sized businesses and entrepreneurs across the United States. Specifically, the Commission will consider whether to adopt rule amendments to simplify, harmonize, and improve certain aspects of the framework for exemptions from registration under the Securities Act of 1933 to promote capital formation while preserving or enhancing important investor protections and reducing complexities in the exempt offering framework that may impede access to investment opportunities for investors and access to capital for businesses and entrepreneurs.

Dated: October 26, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–24043 Filed 10–27–20; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90267; File No. SR–CBOE–2020–102]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend Rule 5.1

October 23, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 14, 2020, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend Rule 5.1. The text of the proposed rule change is provided below.

(additions are *italics;* deletions are [bracketed])

* * * * *

Cboe Exchange, Inc. Rules

* * * * *

Rule 5.1. Trading Days and Hours

(a) No change.

(b) *Regular Trading Hours.*

(1) No change.

(2) *Index Options.* Except as otherwise set forth in the Rules or under unusual conditions as may be determined by the Exchange, Regular Trading Hours for transactions in index options are from 9:30 a.m. to 4:15 p.m., except as follows:

(A) Regular Trading Hours for the following index options are from 9:30 a.m. to 4:00 p.m.:

MSCI EAFE Index (EAFE)

MSCI Emerging Markets Index (EM)

* * * * *

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, pursuant to Rule 5.1(b)(2), MSCI EAFE Index (''EAFE'') and MSCI Emerging Markets Index (''EM'') options trade on the Exchange from 9:30 a.m. until 4:15 p.m. Eastern time. The Exchange proposes to amend Rule 5.1(b)(2)(A) to add EAFE and EM options to the list of index options that may trade on the Exchange from 9:30 a.m. until 4:00 p.m. Eastern time.

By way of background, the Exchange currently lists and trades EAFE and EM options (collectively, ''MSCI Index'' options). The EAFE Index is designed to captures large and mid-cap representation across 21 developed markets countries (excluding the U.S. and Canada) with 902 constituents, which cover approximately 85% of the free float-adjusted market capitalization in each country. The EM Index is designed to capture large and mid-cap representation across emerging market countries across 26 emerging markets country indexes with 1,388 constituents, which cover approximately 85% of the free float-adjusted market capitalization in each country. The Exchange understands that investors trade options on MSCI Indexes often use the prices of the exchange-traded funds (''ETFs'') derived from the MSCI Indexes (*e.g.,* iShares MSCI EAFE and EM ETFs), the components of which are stocks that are components of the MSCI Indexes, to price options rather than futures on the MSCI Indexes (which are often used to price index options, such as options on the S&P 500). The related ETFs end regular trading at 4:00 p.m. Eastern time each day. Closing trading in the MSCI Index options at the same time the correlated ETFs end regular trading[5] will ensure investors have access to robust pricing of the ETFs, the underlying stock components of which are stocks that are components of the MSCI Indexes, they use to price the options, thus will reduce investors' price risk. Other index options may currently trade from 9:30 a.m. to 4:00 p.m. Eastern time.[6]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] While the stocks may continue to trade in an aftermarket trading session on the listing exchanges, there is less liquidity in aftermarket trading, which generally leads to wider spreads and more volatile pricing.

[6] *See* Rule 5.1(b)(2)(A), pursuant to which options on the various S&P Select Sector Indexes may trade. Investors similarly use pricing of the underlying stocks of the Sector Indexes to price options and shares of ETFs derived from the Sector Indexes. *See also* Securities Exchange Act Release No. 83112 (April 26, 2018), 83 FR 19365 (May 5, 2018) (SR–CBOE–2018–030).

Section 6(b) of the Act.[7] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, closing trading in the MSCI Index options at the same time the related ETFs end regular trading will ensure investors have access to robust pricing of the correlated ETFs (the underlying stock components of which are also components of the MSCI Indexes) they use to price the options, which protects investors by reducing their price risk. Indeed, the Exchange notes that a number of Trading Permit Holders (''TPHs'') have expressed to the Exchange that aligning the close of trading in the MSCI Index options would reduce their pricing risk at the end of the trading day. Additionally, the Exchange believes lack of ETF pricing may cause Market-Makers to widen their quote spreads and reduce their quote sizes for the part of the options trading day during which ETF pricing is not available. The Exchange believes the proposed rule change will, therefore, help maintain meaningful liquidity in the MSCI Index options market, which liquidity may otherwise be impacted if appointed Market-Makers quote during times when pricing for the related ETFs is unavailable. Also, as noted above, other index options may trade from 9:30 a.m. to 4:00 p.m. Eastern time.[10]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because all market participants will be able to trade MSCI Index options during the same trading hours. Other index options may currently trade from 9:30 a.m. to 4:00 p.m. Eastern time, which close at 4:00 p.m. Eastern time to similarly align with the corresponding underlying stock prices.[11] The Exchange does not believe the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, and may promote competition, because the proposed rule change will align the trading hours for options on the MSCI Indexes with the trading hours of correlated ETFs, which are comprised of the underlying shares that comprise these indexes. Additionally, MSCI Index options trade exclusively on Cboe Options. To the extent that the proposed changes make Cboe Options a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become Cboe Options market participant.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[14] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[15] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Exchange believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the proposed rule change does not raise any novel or unique issues not previously considered by the Commission. The Exchange notes that the proposed rule change applies to MSCI Index options trading hours currently applicable to other index options of which the components underlying such indexes and the related ETFs stop trading at 4:00 p.m. Eastern time. Accordingly, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission hereby waives the operative delay and designates the proposal as operative upon filing.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2020–102 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *Id.*

[10] *See supra* note 2.

[11] *See supra* note 2.

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2020–102. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2020–102 and should be submitted on or before November 19, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–23920 Filed 10–28–20; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90262; File No. SR–CBOE–2020–101]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Renew Its Nonstandard Expirations Pilot Program

October 23, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 13, 2020, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to renew an existing pilot program until May 3, 2021. The text of the proposed rule change is provided below.

(additions are *italicized;* deletions are [bracketed])

* * * * *

Rules of Cboe Exchange, Inc.

* * * * *

Rule 4.13. Series of Index Options

(a)–(d) No change.

(e) *Nonstandard Expirations Pilot Program.*

(1)–(2) No change.

(3) *Duration of Nonstandard Expirations Pilot Program.* The Nonstandard Expirations Pilot Program shall be through [November 2, 2020]*May 3, 2021.*

* * * * *

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On September 14, 2010, the Securities and Exchange Commission (the ''Commission'') approved a Cboe Options proposal to establish a pilot program under which the Exchange is permitted to list P.M.-settled options on broad-based indexes to expire on (a) any Friday of the month, other than the third Friday-of-the-month, and (b) the last trading day of the month.[5] On January 14, 2016, the Commission approved a Cboe Options proposal to expand the pilot program to allow P.M.-settled options on broad-based indexes to expire on any Wednesday of month, other than those that coincide with an EOM.[6] On August 10, 2016, the Commission approved a Cboe Options proposal to expand the pilot program to allow P.M.-settled options on broad-based indexes to expire on any Monday of month, other than those that coincide with an EOM.[7] Under the terms of the Nonstandard Expirations Pilot Program (''Program''), Weekly Expirations and EOMs are permitted on any broad-based index that is eligible for regular options trading. Weekly Expirations and EOMs are cash-settled and have European-style exercise. The proposal became effective on a pilot basis for a period of fourteen months that commenced on the next full month after approval was

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release 62911 (September 14, 2010), 75 FR 57539 (September 21, 2010) (order approving SR–CBOE–2009–075).

[6] *See* Securities Exchange Act Release 76909 (January 14, 2016), 81 FR 3512 (January 21, 2016) (order approving SR–CBOE–2015–106).

[7] *See* Securities Exchange Act Release 78531 (August 10, 2016), 81 FR 54643 (August 16, 2016) (order approving SR–CBOE–2016–046).

received to establish the Program [8] and was subsequently extended.[9] Pursuant to Rule 4.13(e)(3),[10] the Program is scheduled to expire on November 2, 2020. The Exchange believes that the Program has been successful and well received by its Trading Permit Holders and the investing public during that the time that it has been in operation. The Exchange hereby proposes to extend the Program until May 3, 2021. This proposal does not request any other changes to the Program.

Pursuant to the order approving the establishment of the Program, two months prior to the conclusion of the pilot period, Cboe Options is required to submit an annual report to the Commission, which addresses the following areas: Analysis of Volume & Open Interest, Monthly Analysis of Weekly Expirations & EOM Trading Patterns and Provisional Analysis of Index Price Volatility. The Exchange has submitted, under separate cover, the annual report in connection with the present proposed rule change. Additionally, the Exchange will provide the Commission with any additional data or analyses the Commission requests because it deems such data or analyses necessary to determine whether the Program is consistent with the Exchange Act. The Exchange makes public all data and analyses previously submitted to the Commission under the Program,[11] and will make public any data and analyses it makes to the Commission under the Program in the future.

If, in the future, the Exchange proposes an additional extension of the Program, or should the Exchange propose to make the Program permanent (which the Exchange currently intends to do), the Exchange will submit an annual report (addressing the same areas referenced above and consistent with the order approving the establishment of the Program) to the Commission at least two months prior to the expiration date of the Program. The Exchange will also make this report public. Any positions established under the Program will not be impacted by the expiration of the Program.

The Exchange believes there is sufficient investor interest and demand in the Program to warrant its extension. The Exchange believes that the Program has provided investors with additional means of managing their risk exposures and carrying out their investment objectives. Furthermore, the Exchange has not experienced any adverse market effects with respect to the Program.

The Exchange believes that the proposed extension of the Program will not have an adverse impact on capacity.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[12] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [13] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitation transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [14] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the Program has been successful to date and states that it has not encountered any problems with the Program. The proposed rule change allows for an extension of the Program for the benefit of market participants. Additionally, the Exchange believes that there is demand for the expirations offered under the Program and believes that that Weekly Expirations and EOMs will continue to provide the investing public and other market participants increased opportunities to better manage their risk exposure.

B. Self-Regulatory Organization's Statement on Burden on Competition

Cboe Options does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Program, the proposed rule change will allow for further analysis of the Program and a determination of how the Program shall be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [15] and subparagraph (f)(6) of Rule 19b–4 thereunder.[16]

[8] *Id.*

[9] *See* Securities Exchange Act Release 65741 (November 14, 2011), 76 FR 72016 (November 21, 2011) (immediately effective rule change extending the Program through February 14, 2013). *See also* Securities Exchange Act Release 68933 (February 14, 2013), 78 FR 12374 (February 22, 2013) (immediately effective rule change extending the Program through April 14, 2014); 71836 (April 1, 2014), 79 FR 19139 (April 7, 2014) (immediately effective rule change extending the Program through November 3, 2014); 73422 (October 24, 2014), 79 FR 64640 (October 30, 2014) (immediately effective rule change extending the Program through May 3, 2016); 76909 (January 14, 2016), 81 FR 3512 (January 21, 2016) (extending the Program through May 3, 2017); 80387 (April 6, 2017), 82 FR 17706 (April 12, 2017) (extending the Program through May 3, 2018); 83165 (May 3, 2018), 83 FR 21316 (May 9, 2018) (SR–CBOE–2018–038) (extending the Program through November 5, 2018); 84534 (November 5, 2019), 83 FR 56119 (November 9, 2018) (SR–CBOE–2018–070) (extending the Program through May 6, 2019); 85650 (April 15, 2019), 84 FR 16552 (April 19, 2019) (SR–CBOE–2019–022) (extending the Program through November 4, 2019); 87462 (November 5, 2019), 84 FR 61108 (November 12, 2019) (SR–CBOE–2019–104) (extending the Program through May 4, 2020); and 88673 (April 16, 2020), 85 FR 22507 (April 22, 2020) (SR–CBOE–2020–035) (extending the Program through November 2, 2020).

[10] The Exchange recently relocated prior Rule 24.9, containing the provision which governs the Program, to current Rule 4.13. *See* SR–CBOE–2019–092 (October 4, 2019), which did not make any substantive changes to prior Rule 24.9 and merely relocated it to Rule 4.13.

[11] Available at *https://www.cboe.com/aboutcboe/legal-regulatory/national-market-system-plans/non-standard-expiration-data.*

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] *Id.*

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6). In addition, Rule19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time

Continued

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[17] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[18] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the 30-day operative delay will allow it to extend the Program prior to its expiration on May 3, 2021, and maintain the status quo, thereby reducing market disruption. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Program to continue uninterrupted, thereby avoiding investor confusion that could result from a temporary interruption in the Program. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[19]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2020–101 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2020–101. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2020–101, and should be submitted on or before November 19, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–23918 Filed 10–28–20; 8:45 am]

BILLING CODE 8011–01–P

as designated by the Commission. The Exchange has satisfied this requirement.

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 240.19b–4(f)(6)(iii).

[19] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[20] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16704 and #16705; California Disaster Number CA–00328]

Presidential Declaration Amendment of a Major Disaster for the State of California

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of CALIFORNIA (FEMA—4569—DR), dated 10/16/2020.

Incident: Wildfires.

Incident Period: 09/04/2020 and continuing.

DATES: Issued on 10/22/2020.

Physical Loan Application Deadline Date: 12/15/2020.

Economic Injury (EIDL) Loan Application Deadline Date: 07/16/2021.

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: The notice of the President's major disaster declaration for the State of California, dated 10/16/2020, is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Napa, Shasta, Sonoma

Contiguous Counties (Economic Injury Loans Only):

California: Lassen, Marin, Plumas, Solano, Yolo.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Cynthia Pitts,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2020–23903 Filed 10–28–20; 8:45 am]

BILLING CODE 8026–03–P

DEPARTMENT OF STATE

[Public Notice: 11235]

Advisory Committee on Historical Diplomatic Documentation—Notice of Virtual Open Meeting for December 7, 2020

The Advisory Committee on Historical Diplomatic Documentation

will meet on December 7 in a virtual open session to discuss the status of the production of the *Foreign Relations* series and any other matters of concern to the Committee.

The Committee will meet in open session from 10:00 a.m. until noon through a virtual platform TBD. Members of the public planning to attend the virtual meeting should RSVP to Julie Fort at *FortJL@state.gov.* RSVP and requests for reasonable accommodation should be sent not later than November 24, 2020. Instructions on how to join the virtual meeting will be provided upon receipt of RSVP. Note that requests for reasonable accommodation received after November 24 will be considered but might not be possible to fulfill.

Questions concerning the meeting should be directed to Adam M. Howard, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, DC 20372, *history@state.gov.*

Renée A. Goings,

Deputy Director, Office of the Historian.

[FR Doc. 2020–23917 Filed 10–28–20; 8:45 am]

BILLING CODE 4710–34–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Effective Date of Modifications to the Harmonized Tariff Schedule of the United States Concerning the United States-Colombia Trade Promotion Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The Office of United States Trade Representative is announcing the effective date of modifications to the Harmonized Tariff Schedule of the United States (HTSUS) concerning the United States-Colombia Trade Promotion Agreement (USCTPA).

DATES: This notice is applicable on January 1, 2021.

FOR FURTHER INFORMATION CONTACT: Assistant General Counsel Erin Rogers (202) 395–9126 or *Erin_F_Rogers@ustr.eop.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

Section 1206(a) of the Omnibus Trade and Competitiveness Act of 1988 (1988 Act) (19 U.S.C. 3006(a)) authorizes the President to proclaim modifications to the HTSUS based on the recommendations of the U.S. International Trade Commission (ITC) under section 1205 of the 1988 Act (19 U.S.C. 3005) if the President determines that the modifications conform to U.S. obligations under the International Convention on the Harmonized Commodity Description and Coding System (Convention) and do not run counter to the national economic interest of the United States. The ITC has recommended modifications to the HTSUS pursuant to section 1205 of the 1988 Act to conform the HTSUS to amendments made to the Convention.

Proclamation 8818 of May 14, 2012, implemented the USCTPA with respect to the United States and, pursuant to section 201 of the USCTPA Implementation Act (19 U.S.C. 3805 note), the staged reductions in duty that the President determined to be necessary or appropriate to carry out or apply articles 2.3, 2.5, 2.6, and 3.1.13, and Annex 2.3 (including the schedule of United States duty reductions with respect to originating goods) of the USCTPA.

The United States and Colombia are parties to the Convention. Because changes to the Convention are reflected in slight differences of form between the national tariff schedules of the United States and Colombia, Annexes 3 and 4.1 of the USCTPA must be changed to ensure that the tariff and certain other treatment accorded under the USCTPA to originating goods will continue to be provided under the tariff categories that were proclaimed in Proclamation 8818. The United States and Colombia have agreed to make these changes.

Section 201 of the USCTPA Implementation Act authorizes the President to proclaim such modifications or continuation of any duty, such continuation of duty-free or excise treatment, or such additional duties, as the President determines to be necessary or appropriate to carry out or apply articles 2.3, 2.5, 2.6, and 3.1.13, and Annex 2.3 (including the schedule of United States duty reductions with respect to originating goods) of the USCTPA.

In Proclamation 10053 of June 29, 2020, pursuant to section 201 of the USCTPA Implementation Act and section 1206(a) of the 1988 Act (19 U.S.C. 3006(a)), the President proclaimed certain modifications to the HTSUS (see Proclamation 10053, clause (17)), and further proclaimed that the modifications would become effective on the date announced by the U.S. Trade Representative in the **Federal Register**, after the applicable conditions set forth in the USCTPA have been fulfilled. The modifications are effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after that date. *See* Proclamation 10053, clause (18). The modifications are set out in Annex V of the ITC's Publication 5060, incorporated by reference in Proclamation 10053.

B. Announcement of the Effective Date of Modifications to the HTSUS Pursuant to Proclamation 10053

The U.S. Trade Representative is announcing that the conditions referenced in clause (18) of Proclamation 10053 have been fulfilled and that the modifications set out in Annex V of Publication 5060 will take effect on January 1, 2021, with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after that date.

Joseph Barloon,

General Counsel, Office of the United States Trade Representative.

[FR Doc. 2020–23983 Filed 10–28–20; 8:45 am]

BILLING CODE 3290–F1–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2021–2023]

Petition for Exemption; Summary of Petition Received; Orbital Sciences Corporation

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

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of the Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before November 18, 2020.

ADDRESSES: Send comments identified by docket number FAA–2020–0833 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey

Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

• *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

• *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: J. Justin Barcas (202) 267–7023, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on October 23, 2020.

Brandon Roberts,

Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2020–0833.

Petitioner: Orbital Sciences Corporation.

Section(s) of 14 CFR Affected: § 61.64(a)(2).

Description of Relief Sought: Orbital Sciences Corporation requests relief from § 61.64(a)(2) to allow a pilot applicant, employed by Orbital, to utilize an FAA Approved (Level C) Full Flight Simulator (FFS) for a L–1011 type rating practical test when the applicant has been trained in accordance with Orbital's § 125 accepted training program.

[FR Doc. 2020–23949 Filed 10–28–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Transportation Project in Florida

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by Florida Department of Transportation (FDOT).

SUMMARY: The FHWA, on behalf of the FDOT, is issuing this notice to announce actions taken by FDOT and other Federal Agencies that are final agency actions. These actions relate to the proposed regional transportation improvement on U.S. Highway 231 from U.S. 98 to State Road 20 and also including improvement on East Avenue (Highway 389) from Baldwin Road to Sherman Avenue in Bay County, State of Florida. These actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of FDOT, is advising the public of final agency actions. A claim seeking judicial review of the Federal Agency actions on the listed highway project will be barred unless the claim is filed on or before March 29, 2021. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For FDOT: Jason Watts, Director, Office of Environmental Management, FDOT, 605 Suwannee Street, MS 37, Tallahassee, Florida 32399; telephone (850) 414–4316; email: *Jason.Watts@dot.state.fl.us.* The FDOT Office of Environmental Management's normal business hours are 8:00 a.m. to 5:00 p.m. (Eastern Standard Time), Monday through Friday, except State holidays.

SUPPLEMENTARY INFORMATION: Effective December 14, 2016, the FHWA assigned, and the FDOT assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that FHWA and other Federal Agencies have taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the proposed improvement highway project. The actions by FDOT and other Federal Agencies on the project, and the laws under which such actions were taken are described in the Type 2 Categorical Exclusion issued on 8/1/2020, and in other project records for the listed project. The Type 2 Categorical Exclusion, and other documents for the listed project are available by contacting FDOT at the address provided above. The Type 2 Categorical Exclusion, and additional project documents can be viewed and downloaded from the project website at: *https://nwflroads.com/projects/217910-2.*

The project subject to this notice is:

Project Location: Bay County, Florida—U.S. 231 near Panama City. The proposed improvements include widening U.S. 231 from a 4-lane roadway to a 6-lane facility and widening East Avenue from a 2-lane roadway to a 4-lane facility. Grade separated intersections will be included at U.S. 98, State Road 77, State Road 390, and Star Avenue in Bay County, Florida.

Project Actions: This notice applies to the Type 2 Categorical Exclusion, and all other Federal Agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351; Federal–Aid Highway Act (FAHA) [23 U.S.C. 109 and 23 U.S.C. 128].

2. *Air:* Clean Air Act (CAA), 42 U.S.C. 7401–7671(q).

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 (4f) [49 U.S.C. 303 and 23 U.S.C. 138].

4. *Wildlife:* Endangered Species Act (ESA) [16 U.S.C. 1531–1544 and 1536]; Marine Mammal Protection Act [16 U.S.C. 1361], Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d); Migratory Bird Treaty Act (MBTA) [16 U.S.C. 703–712]; Magnuson-Stevenson Fishery Conservation and Management Act of 1976, as amended [16 U.S.C. 1801 *et seq.*].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended (106) [16 U.S.C. 470(f) *et seq.*]; Archaeological Resources Protection Act of 1977 (ARPA) [16 U.S.C. 470(aa)–470(II)]; Archaeological and Historic Preservation Act (AHPA) [16 U.S.C. 469–469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].

6. *Social and Economic:* Civil Rights Act of 1964 (Civil Rights) [42 U.S.C. 20009(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

7. *Wetlands and Water Resources:* Clean Water Act (Section 404, Section 401, Section 319) [33 U.S.C. 1251–1377]; Coastal Barriers Resources Act (CBRA) [16 U.S.C. 3501 *et seq.*]; Coastal Zone Management Act (CZMA) [16 U.S.C. 1451–1465]; Land and Water

Conservation Fund (LWCF) [16 U.S.C. 4601–4604]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)–300(j)(6)]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; Wetlands Mitigation, [23 U.S.C. 103(b)(6)(M) and 103(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001–4128].

8. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Issued on: October 19, 2020.

Karen M. Brunelle,

Director, Office of Project Development, Federal Highway Administration, Tallahassee, Florida.

[FR Doc. 2020–24002 Filed 10–28–20; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2006–26367]

Motor Carrier Safety Advisory Committee; Request for Nominations

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Request for Nominations to the Motor Carrier Safety Advisory Committee (MCSAC).

SUMMARY: The FMCSA is soliciting nominations for interested persons to serve on the MCSAC. Composed of motor carrier safety stakeholders from the safety advocacy, safety enforcement, industry, and labor sectors, MCSAC is charged with providing advice and recommendations to the FMCSA Administrator and Secretary of Transportation on the needs, objectives, plans, approaches, content, and accomplishments of Federal motor carrier safety programs and Federal motor carrier safety regulations. Nominations will be accepted electronically only.

DATES: Nominations for MCSAC must be received on or before November 30, 2020. Nominations received after the above due date may be retained for evaluation for future MCSAC vacancies after all other nominations received by the due date have been evaluated and considered.

ADDRESSES: Nominations can be submitted electronically to the email address listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Ms. Shannon L. Watson, Deputy Designated Federal Officer, MCSAC, at (202) 385–2395 or via email at *MCSAC@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 4144 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59, August 10, 2005), required the Secretary to establish MCSAC. The MCSAC was established on September 8, 2006, and was most recently renewed on September 29, 2019 for two years. The Committee provides advice and recommendations to the Secretary of Transportation through the Administrator of FMCSA on the needs, objectives, plans, approaches, content, and accomplishments of motor carrier safety programs and regulations. The Agency is required under FACA to appoint members of diverse views and interests to ensure the committee is balanced with appropriate consideration of background.

Under its charter, the Committee is composed of up to 25 members appointed by the Secretary for terms of up to two years, selected from among individuals who are specially qualified to represent the interests and opinions of the motor carrier industry, safety advocates, labor, and safety enforcement officials. Members of a single enumerated interest group may not constitute a majority.

Committee members serve without pay. Members may be entitled to reimbursement of expenses relating to per diem, and travel when attending meetings of the Committee as authorized under Section 5703 of Title 5, United States Code and the Federal Travel Regulation, 41 CFR part 301. FMCSA anticipates holding Committee meetings two to three times each year. Meetings are open to the public, except as provided under the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2).

II. Qualifications

The FMCSA seeks nominations for membership to MCSAC for representative members and Special Government Employees (SGEs) with specialized experience, education, training in commercial motor vehicle (CMV) issues. Representative nominees must represent one of the four sectors of membership—safety advocacy, safety enforcement, industry, or labor. Individuals appointed solely for their expertise will be appointed as SGEs. Individuals selected to serve as SGEs are subject to certain Federal conflict of interest laws and will be required to meet applicable financial disclosure and ethics training requirements. Committee members must not be officers or employees of the Federal Government.

Committee members must be able to attend two to three meetings each year, either by videoconference or in person. Interested persons should have a commitment to transportation safety, knowledge of transportation issues, experience on panels that deal with transportation safety, and a record of collaboration and professional experience on CMV safety issues. For further information about MCSAC, including reports, meeting minutes, and membership information, please visit the website at *www.fmcsa.dot.gov/mcsac.* This notice seeks to fill current and future vacancies on the MCSAC.

III. Description of Duties

The committee is advisory only. Duties include the following:

a. Gathering information as necessary to discuss issues presented by the Designated Federal Officer (DFO);

b. Deliberating on issues relevant to commercial motor vehicle safety; and

c. Providing written consensus advice to the Secretary.

III. Materials to Submit

Candidates are required to submit, in full, the following materials to be considered for MCSAC membership. Failure to submit the required information may disqualify a candidate from the review process.

a. A short biography of the nominee, including professional and academic credentials.

b. A résumé or curriculum vitae, which must include relevant job experience, qualifications, as well as contact information (email, telephone, and mailing address).

c. A one-page statement describing how the candidate will benefit the MCSAC, considering current

membership and the candidate's unique perspective that will advance the conversation. This statement must also identify a primary and secondary interest to which the candidate's expertise best aligns. Finally, candidates should state their previous experience on Federal Advisory Committees (if any), their level of knowledge in their above stakeholder groups, and the size of their constituency they represent or can reach.

Up to three letters of recommendation may be submitted, but are not required. Each letter may be no longer than one page. Nominations are open to all individuals without regard to race, color, religion, sex, national origin, age, mental or physical disability, marital status, sexual orientation or gender identity. Individuals may self-nominate. Evaluations will be based on the materials submitted.

An email confirmation from the FMCSA will be sent upon receipt of all complete nominations that meet the criteria in this section. The FMCSA will notify those appointed by the Secretary to serve on the MCSAC.

James W. Deck,

Deputy Administrator.

[FR Doc. 2020–23969 Filed 10–28–20; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2020–0085; Notice 1]

Mercedes-Benz USA, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Mercedes-Benz AG (MBAG) and Mercedes-Benz USA, LLC (MBUSA) (collectively, ''Mercedes-Benz'') a subsidiary of Daimler AG has determined that certain model year (MY) 2019–2020 Mercedes-Benz Sprinter and MY 2019–2020 Freightliner Sprinter vans do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 5,536 Kilograms (10,000 Pounds) or Less.* Daimler Vans USA LLC on behalf of Mercedes-Benz filed a noncompliance report dated July 15, 2020. Mercedes-Benz subsequently petitioned NHTSA on August 6, 2020, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of Mercedes-Benz's petition.

DATES: Send comments on or before November 30, 2020.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and 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 petition is 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 docket. 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: Mercedes-Benz, a subsidiary of Daimler AG, has determined that certain MY 2019–2020 Mercedes-Benz Sprinter and 2019–2020 Freightliner Sprinter vans do not fully comply with the requirements of paragraph S4.3(a) of FMVSS No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 5,536 Kilograms (10,000 Pounds) or Less* (49 CFR 571.110). Daimler Vans USA LLC on behalf of Mercedes-Benz filed a noncompliance report dated July 15, 2020, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* Mercedes-Benz subsequently petitioned NHTSA on August 6, 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 Mercedes-Benz's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

II. Vans Involved: Approximately 33 MY 2019–2020 Mercedes-Benz Sprinter and MY 2019–2020 Freightliner Sprinter vans manufactured between April 18, 2019, and February 25, 2020, are potentially involved.

III. Noncompliance: Mercedes-Benz explains that the noncompliance is that the subject vehicles are equipped with vehicle placards that incorrectly state the maximum combined weight of occupants and cargo in pounds and therefore, do not meet the requirements set forth in paragraph S4.3(a) of FMVSS No. 110. Specifically, the last digit of the value in pounds for the combined weight of occupants and cargo is missing. The vehicle placard states that

the combined weight of occupants and cargo should never exceed 353 pounds when it should state 3,532 pounds.

IV. Rule Requirements: Paragraph S4.3 of FMVSS No. 110 includes the requirements relevant to this petition. Each vehicle, except for a trailer or incomplete vehicle, shall show the information specified in S4.3(a) through (g), and may show, at the manufacturer's option the information specified in S4.3(h) and (i), on a placard permanently affixed to the driver's side B-pillar. Specifically, S4.3(a) states that vehicle capacity weight expressed as ''[t]he combined weight of occupants and cargo should never exceed XXX kilograms or XXX pounds'' must be present on the driver's side B-pillar.

V. Summary of Mercedes-Benz's Petition: The following views and arguments presented in this section, ''V. Summary of Mercedes-Benz's Petition,'' are the views and arguments provided by Mercedes-Benz. They have not been evaluated by the Agency and do not reflect the views of the Agency. Mercedes-Benz describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Mercedes-Benz offers the following reasoning:

Mercedes-Benz says the affected vehicles contain placards that do not list the correct vehicle weight limit in pounds as they inadvertently omit the last digit of the weight capacity. The maximum weight capacity is provided accurately in kilograms. As an example, the maximum weight is listed as 353 pounds but should be 3,532 pounds. All of the remaining information on the placard is accurate.

Despite the error on the placard, there is no increased risk to motor vehicle safety. There is no risk of vehicle overloading. In the event the consumer relies upon the maximum vehicle weight capacity listed in pounds and does not reference any of the additional sources of information available to determine the maximum loading capacity, then the vehicle would be substantially underloaded.

In addition, there are other accurate sources of vehicle weight capacity information available to the operator. The certification label pursuant to 49 CFR part 567 is located on the vehicle's B-pillar and accurately indicates the vehicle's GVWR. In addition, the placard includes the statement that the operator should refer to the owner's manual for further information. The owner's manual for the affected vehicles (both the hard copy manual and the electronic version available online) describes the methodology for the customer to calculate the accurate maximum weight in capacity information in both pounds and kilograms. Upon noting that the maximum weight in pounds is extremely low and differs significantly from the maximum weight listed in kilograms, it is reasonable to expect that the operator would question the information and refer to the owner's manual for further clarification, as instructed on the placard. Thus, the driver can refer to this alternate source of information to determine the correct maximum load weight of the vehicle.

Discrepancies in the maximum occupant capacity information have been found to be inconsequential to motor vehicle safety, particularly where the vehicle is technically capable of handling any increased loading. *See, e.g.,* Mercedes-Benz USA, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 82 FR 33547, July 20, 2017 (maximum combined weight of occupants and cargo was listed as a value higher on the placard that the actual vehicle capacity. The noncompliance was found to be inconsequential because the tire size and pressure were accurate, and the tires and vehicle axles would have been able to safely carry any additional loading on the vehicle).[1] In the affected vehicles, the omission of the last digit leads to a substantially lower than calculated maximum vehicle loading capacity. Therefore, there is no risk that a consumer relying on the placard alone would overload the vehicle.

Further, the Agency has previously granted petitions for inconsequential treatment for FMVSS No. 110, where the underlying issue also involved missing information of typographical errors on the vehicle placard, but where the information was otherwise readily available from another source, such as the owner's manual. *See, e.g.,* Kia Motors America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance, 85 FR 39676, July 1, 2020 (failure to provide wheel size information and the letter ''i'' in ''psi'' on the placard is inconsequential where the information could be obtained from the owner's manual). That the accurate information is otherwise readily available from other sources creates no additional enhanced risk to motor vehicle safety in this case. In this case, the owner's manual instructs the user on how to calculate the maximum vehicle weight capacity.

Finally, Mercedes-Benz states that it is not aware of any reports or complaints about the issue from the field and it has corrected the condition in production.

Mercedes-Benz concludes by again contending that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

Mercedes Benz's complete petition and all supporting documents are available by logging onto the Federal Docket Management System (FDMS) website at: *https://www.regulations.gov* and following the online search instructions to locate the docket number listed in the title of this notice.

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 this petition only applies to the subject vans that Mercedes-Benz no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant buses under their control after Mercedes-Benz notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2020–23948 Filed 10–28–20; 8:45 am]

BILLING CODE 4910–59–P

[1] Mercedes-Benz also notes that a similar inconsequentiality petition from another manufacturer is currently pending before the Agency where the last digit was left off of the printed label and the maximum loading capacity was similarly understated. *See* Jayco, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance, 85 FR 554 (January 6, 2020). Here, the manufacturer indicated a total of 8,174 trailers have trailer loading capacity placards which show the vehicle weight capacity as 80 kg when it should be 807 kg. In that case, the placard also includes an additional character in the recommended tire inflation listing.

DEPARTMENT OF THE TREASURY

Fiscal Service

Bureau of the Fiscal Service

Fee Schedule for the Transfer of U.S. Treasury Book-Entry Securities Held on the Fedwire Securities Service

AGENCY: Bureau of the Fiscal Service, Fiscal Service, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury (Treasury) is announcing a new fee schedule applicable to transfers of U.S. Treasury book-entry securities maintained on the Fedwire Securities Service (Fedwire) that occur on or after January 4, 2021.

DATES: Applicable January 4, 2021.

FOR FURTHER INFORMATION CONTACT: Brendan Griffiths, Bureau of the Fiscal Service, 202–504–3550.

SUPPLEMENTARY INFORMATION: Treasury has established a fee structure for the transfer of Treasury book-entry securities maintained on Fedwire. Treasury reassesses this fee structure periodically based on our review of the latest book-entry costs and volumes.

For each Treasury securities transfer or reversal sent or received on or after January 4, 2021, the basic fee will decrease from $0.75 to $0.65. The Federal Reserve System also charges a funds movement fee for each of these transactions for the funds settlement component of a Treasury securities transfer.[1] The surcharge for an off-line Treasury book-entry securities transfer will remain at $70.00. Off-line refers to the sending and receiving of transfer messages to or from a Federal Reserve Bank by means other than on-line access, such as by written, facsimile, or telephone voice instruction. The basic transfer fee assessed to both sends and receives is reflective of costs associated with the processing of securities transfers. The off-line surcharge, which is in addition to the basic fee and the funds movement fee, reflects the additional processing costs associated with the manual processing of off-line securities transfers.

Treasury does not charge a fee for account maintenance, the stripping and reconstitution of Treasury securities, the wires associated with original issues, or interest and redemption payments. Treasury currently absorbs these costs.

The fees described in this notice apply only to the transfer of Treasury book-entry securities held on Fedwire. Information concerning fees for book-entry transfers of Government Agency securities, which are priced by the Federal Reserve, is set out in a separate **Federal Register** notice published by the Federal Reserve.

The following is the Treasury fee schedule that will take effect on January 4, 2021, for book-entry transfers on Fedwire:

TREASURY-FEDWIRE FEE SCHEDULE EFFECTIVE JANUARY 4, 2021

[In dollars]

Transfer type	Basic fee	Off-line surcharge
On-line transfer originated	0.65	N/A
On-line transfer received	0.65	N/A
On-line reversal transfer originated	0.65	N/A
On-line reversal transfer received	0.65	N/A
Off-line transfer originated	0.65	70.00
Off-line transfer received	0.65	70.00
Off-line account switch received	0.65	0.00
Off-line reversal transfer originated	0.65	70.00
Off-line reversal transfer received	0.65	70.00

Authority: 31 CFR 357.45.

Timothy E. Gribben,

Commissioner, Bureau of the Fiscal Service.

[FR Doc. 2020–23298 Filed 10–28–20; 8:45 am]

BILLING CODE 4810–AS–P

[1] The Board of Governors of the Federal Reserve System sets this fee separately from the fees assessed by Treasury. As of January 2, 2020, that fee was $0.09 per transaction. For a current listing of the Federal Reserve System's fees, please refer to *https://www.frbservices.org/financial-services/securities/index.html.*

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

[Case ID CAATSA-Russia-15810]

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of this person is blocked, and U.S. persons are generally prohibited from engaging in transactions with this person.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; or Assistant Director for Regulatory Affairs, tel.: 202–622–4855.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Action

On October 23, 2020, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following person are blocked under the relevant sanctions authority listed below.

Entity

1. STATE RESEARCH CENTER OF THE RUSSIAN FEDERATION FGUP CENTRAL SCIENTIFIC RESEARCH INSTITUTE OF CHEMISTRY AND MECHANICS (a.k.a. CNIIHM (Cyrillic: ЦНИИХМ); a.k.a. FGUP CNIIXM (Cyrillic: ФГУП ЦНИИХМ); a.k.a. FGUP TSNIIKHM; a.k.a. GNTS RF FGUP TSNIIKHM; f.k.a. TSENTRALNY NAUCHNO-ISSLEDOVATELSKI INSTITUT KHIMII I MEKHANIKI, FGUP; a.k.a. TSNIIKHM, FGUP), 16A ul. Nagatinskaya, Moscow, Russia; Website http://cniihm.ru; Tax ID No. 7724073013 (Russia); Government Gazette Number 07521506 (Russia); Registration Number 1037739097582 (Russia) [CAATSA - RUSSIA].

Designated pursuant to section 224(a)(1)(A) of the Countering America's Adversaries Through Sanctions Act, Public Law 115-44, for knowingly engaging in significant activities undermining cybersecurity against any person, including a democratic institution, or government on behalf of the Government of the Russian Federation.

Dated: October 23, 2020.

Andrea Gacki,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2020–23927 Filed 10–28–20; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Quarterly Publication of Individuals, Who Have Chosen To Expatriate, as Required by Section 6039G

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice is provided in accordance with IRC section 6039G of the Health Insurance Portability and Accountability Act (HIPPA) of 1996, as amended. This listing contains the name of each individual losing United States citizenship (within the meaning of section 877(a) or 877A) with respect to whom the Secretary received information during the quarter ending September 30, 2020. For purposes of this listing, long-term residents, as defined in section 877(e)(2), are treated as if they were citizens of the United States who lost citizenship.

Last name	First name	Middle name/initials
ABERER	PASCAL	ALOIS
ADAMKOWSKI	MARGARET	PAULINE
ADIJANTO	JONATHAN	MICHAEL
ADSHEAD	JAMES	BRETT
AKRE	CHRISTINA	S.
ALDINGER	BENJAMIN	LUCAS
ALLEN	GARY	ANDREW
ALVAREZ	JOAQUIN	MARCELO
AMMANN	PATIRCK	S.
ANABTAWI	CHARMINE	ALENANDRA
ANDERAU	STEFAN	ANDREAS
ANDERSON	DALE	PETER
ANDRE	DIANA	
ANTABI	BANDAR	MALEK
ANTON-SMITH	CAROLINE	I.
ANTOSIEWICZ	EVELYN	JEANETTE
ANTREASYAN	SEVAN	JONAS
ARCHAMBAULT	MIA	WARREN
ARIE	MAYUMI	
ARITOMO	KELICHI	
ARNET	CAMILLE	ERIKA YOLANDE
ARONSON	CATHERINE	MADELEINE
ASH	ABIGAIL	AUGER
AVIERINOS	JEAN-BAPTISTE	FREDERIC
BACCHETTA-DIAZ	LEONARD	
BACHMANN	JEREMY	ALEXANDER
BACHSTEIN	ALEEXANDER	ERIK
BAEHLER	BALZ	M.
BAIRD	CHARLES	LESTER
BAKER	DIANA	GAIL
BALDOCK	VIRGINIA	
BALLAND	CAMILLE	THOMAS

Last name	First name	Middle name/initials
BALOGH	SUSAN	EASTERBERG
BANGERT	MANFRED	JAMES
BARBEY	SONIA	GRIGGS
BARK HAGEN	FRANZISKA	ANNA
BARLETT	RICHARD	PHILIP
BARNETT	RICHARD	WAYNE
BARTON	JOAN	ELIZABETH
BAUTZ	JESSICA	MARLINE
BAYNE	JASON	PHILIP
BEALE	ELIZABETH	SUMMER
BELAMARIC	ALIZEE	SOFIA
BENDER	AMY	MICHELLE
BENNER	SARAH	JEANNETTE
BENNETT	CHERYL	A.
BENSON	ROBERT	ARTHUR
BERGER	CONNIE	
BERGER	ELIZABETH	
BERNET	EVELYN	WANDA MARIA
BIELLMANN	PAUL	JOSEPH
BILLYARD	STEPHEN	ALEXANDER
BIRNBAUM	SANDRA	GAIL
BIRNER	KATRIN	
BIRNER	THOMAS	
BISHOP	SUSAN	MARY
BJORNVOLD	INGVLID	
BLANC	CHRISTINE	ODETTE
BLANCO JR	MANUEL	PETRACHE
BLOM	CHRISTINE	
BLOMJOUS	ELISABETH	MAGDALENA MARIA
BLUMER	JEAN-MARC	
BOEHM	ERIKA	SIGLINDA
BOGAN	ERICA	MARIA
BOGGIO	FRANCESCA	CHIARA
BOHREN	JORIS	ANDREW
BOSCH	DAVE	VAN DEN
BOTTCHER	ERIK	CHRISTIAN
BOUCHARD	JAMES	ERNEST
BOURGEOIS	JEFFREY	ALLAN
BOURGUET	ERIC MARIE	FRANK LOUIS
BOYAPATI	ADITHYA	
BRADLEY	ALEXANDER	VAN VLECK
BRAFMAN	FRANCES	DOREEN
BRAGGIOTTI	SERENA	
BRANDEAUX	KAY	
BRAUER	SUSANNE	MARGOT
BREMER	SABINA	HARTENSIA
BRENNAN	KAREN	KATHLEEN
BRENNINMEIJER	JULIAN	MFJ
BRICH	LUDMILA	
BROADWELL	MARY	PATRICIA
BROCKHAUS	MARC	PETER
BROCKHAUS	SARA	V.
BROSCH	ELISABETH	CHARLOTTE MARIA
BROWN	JAMES	MICHAEL
BROWN	PAUL	BRADLEY
BRUDER	CARL	EMIL GEORGE
BRUNNER	LAURA	LEE
BRYMER	CHRISTOPHER	DAVID
BUETTEL	SEBASTIAN	ANDREAS
BUI	QUANG	L.
BUNDI	LILLY	
BURCH	DONALD	EUGENE
BURG	ANDREW	RENE PAUL
BURKART	ANN	MARIE
BURKE	GORDON	JOHN ELMORE
BURKE	RANDALL	PETER
BURTON	FRANK	WARREN
BUSCHARDT	ANDRES	FRANK
CACCHIONE	PATRICIA	
CALAME	FREDERIC	JEAN LUC
CALLANT	ROBERT	
CARTER	TENNILLE	MARIA
CATANIA	ANNA	ANTONINA
CATOIR	LINDA	MARIA

Last name	First name	Middle name/initials
CHAN	ESTHER	
CHAN	KELVIN	KA FAI
CHANDLER MERZ	SHALONA	LEI
CHANG	MICHELLE	KYONG-WHA
CHASSOT	JONATHAN	LAURENT DOMINIQUE
CHEN	HOI TING	ROSETTA
CHENG	CANDICE	
CHEUNG	VINCENT	WAICHUNG
CHIANG	CHUNG-CHIEN	
CHOW	CHUNG	YIU
CHU	MEGAN	CHAW WEI
CLAMENS	CLARA MARIE	NAATHALIE SYBIL
COCKBURN	JENNIFER	LOUISE
COELHO	ELLEN	ANN
COFFENG	WENDY	LOIS
COKER JR.	PETER	LEE
COLON	WILLIAM	THANE
COOMBS	CAROLINE	ADELE
COONEY	CASSANDRA	LEA
COOPER	RICHARD	C.
CORBETT	RUDI	ELLIS
CORREA	LORENZO	MOISES
COWAN	TESSA	BEATRICE
CROCKER	KENNETH	MONROE
CROSTHWAITE	ALISON	LEE
CROSWELL	MATTHEW	CLINTON
CRUM	ROBERT	BLONDEAU
CRUZ	CHRISTEL	LINNEA
CUDMORE	JANIS	M.
CUMMING	NANCY	A.
CYBUL	BORIS	DANIEL
DAILLY	BOUDEWINE	DOROTHEA
DAKIN	JAMES	LLOYD
DANIEL	RITA	
DANOWSKI	GUSTON	SPENCER
DANOWSKI	HENRY	SPENCER
DARBYSHIRE	CHRISTOPHER	W.
DARYANI	DINA OMAR	ABDEL-HADI
DASTI	JULIE	KAREN
DAVENPORT	TRACEY	M.
DAVI	EDWARD	EDWIN
DAVIDSON	STEPHEN	TIMOTHY
DAVIS	EDITH	J.
DE CARO	OLIVER	
DE GEEST	SABINA	MARIA JOHANNA
DE GRAAF	ANNABELLE	
DE NAVACELLE	HENRI	C M C CADY ROUSTAND
DE TEO	ETHAN	YI
DE VRIES	SHIRLEY	MUELLER
DECARO	PATRICK	
DEDOMING	EVA	NICOLE
DEMANDT	PIETER JOHN	PATRICK
DER EXTER	TARYN WALSH	VAN DER ZOUWEN
DERSTROFF	MARGA	CHRISTINA
DESIDERI	GLORIA	
D'ESTAING	PIERRE	LOUIS GISCARD
DEVEREUX	CAROL	ANN
DEVEREUX	HELEN	
D'HUC	ALICE	LILIANE
DIBIASE	JANICE	LOUISE
DILLINGHAM-LUTZ	ANDREA	COLETTE
DISHER-MULHOLLAND	CATHERINE	
DONCK	MARIE	EVELYNE
DORRANCE	DAVID	NEIL
DOWRIDGE	CHRISTIAN	ALEXANDER
DREBINGER	KONRAD	
DREVNIOK	CHARLES	WILLIAM
DUBOIS	MARC	GASTON
EDWARDS	DESMOND	
EGGER	CARLO	YANNIK
EISENHUT	MELANIE	STEPHANIE
ELLENS	TREVOR	LEE
ERARD	CHARLES	HENRI
ESCALANTE	SHEILA	MAUREEN

Last name	First name	Middle name/initials
ESQUIVEL	JANE	BEVERLY
EVANS	JERA	CECELE
FANKHAUSER	JENNIFER	CHANTAL
FELDMAN	DAMUEL	JAY
FELDMAN	LISA	D.
FERNANDEZ	ANNALEA	
FEUTREN	JEAN-LAURENT	EMMANUEL
FITZMAURICE	SIOBHAN	
FITZPATRICK	MARK	AVERY
FIVAZ	JULIETTE	CYBELE
FLURI	CLEMENS	WOLFGANG
FLYNN	PAUL	TERRANCE
FOLKINS	DEVEN	RAY
FREEDMAN	AYRIE	LAYNE
FREY	NICOLE	CECILIA
FREY-SANG	ROSE	HELENA
FROEHLICH	KERSTIN	L.
FROIDEVAUX	CARMEL	REGINA
FRY	VICTOR	LEE
FUEGLISTALER	TITUS	URS
FULLER	KAORI	
FUNFSCHILLING	FRANCOISE	
FURTH	DIANA	ALBERTA
GAGE	SHELLY	RAE
GAL	JENNIFER	
GALBRAITH	LUCINDA	ANNE
GANNAWAY	IAN	JAMES
GANS	MICHAEL	JACQUES
GARAU	PAOLA	
GARDNER	KENNETH	ROBERT
GARRETA	CATHERINE	JEANNE
GATES	JERI	ELISE
GAYER	ROLF	DAVID
GEIISEN	NIELS	
GERTSCH	CHRISTIAN	
GHEBE	WADDAH	H.
GIBSON	ANNE	MARGARET
GILBERT	DIANNE	
GILGEN	THOMAS	MARTIN
GINTHER	DAVID	NATHAN
GLICK	MARCIA	JOAN
GLUNZ	ULRIKE	
GOETTSCH	STEFAN	
GORMAN	DAMIAN	LEE
GOTTESMAN	AVRAHAM	
GRAF	STEFANIE	MARIE
GREK-YALIPSOS	DAPHNE	
GRIMM-WALTHER	NINA	
GROSS	JOEL	
GRZESIEK	ANDREAS	GLEN
GUEST	LISA	ANN
GUNTHER	KEIL	ANNE
GWERDER	LOUIS	FRANK
HAAS	JOELLE	SERENA
HADLEY	CHRISTIAN	BRADBURY
HALDER	HANNAH	MARIE
HALLPERIN	VOLT	N.
HALVERS	ROGIER	LEONARD
HAMAKAWA	KEIKO	
HAMMONS	SUSAN	ELIZABETH
HANLEY	GEOFFREY	IAN
HANSEN	ERLEND	HENDRIK BOGAARD
HARDCASTLE	JASON NG	TAI LONG
HARRINGTON	STEPHAN	A.
HARTLEY	LUKE	
HARTZLER	LEONARD	DUANE
HARTZLER	DEVIN	JAY
HARTZLER	JUDITH	EVE
HATHORN	SARAH	
HAUG	SAMANTHA	WALBURGA
HAWKINS	CHRISTINE	ANNE
HAYASHI	KENTARO	THOMAS
HAYES	KATHERINE	ALEXANDRIA
HEALY	IAN	PATRICK

Last name	First name	Middle name/initials
HEINE	OLIVIA	KATINKA
HEINZ	RICHARD	STEFAN
HENDERSON	KAREN	MARIE
HICKMAN	JUDITH	ANNE
HILD	BERNARD	FRIEDRICH
LYGHT HIMES	GAYLE	J.
HIMMELMAN	RYAN	DAVID
HINDERLIDER	HUGH OWEN	DANA
HIRATA	HIDEO	
HIRATA	TOMOKO	
HITT	CHRISTINA	DANIELLE
HO	ROSELYNN	
HODGINS	MARK	JAMES
HOFSTAETTER	URSULA	
HOGAN	CAROLINE JULIET	KINGSMILL
HOLDEN JR	JAMES	PHILLIP
HOLENSTEIN	ROBIN	BRUNO
HOLROYD	BRIAN	ROSS
HOLT	ROBYN	B.
HSU	CHENG KUANG	
HSU	MEI-YIEH	HUANG
HSU	PORNCHAI	SAE-SING
HSU	YUH	RONG
HUANG	JACK	JT
HUBER	ANTONI	EDUARDO
HUBER	SABRINA	NICOLE
HUERLIMANN	SHANNON	
HUERZELER	FABIAN	M.
HUGHES	DAVID	RANDOLPH
HUI	HAILONG	
HULSMAN	SAINAH	JULIANA
IGUCHI	SAORI	
IKARI	IKUKO	
ILLNER	MARTIN	
IMHOOF	JON	ANDREW
IRLE	PIERR-ADRIAN	ERNEST
IRWIN	ARTHUR	CAMPION
IRWIN	KELLY	J.
ITO	CHIE	
JACOB	VLADIMIR	GUILLAUME
JACQUEMIN	ALIX	AUDE MARIE
JACQUEMIN	HUGUES	STEPHANIE MARIE
JAFARPOUR	AHAD	SABBAGHY
JALLADE	SEBASTIEN	
JAMAIL JR	THOMAS	EDMOND
JANSSEN-MONTANDON	PATRICIA ANN	
JAUSLIN	CORINNE	ANTOINETTE
JAWAD	KUMAIL	MOHAMED
JEANNOT	JESSICA	JOY
JENDLY	JONAS	
JENNINGS	MANUELA	
JOCKIN	NORA	
JOCKUSH	CHRISTINE	ANNE
JOHNSON	RUPERT	BRENT
JOSEPHSON	LISA	JENNIFER
JOSHI	GAYATRI	AMOL
JOST	VALERIE	ANITA
JUERGENSEN	JUERGEN	JENS
JUNEANTO	JUWITA	KUSUMAWATY
KADIHASANOGLU	AYNUR	
KAEGI	EDITH	MARIA
KAELIN	KATHARINA	
KALEMBER	DAYNA	LYN
KALYANPUR	ADIL	BHARAT
KANDE-STAEHELIN	BETTINA	MADELEINE
KANOFF	MICHAEL	
KAPLAN	MARGERY	JOAN
KATZ	SHARON	D.
KATZ	SHARON	DEBORAH
KAY	DARIUS	PAUL
KELLER	IRIS	BRIGITTA
KELM	AMELITA	CUBANGBANG
KIBBE	DAVID	PAUL
KIBBE	STUART	CAPRON

Last name	First name	Middle name/initials
KINGSTON	BEN	LOGAN
KIRK	DANAE	CASSANDRA
KITAO	SAGIRI	
KLEIN	HEIDI	ANNE
KLOSS	BRITT	LOFSTRAND
KMETKO	TOMAS	
KOBAYASHI	SHIORI	ALICE
KOHATA	MICHIKO	
KOHLER	MARIANNE	
KOLENDA	SARA	CATHERINE
KOLLBACH	MARIA	VERONICA
KOSTOFF	JOHN	EDWARD
KOTTHAUS	CHRISTA	
KOTWAL	ASHOK	GOPAL
KOTWAL	BHARATI	
KOVAC-MAJOR	PATRICIA	ELIZABETH
KOVAN	MARTIN	EDWARD
KRAEGEL	JEFFREY	JOHN
KRENGEL	SVEN	THORSTEN
KRICHEVSKY	NICOLAI	DAVID
KRIEGER	NANCY	MARIE
KRISNAKUMAR	KARTHIHA	
KRONENBERG	DOMINIQUE	DANIEL
KUHNLE	CHRISTIAN	
KUIPERS	CHRISTOPHER	SCOTT
KULL	CHRISTIAN	ARTHER
KUSHIMA	MAKI	
KUSHIMA	RYOTARO	
LACKER	TIM	JONAS
LAEMMLI	CHRISTINA	NATALIE
LAFERTE	JEANETTE	
LAJTHA	CHRISTOPHER	ALASTAIR JOHN
LAKEY	BILLY	WAYNE
LALONDE	CARL	MICHAEL
LAMA	KALSANG	P.
LANG	DAVID	JOHN
LANG	KEVIN	RICHARD
LASETZKY	TERESA	CHRISTINE
LASSITER	CAROLINE	GABRIELLE
LAU	WINNIE	WING YEE
LAW-SMITH	KEVIN	GRAHAME
LE MENER	LOU-ANNE	
LEA	RACHEL	ELIZABETH
LEAO	ANNA	MARIANI CARNEIRO
LEECH-PORTER	KALEN	ROBERT
LEENDERS	MATTHEUS	J M
LENARD	DENNIS	JOHN
LERNER	BETTINA	J.
LERNER	MICHEL	NICHOLAS
LEVE	CAROLINE	IRENE
LEVI	JULIE	GAIL
LEVINE	ANNE	
LEVITT-DALLAS	JAMIE	LAUREN
LEWIS	RICHARD	CLAYTON
LI	JULIA ALEXANDEROVNA	KHAKHALEVA
LI	JUN	
LI	LAURA AI	LAN
LIAN	KRISTO	NUGRAHA
LIBFELD	RACHEL	SHARON
LIBFELD	STEVEN	AARIN
LIEBE	BIRGIT	
LIGHTBURN	BENJAMIN	THEODORE
LIMOR	ROY	
LINK	KARL	ROBERT JOHANN
LIPIEC	CHERI	LYNN
LIPIEC	KAILEE	ALAYNE
LIPIEC	MICHAEL	DAVID
LIPPMAN	STEVEN	MARC
LISTOPAD	DENNIS	
LITTLE	ROBERT	B.
LIU	GEORGE	K.C.
LIZOTTE	JEAN-MICHEL	
LO	EUGENE	SEAN
LOCNIKAR	SILVIA	A.

Last name	First name	Middle name/initials
LONG-RILEY	STEPHANIE	JEAN
LORETAN	TIMOTHY	JOSEPH
LOVIC	CAMILLA	B E.
LOVIC	CAMILLA BLANCA	ELOSIA
LUCENAY	NATASHA	SUTHERLAND
LYALL	ANTHONY	JAMES
MA	ERIC	
MACDONALD WILKIE	JAMES	ADAM
MACGREGOR	KATHERINE	ELIZABETH
MAEGLI	ALINE	
MAGGISANO	MELINDA	ANNE
MAHAN	MARILYN	
MAHAN	THOMAS	FINLEY
MAHONEY	MICHELLE	SIMONE
MAILLARD	MARIE	NICOLE
MALERBA	MARIE-AUDE	JEANNE NEMO
MAMPELL	PETER	ERIC THEODORE
MANKTELOW	ANNE	EILEEN
MANUZZI	ALEXANDER	ALVARO
MARCAZZO	HANNAH	SUSAN KATHLEEN
MARCEAU	JONI	GAYLE
MARISTANY	GERARDO	
MARKS	GORDON	EMERY
MARKS	RYAN	STEWART
MAROCCO	KEIKO	
MARSHALL	MARY	JANE
MARTI	CHRISTOPH	JAMES
MARUSKA	MARY ANN	DALY
MATHEWS	CHRISTIAN	J.
MATHY	CARYN	MARIELLE
MATSUO	ASAMI	
MAY	TRACEY	LOUISE
MC QUILLEN	MATTHEW	FRANCIS
MCCUSKER	STEPHANIE	LOUISE
MCMECKAN	HILARY	RUTH
MEIXNER	OSCAR	G.
MERCIER-COINTREAU	RICHARD	MAURICE JACQUES
MERTENS	NICOLE	MARGO
MEYER DE STADELHOFEN	SARAH	VEAL
MICHAELS	STASE	
MILLER	THOMAS	OWEN
MITTON	ROBERT	
MITZEN	ANDREA	CHRISTINE
MIXSON	ANDREW	THOMAS
MIYAMOTO	YUMIKO	
MIYAZAWA	YUGI	JOHN
MOGSTAD	ROLF	
MOHLER	STEVEN	MICHAEL
MONRO-DAVIES	BENEDICT	PHILIP ALEXANDER
MONTANO	TERESA	A.
MOOR	FRANCA	CORINA
MOORE	RICHARD	B.
MORAGIANIS	ANASTASIA	
MORALES	ALEJANDRO	MARTIN
MORGAN	KEVIN	MATHEW
MORI	LISA	SABINA
MUELLER	WARREN	PETER
MULYANTO	MONICA	LYNN
MYUNG	JAYHYUK	
NADEAU	NOELLE	MARIE
NAHMIAS-MATTEUCCI	LAURENCE	INNA
NAIBERG	LISA	CANDACE
NARCISO	DESIREE	LIZETTE
NAU	JUDITH	LEE
NEUBRAND	SALLIE	RUSSEL TRUE
NEUTZLING	IRENE	W.
NEWBOULD	CARELIA	S.
NEWTON	NICHOLAS	JOHN
NICKEL	CAROLE	ANN
NICOLOPOULOS	THEODORA	
NIGEL-ANLIKER	SUSAN	B.
NISHIO	MARY	LOU
NITZSCHE	ERNST	ALFRED
NITZSCHE	NICOLA	JANE

Last name	First name	Middle name/initials
NOAKES	NANCY	LOUISE
NOBLE	BRENT	
NORMAN	SHERYL	ANN
NORTH	MACLAREN	ANDREW
OBRIEN	CHRISTINE	ELIZABETH
OBRIST	SEVERIN	LUKAS
ODENTHAL	KARIN	
OGLE	DYLAN	MICHAEL
OKIYAMA	YASUHIKO	
OLMI	ALISON	CATHERINE
ONCLIN	LISBETH	I.
ONGKOWIJOYO	RONNY	
ORNEST	JOHN	LESTER
ORTIZ	RUTH	
OSBORNE	DANIEL	
OSTOJIC	JOAN	EMMA
OUYOUB	HAMID	
PAGE	JASON	WAYNE
PALEPU	ANITA	
PANDE	MOHIT	
PANDE	MOHIT	
PARIKH	SACHIN	J.
PARKER	TAMSIN	
PASSAMONTI	LUCA	
PATEL	CHINTAN	
PATHMANATHAN	WIJEYANAND	
PEARSON	DONALD	JAMES
PEARSON	SARA	LYN
PEARSON	SUZANNA	NANCY
PEAT	NANCY	B.
PEDLOW	GABRIELE	MARIANNE
PEDRO	FLORENCE	ROSE BEATRICE
PEMBERTON	JEREMY	WINGATE
PEPLER	CHRISTIAN	C.
PERL	AMICHAI	DAVID
PETCH	CHRSTOPHER	JOEL
PFENNINGER	REBECCA	FRANCES
PFLUGER GRANDI	DANIELLE	CHRISTINE ERSILIA
PIECZONKA	ROSALIND	MARIE
PITT	DEBORAH	BARTLETT
PITT	MICHAEL	HENRY
PLISCHKE	MARY	SCHNEIDER
PORRECA	JOSEPH	CESIDIO
POULIN	MONIKA	A.
PRAETORIUS	INGE	HELGA
PRINGLE	GREGORY	ALAN
PUTNAM	GREGORY	ARTHUR
RABON	CAROL	ANN
RAE	ANDREW	DUNCAN
RAE	KIMBERLY	ANN
RAMOS	RODOLFO	BRAJCICH
RAWSON	CLAUDE	J.
RAY	JEANNINE	MARIE
RAY	LUCRETIA	NORMAN
RAYL	SARAH	MOKGADI
RAZ	SHALEM	
REDDEN	DOMINIC	JOHN
REED	TRISTAN	DENIZ
REGENASS	JOHANNES	ARTHUR
REGUEIRO	TESSA	CELINE
REID	VALERIE	
REINTZ	KNUT	
REMIE	CHRISTOFORUS	STEFANUS MARIA
RHODIN	LINDSAY	NATHANIEL
RILEY	WILLIAM	DEARLOVE
RINTOUL	PETER	DAVID
RIZO-PATRON	JOSE	
RO	JUYI	
ROBERTS	JAMES	MARK
ROMANIN	ALESSIA	JENNIFER
RONDEAU	ANNE-SOPHIE	MARGUERITE MASUREL
ROSENBERG	MICHAEL	GEOFFREY
ROSENBUSCH	ANDREA	ELISABETH
ROSSMANITH	MATTHIAS	P.

Last name	First name	Middle name/initials
ROY	CHRISTINE	GENEVIEVE SUZANNE
RUDIN	ANNIKA	LISA
RUSSELL	KATHLEEN	
RUSSELL	PETER	T.
RUTHERFORD	REBECCA	JANE
SACHSE	STEFFEN	D.
SADOWSKI	DEBRA	RUTH
SALAMAT	MEHDI	
SALOMONS	ROBERT	WAYNE
SANDBERG	JOYCE	C.
SANDFORD	GILLIAN	H.
SANOFF	VICKI	LYNN
SANTOSO	DEMITRIA	NARANTI
SAUTEROT	SIMONE	
SAUVEE-YETTER	CHRISTINE	
SAVAGE	SANDRA	
SCHAEFER	JOERG	
SCHAFER	HALEY	LORENE
SCHIEF	GABRIELA	EVELYN
SCHLUEP	OLIVER	CHRISTIAN
SCHNELL	MATTHIAS	BRIAN
SCHOCH	FREDERIKE	
SCHROEDER	AKIRA JENS-FREDERIK	MURAKAMI
SCHWARTZ	GORIA	R.
SCHWIEGER	FLORIAN	
SCIOSCIA	LINDA	SUE
SEIDEL	PAUL	
SEIXEIRO	APRIL	G.
SEIXEIRO	STEVE	F.
SELBY	LI KIM	ELIZABETH THOREN
SELVA	JULIA	PATRICIA
SELVA ESS	DEBRA	JULIE
SERRA	KEVIN	THOMAS GERRIT
SETT	MERRILEE	
SHAUGHNESS	PATRICK	MATTHEW
SHELLEY	VERONICA	
SIBRAVA	IVANA	
SILVERMAN	DAVID	
SIMON	RICHARD	
SIMPSON	JENNY	MARGUERITE KAROLINA
SIMPSON	RUDOLPH	O.
SKAPINKER	ARI	D.
SMITH	AMY	J.
SMITH	DYLAN	KEMPE
SMITH	MARGRET	ALICE
SMITH	NICHOLAS	COURTNEY
SMITH	WAYNE	TRACY
SNYDER	GEOFFREY	SYLVAIN
SOBRADO	CARLOS	EDUARDO
SOLOMON	ALEXANDRE	DANIEL
SOMMER	ANNINA	
SPRAY	VIRGINIA	A.
STAHR	PAMELA	ALEXANDER
STAMM	ROBERT	WOLF
STAVRIOTIS	MICHIKO	
STEBBINS	RANDALL	EDWARD
STEDMAN	TRACY	N.
STEINSTO	CHRISTINE	
STERNBERG	LESILE	EDEN
STEVENSON	DARRYL	ALEXANDER
STINE	ERIC	JOSEPH
STONEY	ELIZABETH	FILLEBROWN
STUCKI	ZENIA	
SUTTER	BRENT	COLIN
SZABO	STEVEN	MICHAEL
SZCZESNIAK	THOMAS	RAYMOND
SZEREMETA	NIKA	
SZREDNI	DANIELLE	BATSHEVA
TAIRA	KAZUFUMI	
TAK	TAE	MOON
TAKAHASHI	HIDEO	
TAKAYAMA	SHOU	LEONARD
TANAKA	AKIRA	
TANAKA	HIDEAKI	

Last name	First name	Middle name/initials
TANAKA	NORIYUKI	
TAUZER	SASHA	TOMCZUK
TAYFUN	TARIK	
TAYLOR	REBECCA	LYNN
TAYLOR-HELL	JULIA	FAYE
TEJADA	BONNIE	KAY
TELLER	MARCUS	WALTER
TESHIMA	TATSUHISA	
TESHIMA	TOMOKO	
TESSIER	PATRICIA	LEA
THERIVEL	RIKI	BETTINA
THOMAIDIS	STEFANOS	E.
THOMAS	KARIN	ELIZABETH
THOMAS	RITA	LOUISE
TJANDRA	MATTHEW	NATHAN
TOMLINSON	IRENE	L.
TOYOTA	MITSURU	
TOYOTA	TERUKO	
TROST	LAURA	LOTTE
TSANG	TZE	LAI ALVIN
TSANG	YOLANDA	YUEN CHING
TUCK	JAMES	ALEXANDER
TUNISTRA	BOUKE	FOKKES
TURLAPOV	ANDREY	V.
TURNER	MARILYN	ELIZABETH
TYLER	ALICE	H.
TYLER	FRANCIS	S.
ULIVI	JOHN	SEBASTIAN
UNTERLECHNER	CHRISTIAN	WALTER
USUI	SACHIYO	
VAN AARLE	FRANCISCUS	
VAN BORSELEN	DIRKJE	ROZEMOND
VAN DEN BOS	RONALD	LEENDERT
VAN DER GOES	DEBORAH	HELEN
VAN DER TOL	ALEXANDRA	LEONIE
VANDEPUTTE	MARC	CYRIEL
VANVLIET	GUNNAR	
VAVELIDIS	EFSTRATIOS	
VELLA	CHRISTOPHER	M.
VIARENGO	CYNTHIA	CAROL
VIS	BARBARA	ELLEN
VIS	KARIN	MARIJKE
VITALE	MARK	LAERENCE
VLIEG	HEDWICH	CHRISTIEN
VOGL	CHIARA	THERESA
VOLLERTSEN	RENATE	ELISABETH
VON BARLOEWEN	DANIEL	WILLIAM
VON SCHULTHESS RECHBERG	CRAIG	PHILLIP
WAGNER	ERIC	JOHN
WALKER	KATHERINE	LYNETTE
WALKER	THOMAS	LEE
WALTHER	LAURA	J.
WAN	HONGYAN	
WANAMBWA	CHRISTOPHER	KISAKA
WANG	JACKIE	
WANG	QUN	
WARD	LYNDA	G.
WARD	ROBERT	GAVAN
WATANABE	AKIKO	
WATANABE	YUIKA	
WEBB	CHRISTOPHER	RAY
WEBBER	KENNETH	IRVING
WEISBERG	OLIVER	PAUL
WELCH	JONATHAN	HOARD ROY
WELLINGER	ALEXANDER	PAUL JOHN
WELLS	SHEILA	JANET
WETTSTEIN	MARKUS	FELIX
WHEATLEY	LOUISE	RUSSELL
WIELER	DAVID	PATRICK
WILDEN	JASMIJN	VAN DER
WILDHAGEN	CAROL	REBECCA
WILLIAMS	ALEC	EDMUND RUSSEL
WILLIAMS	JOHN	DUDLEY
WILLIAMSON	HILARY	JANE

Last name	First name	Middle name/initials
WILLINGHAM	KATHLEEN	
WILSON	NORINE	ELLEN
WINTZENRIETH	FABIEN	HUBERT GILES
WIRJAWAN	DIANDRA	DAHLIA
WITSCHI	LARA	
WOFFORD	EMILY	ANN
WONG	VASSKA	
WOODSIDE	BURTON	SHANTI
WOODWARD	BRANDON	SCOTT ARELLANO
WOOLF	ANDREW	L.
WOOLF	MICHELLE	A.
WORDEN SAUNDERS	CHRISTOPHER	FRASER
WRAGGE	BALLINGER	THOMPSON
WURMBACH	ACHIM	JOHANNES
XIONG	YUJIE	
YABROFF LEBRUN	LEE	M.
YAMAMOTO	TATSUYA	RICHARD
YEH	MICHAEL	
YEN	MIMI	WONG
YOSKOWITZ	YEHUDA	
YOUNG	MATTHEW	D.
YU	HONG	LING
YUNG	NGAN	HAU
ZAAL	CAROLINE	ANNA ELISABETH
ZAENGERLE	ERIC	JOEL
ZALAPSKI	ZEN	
ZANDER SCHULZ	VICTORIA	THERESE
ZAPATER	CONSTANZA	
ZENUK	TANYA	E.
ZHI	XUEYAN	
ZIMMER	ELEANOR	LENA
ZIMMERMANN	DONALD	LLOYD
ZOLKOWER	RICHARD	JAY
ZWARTJES	SASKIA	JOSE

Dated: October 23, 2020.

Godofredo F. Burgos-Rodriguez,

Manager Classification Team 82413, Examinations Operations—Philadelphia Compliance Services.

[FR Doc. 2020–23993 Filed 10–28–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Internal Revenue Service Advisory Council; Meeting

AGENCY: Internal Revenue Service, Department of Treasury.

ACTION: Notice of meeting.

SUMMARY: The Internal Revenue Service Advisory Council (IRSAC) will hold a public meeting on Wednesday, November 18, 2020.

FOR FURTHER INFORMATION CONTACT: Ms. Stephanie Burch, Office of National Public Liaison, at 202–317–4219 or send an email to *PublicLiaison@irs.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), that a public meeting of the IRSAC will be held on Wednesday, November 18, 2020, from 9:00 a.m. to 12:00 p.m. Eastern Time. The meeting will be held by conference call. To register to attend and for call-in instructions, members of the public may contact Ms. Stephanie Burch at 202–317–4219 or send an email to *PublicLiaison@irs.gov.* Issues to be discussed may include, but are not limited to: *Taxpayer First Act; Accelerating electronic filing and electronic signature options; IRS need for adequate funding; Taxpayer Digital Communications; Business identity theft; Paperwork reduction; Taxpayer responsibility to update mailing address; Employer tax forms and reporting; IRS efficiencies through a newly proposed early exam program; Dispute resolution programs; Alternative withholding statement language in Form W–8IMY certifications; Proposed lag method regulations—Form 1042–S filing deadlines; Regulations impacting tax information reporting; Volunteer Income Tax Assistance (VITA) programs and other services for Indian tribal governments (ITGs); Compliance Assurance Program (CAP) for ITGs; Cooperatives seeking to terminate tax exempt status; and Relief for employee plans in times of national emergency.* Last-minute agenda changes may preclude advance notice. Attendees are encouraged to call in at least 5–10 minutes before the meeting begins. Should you wish the IRSAC to consider a written statement, please send an email to *PublicLiaison@irs.gov.*

Dated: October 26, 2020.

John Lipold,

Branch Chief, IRS Office of National Public Liaison, IRSAC Designated Federal Official.

[FR Doc. 2020–23995 Filed 10–28–20; 8:45 am]

BILLING CODE 4830–01–P

UNIFIED CARRIER REGISTRATION PLAN

Sunshine Act Meeting Notice; Unified Carrier Registration Plan Board of Directors Meeting

TIME AND DATE: November 5, 2020, from Noon to 3:00 p.m., Eastern time.

PLACE: This meeting will be accessible via conference call and screen sharing. Any interested person may call 877–853–5247 (US toll free), 888–788–0099 (US toll free), +1 929–205–6099 (US toll), or +1 669–900–6833 (US toll), Conference ID 925 8091 3586, to participate in the meeting.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Board of Directors (the ''Board'') will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement. The subject matter of the meeting will include:

Agenda

I. Welcome and Call to Order—UCR Board Chair

The UCR Board Chair will welcome attendees, call the meeting to order, call roll for the Board, confirm the presence of a quorum, and facilitate self-introductions.

II. Verification of Meeting Notice—UCR Executive Director

The UCR Executive Director will verify publication of the meeting notice on the UCR website and distribution to the UCR contact list via email followed by subsequent publication of the notice in the **Federal Register**.

III. Review and Approval of Board Agenda—UCR Board Chair

For Discussion and Possible Action

Agenda will be reviewed and the Board will consider adoption.

Ground Rules

➢ Board actions taken only in designated areas on agenda

IV. Approval of Minutes of the October 8, 2020 UCR Board Meeting—UCR Board Chair

For Discussion and Possible Action

Draft Minutes of the October 8, 2020 UCR Board meeting will be reviewed. The Board will consider action to approve.

V. Report of FMCSA—FMCSA Representative

The Federal Motor Carrier Safety Administration (FMCSA) will provide a report on any relevant activity.

VI. Updates Concerning UCR Legislation—UCR Board Chair

The UCR Board Chair will call for any updates regarding UCR legislation since the last Board meeting.

VII. Chief Legal Officer Report—UCR Chief Legal Officer

The UCR Chief Legal Officer will provide an update on the status of the March 2019 data event, the Twelve Percent Logistics litigation, several cease and desist letters sent to third party permitting service providers, and other matters.

VIII. Amendment to UCR Agreement—UCR Executive Director

For Discussion and Possible Action

The UCR Executive Director will discuss a proposal to change the UCR Agreement to reflect the language of the UCR Handbook on the issue of International Registration Plan (IRP) vehicle plates equating to the number of vehicles counting towards a carrier's fleet for the purpose of calculating its UCR fee. The UCR Agreement currently states that ''IRP plates cannot be excluded from the vehicle count.'' UCR Agreement, Section 10(e)(5)(i). The UCR Handbook adopted by the Board at the October 8, 2020 Board meeting states [that there is] ''a very strong presumption that a vehicle registered under IRP is countable towards a carrier's fleet for purposes of calculating its UCR fee.'' UCR Handbook, Effect of IRP Registration, page 26. The Board may take action to change the UCR Agreement to mirror the language of the UCR Handbook as discussed above.

IX. Subcommittee Reports

Audit Subcommittee—UCR Audit Subcommittee Chair

A. Tracking of Audit Data in the National Registration System (NRS)—UCR Audit Subcommittee Chair

For Discussion and Possible Action

The UCR Audit Subcommittee Chair will discuss the merits of the Audit Subcommittee having an oversight role in the audit notes on closed Focused Anomaly reviews (FARs) and MCS–150 retreat audits when there is an indication of an error or insufficient documentation to close the audit. The Board may take action to authorize the Audit Subcommittee having an oversight role regarding audit notes. The Audit Subcommittee recommends that the Board adopt this action. The Board may take action to approve the Audit Subcommittee's recommendation.

B. State Compliance Reviews—UCR Depository Manager

For Discussion and Possible Action

The UCR Depository Manager will discuss plans for completing state compliance reviews for calendar year 2020 and make recommendations for the eight state compliance reviews planned for calendar year 2021. The Board may take action to approve the compliance reviews planned for calendar year 2021.

C. Update on the 2020 New Entrant and Unregistered Solicitation Campaigns—Seikosoft

Seikosoft will provide an updated report on new entrant motor carrier campaigns managed by the National Registration System (NRS), new entrant motor carrier campaigns managed by the states, unregistered motor carrier campaigns managed by the NRS, and unregistered motor carrier campaigns managed by the states.

D. Update on the Non-Universe Motor Carrier Solicitation Campaigns—Seikosoft

Seikosoft will provide an updated report on the solicitation campaign targeting motor carriers identified through roadside inspections to be operating in interstate commerce but identified in the Motor Carrier Management Information System (MCMIS) as either intrastate or inactive.

E. Update to the Unregistered Carrier List for 2019 Potentially Containing Private Passenger and Intrastate Motor Carriers—Seikosoft

Seikosoft will provide an update on the potential for the Unregistered Carrier List to contain private passengers and intrastate motor carriers that changed their carrier status to interstate during calendar year 2020.

F. Update on Unregistered Brokers—Seikosoft/UCR Audit Subcommittee Chair

The UCR Audit Subcommittee Chair and Seikosoft will discuss the challenges of unregistered Brokers on UCR enforcement. The discussion will regard jurisdiction and other challenges, and may also include dialogue regarding successes and ideas for addressing the issue.

Finance Subcommittee—UCR Finance Subcommittee Chair

A. Review UCR Bank Balance Summary Report—UCR Finance Subcommittee Chair/UCR Depository Manager

The UCR Finance Subcommittee Chair and the UCR Depository Manager will review the UCR Bank Balance Summary Report and answer questions from the Board.

B. Discuss the Proposed Schedule for Distributions From the Depository for the 2021 Registration Year—UCR Depository Manager

The UCR Depository Manager will discuss the proposed schedule for the Depository to make distributions to states that have not yet achieved their revenue entitlements for the 2021 registration year.

C. Certificates of Deposit—UCR Depository Manager

The UCR Depository Manager will provide an update on investing funds from the 2019 Savings Account held at the Bank of North Dakota in short-term certificates of deposit, not to exceed six months in duration.

D. Review 2020 Administrative Expenses Through October 31, 2020—UCR Depository Manager

The UCR Depository Manager will present the administrative costs incurred for the period of January 1, 2020 through October 31, 2020, compared to the budget for the same time-period, and discuss all significant variances.

E. Status of 2020 and 2021 Registration Years Fee Collections and Compliance Percentages—UCR Depository Manager

The UCR Depository Manager will provide an initial update on the results of collections and registration compliance rates for the 2020 and 2021 registration years.

Education and Training Subcommittee—UCR Education and Training Subcommittee Chair

Update on Basic Audit Training Module and Flow Chart/Decision Tree—UCR Education and Training Subcommittee Chair

The UCR Education and Training Subcommittee Chair will provide an update on the development of the Basic Audit Training Module and Flow Chart/Decision Tree.

X. Contractor Reports—UCR Executive Director

- UCR Executive Director

The UCR Executive Director will provide a report covering recent activity for the UCR Plan.

- DSL Transportation Services, Inc.

DSL Transportation Services, Inc. will report on the latest data from the FARs program, discuss motor carrier inspection results, and other matters.

- Seikosoft

Seikosoft will provide an update on recent/new activity related to the NRS.

- UCR Administrator Report (Kellen)—UCR Operations and Depository Managers

The UCR Administrator will provide its management report covering recent activity for the Depository, Operations, and Communications.

XI. Other Business—UCR Board Chair

The UCR Board Chair will call for any business, old or new, from the floor.

XII. Adjournment—UCR Board Chair

The UCR Board Chair will adjourn the meeting.

This agenda will be available no later than 5:00 p.m. Eastern time, October 26, 2020 at: *https://plan.ucr.gov*.

CONTACT PERSON FOR MORE INFORMATION: Elizabeth Leaman, Chair, Unified Carrier Registration Plan Board of Directors, (617) 305–3783, *eleaman@board.ucr.gov*.

Alex B. Leath,

Chief Legal Officer, Unified Carrier Registration Plan.

[FR Doc. 2020–24067 Filed 10–27–20; 4:15 pm]

BILLING CODE 4910–YL–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Advisory Committee on Rehabilitation, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App.2, that the Veterans' Advisory Committee on Rehabilitation (VACOR) will meet virtually on Wednesday, November 18—Thursday, November 19, 2020. The meeting sessions will begin and end as follow:

Date:	Time (eastern standard time):
November 18, 2020 ..	10:45 a.m.–4:00 p.m.
November 19, 2020 ..	11:00 a.m.–4:00 p.m.

The virtual meeting sessions are open to the public.

The purpose of the Committee is to provide advice to the Secretary of VA on the rehabilitation needs of Veterans with disabilities and on the administration of VA's Veteran rehabilitation programs. The Committee members will discuss previous recommendations that were included in the Committee's annual reports and receive briefings on current and potential VA partnerships designed to enhance the delivery of services for the rehabilitation potential of Veterans.

Time will be allocated for receiving oral comments from the public. Members of the public may submit written comments for review by the Committee to Latrese Arnold, Designated Federal Officer, Veterans Benefits Administration (28), 810 Vermont Avenue NW, Washington, DC 20420, or at *Latrese.Arnold@va.gov*. In the communication, writers must identify themselves and state the organization, association or person(s) they represent. For any members of the public that wish to attend virtually, they may use the WebEx link: *https://veteransaffairs.webex.com/veteransaffairs/j.php?MTID=maa889b80e1572a687b69928cf44b367d,* Meeting number (access code): 199 660 7472, Meeting password: cR3TsS2PR*3, 1–404–397–1596, 1996607472## USA Toll Number.

Dated: October 23, 2020.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2020–23911 Filed 10–28–20; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Research Advisory Committee on Gulf War Veterans' Illnesses, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App.2, that the Research Advisory Committee on Gulf War Veterans' Illnesses will meet by teleconference on November 18, 2020. The open session will convene at 11:00 a.m. (EST) and end at 2:00 p.m. (EST). The open session will be available to the public by dialing the toll-free telephone number for audio 800 767–1750; access code 56978# and connecting to Adobe Connect URL for visual: *http://va-eerc-ees.adobeconnect.com/racgwvi-nov2020/*.

The purpose of the Committee is to provide advice and make recommendations to the Secretary of Veterans Affairs on proposed research studies, research plans, and research strategies relating to the health consequences of military service in the Southwest Asia Theater of operations during the Gulf War in 1990–1991.

The Committee will review VA program activities related to Gulf War Veterans' illnesses and updates on relevant scientific research published since the last Committee meeting. This meeting will include discussion of the recent VA-DoD Gulf War Illness State of the Science Conference held August 18–19, 2020 and how best to build on the current research provided during the program and recommend next steps. There will also be a discussion of other Committee training, business and activities, including review of meeting dates for the parent Committee and Veteran engagement session subcommittee for the next fiscal year.

The meeting will include time reserved for public comments 30 minutes before the meeting closes.

Individuals who wish to address the Committee may submit a 1–2 page summary of their comments for inclusion in the official meeting record. Members of the public may submit written statements for the Committee's review or seek additional information by contacting Dr. Karen Block, Designated Federal Officer, at 202 443–5600, or at *karen.block@va.gov*.

Dated: October 23, 2020.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2020–23912 Filed 10–28–20; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

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Part II

Department of Agriculture

Food Safety and Inspection Service

9 CFR Parts 416, 417, 500, et al.

Egg Products Inspection Regulations; Final Rule

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 416, 417, 500, 590, and 591

[Docket No. FSIS–2005–0015]

RIN 0583–AC58

Egg Products Inspection Regulations

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the egg products inspection regulations to require official plants that process egg products (herein also referred to as ''egg products plants'' or ''plants'') to develop and implement Hazard Analysis and Critical Control Point (HACCP) Systems and Sanitation Standard Operating Procedures (Sanitation SOPs) and to meet other sanitation requirements consistent with FSIS's meat and poultry regulations.

DATES: This rule is effective December 28, 2020, except for:

The amendments to 9 CFR 590.146, 590.149(a), 590.500, 590.502, 590.504(f), (g), (h), (i), (j), (k), (l), (m), (n), (p), and (q), 590.506, 590.508, 590.510(a), (c)(1) and (c)(3), and (d), 590.515, 590.516 section heading and (a), 590.520, 590.522, 590.530, 590.532, 590.534, 590.536, 590.538, 590.539, 590.540, 590.542, 590.544, 590.546 through 590.550, 590.552, 590.560, 590.570(a), 591.1(a) and 591.2(b), which are effective October 29, 2021; and

The amendments to 9 CFR 417.7(b), 590.149(b) and (c), 590.504(d)(1) and (2), 590.504(o)(1), (2), and (3), 590.570(b), 590.575, 590.580(b)(1), 591.1(b), and 591.2(a) and (c), which are effective October 31, 2022.

Comment date: FSIS is seeking comments on the *Egg Products Hazards and Controls Guide.* Commenters may use the *Egg Products Hazards and Controls Guide* during the comment period. Comments must be received by December 28, 2020.

ADDRESSES: Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field on this web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Room 6065, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.
- *Instructions:* All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2005–0015. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*
- *Docket:* For access to background documents or comments received, call (202) 720–5627 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Victoria Levine, Program Analyst, Office of Policy and Program Development by telephone at (202) 690–3184.

SUPPLEMENTARY INFORMATION:

Executive Summary

On February 13, 2018, FSIS published a proposed rule to amend the egg products inspection regulations (9 CFR part 590 and other relevant parts) to require egg products plants to develop and implement Hazard Analysis and Critical Control Point (HACCP) Systems and Sanitation Standard Operating Procedures (Sanitation SOPs) and to comply with the Sanitation Performance Standards (SPS), in accordance with the regulations in 9 CFR parts 416 and 417 (83 FR 6314). Additionally, FSIS proposed:

- To eliminate prescriptive regulations, including those requiring prior approval by FSIS of egg products plant drawings, specifications, and equipment, and replace outdated pasteurization requirements with a performance standard requiring that official plants process egg products to be edible without additional preparation to achieve food safety.
- To change the Agency's interpretation of ''continuous inspection'' to provide for the presence of inspectors at official plants at the same frequency that meat and poultry processing establishments are provided inspectors, *i.e.,* at least once per shift.
- To require egg products plants to maintain control of egg products that have been sampled and tested for microbiological public health hazards until the test results become available.
- To apply the egg products regulations to egg substitutes and freeze-dried products and require inspection of these products.
- To eliminate the prohibition on the use of irradiated shell eggs in the production of egg products and food products containing them.
- To make egg products labeling requirements, including requirements for generically approved labeling and special handling labels, more consistent with the requirements for meat and poultry products, as well as to make changes to labeling requirements for shell eggs consistent with those in the Food and Drug Administration (FDA) regulations.
- To align the import requirements for egg products more closely with the import requirements for meat and poultry products.
- To change organizational terms and job titles that appear in the regulations but are no longer used by FSIS.
- To replace the rules of practice governing enforcement procedures for egg product plants with those that apply to meat and poultry product establishments under 9 CFR part 500. And,
- To add the undesignated paragraph defining the term *Program employee* and eliminate the undesignated paragraph defining the term *Eggs of current production.*

This final rule adopts all the proposed revisions to the egg products inspection regulations, except for the two proposed changes to the regulatory definitions. First, FSIS is not eliminating the definition for the term *Eggs of current production* from 9 CFR 590.5. Second, the Agency is not adding the undesignated paragraph that defines *Program Employee* to 9 CFR 590.5.

Cost and Benefits

Costs attributable to the final rule are those associated with the development and implementation of HACCP plans and Sanitation SOPs. The impact of the costs is mitigated by the fact that 93 percent of egg products plants already use a written HACCP plan to address at least one production step in their process.

The benefits of the final rule include providing greater flexibility and incentives for innovation through reductions in paperwork and eliminating unnecessary requirements. In addition, plants voluntarily meeting HACCP requirements and also complying with current prescriptive regulations are expected to reduce costs, because they will be operating solely under HACCP requirements. Plants will also benefit from a reduction in overtime and holiday pay paid to FSIS due to changes in inspection coverage.

TABLE 1—SUMMARY OF ESTIMATED BENEFITS AND COSTS

Industry Benefits	• Elimination of requirements for requests of approval for waivers, blueprints, and labels. • A HACCP system allows for long-term efficiency gains resulting from removing barriers to innovation found in the existing command and control system. • Cost savings from the reduction of overtime and holiday pay paid to FSIS inspectors for inspection.
Agency Benefits	• Long-term benefits from improved inspection personnel coverage. Egg products inspection personnel will now be trained under a HACCP system and can be positioned for inspection in traditional meat and poultry establishments. • Salary savings for the reduction in inspection at egg products plants. • Savings from the reduction or elimination of waiver, blueprints, no objection letter, and label approval submissions to FSIS from industry.
Industry Costs	• Cost to the plant to create HACCP plans and Sanitation SOPs. • Costs to the plant for additional HACCP recordkeeping and monitoring. • Cost to the plant for training personnel in the HACCP system.
Agency Costs	• Costs for training inspection program personnel in HACCP and egg products inspection. • Costs to the Agency to provide relief inspectors while egg products plants inspectors are being trained. • Additional travel costs for inspection personnel on patrol assignments in egg products plants.

SUMMARY OF ESTIMATED QUANTIFIED BENEFITS AND COSTS

	Low	Mid	High
Benefits ($1,000)	5,893	5,893	5,893
Costs ($1,000)	2,506.3	4,826.6	7,163.7
Net Benefits ($1,000)	−1,270.6	1,066.5	3,386.8

Figures were annualized over 10 years at the 7 percent discount rate. Numbers may not sum due to rounding.

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I. Background

Miscellaneous information

The implementation of HACCP will eliminate many of the prescriptive regulations that lead to the issuance of waivers and no objection letters. Therefore, plants implementing HACCP earlier than two years after publication of this rule in the **Federal Register** will have their new technology waivers and no objection letters in effect at that time revoked on the date they implement HACCP. All other new technology waivers and no objection letters currently in effect will be revoked two years after this final rule is published in the **Federal Register**.

Egg substitutes and freeze-dried egg products will fall under FSIS's jurisdiction three years after this final rule is published in the **Federal Register**. Plants producing egg substitutes already under FSIS inspection because they also make inspected and passed egg products should have little difficulty meeting the Agency's regulatory requirements. For plants producing egg substitutes that are not currently under FSIS inspection, the Agency will provide additional information about how to meet the regulatory requirements prior to the effective date of this portion of this final rule.

Official plants may begin operating under HACCP and Sanitation SOP regulations at earlier dates, provided FSIS has verified that they are in compliance with the regulations. More information on implementation is provided below.

FSIS is discontinuing the PEPRLab Program 60 days after this final rule is published in the **Federal Register**.

Proposed Rule

On February 13, 2018, FSIS published a proposed rule to amend the egg products inspection regulations (9 CFR part 590 and other relevant parts) to require egg products plants to develop and implement Hazard Analysis and Critical Control Point (HACCP) Systems and Sanitation Standard Operating Procedures (Sanitation SOPs) and to comply with the Sanitation Performance Standards (SPS), in accordance with the regulations in 9 CFR parts 416 and 417 (83 FR 6314). The proposed rule also required egg products to be produced to be edible without additional preparation to achieve food safety. In addition to these requirements, the proposed rule:

• Changed the Agency's interpretation of ''continuous inspection'' to provide for the presence of inspectors at official plants at the same frequency that meat and poultry

processing establishments are provided inspectors, *i.e.,* at least once per shift.

• Provided for generic approval for certain egg products labels.

• Made changes to labeling requirements for shell eggs consistent with those in FDA's regulations.

• Required special handling instructions on egg products.

• Eliminated the requirements for prior approval by FSIS of egg products plant drawings, specifications, and equipment. And

• Incorporated egg products plants into the coverage of the ''Rules of Practice'' that the Agency follows when initiating administrative enforcement actions.

The proposed rule's comment period closed on June 13, 2018, 120 days after its publication. After reviewing comments on the proposed rule, FSIS is finalizing, with two exceptions, the provisions in the February 2018 proposed rule.

In the proposed rule, FSIS proposed to eliminate the definition for the term *Eggs of current production* (83 FR 6332). As noted in the proposed rule, ''*Eggs of current production*'' are those eggs that have moved through the usual marketing channels since the time they were laid and are not in excess of 60 days old. The term is an indicator of quality, not food safety, and, FSIS thought, might unduly restrict the availability of edible eggs. In response to comments opposed to removing the term, however, FSIS has decided to retain it in this final rule.

Second, FSIS is not adding the proposed undesignated paragraph that defines *Program Employee* to 9 CFR 590.5 (83 FR 6333). FSIS uses the phrase ''inspection program personnel'' rather than ''program employee'' to refer to inspectors and other field personnel. Therefore, instead of adding the undesignated paragraph *Program employee* to 590.5, FSIS is adding to 9 CFR 590.5 the undesignated paragraph ''*Inspection program personnel*'' because it is specific to FSIS field personnel. FSIS also is amending the following regulations to replace the words ''program employee,'' ''import inspection personnel,'' ''program inspector,'' ''official program personnel,'' or ''import inspector'' with ''inspection program personnel'':

9 CFR 590.118
9 CFR 590.120
9 CFR 590.136
9 CFR 590.310
9 CFR 590.340
9 CFR 590.435
9 CFR 590.504
9 CFR 590.915
9 CFR 590.925
9 CFR 590.940
9 CFR 590.945

Technical Corrections

This final rule makes the following technical changes to the proposed to correct inadvertent errors in the proposed regulatory text:

• In paragraph (b) of 9 CFR 417.7, the word ''processing'' was inadvertently omitted from the existing regulatory text. The paragraph now reads, ''The individual performing the functions listed in paragraph (a) of this section shall have successfully completed a course of instruction in the application of the seven HACCP principles to meat, poultry, or egg products processing, including a segment on the development of a HACCP plan for a specific product and on record review.''

• A commenter noted that FSIS inadvertently omitted language in the definition of ''egg product'' in 9 CFR 590.5. The language has been restored and is discussed elsewhere in this document.

• The final language for 9 CFR 590.40 concerning egg products not intended for human food no longer contains a provision for shipping such product under seal, as authorized in 9 CFR 590.504(c), because in the final rule, 9 CFR 590.504(c)(1) no longer requires denatured or decharacterized egg products to move under Government seal and certificate.

• FSIS is correcting two typographical errors found in 9 CFR 590.149. Paragraph (a) references § 591.1(a)(1) of this chapter. The correct citation is § 591.1(a) of this chapter. Paragraph (b) references § 591.1(a)(1) of this chapter. The correct citation is § 591.1(a) of this chapter.

• FSIS is correcting a typographical error found in 9 CFR 590.411. Paragraph (b) references 9 CFR 412.2. The correct citation is 9 CFR 412.1.

• FSIS is correcting an error found in 9 CFR 590.412. Paragraph (a) states that official plants must comply with the requirements in 9 CFR 412.2, except as otherwise provided in this part. Section 412.2 permits the approval of generic labels. Official plants do not have to have generically approved labels. Therefore, the Agency is changing the word ''must'' in paragraph (a) to ''may'' and removing the phrase ''except as otherwise provided in this part.''

• FSIS is making the same technical correction to 9 CFR 590.415 and 590.504(d)(2). Both regulations refer to a performance standard that is different than the one that was proposed in 9 CFR 590.570. As proposed, they stated that the relevant standard is ''sufficient to reduce *Salmonella.*'' The performance standard that will correctly reflect what was proposed in 9 CFR 590.570 is ''sufficient to produce egg products that are edible without additional preparation to achieve food safety.''

• FSIS is making a second technical correction to clarify the regulations at 9 CFR 590.504(d)(2). The paragraph states that shipments of unpasteurized egg products shipped from one official plant to another official plant for pasteurization or treatment must be sealed in cars or trucks. FSIS is amending the paragraph to clarify that the official plant is responsible for sealing the car or truck. That the plant is responsible for sealing a shipment of unpasteurized egg products is consistent with the labeling requirements for such shipments, proposed (and made final) in 9 CFR 590.410(c).

• FSIS is making a change to 9 CFR 590.424(b) so that the egg products reinspection procedures are consistent with those in the meat regulations, are consistent with the new interpretation of the requirement for continuous inspection found in this final rule, and do not unduly restrict the formation of patrol assignments in egg products plants. Unlike the current egg products regulations, which require reinspection of egg products at the time they are brought into the official plant, the meat regulations permit products to be received in an official establishment during the absence of inspection program personnel. Such products are subject to reinspection by inspection program personnel at the official establishment in such manner and at such times as may be deemed necessary to assure compliance with the regulations in Subchapter A of Chapter III, Title 9 of the Code of Federal Regulations. Paragraph (b) of 9 CFR 590.424 will permit the reinspection of egg products brought into an egg products plant under similar circumstances.

• FSIS is correcting a typographical error found in proposed 9 CFR 590.514(c)(2). The proposed paragraph stated that ''Denatured or decharacterized inedible egg products may be shipped from an official plant for industrial use or animal food, provided that it is properly packaged, labeled, and segregated, and inventory controls are maintained.'' It should instead read, ''Undenatured egg products or inedible egg products that are not decharacterized may be shipped from an official plant for industrial use or animal food, provided that they are properly packaged, labeled, and segregated, and inventory controls are maintained.'' This will allow official

plants to ship inedible egg products that look like wholesome egg products to entities desirous of such products, while at the same time ensuring that they are not diverted for human food use.

• In the preamble to the proposed rule, FSIS discussed in detail eliminating the regulations at 9 CFR 590.515, regarding egg cleaning operations, as they are inconsistent with the proposed requirements for Sanitation Standard Operating Procedures (Sanitation SOPs). However, the Agency inadvertently failed to include an instruction in the regulatory text to do so. Nonetheless, FSIS received considerable support for its proposal to require official plants to develop and implement Sanitation SOPs and eliminate current regulatory provisions that are inconsistent with them. The Agency is therefore removing 9 CFR 590.515 from the egg products inspection regulations.

• FSIS is making a technical correction in the final version of paragraphs (b)(1) and (b)(2) of 9 CFR 590.504 so that they read the same as the current regulations. The proposed rule incorrectly removed the word ''Eggs'' from these regulations. In this final rule, the Agency is including the words ''Eggs and'' at the beginning of paragraph (b)(1) to read as follows: ''Eggs and egg products are subject to inspection in each official plant processing egg products for commerce.'' It is also adding ''eggs and'' to paragraph (b)(2) so that it reads: ''Any eggs and egg products not processed in accordance with the regulations in this part of part 591 or that are not otherwise fit for human food will be removed and segregated.''

• FSIS is making a technical correction to 9 CFR 590.570. Section 590.570, *Control of pathogens in egg products,* applies only to pasteurized egg products, not unpasteurized products. To clarify this, FSIS is changing the title and regulatory text of 9 CFR 590.570 by adding the word ''pasteurized'' to it to make clear that that regulation requires pasteurized product, not unpasteurized product, to be produced to be edible without additional preparation to achieve food safety. Unpasteurized egg products may continue to be sent to other official plants for further processing to achieve food safety; they may not, however, enter commerce (9 CFR 590.415). The title of 9 CFR 590.570 will read *Control of pathogens in pasteurized egg products.* FSIS is also adding the word ''pasteurized'' to the first and second sentences of 9 CFR 590.570 for the same reason.

• FSIS is making a technical correction to 9 CFR 590.590. The proposed regulation referred to a performance standard that is different than the one that was proposed in 9 CFR 590.570. As proposed, it stated that the relevant standard is ''heat or another lethality treatment to produce a ready-to-eat product.'' The language that will correctly reflect what was proposed in 9 CFR 590.570 is ''Irradiated shell eggs used to produce pasteurized egg products must be used in conjunction with heat or another lethality treatment sufficient to produce egg products that are edible without additional preparation to achieve food safety.''

• FSIS is making a technical correction to 9 CFR 590.910. On November 27, 2019, FSIS published a final rule amending its regulations to remove lists of foreign countries eligible to export meat, poultry, or egg products to the United States, and, instead, maintain such lists on its website (84 FR 65265). That final rule amended 9 CFR 590.910 and its title. FSIS is amending 9 CFR 590.510 and its title in this final rule to match the language newly amended by the *Publication Method for Lists of Foreign Countries Eligible To Export Meat, Poultry, or Egg Products to the United States* final rule (84 FR 65269). FSIS also made two technical corrections in the regulatory text. First, the Agency removed the word ''continuous'' before the phrase ''Government inspection'' in the first sentence of paragraph (a) to be consistent with the language used in this final rule. Second, FSIS removed the second to last sentence of paragraph (a) allowing the survey of the foreign inspection system to occur more expediently by payment by the interested Government agency in the foreign country of the travel expenses incurred in making the survey.

• FSIS is making technical corrections to the titles of 9 CFR 590.925, 590.930, and 590.945. Each title refers to ''eggs.'' The regulatory text, however, refers only to egg products. Removing the word ''eggs'' from these titles will eliminate any confusion that may exist regarding what product is being regulated.

Guidance for Small and Very Small Plants

FSIS is also announcing the availability of guidance to help small and very small plants producing egg products meet the pasteurization requirements proposed in this rulemaking. When FSIS published the proposed rule, FSIS posted a draft of the *FSIS Compliance Guideline for Small and Very Small Plants that Produce Ready-to-Eat (RTE) Egg Products* on its website and requested comments on it. FSIS has revised the draft guidance based on comments on the proposed rule, updated it regarding hazards related to *Listeria monocytogenes* (*Lm*) and residues, and improved readability.

Additionally, FSIS previously did not incorporate the pasteurization time and temperature requirements from 9 CFR 590.570 for liquid egg whites in the draft guidance. It had been intentionally excluded because the current scientific literature indicates that the time and temperature for liquid egg whites in 9 CFR 590.570 does not achieve a 5-$\log_{10}$ reduction of *Salmonella.* FSIS reviewed the available data to determine the appropriateness of a 5-$\log_{10}$ reduction of *Salmonella* in egg whites as a safe harbor. As such, FSIS is incorporating a separate section with specific conditions under which the pasteurization time and temperature from 9 CFR 590.570 for liquid egg whites may be used as a safe harbor. Comments on the draft guidance are discussed in more detail below. FSIS has posted the final guidance, *FSIS Food Safety Guideline for Egg Products,* on its web page at *(http://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/compliance-guides-index).*

FSIS also is posting an *Egg Products Hazards and Controls Guide* on its web page at *https://www.fsis.usda.gov/wps/wcm/connect/089c71f4-b634-44c8-a69c-389e289f50b2/egg-hazards-controls-guide.pdf?MOD=AJPERES.* This guide will help egg products plants design and control safer food production systems, particularly small and very small plants that may need additional assistance as they develop their hazard analyses, support their hazard analyses decisions, and amend existing HACCP systems after reassessment. The guide identifies the process steps relevant to each process category, lists some potential hazards in the process steps, and cites some of the controls frequently used by processors to address these hazards.

II. Comments and Responses

FSIS received 87 comments from consumers, individuals, a trade association representing the egg products industry, the egg products industry, a consumer group, a trade association representing egg farmers and egg further processing facilities, inspection program personnel (IPP), students and a college professor, an independent consultant, an engineer, an individual working in a field allied with the egg products industry, one foreign government, an FDA-regulated facility, and one U.S. government agency. Most

commenters supported the proposed rule overall, with many stating that they thought that the proposed regulations would ensure food safety and protect public health. There was, however, disagreement among commenters about FSIS's suggested change to the Agency's interpretation of the requirement for continuous inspection and questions about the cost of the proposal.

FSIS also received some comments from consumers indicating confusion about the scope of the proposed rule. For example, one commenter asked whether the same standards that were proposed for egg products plants would be in place for shell egg producers. The proposed rule did not include requirements for shell egg producers. FSIS regulates official egg products plants and their processing operations and does not generally regulate shell eggs outside of egg products plants, except when checking to ensure that shell eggs packed into containers destined for the ultimate consumer meet the packaging and labeling requirements of the EPIA and 9 CFR 590.50. Therefore, the comments received in response to this proposed rule dealing with shell egg producers and shell eggs located outside of official plants are outside the scope of this rulemaking. A second commenter expressed concern about animal welfare issues, while others requested aid, tax incentives, or rebates to offset the burden of changes required by this rulemaking. These comments were also all outside the scope of this rulemaking.

In addition, the Agency received comments about surplus broiler eggs/out-of-specification hatching eggs being thrown away and not used to produce egg products for consumption because they cannot meet the FDA's requirement that eggs sent for breaking be refrigerated at 45 °F within 36 hours of lay (21 CFR 118.4(e)). These comments are outside the scope of this rulemaking.

Below is a summary of comments received and FSIS's responses.

A. Continuous Inspection

Comments: FSIS received three comments from a trade association representing the egg products industry and from the egg products industry, generally in favor of FSIS's proposal to reinterpret ''continuous inspection'' to require the presence of inspectors in egg products plants at least once per shift, instead of during all processing operations. FSIS received 16 comments from individuals, students, a trade association representing egg farmers and egg further processing facilities, an individual working in a field allied with the egg products industry, and IPP opposing the change. FSIS received one comment asking for more details.

Comment: The college professor suggested that the decrease in the amount of onsite inspection would increase the burden on manufacturers to adhere to new standardized food safety and sanitation protocols.

Response: FSIS disagrees. Manufacturers must meet certain requirements under this final rule. The amount of onsite inspection provided does not change those requirements, and IPP do not help manufacturers meet these requirements by completing tasks for them. The burden remains the same, regardless of the amount of onsite inspection provided.

Comment: The comment from the consumer group stated that ''continuous inspection'' is defined in the EPIA. As such, according to this commenter, the proposed change would need to be done legislatively and not simply through a rulemaking as proposed by the Agency.

Response: FSIS disagrees. The EPIA does not contain a definition of ''continuous inspection.'' Under 21 U.S.C. 1043, the Secretary of Agriculture has the authority to promulgate rules and regulations deemed necessary to carry out the provisions or purposes of the Act. Under this authority,[1] FSIS proposed a rule that would change its interpretation of ''continuous inspection'' because such change is necessary to effectively and efficiently administer the egg products inspection program.

As FSIS explained in the proposed rule, egg products operations are more like meat and poultry processing operations, and especially those that produce ready-to-eat (RTE) products, than they are meat and poultry slaughter operations, where inspection is required for each meat or poultry carcass. Like RTE meat and poultry processing operations, the typical egg products processing operation is a streamlined, automated process, with a lethality step to destroy pathogens of concern in the finished product (83 FR 6333). As a result, changing the Agency's interpretation of continuous inspection will allow FSIS to better use its inspection resources to conduct more efficient and effective inspections.

Comment: The trade association representing the egg products industry said that FSIS should move cautiously in forming a different approach to continuous inspection. This commenter pointed out that there are highly controlled processing steps, often requiring minimal human interaction, that may pose less risk than other processing steps, like breaking, blending, or pasteurizing, which are more like slaughter processes than not. For less risky processes, the commenter suggested that an inspector's unannounced presence for something less than the entire processing shift may be satisfactory.

Several commenters opposed to the proposed change in continuous inspection, including IPP and the engineer, argued that breaking eggs is more like meat and poultry slaughter than processing. Because inspection is required in slaughter plants for all slaughter operations, they stated that inspection should also be required during breaking operations.

Response: FSIS disagrees that breaking eggs is more like meat and poultry slaughter than processing. As discussed above, the Agency believes that egg products operations are more like meat and poultry processing operations than they are meat and poultry slaughter operations, because the typical egg products processing operation is a streamlined, automated process, with a lethality step to destroy pathogens of concern in the finished product. Further, the shift to processing inspection frequencies will give FSIS the flexibility to focus inspection coverage and tasks in consideration of public health risk, consistent with what the trade association comment recommended. FSIS's shift to processing inspection frequencies will take place in individual plants as they implement HACCP.

Comment: Three comments from the trade association representing the egg products industry and the two official plants supported the proposed change to the interpretation of continuous inspection, provided that the number of available inspectors is adequate to prevent interruptions in processing, in the movement of export shipments, or in the performance of certifications of customer specifications or requirements on a fee basis under the Agricultural Marketing Act. Similarly, one comment from an inspector stated that monitoring the requirements for the Agricultural Marketing Service's Commodity Procurement Program would be difficult under patrol assignments, as would collecting samples and applying seals. In addition, this commenter said that patrol assignments would prevent the performance of final inspections. The trade association representing the egg products industry, an egg products plant, and the FDA-regulated facility

[1] The Secretary of Agriculture's authority to exercise the functions contained in the EPIA is delegated to the Under Secretary of Food Safety and can be found in 7 CFR 2.18(a)(1)(ii)(C).

asked about possible changes to inspection under the proposal.

Response: The Agency is required by the EPIA to adequately assign inspection resources to ensure that the requirements of the EPIA are being met. IPP in meat and poultry processing establishments are able to monitor the requirements for the Commodity Procurement Program, perform export certification, and provide fee-based inspection services, while on patrol assignments. They will be able to do so in egg products plants, as well.

When the proposed rule is finalized, egg products plants will continue to operate under inspection regulations during all hours of operation, but will most likely have an inspector present only once during each production shift. While at each plant, FSIS inspectors will monitor the plant's sanitary operating practices and the execution of its HACCP plan, such as the critical control point (CCP) related to the heat treatment of egg products, conduct the Agency's food safety related Public Health Information System (PHIS) tasks, and perform other consumer protection tasks, such as conducting product labeling reviews. Under the final rule, however, plants will still be required to have approved operating schedules per 9 CFR 590.124.

Comment: One comment from the trade association representing the egg products industry stated that changing the Agency's interpretation of continuous inspection could result in inspection being inconsistently applied, that is, it would be provided as a matter of management efficiency rather than based on need. Under the new interpretation of continuous inspection, this commenter stated that inspection could significantly differ among two or more similar plants based on the location of each.

Response: As noted above, the EPIA requires the Secretary of Agriculture to adequately assign inspection resources, as he deems necessary, to ensure that the requirements of the Act are being met. Accordingly, the Agency will provide each plant the amount of inspection coverage that is appropriate for that plant and will provide an inspector at least once each operating shift.

Additionally, FSIS inspectors in egg products plants will receive the same routine inspection tasks in PHIS, so inspection activities that inspectors conduct will be consistent across all egg products plants. Moreover, FSIS has many years of experience with using patrol assignments to efficiently and effectively inspect the preparation of food products. Therefore, FSIS is confident that the use of patrol assignments, as necessary, will result in appropriate inspection assignments at all egg products plants.

Comment: The trade association representing the egg products industry, while commending the Agency's desire to reduce inspection costs to taxpayers and industry, questioned how much FSIS will save for government or industry. This commenter said that biosecurity concerns will impact the availability of IPP among plants and that egg products plants already have issues with the limited availability of IPP at certain times, usually during overtime periods. The commenter indicated that most overtime now required by the egg products industry is during times when nearby meat and poultry further processors, when they exist, are inactive or otherwise not required to have inspection.

Response: Through this final rule, the Agency will reduce the use of inspectors outside their normal work schedules and during overtime hours and holidays in plants by using patrol assignments. The use of patrol assignments likely will reduce the costs for overtime and holiday hours because plants will not be required to operate under the previous interpretation of continuous inspection during overtime and holiday hours. As a result, industry should realize cost savings of approximately $4.8 million annualized at the 7 percent discount rate over ten years.

Comment: A comment from the trade association representing the egg products industry in favor of the proposed change pointed out that most firms already have very restrictive biosecurity systems in place and indicated that there are many restrictions on the movement of personnel within a single production or processing site for food safety and animal health reasons. While acknowledging that FSIS IPP already comply with industry biosecurity protocols, this commenter stated that IPP need to continue to honor all reasonable biosecurity requirements at inspected plants, including minimum times between entry to a plant and entry to another plant or farm. Another comment from an egg products plant said that FSIS needs to think about biosecurity when considering an inspector's ability to visit more than one facility a day, as such restrictions may limit IPP travel among inspected plants, such as inline operations that house live chickens and off-line operations.

A comment from an inspector said that if continuous inspection is replaced with patrol assignments, only one facility in the assignment could have live birds, as other facilities having live birds would create biosecurity concerns. This commenter also stated that finding available replacements for IPP in cases of emergency would be difficult for FSIS, as a potential replacement could not have been in a facility with live birds within the time limit provided by the biosecurity policies of the other plants in the assignment. Another inspector said that by jeopardizing biosecurity measures, patrol assignments could result in other countries banning the export of egg products if there is an outbreak associated with eggs.

Response: Changing the interpretation of continuous inspection under the EPIA will allow for more flexibility to inspect egg products plants using patrol assignments, but FSIS will continue to assign inspectors to ensure both that the requirements of the EPIA are met and the biosecurity of plants is not compromised. IPP have successfully complied with the biosecurity measures put in place by official meat and poultry establishments and egg products plants since 2015, when FSIS issued FSIS Notice 17–15, *FSIS Program Personnel Hygiene and Biosecurity Practices.* Since that time, FSIS is unaware of any disease transmission caused by the movement of IPP or issues regarding inspection coverage resulting from the implementation of industry biosecurity measures. When this final rule is issued, IPP will continue to follow biosecurity measures put in place by official establishments and plants in accordance with FSIS Directive 5060.1, *Hygiene and Biosecurity Practices.*

Comment: Two comments from IPP opposed to the proposed change in continuous inspection stated that the proposal would not protect public health or would be detrimental to the public. Two other inspectors said that continuous inspection is an integral part of the food safety aspect of egg products. Others said that without continuous inspection, plants will not follow HACCP and Sanitation SOP protocols, and as a result, will produce adulterated product. These commenters argued that plants will take short cuts because IPP will not be there to verify or monitor production, and they will break ineligible eggs. One inspector said that because plants will know when IPP arrive under a patrol assignment, there is no deterrent for them to not break ineligible eggs.

A comment by an inspector stated that without continuous inspection, IPP will not know what occurred before and after they are onsite. Another inspector said that with only one site visit a day in an egg products drying plant

operating 24 hours a day, seven days a week, equipment that is cleaned in place could potentially rarely be inspected. This commenter also said that IPP would not have the opportunity to observe or conduct many required tasks if the proposed change to continuous inspection is implemented.

Response: FSIS's paramount obligation is to protect the public health. This final rule does that by building the principle of prevention into production processes through HACCP and Sanitation SOP requirements. This final rule also protects public health by better delineating and clarifying the respective roles of industry and FSIS to ensure that egg products are produced in accordance with sanitation and safety standards and are not adulterated or misbranded within the meaning of the EPIA. FSIS and establishment data show that HACCP and the related sanitation requirements have been an effective system for reducing or eliminating food safety hazards in meat and poultry processing establishments, inspected under patrol assignments. IPP have had no difficulties verifying regulatory compliance. The application of HACCP to egg products processing should be no different and these changes should significantly enhance the effectiveness of the egg products inspection program. Under HACCP, FSIS will verify that plants have conducted the hazard analysis to identify all hazards reasonably likely to occur and then will verify that plants follow their HACCP plans.[2] If plants do not follow their HACCP plans, FSIS will take regulatory enforcement actions in accordance with 9 CFR part 500.

Plants will not know when IPP are to arrive under a patrol assignment. Under patrol assignment inspection, FSIS will observe the breaking of shell eggs and will review plant records concerning incoming eggs to verify that plants are not breaking dirty eggs. Finally, FSIS will test product for pathogens and residues to verify that it is not adulterated.

HACCP is a flexible system tailored as a structured food safety program designed for a plant's specific processes and products. Once implemented, egg products plants will be required to develop and implement a HACCP system for food safety that is designed to prevent, eliminate, or reduce to an acceptable level the occurrence of biological, chemical, and physical hazards that are reasonably likely to occur in the plant's process. Plants will be responsible for developing and implementing HACCP plans that incorporate the controls that are necessary to produce safe egg products. Plants will also have to develop and maintain effective recordkeeping procedures that document the entire HACCP system and perform on-going verification procedures to ensure that the plant's HACCP system follows the regulatory requirements.

At the same time, proper sanitation is an important and integral part of every food process and a fundamental requirement under the law. Once the sanitation requirements under 9 CFR part 416 are implemented, all plants that process egg products will have to develop, implement, and maintain written Sanitation SOPs to prevent direct contamination or adulteration of product before and during operations (9 CFR 416.11). Plants will also be required to maintain daily records to document adherence to the SOPs (9 CFR 416.16).

The implementation of 9 CFR parts 416 and 417 for egg products plants modernizes inspection procedures consistent with inspection procedures in meat and poultry processing establishments, using the Agency's resources more efficiently and removing unnecessary regulatory obstacles to innovation by plants. This will ensure the same level of inspection oversight to achieve FSIS's public health mission and will not diminish the inspector's ability to conduct verification procedures to ensure regulatory compliance by the egg products plants.

Comment: A comment from the college professor suggested that FSIS provide for video streaming feeds of several facilities simultaneously to one inspector to remotely monitor safety and sanitation operations, with another in-plant inspector supplementing the video stream with one in-person visit per shift. The commenter said that this would allow for more efficient use of manpower and be consistent with reducing the number of hours inspectors would be present in egg products plans.

Response: FSIS does not believe that it is necessary to constantly inspect operations via video to effectively inspect egg products plants. As mentioned above, FSIS has experience using patrol assignments to conduct food safety inspection. FSIS believes that by conducting patrol assignments, reviewing records, and sampling products, it obtains a complete view of establishment operations.

B. HACCP, Sanitation SOPs, and Other Sanitation Requirements

Comment: Some commenters questioned whether the current regulations for egg products plants are equal to the requirements that the meat and poultry industry must meet and suggested the proposed requirements would ''make egg products safer.'' Other commenters stated that egg products would (and should) be regulated more strictly than meat and poultry products.

Response: The current and proposed egg products regulations are both effective, *i.e.,* they prevent the adulteration and misbranding of egg products, and egg products produced under them are RTE and safe for consumption. However, the current regulations are overly prescriptive and not flexible. They do not, for example, allow official plants to tailor their control systems to the needs of their particular plants and processes. They do not allow official plants to innovate regarding facility design, construction, and operations, and they unnecessarily define the specific means needed to achieve sanitation requirements. The HACCP, Sanitation SOPs, and other sanitation requirements being finalized in this rulemaking are consistent with, and not stricter than, the meat and poultry regulations. They will ensure food safety protection while offering egg products plants flexibility in their operations and the ability to innovate.

Comment: FSIS received many comments in favor of requiring official plants to develop and implement HACCP Systems and Sanitation SOPs and to meet other sanitation requirements consistent with the meat and poultry regulations. Commenters, including individuals, academic students, the trade association representing the egg products industry, and the trade association representing egg farmers and egg further processing facilities contended that these requirements would provide a more standardized approach for food safety across all products inspected by FSIS, serve to ensure uniformity among all egg products plants, and make the egg products inspection regulations more effective by eliminating numerous prescriptive command-and-control regulations. One comment from the individual working in a field allied with the egg products industry stated that a benefit of HACCP is its recordkeeping requirements, as records reviews by plant personnel and IPP would ensure the safety of product and that the system is functioning as required. The trade association representing egg farmers and egg further processing facilities

[2] Continuous inspection in egg products plants requires an inspector to be on the premises at least once per shift, not once per day. If a plant has multiple shifts, such inspector presence will be required for each shift.

supported the application of corrective actions to prevent the recurrence of detectable pathogens. Another comment from an individual supported the proposed HACCP and sanitation requirements because, according to the commenter, egg products present similar food safety risks as meat and poultry. The individual working in a field allied with the egg products industry stated that sanitation regulations for egg products should be consistent with those for meat and poultry, because dirt attached to eggs or equipment can affect product integrity. Comments from the trade association representing the egg products industry and the egg products industry supported the proposed requirements for HACCP and Sanitation SOPs because, according to these commenters, many egg products plants have already voluntarily instituted these programs due to customers' requirements. These same commenters believed that the implementation of these programs will eliminate industry and IPP confusion due to the inconsistency of HACCP requirements in meat and poultry establishments and prescriptive command-and-control requirements in egg products plants.

Several commenters specifically expressed support for the proposed sanitation requirements. An individual stated that measures taken to improve the food supply are worthwhile, even if it means higher egg products prices for consumers. Other individuals felt that the provisions of the proposed rule could prevent future unsanitary conditions that may give way to spoiled or contaminated eggs.

One comment from a student stated that while shifting liability and responsibility for oversight onto manufacturers via HACCP and Sanitation SOPs would increase efficiency, such efficiency could not be measured until the proposal had been implemented. This commenter thought that FSIS should phase in the requirements of the proposed rule for two to three years to measure the effectiveness of the new rule and make further changes to the regulations, if necessary.

Response: FSIS agrees with these comments supporting the proposed HACCP, Sanitation SOP, and other sanitation requirements. FSIS believes that the efficiency of HACCP and Sanitation SOPs, in general, has been shown. The meat and poultry industries have operated under these programs since the late 1990s; their efficiency in eliminating food safety hazards since that time has been clearly demonstrated. For example, by 2000–2001, cleaning and sanitation tasks and tasks required to implement HACCP had accounted for approximately a one-third reduction in the number of meat and poultry samples testing positive for *Salmonella* spp.[3] In addition, shortly after HACCP was introduced, *Salmonella* meat contamination levels were generally reduced, a finding consistent with improvement through HACCP implementation.[4] FSIS believes that the HACCP, Sanitation SOPs, and sanitation performance standards will similarly be effective in egg products plants. In any event, FSIS retains the authority to further amend its regulations as needed in the future.

Comment: A comment from an individual said that there needs to be a set, thorough way to fully examine and determine the cleanliness of equipment. This commenter also stated that cleaning and sanitizing solutions used on equipment in egg products plants should be identified and their use indicated on egg products labels.

Response: When the proposed rule becomes final, IPP will verify plants' compliance with the sanitation requirements in 9 CFR 416.3(a), which requires that equipment and utensils be maintained in sanitary conditions so as not to adulterate product. Cleaning and sanitizing solutions are not intended to be added to food and are not food ingredients. They do not need to be identified and their use indicated on egg products labels because they do not remain as a constituent of the finished egg product.

Comment: The engineer stated that FSIS needs to include a requirement for equipment standards, such as the E–3–A standards, or the 3–A standards used by the Agricultural Marketing Service in the dairy industry. This commenter stated that individual pieces of equipment can be quite complex and that the incorrect design, materials, manufacturing specifications, operation, and maintenance of systems to process liquid and dried eggs can and will lead to product contamination.

Response: FSIS disagrees that the egg products inspection regulations need to include a requirement for equipment standards. When finalized, 9 CFR 416.3 will apply to egg products plants and clarify the requirements that plants select and maintain equipment to effectively prevent product contamination or adulteration. Plants will still need to ensure that product is not contaminated, adulterated, or misbranded during processing, handling, or storage. FSIS will verify that plant equipment and systems meet the sanitation performance standards through regular inspection tasks.

Comment: A consumer group questioned whether FSIS can determine if HACCP plans adopted by egg products plants are valid within the effective dates of the regulations.

Response: As with HACCP for meat and poultry processing, under this final rule, 9 CFR 417.4(a) requires plants to validate that their HACCP system works as intended within their plant. To validate their HACCP systems, plants need scientific support to show that their system can eliminate hazards and also need in-plant data showing that their system works as intended within the plant. FSIS will be able to verify compliance with these requirements. FSIS has ample experience in reviewing and evaluating HACCP plans and their implementation in food processing environments. Given this, and FSIS's experience regulating the egg products industry specifically, FSIS anticipates no difficulties regulating the development and implementation of HACCP plans for egg products processing.

Section 9 CFR 590.149(b) will be effective two years after the publication date of this final rule. All existing plants will have 90 days starting on that effective date during which they must validate their HACCP plans. New plants will have 90 days from the date they receive their grant of inspection to validate their HACCP plans and plants producing new products will have 90 days from the date they start producing them during which to validate their HACCP plans. FSIS will verify whether plants have validated their HACCP systems after the effective date of the HACCP regulations and after any new plants have had time to validate their HACCP systems.

C. Control of Pathogens in Egg Products

Comment: Three consumers supported the requirement that official plants be required to process egg products to be edible without additional preparation to achieve food safety. A comment from an inspector stated, however, that the new regulations would require unpasteurized egg products to be tested and found negative before they could be shipped from the producing plant, without needing further cooking/pasteurization. As a result, the inspector stated that the egg product would no longer meet the

[3] Economic Research Service, ''The Interplay of Regulation and Marketing Incentives in Providing Food Safety,'' July 2009.

[4] Rose BE, Hill WE, Umholtz R, Ramnsom GM, James WO. 2002. ''Testing for *Salmonella* in raw meat and poultry products collected at federally inspected establishments in the United States, 1998 through 2000.'' *J Food Prot* 65:937–947.

definition of *Pasteurized* in 9 CFR 590.5.

Response: When finalized, the proposed rule will not allow unpasteurized egg products to enter commerce. This is consistent with the current regulations, which permit such product to move only to another official plant for further processing (9 CFR 590.415(a)). Proposed Section 590.570, *Control of pathogens in egg products,* applies only to pasteurized egg products, not unpasteurized products. To clarify any misunderstanding, FSIS changed the title and regulatory text of 9 CFR 590.570 by adding the word ''pasteurized'' to it to make clear that that regulation is requiring pasteurized product, not unpasteurized product, to be produced as edible without additional preparation to achieve food safety.[5] Unpasteurized egg products may continue to be sent to other official plants for further processing to achieve food safety; they may not, however, enter commerce (9 CFR 590.415).[6] The title of 9 CFR 590.570 will read *Control of pathogens in pasteurized egg products.* FSIS is also adding the word ''pasteurized'' to the first and second sentences of 9 CFR 590.570 for the same reason.

Comment: One comment from an industry member stated that requiring egg products to be edible without additional preparation to achieve food safety would place a significant cost impact on plants that process unpasteurized egg products. In a similar vein, a comment from the engineer asked if egg breaking plants that do not have a kill step to eliminate pathogens and ship raw liquid egg products for further processing would be exempt from the regulations.

Response: Plants that process unpasteurized egg products do not have to treat egg products to be edible without additional preparation to achieve food safety. As noted above, unpasteurized egg products may continue to be sent to other official plants for further processing to achieve food safety; they may not, however, enter commerce (9 CFR 590.415). Therefore, there is no associated cost impact on plants that process unpasteurized egg products. Egg products in commerce currently cannot have any detectable pathogens. Therefore, requiring egg products to be edible without additional preparation to achieve food safety does not create any additional costs for producers of pasteurized egg products either. Plants that process unpasteurized egg products, *i.e.,* products that do not receive a kill step to eliminate pathogens, and ship raw liquid egg products for further processing are not generally exempt from the regulations, but they do not have to meet the requirements of 9 CFR 590.570, which applies only to pasteurized egg products.

D. Labeling

Comment: A comment from the trade association representing egg farmers and egg further processing facilities supported the Agency's proposal to make egg products labeling, including providing for generic labeling, more like labeling requirements for meat and poultry. An inspector noted that FDA-regulated egg substitutes may use food colorings not presently considered suitable by FSIS. This commenter stated that the generic labeling provisions would lead to unapproved ingredients being used in egg substitute products once they are under FSIS jurisdiction. An industry member sought assurances that existing label claims and product names on egg substitutes will continue to be allowed once the products are under FSIS jurisdiction.

Response: FSIS will actively review coloring and ingredient approvals for egg substitutes while those products transition from FDA's jurisdiction to FSIS's. FSIS has a Memorandum of Understanding[7] with FDA that establishes the working relationship to be followed by FSIS and FDA when responding to requests (*i.e.,* petitions or notifications) for the use of food additives, including sources of radiation and food contact substances, generally recognized as safe substances, prior-sanctioned substances, and color additives subject to FDA regulation and intended for use in the production of FSIS-regulated meat, poultry, and egg products. Under this agreement, FDA determines whether substances are safe for use in human food, and FSIS determines whether they are suitable for use in meat, poultry, or egg products. After the effective date of this final rule, the Agency will continue to work with FDA on assessing any food colorings or food ingredients used in egg substitutes.

FSIS is likely to approve label claims, product names on egg substitutes and similar products, and food colorings that have met FDA requirements. FSIS will conduct timely and transparent reviews of specific claims, products names, and food colorings, and will provide guidance on labeling claims and names for egg substitute and similar products.

Comment: Another comment from the FDA-regulated facility asked if all liquid/frozen whole egg products must have 24.2 percent solids per 9 CFR 590.411(d) and if so, whether this requirement would eliminate from the marketplace the liquid/frozen product being sold now as whole egg but at 17 percent solids (products currently using gums and starches).

Response: As described, this egg product is prepared in other than natural proportions. Therefore, it would not comply with the requirement in 9 CFR 590.411(d) that liquid or frozen egg products identified as whole eggs and prepared in other than natural proportions, as broken from the shell, have a total egg solids content of 24.20 percent or greater. This rulemaking did not make substantive changes to 9 CFR 590.411(d). Under that regulation, as amended, ''Liquid and frozen egg products identified as whole eggs and processed in other than natural proportions as broken from the shell must have a total egg solids content of 24.20 percent or greater.'' Such egg products may have a total egg solids content of less than 24.20 percent, but they may not be identified as ''whole eggs.'' Such labeling would cause the products to be misbranded. They may, for example, be labeled as ''Liquid Egg Product'' with ''Ingredients: Egg whites, egg yolks.''

E. Blueprints

Comments: The individual working in a field allied with the egg products industry said that the submission of drawings to USDA for prior approval before making structural changes should be kept and that plants should know what they can and cannot do prior to making changes.

Response: FSIS believes that the development and implementation of effective Sanitation SOPs and HACCP systems and compliance with the other sanitation requirements will meet the same objectives as prior approval of plant drawings and equipment specifications by FSIS. The prior approval process is inconsistent with

[5] To verify whether egg products are edible without additional preparation to achieve food safety, FSIS samples and tests pasteurized egg products for *Salmonella* spp. and *Lm.*

[6] Unpasteurized egg products may also be exported from the U.S. to Canada for further processing to achieve food safety. See *https://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/exporting-products/requirements-for-processed-egg-products/canada-egg-products.*

[7] 225–00–2000 Amendment 1: Memorandum of Understanding Between the United States Department of Agriculture Food Safety Inspection Service and the United States Department of Health and Human Services Food and Drug Administration, (*http://www.fda.gov/AboutFDA/PartnershipsCollaborations/MemorandaofUnderstandingMOUs/DomesticMOUs/ucm441552.htm*), 2000.

FSIS's view of the appropriate division of responsibility between the Agency and official plants for the production of safe, unadulterated egg products. Plants develop and implement validated HACCP systems to produce safe egg products; FSIS verifies the efficacy of these processes through inspection activities, including product sampling and testing. Further, as discussed in the proposed rule, the prior approval requirement is an obstacle and too often a deterrent to innovation by official plants seeking to improve operations, and it contributes to the inefficient use of FSIS resources both in managing the approval system and verifying official plants' compliance with approved facility and equipment specifications.

In addition, FSIS prior approvals are of limited value in ensuring good sanitation. They are limited in both (1) scope, in that they deal only with official plant facilities as presented in drawings and equipment presented as new, and (2) time, in that they are given once, on the condition that official plants will maintain a sanitary operating environment after their facilities and equipment are approved. The Sanitation SOP regulations and sanitation standards require plants to account for structural changes and maintenance over time.

The sanitation regulations set forth general principles for plant construction to ensure the maintenance of sanitary conditions and to prevent product adulteration. Paragraph (b) of 9 CFR 416.2 specifically addresses construction requirements in official establishments. Paragraph (b)(1) requires that establishment buildings meet certain sanitation requirements, while paragraphs (b)(2) and (3) provide requirements for interior construction and materials. Paragraph (b)(4) contains requirements for rooms and compartments in which edible product is processed, handled, or stored. The elimination of prior approval for drawings and equipment specifications will provide official plants the flexibility to determine the specific steps to be taken to comply with these requirements.

Comment: The individual working in a field allied with the egg products industry thought that many egg products inspection regulations needed to be updated or removed due to gray areas, irrelevancy, or because inspection determinations are left to the discretion of each inspector. This commenter stated that consistency is not possible under the proposed regulations and that having more regulations that are firmly written with absolute requirements or circumstances would be extremely beneficial to plants.

Response: FSIS disagrees that such prescriptive regulations are needed in egg products plants. HACCP has been proven to be the best framework for building science-based process control into food production systems to prevent food safety hazards.[8] [9] Furthermore, HACCP is a flexible system that will provide an establishment the ability to tailor its control systems to the needs of its particular processes.

The Agency is also removing some prescriptive sanitation requirements because they impede innovation and blur the distinction between plant and inspector responsibilities for maintaining sanitary conditions. The intent of the final regulation is to provide establishments with more flexibility to innovate regarding facility design, construction, and operations. Inspection program personnel are trained to evaluate an establishment's control system to ensure that the system as designed and implemented meets regulatory requirements.

F. Freeze-Dried Egg Products and Egg Substitutes

Comment: The trade association representing the egg products industry and a member of industry were in favor of FSIS no longer exempting freeze-dried egg products from inspection, while these two commenters and a third member of industry were in favor of FSIS no longer exempting egg substitutes from inspection. One industry member asked that FSIS work with industry to implement inspection of egg substitutes in a manner to minimalize the costs to industry and to limit the potential disruption of supply to customers as these products are transitioned from FDA to FSIS jurisdiction.

Response: Producers of freeze-dried egg products and egg substitutes do not have to meet the requirements of this final rule until three years from the date of publication. Similarly, FSIS will not inspect production of these products until that date. FSIS will be transparent concerning how it plans to inspect egg substitutes and freeze-dried egg products and will publish additional information concerning the transition as necessary.

Comment: The trade association representing the egg products industry noted that in the proposed rule FSIS removed egg products from the definition of an egg source for exempted products in 9 CFR 590.5 and stated that the change would lead to confusion on the part of food manufacturers and others.

Response: A portion of existing regulatory text was inadvertently omitted from the proposed term *Egg product* in 9 CFR 590.5. FSIS has reinserted that language so the definition now reads, ''For the purposes of this part, the following products, among others, are exempted as not being egg products: Cooked egg products, imitation egg products, dietary foods, dried no-bake custard mixes, egg nog mixes, acidic dressings, noodles, milk and egg dip, cake mixes, French toast, and sandwiches containing eggs or egg products, provided such products are prepared from inspected egg products or eggs containing no more restricted eggs than are allowed in the official standards for U.S. Consumer Grade B shell eggs.''

G. Exempted Plant Status

Comment: The trade association representing the egg products industry and an industry member supported FSIS's decision to eliminate the exemption from continuous inspection available for any plant that meets the standards required for official plants in 9 CFR 590.500 through 590.580 and where the eggs received or used in the manufacture of egg products contain no more restricted eggs than are allowed by the official standards for U.S. Consumer Grade B shell eggs found in 9 CFR 590.100(b). These same commenters also supported FSIS's decision to eliminate the corresponding regulations in 9 CFR 590.600–680 containing the requirements plants have to meet if they wish to be exempt from continuous inspection. Both commenters acknowledged that section 1044(a)(2) of the EPIA gives the Secretary of Agriculture discretion to exempt qualifying plants from specific provisions of the Act; however, both commenters stated that these regulatory provisions are inconsistent with the stated intent of the EPIA to protect the health and welfare of consumers.

Response: FSIS agrees with these comments. The exemption from continuous inspection found in 9 CFR 590.100(b) and the corresponding regulations in 9 CFR 590.600–680 would permit periodic inspection in egg products plants. FSIS believes that such plants should be inspected at least once per shift. Therefore, the Agency is

[8] Neal D. Fortin, Food Regulation: Law, Science, Policy, and Practice, (Hoboken, NJ: John Wiley and Sons, 2017) 181.

[9] Rose BE, Hill WE, Umholtz R, Ramnsom GM, James WO. 2002. ''Testing for *Salmonella* in raw meat and poultry products collected at federally inspected establishments in the United States, 1998 through 2000.'' *J Food Prot* 65:937–947.

moving forward as proposed in the rule to eliminate the exemption from continuous inspection found in 9 CFR 59.100(b) for certain egg products plants and the exempted egg products plant regulations in 9 CFR 590.600–680.

H. Eggs of Current Production

A comment from a trade association representing the egg products industry agreed with FSIS that eggs over 60 days of age have lessened quality and will not meet most customers' expectations for functional properties. This commenter recommended that FSIS leave the ''eggs of current production'' definition in the regulations because, according to the commenter, the lessened value of product produced from eggs *not* of current production should be reflected on the label of that product. Other comments from IPP and the egg products industry opposed FSIS's proposal to remove the definition without explanation. Because FSIS agrees with the points raised by the first commenter, it is not eliminating the definition for the term ''eggs of current production.''

I. Implementation Timeframe and Training

Comment: A member of industry found the one-year implementation schedule for Sanitation SOPs and two-year implementation schedule for HACCP acceptable. This commenter then asked that FSIS provide training for the industry when training is provided to FSIS inspectors at egg products plants to ensure that there is clear communication of FSIS's expectations for the programs between all parties. If the implementation timeframe listed does not provide sufficient time to provide training to both inspectors and industry, the commenter asked that the implementation be extended to complete both training and implementation steps.

Response: FSIS agrees that effective training of both FSIS and industry employees is critical to the success of Sanitation SOPs and HACCP. However, FSIS does not plan to allow industry to attend Agency training sessions because of complex logistical and cost considerations. The Agency also believes that responsible plant officials are in the best position to determine the training needs for each plant. As is discussed above, FSIS is providing guidance to the industry that the industry may decide to use to train industry employees. FSIS also believes that the current timeframe provides sufficient time for the industry to train its employees in Sanitation SOPs and HACCP and then implement each of the programs.

Comment: A comment from the college professor stated that because the effective implementation of HACCP and Sanitation SOPs relies on well-trained and performing employees, user-centered training and instructional materials should be given added consideration to ensure a robust supportive framework is in place in the planned change. This commenter stated that FSIS should guide industry on how to adopt and implement HACCP and Sanitation SOPs, and training should be user-focused and modernized to maximize both agency and industry resources in the training and change implementation process. A comment from an individual said that promises for guidance about the proposed changes were mentioned in the proposal, but were not directly addressed.

Response: In the preamble to the proposed rule, FSIS said that it would provide additional guidance to plants on how to validate their HACCP systems (83 FR 6319). FSIS previously provided a *Compliance Guideline for Hazard Analysis Critical Control Point (HACCP) Systems Validation* in April 2015. While the examples in the compliance guideline reference meat and poultry products, the concepts contained in the document apply to egg products as well.

FSIS also is announcing the availability of a *Generic HACCP Models Guide for Egg Products* that will be published before the HACCP regulations are implemented. And, as discussed earlier, FSIS is making available its *FSIS Food Safety Guideline for Egg Products,* which will help small and very small plants producing egg products meet the pasteurization requirements proposed in this rulemaking, and its *Egg Products Hazards and Controls Guide,* which will help egg products plants design and control safer food production systems. Both can be found on FSIS's web page.

J. Radioactive Content of Irradiated Egg Products

Comment: The foreign government asked FSIS whether it would test the radioactive content of irradiated egg products and if so, what test method or basis would the Agency use in the detection of radiation in egg products.

Response: FSIS is finalizing the proposed regulation 9 CFR 590.590, which will permit the use of irradiated shell eggs in the production of pasteurized egg products. As stated in the proposed rule, FDA amended its regulations in July 2000 to permit the use of ionizing radiation on shell eggs to reduce the level of *Salmonella* (July 21, 2000, 65 FR 45280). Ionizing radiation does not increase the normal radioactivity level of the food, regardless of how long the food is exposed to the radiation, or how much of an energy dose is absorbed. FSIS, therefore, does not intend to test for the radioactive content of egg products produced from irradiated shell eggs.

K. Temperature and Labeling Requirements

Comment: A federal agency asked FSIS to change proposed 9 CFR 590.50(b) by deleting the words ''and labeling'' from the paragraph because 21 CFR 101.17(h) does not exempt producer-packers with an annual egg production from a flock of 3,000 or fewer hens from its labeling requirements. The agency asked that FSIS do this so that it is clear that producer-packers with an annual egg production from a flock of 3,000 or fewer hens are exempt only from the temperature requirements of 9 CFR 590.50(a) and not the labeling requirements in 21 CFR 101.17(h).

Response: The EPIA exempts producer-packers with an annual egg production from a flock of 3,000 or fewer hens from the refrigeration and labeling requirements of that Act. Section 1034(e)(1)(A) and (B) of Title 21 of the U.S. Code requires the Secretary of Agriculture to make such inspections as the Secretary considers appropriate of a facility of an egg handler (including a transport vehicle) to determine if shell eggs destined for the ultimate consumer are being held under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit after packing and contain labeling that indicates that refrigeration is required. However, 1034(e)(4) exempts any egg handler with a flock of not more than 3,000 layers from an inspection by the Secretary and, therefore, exempts such egg handler from compliance with the refrigeration and labeling requirements of the EPIA. Nevertheless, producer-packers with an annual egg production from a flock of 3,000 or fewer hens are still required to comply with FDA's labeling requirement in 21 CFR 101.17(h) and 9 CFR 590.50(b) has been changed to reflect that requirement.

L. Dietary Supplements

Comment: The FDA-regulated facility asked if ''dietary supplements'' are still exempt from labeling requirements.

Response: Dried, frozen, or liquid egg products that are dietary supplements, as defined in the Federal Food, Drug, and Cosmetic Act (FD&C Act), are exempt from FSIS labeling requirements because they are under FDA, not FSIS,

jurisdiction. However, dried, frozen, or liquid egg products that purport to be dietary supplements, but are represented for use as conventional foods or as the sole item of a meal or the diet do not, in fact, meet the definition of ''dietary supplement'' in 21 U.S.C. 321(ff)(2)(B)). Such products would be amenable to inspection under the EPIA and its conforming regulations and are therefore not exempt from FSIS's labeling requirements.

Comment: The FDA-regulated facility asked if dehydrated egg whites labeled as ''dietary supplements'' that do not bear a USDA shield are still exempt from labeling requirements.

Response: These products are not exempt from labeling requirements. Dehydrated egg whites are amenable egg products under the EPIA. They must be processed in an official plant under FSIS inspection, contain labels that are not false or misleading, and bear the official mark of inspection.

M. Hard-Cooked Eggs

Comment: A comment from an inspector thought that it would make sense to move hard-cooked eggs from FDA's jurisdiction to FSIS's using the same logic as was used to transfer egg substitutes from FDA to FSIS jurisdiction.

Response: Egg substitutes are being transferred from FDA to FSIS because FSIS determined, and FDA agreed, that egg substitutes are in fact egg products, as defined in the EPIA. As such, they correctly belong under FSIS's oversight. Hard-cooked eggs, however, do not fit the definition of ''egg product'' under the EPIA, *i.e.,* they are not dried, frozen, or liquid eggs. Therefore, they cannot be regulated by FSIS under that statute.

N. Cooking as a Lethality Step

Comment: The trade association representing the egg products industry and a member of industry asked FSIS to clarify whether cooking under FSIS inspection is, and under the proposal will remain, an acceptable lethality step when properly validated. The industry member also asked that only finished (saleable) egg products be required to be RTE.

Response: Cooking unpasteurized egg products under *FSIS* inspection is an acceptable lethality step instead of pasteurization, if validated. Pasteurized or cooked egg products are required to be RTE.

O. Egg Breaking: Proposed Change to 9 CFR 590.522

Comment: FSIS proposed to amend 9 CFR 590.522 by eliminating its numerous prescriptive sanitation provisions on breaking room operations and replacing them with a single provision requiring eggs used in processed egg products to be broken in a sanitary manner and examined to ensure that the contents are acceptable for human consumption. Comments from the trade association representing the egg products industry and the engineer stated that the language proposed for 9 CFR 590.522 would eliminate the requirement for individual examination of each egg after breaking and before commingling, and would therefore result in the production of unwholesome egg products because individual examination of eggs is still necessary to remove adulterated eggs from production.

Response: FSIS agrees with these comments and will amend proposed 9 CFR 590.522 to clarify that eggs must be broken individually and examined for wholesomeness. The Agency will insert the word ''Each'' at the beginning of the regulation so that it reads, ''Each egg used in processed egg products must be broken in a sanitary manner and examined to ensure that the contents are acceptable for human consumption.''

P. Immersion-Type Shell Egg Washers

Comment: As part of FSIS's proposal to eliminate 9 CFR 590.515, the explicit prohibition against the use of immersion-type washers is being eliminated (current 9 CFR 590.515(a)(7)). The trade association representing the egg products industry asked if the use of immersion-type washers will therefore be permitted, without the submission of a regulatory waiver, provided the egg products plant, working with an equipment manufacturer, validates the safety of the process.

Response: As discussed in the proposed rule, waivers of the type needed to permit the use of immersion-type washers will no longer be necessary (83 FR 6330). Under the final rule, the elimination of the prohibition on immersion-type washers will give plants the option to use such equipment, without applying for a regulatory waiver, provided the equipment does not create insanitary conditions and does not adulterate product. The plant must also have documentation supporting its decision to use an immersion-type washer (417.4(a)(1) and 417.5(a)(1) and (a)(2)).

Because the implementation of HACCP will eliminate the need for most regulatory waivers, previous waivers and no objection letters (NOL) in effect will be revoked on the date the HACCP requirements become effective, unless a plant implements HACCP earlier than that date, as they will no longer be applicable. If a plant determines that it still needs a waiver or NOL, it will need to reapply for a new one.

Q. Equivalency of Foreign Inspection Systems

Comment: A comment from the trade association representing the egg products industry questioned how FSIS verifies that imported egg products are as safe as products produced in the Unites States under FSIS inspection. This commenter also said that not all foreign HACCP programs ensure the same level of food safety as domestic HACCP systems and questioned how FSIS can verify that foreign countries require equivalent HACCP programs when FSIS audits those countries only infrequently. This commenter asked that FSIS increase transparency by identifying what is required of foreign governments, publicly sharing plans for verifying that foreign governments have implemented the final rule changes before they manufacture egg products for the United States, and not permitting plants in foreign countries to self-designate that they are eligible to produce products for the United States. This commenter believes that the implementation date of the final rule should allow time for auditors trained in egg products and the new rules to first complete audits of the governments previously determined to be equivalent and that the approval of new countries should be delayed until those countries demonstrate to a qualified FSIS auditor full compliance with the requirements of the laws and regulations.

Response: Upon publication of the final rule, FSIS will notify countries either currently eligible to export egg products to the United States (Canada and the Netherlands), or that have requested eligibility to export egg products to the United States, of the new requirements. Before the effective dates of the HACCP, Sanitation SOP, and other sanitation requirements, these countries will be required to submit an updated Self-Reporting Tool and provide documentation that the country's laws, regulations, requirements, and procedures meet FSIS's new HACCP, Sanitation SOP, and other sanitation requirements. FSIS will determine on a case-by-case basis whether currently eligible countries or countries that have requested eligibility have implemented requirements equivalent to this final rule. If countries currently shipping egg products do not meet these requirements, FSIS will require that they make necessary changes to be able to continue shipping product. For other countries, FSIS will

not find their inspection systems equivalent and will not allow them to ship egg products to the United States until they meet necessary requirements. FSIS provides guidance on the equivalence process on its website at: *https://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/Equivalence.* FSIS also publishes its on-site verification audit reports at: *https://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/importing-products/eligible-countries-products-foreign-establishments/foreign-audit-reports.* FSIS communicates initial equivalence decisions through the **Federal Register**.

Once FSIS determines a country's food safety inspection system to be equivalent, the foreign competent authority is responsible for certifying establishments that meet FSIS requirements. The foreign competent authority provides FSIS a list of certified establishments for review that is published on FSIS's website at: *https://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/importing-products/eligible-countries-products-foreign-establishments/eligible-foreign-establishments.*

R. Draft FSIS Compliance Guideline for Small and Very Small Plants That Produce Ready-To-Eat (RTE) Egg Products

Comment: FSIS received two comments supporting FSIS's draft *FSIS Compliance Guideline for Small and Very Small Plants that Produce Ready-to-Eat (RTE) Egg Products.* One commenter suggested that there would be some benefit to translating the guideline into Spanish and Chinese. This commenter also suggested that guidelines dealing with shell egg imports be translated into Dutch or French.

Response: FSIS will translate the final guidance, the *FSIS Food Safety Guideline for Egg Products,* into Spanish and will consider translating it into other languages. FSIS does not have guidance dealing with shell egg imports because it does not have jurisdiction over that product.

Comment: A comment from the trade association representing the egg products industry, noting that Table 1 on page 16 of the compliance guideline lists the current regulatory requirements for pasteurization treatments, asked why the times and temperatures for liquid egg whites were not included in the table. This commenter also asked for confirmation that FSIS is not suggesting two standards for RTE egg products, *i.e.,* one by regulation that requires the products to be edible without further preparation as verified by the absence of *Salmonella* and a second ''administrative standard'' that imposes a specific log reduction that may not be practical.

Response: The time and temperature pasteurization parameter for liquid egg whites was not included in Table 1 on page 16 of the draft guidance because the scientific literature indicates that it may no longer result in a minimum 5-$\log_{10}$ reduction of *Salmonella* in the product, which is the reduction consistent with other FSIS RTE safe harbors and the FDA's Shell Egg Rule (74 FR 33030, July 9, 2009).[10]

In response to the comments, FSIS reviewed the available data to determine the effectiveness of the previous time and temperature pasteurization parameter for achieving a 5-$\log_{10}$ reduction of *Salmonella* in egg whites as a safe harbor. The available research indicates that the natural antimicrobial properties of the albumen, the current vaccination and sanitation practices at the farm, and the refrigeration requirement of eggs within 36 hours of lay all limit the growth of *Salmonella.*

Available studies examined *Salmonella* in eggs from chickens infected with *Salmonella.* Humphrey *et. al.,*[11] [12] enumerated *Salmonella* from the egg, but also looked at *Salmonella* growth when inoculated into different parts of the egg (albumen versus yolk). Garibaldi *et. al.,*[13] enumerated *Salmonella* from whole egg and from the albumen while Gast and Beard [14] enumerated the *Salmonella* from the whole egg. Their studies demonstrated that most eggs had less than 1-$\log_{10}$ of *Salmonella* per egg while a few eggs had 2.1-$\log_{10}$ of *Salmonella.* Humphrey *et. al.,* (1991) determined that *Salmonella* inoculated into the outer edge of the albumen was less likely to grow than when inoculated next to the yolk membrane, fresh eggs were less likely to support *Salmonella* growth regardless of its position in the albumen, and that *Salmonella* positive eggs contained less than 1.3-$\log_{10}$ of *Salmonella* when stored at room temperature for less than three weeks. Gast and Beard (1992) studied the effect of storage temperature on frequency of isolation and concentration of *Salmonella* in eggs from experimentally infected hens and determined that eggs stored at 45 °F for 7 days had 0.75-$\log_{10}$ of *Salmonella.* Since that time, the industry has continued to lower *Salmonella* levels in egg products. FSIS performed a *Salmonella* baseline survey from 2012 to 2013.[15] Results of that baseline indicate that raw liquid whole egg samples had –0.60-$\log_{10}$ to –0.31-$\log_{10}$ (95% confidence interval) *Salmonella,* meaning that there was 1 *Salmonella* organism per 2 to 4 mL. Raw liquid egg whites had –0.92-$\log_{10}$ to –0.24-$\log_{10}$ *Salmonella,* meaning that there was 1 *Salmonella* organism per 2 to 8 mL. In addition, FSIS sampling indicated that pasteurized egg whites had a *Salmonella* prevalence of 0.61% from 1995 to 1999. That prevalence decreased to 0.19% from 2013 to 2018.

Under ideal conditions (*i.e.,* not from a farm that has *Salmonella* enteriditis (SE)-positive eggs), any *Salmonella* present in the eggs are not expected to reach more than 2.1-$\log_{10}$. As such, FSIS has incorporated a new, separate section into the *FSIS Food Safety Guideline for Egg Products* using the pasteurization time and temperature from 9 CFR 590.570. This section provides awareness that while the time and temperature does not always provide a 5-$\log_{10}$ reduction of *Salmonella* in egg whites, with the history in footnote 7 above, the compilation of the available scientific literature to support the safe use of the time and temperature, and the use of specific conditions under which

[10] In the 1998 Risk Assessment, FSIS stated, ''[t]he pH of albumen has a significant effect on the reduction of SE, when liquid egg white is pasteurized. Pasteurization is more effective at higher pH levels. Egg albumen has a bicarbonate buffer system which allows the pH to rise very rapidly. The pH of a freshly laid egg is about pH 7.8 and rises to pH 8.7 or 8.8 over three days of storage. After that, the pH increases much more slowly over time to a maximum pH of 9.3 to 9.4. The time and temperature requirements of the pasteurization regulations were based on a pH of about 9 for egg white which was the case in 1969 when the regulations were written, and eggs did not arrive at the egg processing plant before three to five days. Since that time conditions have changed. Eggs reach the egg processing plant sooner now than in 1969, and the pH of the albumen is lower in eggs. For these reasons pasteurization today may be less effective than in 1969 because of the lower pH of eggs at the time of processing in 1998.''

[11] Humphrey, T.J., Baskerville, A., Mawer, S., Rowe, B., and Hopper, S. 1989. *Salmonella* Enteritidis phage type 4 from the contents of intact eggs: A study involving naturally infected hens. Epidemiology and Infection. 103:415–423.

[12] Humphrey, T.J., Whitehead, A, Gawler A.H.L, Henley, A., and Rowe, B. 1991. Numbers of *Salmonella* Enteritidis in the contents of naturally contaminated hens' eggs. Epidemiology and Infection. 106:489–496.

[13] Garibaldi, J.A., Lineweaver, H., and Ijichi, K. 1969. Number of Salmonellae in commercially broken eggs before pasteurization. Poultry Science. 48(3):1096–1101.

[14] Gast. R.K., and Beard, C.W. 1992. Detection and enumeration of *Salmonella* Enteritidis in fresh and stored eggs laid by experimentally infected hens. Journal of Food Protection. 55(3):152–156.

[15] Food Safety and Inspection Service. 2013. Nationwide Raw Liquid Egg Products Baseline Survey. Retrieved from: *https://www.fsis.usda.gov/wps/wcm/connect/f83a51b2-35b1-4451-a1cd-aac33e424ad7/Baseline-Raw-Liquid-Eggs.pdf?MOD=AJPERES.*

the time and temperature may be used, the time and temperature can be used as a safe harbor.

Egg product plants sourcing from farms with SE-positive eggs may be unable to support the use of the egg white pasteurization time and temperature from 9 CFR 590.570, as these eggs need to be processed in a manner that achieves a 5-$\log_{10}$ reduction of *Salmonella* in accordance with the FDA 2009 Shell Egg Final Rule. For plants that are processing SE-positive eggs, FSIS included the tables in the appendix of the guideline to provide times and temperatures for egg whites to achieve the minimum 5-$\log_{10}$ reduction of *Salmonella.*

FSIS is not establishing two standards for RTE egg products. The standard that official plants must meet is found in proposed 9 CFR 590.570: Egg products must be produced to be edible without additional preparation to achieve food safety. The tables in the appendix of the compliance guideline for pasteurization times and temperatures are not minimum lethalities, but rather safe harbors for plants to follow and be reasonably certain that they will be meeting the requirement in 9 CFR 590.570, as well as meeting the supporting documentation requirement in 9 CFR 417.4(a) and 417.5(a). Consistent with other FSIS compliance guidelines, plants are not required to follow the safe harbors and may use alternate procedures, if they have adequate scientific support (9 CFR 417.4(a) and 417.5(a)) that the alternate procedure will meet the requirement in 9 CFR 590.570, as finalized.

S. Shipment of Unpasteurized Egg Products: Proposed 9 CFR 590.410(c)

Comment: Comments from IPP did not support the proposed change to eliminate the requirement that unpasteurized liquid egg products transported from one official plant to another be sealed and accompanied by an official certificate (9 CFR 590.410). One inspector stated that the proposal did not adequately allow for the monitoring of the movement of unpasteurized liquid egg product for further processing. A second inspector stated that he did not support the change to 9 CFR 590.410(c), which requires that bulk shipments must state that egg products are for further processing. This commenter stated that it would be unwise to advertise what a tanker may be loaded with due to the threat of agro-terrorism and bio-terrorism in any liquid food industry. A third inspector sought clarification on what should happen when the load is shipped to a different location than originally intended.

Response: FSIS disagrees that the proposed change does not adequately allow for the monitoring of the movement of unpasteurized liquid egg product for further processing. The revised regulations provide adequate controls for the monitoring of shipments of unpasteurized products by plants and for adequate inspection by IPP. Egg products shipped for further processing must be in compliance with the revised regulation at 9 CFR 590.504(d)(2), which requires shipments of unpasteurized egg products shipped from one official plant to another for pasteurization or treatment be sealed by the official plant and labeled with the date of loading, per 9 CFR 590.410(c), and identified as intended for further processing, per 9 CFR 590.415.

The documentation and labeling requirements for shipments of unpasteurized egg products should raise no terrorism or tampering risks from terrorism. Significantly, the tanker identification for egg products shipped for further processing is already required at 9 CFR 590.415. Finally, clarification on IPP actions when the load is shipped to a different location than originally intended will be provided to IPP through a directive after this rule is finalized.

Comment: The trade association representing the egg products industry asked if the exterior of bulk transport vessels carrying unpasteurized egg products must be labeled with the date of loading or if a bill of lading or other documentation accompanying the load is sufficient.

Response: The exterior of bulk shipments of unpasteurized egg products produced in official plants must bear a label containing the words ''date of loading,'' followed by a suitable space in which the date the container, tanker truck, or portable tank is loaded must be inserted (9 CFR 590.410(c)). Placing the date of loading on a bill of lading or other documentation accompanying the load is not sufficient.

Comment: A comment from an inspector stated that the movement of tankers without a *PY–200 Egg Products Inspection and Grading Certificate* (PY–200) would allow tankers carrying nondenatured inedible egg products to be washed and used for edible product with only plant examination and without FSIS visual inspection. One inspector did not support the revision of 9 CFR 590.504(d) as proposed. This commenter objected to the proposed paragraph because it eliminates the use of the PY–200, which is used to record specific data associated with the shipment of unpasteurized egg products.

Response: The PY–200 serves as a label for bulk shipments of unpasteurized egg products. In proposed 9 CFR 590.410(c), FSIS changed how bulk shipments are labeled. When this rule is finalized, bulk shipments will no longer move under government seal and certificate; instead, they will move under company seal and bear a label containing the words ''date of loading'' followed by a suitable space in which the date the container, tanker truck, or portable tank is loaded must be inserted. With the new labeling requirement for bulk shipments of unpasteurized products in place, there is no longer a need for the PY–200 to be used as a label. IPP will still verify that unpasteurized product is properly identified, moved to an official plant, and pasteurized.

It is not necessary for IPP to record the specific data associated with the shipment of unpasteurized egg products on a PY–200 cited by the commenter. When a tanker of unpasteurized egg products arrives at an official plant, IPP conduct an organoleptic reinspection of the product in accordance with 9 CFR 590.424(b). This can be done without marking down the tanker's date and time, temperature of the product (which is a data point that should specifically *not* be taken), the seal numbers (which will no longer be a data point as this rule is eliminating the use of FSIS seals on tankers of unpasteurized products), and the transport vessel's license plate number.

Under this final rule, FSIS inspectors will also conduct sanitation verification activities, which will include tanker inspection, to verify that the plant is meeting its Sanitation SOP requirements. Official plants are responsible for storing inedible material in receptacles of such material and construction that their use will not result in the adulteration of any edible product or the creation of insanitary conditions (9 CFR 416.3(c)). In addition, a plant's Sanitation SOPs will have to address the cleaning of food contact surfaces of facilities, equipment, and utensils prior to the start of operations (9 CFR 416.12(c)). As such, egg products plants must ensure that tankers are cleaned before use and maintained in sanitary condition so as not to adulterate product. They must also verify that their Sanitation SOPs are current and effective. If they are not, the Sanitation SOPs must be revised. The issuance of the PY–200 certificate has no bearing on the sanitation of the tanker if the plant designates it as inedible and then decides to use it for

edible purposes. The plant has to comply with the sanitation requirements and FSIS IPP will have the opportunity to conduct sanitation tasks to verify the plant is meeting those requirements.

Comment: An inspector asked how plants would be required to maintain the cleanliness of equipment used for transporting liquid eggs under the proposed regulations.

Response: Under 9 CFR 416.3(a), equipment and utensils must be maintained in a sanitary manner so as not to adulterate product. Egg products plants are required under this regulation for ensuring that equipment used for transporting liquid eggs is sanitary before and after use.

T. Proposed 9 CFR 590.504(d)(2)

Comment: A comment from an inspector also proposed alternative language for 9 CFR 590.504(d)(2). This alternative language permits the shipment of nonpasteurized or salmonella positive egg products when they are to be pasteurized, repasteurized, or heat treated in another official plant and requires these shipments to be in cars or trucks with an accompanying certificate stating that the product is not pasteurized or is salmonella positive. It allows these shipments to be stored in other than the official plant facilities if the inspectors at the receiving and origin plants are aware of the disposition of the product until it is further processed. It requires nonpasteurized or salmonella positive product to bear the identification mark shown in Figure 3 of § 590.415.

Response: FSIS agrees that the language in 9 CFR 590.504(d)(2) should allow for the shipment of *Salmonella*-positive egg products for further processing under appropriate controls. Therefore, FSIS is changing that paragraph to permit the movement of microbial pathogen-positive products, provided the products move under establishment controls, which include being sealed in a car or truck and labeled per 9 CFR 590.410(c). As a result of this change, FSIS also modified 9 CFR 590.410(c) to permit the movement of microbial pathogen-positive product. Containers of unpasteurized or microbial pathogen-positive egg product must be marked with the identification mark shown in Figure 2 of § 590.415.

The proposed language otherwise does not properly reflect FSIS's new regulations on the labeling of bulk shipments of unpasteurized or microbial pathogen-positive egg products that will become effective when this proposal is finalized (9 CFR 590.410(c)). The commenter's recommendation requires the shipment to move with an accompanying certificate stating that the product is not pasteurized or is microbial pathogen-positive and bears the identification mark shown in Figure 3 of § 590.415. Under this final rule, shipments will not have to move with such an accompanying certificate. Instead, they will have to bear a label containing the words ''date of loading,'' followed by a suitable space in which the date the container, tanker truck, or portable tank is loaded must be inserted in accordance with 9 CFR 410(c). They must also bear a label setting forth the identification found in Figure 2 in final 9 CFR 415.

U. Cooked, Salted, and Preserved Eggs

Comment: A foreign government asked FSIS to exempt cooked, salted, and preserved eggs from the egg products inspection regulations related to refrigerated storage, transportation, and relevant labeling requirements.

Response: Cooked, salted and preserved eggs are not subject to the egg products inspection regulations because they are not egg products (*i.e.,* they are not dried, frozen, or liquid eggs).

V. Health and Hygiene

Comment: Paragraph (g) of 9 CFR 590.560 currently prohibits the use of perfume in any area where edible products are exposed. FSIS proposed to remove this provision in the proposed rule. One inspector noted that removing it could make it possible for employees to wear perfume. As a result, according to the commenter, Agency or plant employees may not be able to smell spoiled eggs over the scent of the perfumes.

Response: Under this final rule, official plants must comply with the employee hygiene regulations in 9 CFR 416.5, which require that plant employees adhere to hygienic practices while on duty to prevent adulteration of product and the creation of insanitary conditions. Therefore, to meet the regulations, plants are required to provide for an environment in which its employees can properly identify spoiled egg, which would include prohibiting employees from wearing perfumes that restrict employees' ability to smell spoiled eggs. FSIS will verify that the plant meets employee hygiene regulations and that no spoiled eggs adulterate the egg products.

W. Light

Comment: Current section 590.520(a) provides prescriptive requirements for lighting in egg products plant breaking rooms.[16] An inspector said that removing this regulation could potentially create inedible product since adequate lighting is necessary to identify loss or inedible eggs.

Response: Section 416.2(c) requires establishments to provide lighting of good quality and sufficient intensity in areas where food is processed, handled, stored, or examined to ensure that sanitary conditions are maintained, and that product is not adulterated. Under the final rule, the plant is required to demonstrate that it has met this regulatory requirement. If an egg products plant were unable to identify loss or inedible eggs and prevent them from being broken because of inadequate lighting in the breaking room, IPP will find the plant noncompliant with the regulations and will take actions to prevent the adulteration of egg products.

X. Ventilation

Comment: A comment from an inspector noted that the current egg products inspection regulations addressing ventilation generally require that ventilation provide for a positive flow of outside filtered air through rooms and driers (*e.g.,* 9 CFR 590.504(p), 506(c), 520(d), and 550(a)). This commenter stated that removing the positive air flow requirement could potentially produce an unwholesome product caused by unfiltered outside air.

Response: Under 9 CFR 416.2(d), establishments are required to provide ventilation adequate to control odors, vapors, and condensation to the extent necessary to prevent the adulteration of product and the creation of insanitary conditions. Under this final rule, the egg products plant will be required to meet this regulation and ensure that unfiltered outside air does not adulterate product or create insanitary conditions. IPP will verify that the plant meets these requirements; if the plant does not, IPP will find the plant noncompliant with the regulations and will take actions to prevent the adulteration of egg products.

Y. Egg Handling: 21 U.S.C. 1034(d) and 1034(e)(1)

Comment: The trade association representing egg farmers and egg further processing facilities and an egg products industry member recommended that two provisions of the EPIA be maintained under current regulation: 21 U.S.C. 1034(d) and 21 U.S.C. 1034(e)(1).

[16] The breaking room shall have at least 30 foot-candles of light on all working surfaces except that light intensity shall be at least 50 foot-candles at breaking and inspection stations.

Section 1034(d) of Title 21 of the U.S. Code authorizes the Secretary of Health and Human Services to inspect egg handlers (other than plants processing egg products) and their records, as well as the records and inventory of other persons required to keep records under section 1040 of the EPIA, to assure that only eggs fit for human food are used for such purpose and otherwise assure compliance by egg handlers and other persons with the requirements of section 1037 (Prohibited acts). The relevant regulatory provisions are 9 CFR 590.28 and 590.132.

Section 1034(e)(1) of Title 21 of the U.S. Code authorizes the Secretary of Agriculture to inspect the facility of an egg handler (including a transport vehicle) to determine if shell eggs destined for the ultimate consumer (A) are being held under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit after packing; and (B) contain labeling that indicates that refrigeration is required. The relevant regulatory provision is current 9 CFR 590.50(b).

Response: The EPIA was not amended by FSIS's proposed rule. Therefore, 21 U.S.C. 1034(d) and 1034(e)(1) remain unchanged. In addition, FSIS did not propose to eliminate either 9 CFR 590.28 or 9 CFR 590.132 in the proposed rule and thus will not be doing so in the final rule.

FSIS has combined into a new, single provision at 9 CFR 590.50(a), the requirement that shell eggs destined for the ultimate consumer be held under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit after packing and the requirement that such eggs contain labeling that indicates that refrigeration is required. Further, as proposed, FSIS's regulations for shell eggs packed into containers destined for the ultimate consumer will now require those products to bear safe handling instructions in accordance with 21 CFR 101.17(h)(1),[17] instead of being labeled to specifically indicate that refrigeration is required. The safe handling instructions read ''. . . keep eggs refrigerated . . .'' FSIS's new requirement will take effect on the final rule's effective date.

Z. Non-Compliance Reports

Comment: The same egg products industry member also said that FSIS's enforcement through issuing noncompliance records (NRs) to plants needs to be further improved upon and that FSIS and plants need to follow up after the issuance of an NR so that future issues can be prevented.

Response: The NR serves as official notice to an official plant that some aspect of its operation is noncompliant. Certain regulations require that plants implement corrective actions or preventive measures to ensure future compliance (9 CFR 416.15 and 9 CFR 417.3). Depending on the NR, IPP may conduct additional inspection activities to verify that noncompliance documented on an NR has been corrected and that the plant has taken measures to prevent recurrence of the noncompliance (*see* FSIS Directive 5000.1, *Verifying an Establishment's Food Safety System*).

In addition, FSIS has numerous directives and notices that state that when noncompliance is found, IPP are to issue an NR to the establishment. The directives or notices typically state which regulation to cite on the NR. FSIS has also strengthened its approach to noncompliance and made it more data-driven. FSIS utilizes Early Warning Alerts through its Public Health Information System,[18] an additional tool for IPP, which are based on adverse trends in Public Health NRs [19] and give IPP the data to be able to determine trends and take appropriate actions. The Office of Field Operations typically has work unit meetings concerning new instructions to the field, including instructions on how to document noncompliance. FSIS training for the field includes training on new instructions issued to the field, again including instructions on how to document noncompliance.

AA. Water Supply and Water, Ice, and Solution Reuse

Comment: Two comments from students requested clarification regarding the use of reconditioned water in 9 CFR 416.2(g)(4). One of them asked that FSIS define ''raw product'' and provide further clarification on the approved uses of reconditioned water that is processed through advanced wastewater treatment facilities. The other saw the same conflict within the regulation and indicated that more specificity is needed for this part of the rule.

Response: Reconditioned water that is processed through advanced wastewater treatment facilities may be used in official plants. Any product, facilities, equipment, and utensils that come into contact with reconditioned water must undergo a separate final rinse with non-reconditioned water that meets the criteria prescribed in 416.2(g)(1). Therefore, once this rule is finalized, reconditioned water may be used in egg products plants on shell eggs prior to breaking and on facilities, equipment, and utensils within the plant. If reconditioned water is used on shell eggs, facilities, equipment, or utensils, they must be rinsed with non-reconditioned water prior to breaking or use (9 CFR 416.2(g)(4)).

BB. Hold and Test (9 CFR 590.504(e))

Comment: FSIS received two comments regarding its hold and test policy for egg products in 9 CFR 590.504(d): One from the trade association representing egg farmers and egg further processing facilities supporting it and one from the individual working in a field allied with the egg products industry stating that it was not necessary.

Response: Requiring egg products plants to control product pending the receipt of pathogen test results has been a long-standing feature of the egg products inspection regulations (9 CFR 590.504(d)). In the rule, FSIS did not propose to change this policy, but revised its wording to make clear that egg products plants that move product that has been sampled by the Agency or the plant, before receiving test results, must maintain control of the products represented by the sample pending the test results (83 FR 6327).

An official plant's failure to maintain control of product pending FSIS or plant pathogen test results endangers public health. Not allowing product to move into commerce until the results of any testing for adulterants become available eliminates this concern. This is also consistent with the policy for other FSIS-regulated meat and poultry RTE products.

CC. Plant Testing

Comment: A comment from the individual working in a field allied with the egg products industry stated that there is too much variability in egg product industry testing methods, and recommended that FSIS establish a *Salmonella* testing method that all egg products producers be required to use. This commenter also said that standardizing test methods across the industry will allow for better analysis of results.

[17] 21 CFR 101.17(h)(1) says, ''SAFE HANDLING INSTRUCTIONS: To prevent illness from bacteria: keep eggs refrigerated, cook eggs until yolks are firm, and cook foods containing eggs thoroughly.''

[18] The Public Health Information System is a dynamic, comprehensive data analytic system that collects, consolidates and analyzes data in order to improve public health. *https://www.fsis.usda.gov/wps/portal/fsis/topics/inspection/phis.*

[19] *https://www.fsis.usda.gov/wps/portal/fsis/topics/data-collection-and-reports/fsis-data-analysis-and-reporting/data-reporting/public-health-regulations.*

Response: To gain efficiencies and best protect public health, FSIS is moving towards a sampling program that is focused on production volume rather than the number of products produced. FSIS believes this approach will allow for a more risk-based allocation of samples. It will also align with our other sampling projects.

To ensure adequate pasteurization of egg products, egg products plants are required to sample and analyze pasteurized egg products and heat-treated dried egg whites for the presence of *Salmonella* (9 CFR 590.580(b)). Currently, laboratories that conduct such analyses for plants must participate in FSIS's Pasteurized Egg Product Recognized Laboratory (PEPRLab) Program. Under the PEPRLab Program, recognized laboratories must use a rapid screening method that is equivalent to conventional culture methods in their testing program. If they do not, they must use one of the following three cultural methods as their primary protocol for egg product analysis:

AMS—Laboratory Methods for Egg Products—Section I (1993 revision) and Section VII (1994 revision),

FSIS method—Microbiology Laboratory Guidebook (MLG) online, Chapter 4—Isolation and Identification of *Salmonella* from Meat, Poultry, and Egg Products, or

FDA method—Bacteriological Analytical Method (BAM) online, Chapter 5—*Salmonella.*

Sixty days after the publication of this final rule, FSIS will discontinue the PEPRLab Program. As a result, laboratories will no longer need to be accredited under it to perform microbiological testing for egg products plants. Egg products plants will be able to select commercial or private laboratories to analyze plant microbiological samples, such as the *Salmonella* spp. samples required by 9 CFR 590.580. To assist egg products plants with selecting such laboratories, FSIS has made available on its website its guide, *Establishment Guidance for the Selection of a Commercial or Private Microbiological Testing Laboratory,* which provides criteria for selecting a commercial or private microbiological testing laboratory to analyze establishment samples.

Under this final rule, egg products plants are required to ensure that microbiological testing meets their food safety needs. Egg products plants should clearly communicate their needs to the testing laboratory and direct them to any necessary testing protocols or any other guidance, including the guide discussed above, on the FSIS website. The plant is required to take corrective actions in response to positive results (9 CFR 417.3). The plant should not assume that an unexpected result is incorrect. Re-sampling or retesting a sample is typically not an appropriate action. FSIS is not going to prescribe test methods because that would be inconsistent with HACCP regulations and inconsistent with other meat and poultry regulations.

DD. 9 CFR Part 430

Comment: A comment from an inspector said that because egg products are RTE, egg products plants should have to comply with 9 CFR part 430, ''Requirements for Specific Classes of Products,'' because after pasteurization, the product is exposed to the environment during cooling, adding of non-egg ingredients, and packaging. As such, the commenter said, the product should be sampled for *Lm.*

Response: Although eggs products are not currently subject to the requirements in 9 CFR part 430, Control of *Listeria monocytogenes* in Post-lethality exposed Ready-to-Eat Products (*Listeria* Rule), FSIS currently tests egg products for *Lm.* FSIS will continue to evaluate the data to determine whether *Lm* contamination is a post-lethality hazard of concern for egg products.

EE. Costs

Comment: Several individuals and students expressed concern about the impact of the proposed rule on small businesses. Specifically, some of these commenters were concerned about the costs of transitioning to a HACCP system, including the range of HACCP development and validation costs, and whether establishments would need to hire more personnel and provide training. A few commenters noted that the proposed rule would improve food safety by preventing outbreaks, but also would be costly to small businesses. One individual was concerned that some small business operations would stop producing egg products because of the costs of implementing HACCP.

Comments from a trade association representing the egg products industry and egg products industry generally supported the proposed rule and stated that most egg products plants already have HACCP plans and Sanitation SOPs; therefore, according to these commenters, the costs of implementing HACCP and Sanitation SOPs should not be a burden to businesses. The trade association representing the egg products industry and the egg products industry also said that additional costs will only increase if the move to mandatory HACCP is further delayed. These comments stated that most customers require that egg products plants have HACCP systems and that the current prescriptive command-and-control regulations cause confusion and limit innovation.

Response: The Agency agrees with the comments from the egg products industry that the cost of implementing HACCP and Sanitation SOPs should not be a burden to businesses. Comments from outside of the egg products industry mention three types of costs: HACCP development, validation, and labor costs. In response to these comments, FSIS used more recent data including updated wage rates for Agency personnel, industry production employees, quality control technicians, quality control managers, as well as employee turnover rates. In addition, FSIS has updated the following items for inflation: [20] Travel and overtime costs for inspectors, the cost for HACCP development, Sanitation SOP development, HACCP training, Sanitation SOP training, and the cost for industry to review labels. This update to the Regulatory Impact Analysis leads to the conclusion that the rule has costs savings. The updated data did not change the Agency's estimates of the regulation's impacts on small businesses.

Overall, this final rule is expected to be net beneficial, with quantified net benefits, because it provides greater flexibility and reduces burdensome regulations that limit innovation. For example, benefits include reductions in plant submissions to FSIS for waivers, labels, and blueprints, as well as reductions in costs from changes in inspection.

In the initial Regulatory Flexibility Act Assessment (RFA) in the proposed rule, FSIS estimated that approximately 31 plants could be considered small or very small businesses and will reap benefits, as will larger businesses. In this final rule, the Agency updated the final RFA to include an additional approach to estimating the number of small and very small businesses. In the final RFA, FSIS used the Agency-assigned HACCP small and very small plant sizes [21] to examine whether small and very small businesses will have cost savings from the rule. FSIS estimated that, based on a plant's HACCP size, approximately 72 of the 81 plants could be considered small or very small businesses and, similar to the approach

[20] Bureau of Economic Analysis: Table 1.1.9. Implicit Price Deflators for Gross Domestic Product.

[21] HACCP production size classes: Large establishments, with 500 or more employees; small establishments, with 10–499 employees; and very small establishments, with fewer than 10 employees or annual sales of less than $2.5 million.

used in the proposed rule, these businesses are estimated to have net quantified benefits/cost savings as a result of the final rule. The final RFA also includes a discussion comparing expected net cost savings to revenue and finds that the expected net cost savings are not significant compared to the revenue at the majority of small businesses. FSIS estimated that plants will experience an average annual cost savings of $5,500 [22] per plant at the 7% discount rate and $5,800 per plant at the 3% discount rate for the mid-range estimates.

FSIS does not expect costs for developing a HACCP system to be overly burdensome for small plants. HACCP development costs and training are included in the range of the total costs and benefits shown in Table 1. Even with the inclusion of varying HACCP development costs, the final rule's mid-range estimates at the 3 and 7 percent rates show net benefits. In addition, most of the 81 egg products plants operate under a HACCP system. A 2014 survey by Research Triangle Institute (RTI) International, the ''2014 Egg Products Industry Survey'',[23] showed that 93 percent of egg products plants already use written HACCP plans. With 93 percent of egg products plants already under a HACCP system, many have incurred additional unnecessary costs from complying with FSIS requirements in terms of command-and-control regulations and by processing under their own HACCP systems. By operating under a HACCP system alone, egg products plants can use plant resources in a more efficient manner while controlling for hazards in innovative ways in their HACCP plans.

Although this final rule includes compliance dates of two years for HACCP regulations and one year for Sanitation SOPs, plants may begin operating under HACCP and Sanitation SOP regulations at earlier dates, provided FSIS verifies their compliance with the regulations. FSIS provided these longer compliance periods to give plants which do not have HACCP plans in place additional time to meet FSIS requirements.

Comment: Several individuals and students stated that FSIS should provide some type of reimbursement program, tax rebates, subsidies, or other forms of reimbursement or aid to businesses for the changes described in the proposal.

Response: Forms of aid, tax rebates, or subsidies are beyond the authority of the Agency and the scope of the proposed rule. Notably, FSIS has developed the *FSIS Food Safety Guideline for Egg Products.* This guidance is designed to help small and very small plants meet the regulatory pasteurization requirements by providing the best practice recommendations by FSIS, based on the best scientific and practical considerations. The Agency is also making available the *Egg Products Hazards and Controls Guide,* and the *Compliance Guideline for Hazard Analysis Critical Control Point (HACCP) Systems Validation,* both mentioned earlier in this document.

Comment: Several individuals stated that the proposed rule would increase the price of shell eggs and egg products. One individual stated that the proposed rule would be good for consumers, as long as the costs were low enough not to affect pricing. One individual said that an increase in the price of eggs or egg products would not be worth any resulting food safety benefit.

Response: While FSIS regulates official egg products plants and their processing operations, the Agency does not generally regulate shell eggs outside of egg products plants, except when checking to ensure that shell eggs packed into containers destined for the ultimate consumer meet the packaging and labeling requirements of the EPIA and 9 CFR 590.50. However, FSIS analyzed the final rule's impacts and found that it should not increase the price of liquid, frozen, dried egg products. Egg products plants would be unlikely to pass any benefits or costs onto purchasers because the marginal costs or cost savings of implementing a HACCP system are not enough to significantly change the price for the product sold. In addition, price changes for egg products are unlikely because no one firm has enough market power to influence the price of egg products. Buyers and sellers are numerous and well informed so that all elements of monopoly are absent, and the market price of a commodity is beyond the control of individual buyers and sellers.

The price consumers face when purchasing a final product will likely not be affected from changes to the production of egg products, because egg products are often intermediary goods or one ingredient in a final product such as candy or baked goods. In addition, the fixed costs associated with the final rule are focused on the development of a HACCP system, and these firms operate for a long period of time. Fixed costs would not affect the average price of egg products.

Comment: An inspector said that the RTI Egg Products Industry Survey [24] was misleading because it stated that 93 percent of egg products plants use a written HACCP plan, but the overall response rate of the survey was only 72 percent. This individual questioned whether the 72 percent response rate meant that FSIS's estimates of HACCP reassessment costs was only 72 percent accurate. The egg products industry generally agreed with the survey that most plants already use HACCP. In addition, a trade association representing the egg products industry stated that its members are required to have HACCP.

Response: FSIS is satisfied with the design and response rate for the RTI Egg Products Industry Survey. RTI checked for nonresponse bias and concluded that the establishments that responded, adequately represented the industry. RTI also weighted the response data to account for non-responders. FSIS used the weighted RTI survey data throughout the Regulatory Impact Analysis.

The average paper-survey response rate for organizations is 35.7 percent, as shown in studies done in the U.S. from 2000 to 2005.[25] The response rate for the RTI Egg Products Industry Survey was 72 percent, far exceeding the average.

Comment: An independent consultant stated that it is reasonable to conclude that there will be no net deregulatory savings and that there will be possible net social costs from the rule because FSIS's cost savings estimate is so small. According to the comment, FSIS's cost estimates contain many uncertainties and do not contain variability and uncertainty analyses. According to an individual, FSIS did not include the long term and maintenance costs of HACCP development in the cost estimate, leading to an underestimation of costs.

The independent consultant also stated that the rule does not create benefits for egg products plants, such as improved efficiencies. However, the comment said that industry commenters would be better equipped to determine if FSIS's cost-benefit analysis is correct.

[22] More information on the impact to small businesses can be found in the Regulatory Flexibility Act section of the proposed rule (83 FR 6344–6345).

[23] RTI International. 2014. ''Survey of Egg Packing and Egg Products Processing Plants.'' Revised Final Report. RTI Project no. 0211740.015.001. 3040 Cornwallis Rd., P.O. Box 12194 Research Triangle Park, NC 27709–2194.

[24] RTI International. 2014. ''Survey of Egg Packing and Egg Products Processing Plants.'' Revised Final Report. RTI Project no. 0211740.015.001. 3040 Cornwallis Rd., P.O. Box 12194 Research Triangle Park, NC 27709–2194.

[25] Baruch, Yehuda and Holtom, Brooks. The Tavistock Institute, 2008. ''Survey response rate levels and trends in organizational research.'' Human Relations, Volume 61(8): 1139–1160. SAGE Publications *http://journals.sagepub.com/doi/pdf/10.1177/0018726708094863.*

The independent consultant also argued that FSIS did not substantiate its claims that the rule will result in improvements to public health.

Response: The final rule's mid-estimates at the 3 and 7 percent rates show net benefits consistent with the proposed economic analysis (83 FR 6343). The estimate of net benefits does include both positive and negative numbers, but it is expected that the net benefits are more likely to be positive. The analysis accounts for uncertainty by including a range of costs. A more formalized uncertainty analysis is not justified by the small impact that this rule is likely to have. Please see Table 19 Total Costs and Net Benefits in this final rule. In addition, the quantitative components of the cost saving estimates are derived from the elimination of waivers and blueprint submissions to FSIS, generic labeling savings, and savings from the reduction in overtime and holiday pay for inspection paid by industry. These submission processes and payments have less uncertainty and are based on Agency data. FSIS did include ranges of costs for items like HACCP development in the total cost estimates and low, mid, and high estimates of total costs, total benefits, and total net benefits (see Table 1) to show variability and uncertainty. FSIS also discounted and annualized costs and benefits at a 3 percent and 7 percent discount rate to show additional variability in the estimates.

FSIS did account for long-term maintenance costs in the form of reassessment costs and training for HACCP implementation. The total costs for HACCP development of $4.3 million as shown in Table 7 of the economic analysis of the final rule were based on costs that occur over a period of 10 years at a 7 percent discount rate. The costs for annual reassessment of HACCP plans, which occur on an annual basis beyond the first year of development, were included in the HACCP cost estimated. Long term employee training costs were also included in the cost estimated.

By requiring a HACCP system in egg products plants, benefits will increase in several ways. Currently, FSIS estimates 93 percent of plants produce egg products with voluntary HACCP systems, as well as operating under the current required regulatory structure. As is noted above, FSIS expects that plants, with existing HACCP plans, will reduce their costs by operating in one system, rather than contributing resources into two different systems. The current regulations are overly prescriptive and not flexible. They do not, for example, allow plants to tailor their control systems to the needs of their plant and processes. They do not allow plants to innovate regarding facility design, construction, and operations, and they are unnecessary to define the specific measures to achieve sanitation requirements. By eliminating the command and control regulatory constraints and allowing plants to adopt a more flexible system, they should increase efficiency. Similarly, these same command and control requirements will continue to have the potential to interfere with innovation at egg production plants as they implement new production systems as well as more streamlined safety systems in the future. As a result, moving to a HACCP based system will allow plants to be more efficient over the long-term relative to the existing system. Also, as described in the foregoing, FSIS received comments from the egg products industry and a trade association representing the egg product industry that supported requiring plants to develop and implement HACCP Systems and Sanitation SOPs.

FSIS is not claiming that this rule provides a significant improvement in public health outcomes relative to the current regulatory system. This rule is intended to remove regulatory barriers to innovation and remove unnecessary costs from the current system without reducing the public health protections provided by the current system.

Comment: An individual stated that unnecessary procedures might overcomplicate the system or increase the cost of egg products. Another individual said that if by implementing the proposed regulations FSIS can eliminate steps and decrease production and inspection costs, it should be done, as long as it does not jeopardize anyone's health or safety. This commenter also suggested that the money saved from not hiring IPP under the proposed changes to inspection be used towards lengthening and strengthening the new and more efficient process.

Response: FSIS believes that by implementing a HACCP-based system, it will be eliminating the unnecessary procedures that are currently overcomplicating the system. At the same time, the HACCP-based system will improve the effectiveness of egg products production and inspection. The rule does change the way egg products plants are inspected by moving IPP into patrol assignments. Patrol assignments will allow FSIS to maintain the same level of food safety while allocating IPP more effectively across plants. The Agency will receive cost savings from attrition, because FSIS will not need to hire new IPP for continuous egg products plant inspection.

FF. Food Ingredients Used During the Production of Egg Products

After the comment period ended, FDA suggested to FSIS alternative language for paragraphs (a)(1) and (2) of 9 CFR 590.435 that would more easily and accurately cover the use of food ingredients in egg products. Food ingredients (whether added directly or indirectly, including sources of radiation) used during the production of egg products are subject to regulation by FDA under the Federal Food, Drug, and Cosmetic Act (FD&C Act). Specifically, ''food additives'' as defined under 21 U.S.C. 321(s) and ''color additives'' as defined under 21 U.S.C. 321(t) must be authorized for that use (*see* 21 U.S.C. 348 and 379e). The definition of a ''food additive'' excepts certain uses, including uses that are generally recognized as safe among experts qualified by scientific training and experience to evaluate its safety (*see* 21 CFR 170.30) and prior sanctioned uses (*see* 21 CFR part 181).

Paragraphs (a)(1) and (2) of 9 CFR 590.435 will continue to prohibit the use of food additives, sources of radiation, and color additives in egg products unless such use is authorized under the FD&C Act. FSIS is moving from paragraph (a)(1) to new paragraph (a)(3) the requirement that substances and ingredients used in the processing of egg products capable of use for human food be clean, wholesome, and unadulterated.

III. Executive Orders 12866, 13563, and 13771 and the Regulatory Flexibility Act

Executive Orders 12866, 13563, and 13771 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 (E.O.) 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 a ''significant'' regulatory action under section 3(f) of E.O. 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget under E.O. 12866.

FSIS has updated the costs and benefits from 2016 to 2019 dollars in this final regulatory impact analysis as compared to the Preliminary Regulatory

Impact Analysis (PRIA) published in the proposed rule. These changes include: Updated wage rates for Agency personnel, industry production employees, quality control technicians, quality control managers, and turnover rates for employees. In addition, FSIS has updated the following items for inflation: [26] Travel and overtime costs for inspectors, the cost for HACCP development, Sanitation SOP development, HACCP training, Sanitation SOP training, and the cost for industry to review labels.

Need for Regulatory Action

The final rule will enable official plants to increase efficiency from complying with less burdensome regulations. The current ''command and control'' egg products inspection regulations will be changed to more flexible regulatory requirements. Under this final rule, egg products plants will be required to develop and maintain HACCP systems. A HACCP system allows greater flexibility for producers to realize increased production efficiency. In addition, the final rule will allow plants to use different pasteurization methods. With 93 percent of egg products plants already under a HACCP system,[27] many have incurred additional unnecessary costs from complying with FSIS requirements in terms of ''command and control'' regulations and by processing under their own HACCP systems. By operating under the HACCP system alone, egg products plants can use plant resources in a more efficient manner while controlling for hazards in innovative ways in their HACCP plans.

Furthermore, regulatory action is warranted by the non-negligible public health risks associated with pasteurized egg products. The FSIS 2005 risk assessment estimated 5,500 cases of *Salmonella* per year due to pasteurized liquid egg products. This represents 0.5% of the approximately 1.03 million annual domestically acquired foodborne illnesses caused by *Salmonella*.[28] In addition, there were four *Salmonella* outbreaks between 2007 and 2012 that were possibly caused by contaminated pasteurized egg products.[29] Also, because the Food Code recommends pasteurized egg products to highly susceptible populations (FDA 2013 Food Code, Sec. 3–8), process control failures in the production of pasteurized egg products have the potential for especially serious health outcomes. By requiring egg products plants to operate in a HACCP system, the rule allows plants more flexibility to tailor their control systems to address any food safety requirements. HACCP has been proven to be the best framework for building science-based process control into food production systems to prevent food safety hazards.[30] [31]

Baseline of the Egg Products Industry

As of May 26, 2020, egg products are produced under FSIS jurisdiction by 81 egg products plants. Egg products include liquid, frozen, and dried whole eggs, whites, yolks, and various blends with or without non-egg ingredients. For background, according to the FSIS Public Health Information System (PHIS) data, we estimated that the egg products industry produced 1.8 billion pounds of dried, frozen, and liquid egg products for distribution in commerce and produced 4 billion pounds of liquid unpasteurized product for further processing in 2014.[32] Liquid egg products are produced in 73 percent of plants and accounted for 19 percent of all egg products marketed as finished product in 2014.[33] Liquid egg products represent the largest product type produced by egg products plants.

A survey by RTI International in 2014, Egg Products Industry Survey,[34] showed that 93 percent of egg products plants use a written HACCP plan to address at least one production step in their process.[35] The remaining 7 percent will need to develop HACCP plans under this final rule, as well as any of the 93 percent of egg products plants that have HACCP plans for some egg products, but not for others.

This final rule will require that egg products plants maintain Sanitation SOPs equivalent to the specifications of FSIS. Ninety-one percent of egg products plants already conduct sanitation procedures for food contact surfaces either daily or more frequently and document those procedures for Sanitation SOPs.[36]

Egg products production is easily the least labor-intensive process of the industries and products that FSIS regulates. Egg products plants tend to be highly mechanized and staffed with relatively low numbers of employees. Therefore, the large majority (88 percent) of egg products plants fall into either the HACCP size small or very small size category. In this section, FSIS discusses the size of individual plants. For a discussion of the size of egg products businesses under the Small Business Administration's (SBA) definition, see the final Regulatory Flexibility Analysis section of this document.

TABLE 2—EGG PRODUCTS PLANTS AND TOTAL PROCESSES

Plants	Breaking	Liquid	Dried	Total processes
81	59	55	18	132

FSIS inspection of egg products plants includes 95 inspection program personnel (IPP), who conduct daily pre-operational sanitation inspections and monitor sanitary conditions of the plant premises, facilities, and equipment

[26] Bureau of Economic Analysis: Table 1.1.9. Implicit Price Deflators for Gross Domestic Product.

[27] RTI International. 2014. ''Survey of Egg Packing and Egg Products Processing Plants.'' Revised Final Report. RTI Project no. 0211740.015.001. 3040 Cornwallis Rd., PO Box 12194 Research Triangle Park, NC 27709–2194. OMB No. 0583–0162.

[28] Scallan et al., 2011, Emerging Infectious Diseases 17(1): 7—15.

[29] Gurtler et al., 2013, Foodborne Pathogens and Disease, 10(6):492–499.

[30] Neal D. Fortin, Food Regulation: Law, Science, Policy, and Practice, (Hoboken, NJ: John Wiley and Sons, 2017) 181.

[31] Rose BE, Hill WE, Umholtz R, Ramnsom GM, James WO. 2002. ''Testing for *Salmonella* in raw meat and poultry products collected at federally inspected establishments in the United States, 1998 through 2000.'' *J Food Prot* 65:937–947.

[32] In the Fiscal Year 2014, the monthly average production volume was used to calculate the annual estimate for 77 egg products plants in the PHIS database.

[33] In the Fiscal Year 2014, the monthly average production volume was used to calculate the percentage for 77 egg products plants in the PHIS data.

[34] RTI International. 2014. ''Survey of Egg Packing and Egg Products Processing Plants.'' Revised Final Report. RTI Project no. 0211740.015.001. 3040 Cornwallis Rd., PO Box 12194, Research Triangle Park, NC 27709–2194.

[35] RTI International. 2014. ''Survey of Egg Packing and Egg Products Processing Plants.'' Revised Final Report. RTI Project no. 0211740.015.001. 3040 Cornwallis Rd., PO Box 12194, Research Triangle Park, NC 27709–2194.

[36] RTI International. 2014. ''Survey of Egg Packing and Egg Products Processing Plants.'' Revised Final Report. RTI Project no. 0211740.015.001. 3040 Cornwallis Rd., PO Box 12194, Research Triangle Park, NC 27709–2194.

continually during operations at every egg products plant in multiple shifts. FSIS IPP are responsible for observing the cleanliness, type, and wholesomeness of raw materials and finished products, the handling of ingredients, pasteurization, packaging, labeling, freezing, storing, and all other operations related to the processing and production of egg products.

Expected Cost of the Final Rule

Presented here are economic analyses for the breaking of shell eggs, the production of pasteurized liquid egg products (including frozen egg products), and the production of pasteurized dried egg products. Also provided are estimated government costs associated with this final regulation. All recurring and one-time cost estimates are in 2019 dollars, and discount rates of 3 percent and 7 percent are used to calculate annualized costs and savings over a 10-year period. For the purposes of the estimate, FSIS did not consider plant HACCP size because of the regularity in size explained previously (88 percent are small or very small plants). FSIS does not anticipate costs experienced by very small and small plants to differ greatly from those experienced by larger plants, because this final rule does not require any major capital, structural, or machinery investment or the hiring of additional employees, which can impose a large burden on very small or small plants.

Egg products plant personnel compensation (wages and benefits) that plants will need to provide to their employees because of the final regulation is derived using Bureau of Labor Statistics Occupational Employment Statistics wage rates and National Compensation Survey benefits percentages. The wage rate for a quality control (QC) manager is estimated to be $55.34 per hour; for supervisors or QC technicians $36.63 per hour; and for production workers $14.23 per hour.[37] Plants may pay employees for benefits such as paid leave, health insurance, and retirement and savings, and FSIS applied a benefits and overhead factor [38] of two to the hourly wage rate to estimate a total compensation rate for a QC manager at $110.68 per hour; and for supervisors or QC technicians at $73.26 per hour; and for production workers at $28.46 per hour.

Hazard Analysis & Critical Control Points (HACCP) Systems

The cost estimates for HACCP implementation include costs associated with plan development and reassessment, training, and monitoring and recordkeeping costs. If egg products plants follow current time/temperature regulations, FSIS will accept their approach, and FSIS will not require that plants do a significant amount of analysis in their HACCP plan. Upon completion of the hazard analysis and development of the HACCP plans, plants are required to determine whether their HACCP plans are functioning as intended. During the initial validation period, plants are to test, repeatedly, the adequacy of the CCPs, critical limits, monitoring and recordkeeping procedures, and corrective actions identified in the HACCP plan.[39] Plants are also required to perform an annual reassessment of their HACCP plans.

HACCP Plan Development and Reassessment

Egg products plants operate to produce a variety of products using a number of different processing techniques. Under this final rule, each plant will be required to evaluate its processes to determine the adequacy of existing written HACCP plans and the number of plans that will need to be created or modified to meet the requirements of the final rule. A large number of egg products plants already have HACCP plans for their processes. These plants will be required to reassess their HACCP plans annually, to ensure that their HACCP plans are consistent with the regulations in this final rule. For plants that currently lack HACCP plans, FSIS estimated the cost of initial plan development, annual reassessment, and validation. Under this final rule, every egg products plant will be required to reassess the adequacy of the HACCP plan at least annually and whenever any changes occur that could affect the hazard analysis or alter the HACCP plan. Such changes may include, but are not limited to, changes in raw materials, source of raw materials, or product formulation. For the purposes of estimating costs, FSIS simplified the production of egg products into three processes: The breaking of shell eggs, the production of pasteurized liquid egg products (including frozen egg products), and the production of pasteurized dried egg products.

Using these three process definitions and data from PHIS, FSIS categorized plants by process. For reference, Table 2 above displays plants and processes. Using results from the 2014 Egg Products Industry Survey, FSIS applied a distribution, by process, of plants responding affirmatively to having a written HACCP plan to the population of egg products plants.[40] Using this data, FSIS estimated the number of processes in those plants that require a HACCP plan to be developed. This information is displayed in Table 3.[41]

TABLE 3—PROCESSES WITHOUT WRITTEN HACCP PLANS

Breaking	Liquid	Dried	Total processes
9	13	4	26

[37] Estimates obtained from the Bureau of Labor Statistics May 2019 National Industry-Specific Occupational Employment and Wage Estimates, for Management Occupations (Occupational Code 11–3051), *https://www.bls.gov/oes/current/oes113051.htm,* Food Scientists and Technologists (19–1012), *https://www.bls.gov/oes/current/oes191012.htm,* and Production Occupations (51–3023) *https://www.bls.gov/oes/current/oes513023.htm.*

[38] This analysis accounts for fringe benefits and overhead by multiplying wages by a factor of two.

[39] 9 CFR 417.4

[40] *See* Appendix A, Section 4.

[41] For the purposes of the table, the number of processes was rounded to the nearest whole number. For the purposes of cost calculations and to be more exact, the Agency kept the actual figures, including digits past the decimal point, for instance, the number of total processes is actually 25.6181 rather than 26. These figures are not exact whole numbers because the Agency used the survey participant responses for which processes they use, as percentages of the total survey responses. These percentages were used to derive the total number of establishments that use each process applying that to the total population of egg products plants in Agency data (please see appendix A).

For plan development and reassessment, FSIS used the Cost of Food Safety Investments [42] final report, updated with the GDP Deflator and updated labor costs from 2014 to 2019 dollars, and, with the assumed benefits and overhead factor of two. FSIS estimated the costs in 2019 dollars for plan development and reassessment using the low estimate, (plan developed internally—low estimate –$18,315), the high estimate (plan developed with consultant—high estimate—$45,359), and the average of the mid-estimates of the plan developed with a consultant and internally ($33,435).[43] FSIS also incorporated an initial validation cost of $29,304 ($14,652—$43,956) and an ongoing (yearly) reassessment cost of $854 ($427—$1,281). FSIS applied these estimates to the number of processes needing HACCP plans to determine the cost of HACCP plan development, validation, and reassessment, displayed in Table 4.

TABLE 4—ESTIMATED HACCP PLAN DEVELOPMENT, VALIDATION, AND REASSESSMENT COSTS

[$1,000s]

Cost component	Cost estimates (low–high)			
	Initial cost *	Recurring cost	Annualized 3% over 10 years	Annualized 7% over 10 years
Development	856.0 (469.2–1,160.4)	0	97.4 (53.4–132.1)	113.9 (62.4–154.4)
Initial Validation * for 25 New Plans	750.7 (375.4–1,126.1)	0	85.4 (42.7–128.2)	99.9 (49.9–149.8)
Annual Reassessment **	3,208.2 (1,604.1–4,812.4)	3,980.8 (1,990.4–5,971.2)	3,892.9 (1,946.4–5,839.3)	3,878.0 (1,939.0–5817.0)

* These estimates are calculated using the actual number of unrounded processes or 25.6181 processes.

** Initially, plants with existing HACCP plans will begin reassessing in year 1. Plants without existing plans, after developing their plans in year 1, will begin reassessing their plans in the following years.

The above analysis does not include costs associated with taking a corrective action when routine monitoring of a CCP detects a deviation from an established critical limit. It is not possible to determine the costs of these corrective actions, but we expect that, for well-designed processes with HACCP, these costs will occur infrequently.

HACCP Training and Personnel

We assume that each egg products plant will employ a QC manager and a QC technician to ensure compliance with the final measures. Based on the 2014 Egg Products Industry Survey final report, approximately 7 percent of plants do not employ any HACCP plans.[44] Thus, we assume 7 percent of plants (approximately six) will need to obtain training for a QC manager, assuming one per plant, and a QC technician and three production workers for each processing operation shift (an average of 1.7 shifts per plant based on the results of the Industry Survey).

Although the HACCP system is different than the current system, FSIS believes that in egg products plants, only a portion of production employees, or a minimum number per shift, will actually receive training, given that the duties for most of the production employees will remain very similar or even the same when the plant operates under HACCP.

FSIS used initial and recurring annual refresher training cost estimates (updated with the GDP Deflator and updated labor costs from 2014 to 2019 dollars and the assumed benefits and overhead factor of two) and the number of hours of training from the Cost of Food Safety Interventions [45] final report. QC managers will be trained initially at a cost of $4,282 ($2,141.17–$6,423.51), with an annual refresher at a cost of $221.36 ($110.68–$332.04). QC technicians will be trained initially at a cost of $3,384 ($1,692–$5,076), with an annual refresher at a cost of $147 ($73–$220). An additional opportunity cost for training was added to account for the time lost when employees were in training at the per hour compensation rate (including wage and benefit factor) of the employees being trained for the length of the training and for replacement personnel to work covering the time of the training. Production employees will also need to be trained; however, FSIS assumed that this training will take place on the job, and therefore will only impose opportunity costs. We use an annual turnover rate of 36.5 percent [46] to estimate recurring costs due to employee separation and the need to train new employees. These estimates are displayed in Table 5.

TABLE 5—HACCP-RELATED TRAINING COSTS

[$1000s]

Plants	Shifts	Cost estimates (low–high)			
		Initial training	Recurring training	Annualized 3% over 10 years	Annualized 7% over 10 years
6	9	87.3 (43.7–131.0)	38.3 (19.2–57.5)	43.9 (21.9–65.8)	44.8 (22.4–67.2)

[42] RTI International. Cost of Food Safety Investments Final Report. Available at: *https://www.fsis.usda.gov/wps/wcm/connect/0cdc568e-f6b1-45dc-88f1-45f343ed0bcd/Food-Safety-Costs.pdf?MOD=AJPERES.* These cost figures were adjusted for inflation using the GDP Deflator from 2014 to 2019.

[43] For plan development costs, in order to mitigate outliers, the Agency selected the greater of the two lowest costs between developing the plan internally and the cost for developing with a consultant for the low estimate, and the lesser of the two highest costs between developing the plan internally or with a consultant for the high estimate.

[44] *See* Appendix A, Section 5.

[45] RTI International. Cost of Food Safety Investments Final Report. Available at: *https://www.fsis.usda.gov/wps/wcm/connect/0cdc568e-f6b1-45dc-88f1-45f343ed0bcd/Food-Safety-Costs.pdf?MOD=AJPERES.* These cost figures were adjusted for inflation using the GDP Deflator from 2014 to 2019.

[46] Annual total separations rate for nondurable goods, Bureau of Labor Statistics Job Openings and Labor Turnover Survey, 2019, available at: *http://www.bls.gov/news.release/jolts.t16.htm.*

HACCP Recordkeeping

The rule requires facilities to record observations when monitoring CCPs and to document any deviations and corrective actions. The rule requires that an employee not involved in recording observations certify such records. Recordkeeping costs include the time it takes to make observations and to record the results of those observations, plus the cost of certifying and maintaining records. The level and extent of recordkeeping for the final rule should not change greatly for egg products plants already using HACCP plans. Plants with existing HACCP plans are already documenting CCPs, as well as documenting information for the current regulations. For these plants, there will be a cost savings and reduction in recordkeeping costs, because they are keeping records for both a HACCP system and the current regulations.

FSIS used data from the 2014 Egg Products Industry Survey to estimate how many plants do not have HACCP plans, and the number of plans needed at these plants. FSIS also estimated the number of shifts at those plants.[47] The cost of recordkeeping is dependent on several factors, each of which has to be documented in some manner, such as the number of HACCP plans developed by each plant, the number of shifts operated by each plant, the number of CCPs per HACCP plan, the number of pre-shipment reviews conducted, and any decision-making for hazard analysis that may require documentation.

The numbers of CCPs in egg products plants likely vary considerably across the industry. An FSIS technical expert[48] suggested four to six CCPs per HACCP plan, as an average. Therefore, we assumed that the average number of CCPs is five per egg products plant, per plan. We assumed 3 minutes (+/ − 1 minute) for monitoring recordkeeping and 1 minute (+/ − 30 seconds) for certifying per CCP.[49] From the above assumptions, we estimate (Table 6) the annual cost of HACCP recordkeeping and monitoring.

TABLE 6—ANNUAL HACCP RECORDKEEPING AND MONITORING COSTS

[$1000s]

Plans	Effective annual shifts	Annualized cost estimates (low–high)			
		Recordkeeping		Monitoring	
		3% over 10 years	7% over 10 years	3% over 10 years	7% over 10 years
26	11,101	79.0 (52.7–105.3)	79.0 (52.7–105.3)	67.8 (33.9–101.7)	67.8 (33.9–101.7)

Table 7 presents a summary of the total HACCP-related costs as a result of the rule. These figures are annualized over 10 years at 3 percent and 7 percent discount rates.

TABLE 7—TOTAL HACCP-RELATED INDUSTRY COSTS

[$1000s] *

Cost component	Annualized cost estimates (low–high)	
	3% over 10 years	7% over 10 years
Plan Development and Reassessment	4,075.8 (2,042.6–6,099.6)	4,091.8 (2,051.4–6,121.3)
Training	43.9 (21.9–65.8)	44.8 (22.4–67.2)
Recordkeeping & Monitoring	146.8 (86.5–207.0)	146.8 (86.5–207.0)
Total	4,266.4 (2,151.1–6,372.4)	4,283.4 (2,160.3–6,395.5)

* Numbers in table may not sum to totals due to rounding.

Sanitation Standard Operating Procedures (Sanitation SOPs) Plan Development

For the most part, plants already have plans for sanitation insofar as FSIS already requires certain sanitation procedures. FSIS used responses from the 2014 Egg Products Industry Survey,[50] which describes the number of plants where they train their employees on Sanitation SOPs, to estimate the percentage of plants that have Sanitation SOPs. This accounts for approximately 91 percent of all egg products plants. FSIS assumed that if a plant is training production employees, then it has a written plan in place that the training is based on and will likely meet the requirements of the final rule. FSIS then applied this percentage to determine the number of plants that will need to develop written Sanitation SOPs (approximately 7). The current Sanitation SOP requirements for egg products plants will not change greatly, because the basis and standards for the sanitation of the plants will remain consistent with the current guidelines. For the final rule, the Sanitation SOPs will be created by the plant to meet FSIS standards under the HACCP system.

FSIS used cost estimates from the Cost of Food Safety Interventions[51] final report, updated for inflation using the GDP Deflator and wage rates from 2014 to 2019 dollars and for the benefit factor described previously. For plan development, FSIS estimated costs using the low estimate (plan developed internally—low estimate—$18,315), the high estimate (plan developed with a

[47] *See* Appendix A, Section 6.

[48] Curtis, P., North Carolina State University, Raleigh, NC. October 5, 2001. Personal communication with Catherine Viator, RTI. Reported in RTI International. 2002. ''Pathogen Reduction and Other Technological Changes in the Meat, Poultry, and Egg Industries.'' RTI Project no. 07182.017. 3040 Cornwallis Rd., PO Box 12194 Research Triangle Park, NC 27709–2194.

[49] FSIS estimated these approximate time estimates by first hand observation at egg products plants.

[50] *See* Appendix A, Section 1.

[51] RTI International. Cost of Food Safety Investments Final Report. Available at: *http://www.fsis.usda.gov/wps/wcm/connect/0cdc568e-f6b1-45dc-88f1-45f343ed0bcd/Food-Safety-Costs.pdf?MOD=AJPERES.*

consultant—high estimate, $33,164), and the average of the mid-estimates of the plan developed internally and with a consultant ($29,370).[52] The costs of Sanitation SOP plan development are displayed in Table 8. The recurring costs associated with Sanitation SOPs can be found in the recordkeeping, monitoring, and training sections found below.

TABLE 8—COSTS ASSOCIATED WITH THE DEVELOPMENT OF SANITATION SOPS

[$1000s]

Cost component	Cost estimates (low–high)		
	Initial cost	Annualized 3% over 10 years	Annualized 7% over 10 years
Development	208.6 (130.1–235.5)	23.7 (14.8–26.8)	27.8 (17.3–31.3)

Recordkeeping

Under the final rule, plants will be required to maintain daily records sufficient to document the implementation and monitoring of Sanitation SOPs. FSIS used data from the 2014 Egg Products Industry Survey to estimate the proportion of plants keeping sanitation records that will meet the requirements of the final rule consisting of employee task performance and a log for deviations and corrective actions.[53] FSIS then determined how many of those plants are completing recordkeeping tasks daily.[54] Those plants that are not conducting recordkeeping frequently enough (less than daily), or are not keeping the correct records during recordkeeping based on the final Sanitation SOPs requirements will incur costs to do so.

For plants that are not keeping adequate sanitation records, FSIS estimated costs of recordkeeping based on the frequency of reported recordkeeping tasks. FSIS assumed that each sanitation recordkeeping task will be performed by a production employee and will take approximately 15 minutes (+/ − 5 minutes) to complete. A sanitation recordkeeping task will be performed daily, unless the plant reported performing a task more than daily, in which case FSIS assumed there will be one task per shift (an average of 1.7 shifts per plant based on the results of the Industry Survey). The average number of shifts was calculated using question 5.2 of the survey, which asks respondents their total number of production shifts per day.[55] The responses by small and large plants to question 5.2 were combined along with the total responses to get percentages for average number of shifts. The calculation is 25% × 3 shifts + 18% × 2 shifts + 57% × 1 shift = 1.7 shifts. Please see Table 9 for the estimated costs to industry for implementing Sanitation SOP recordkeeping.

FSIS further assumed that a QC technician will review or monitor records for approximately 10 minutes (+/ − 5 minutes) once per day. FSIS used the adequacy and frequency of an egg product plant's current recordkeeping to estimate the cost to industry for additional monitoring of Sanitation SOP recordkeeping. These costs are displayed in Table 10.

TABLE 9—SANITATION SOP RECORDKEEPING IMPLEMENTATION COSTS

[$1000s]

Current recordkeeping	Recordkeeping frequency	Number of plants *	Annualized recordkeeping cost estimates (low–high)	
			3% over 10 years	7% over 10 years
Meets Requirements	<Daily	7	13.1 (8.8–17.5)	13.1 (8.8–17.5)
Does Not Meet Requirements	<Daily	3	5.3 (3.5–7.0)	5.3 (3.5–7.0)
	Daily	13	23.7 (15.8–31.5)	23.7 (15.8–31.5)
	>Daily	13	39.4 (26.3–52.6)	39.4 (26.3—52.6)

* For number of plants, FSIS multiplies the percentages from the survey for each category by total number of plants (81).

TABLE 10—SANITATION SOP MONITORING COSTS

[$1000s]

Current recordkeeping	Recordkeeping frequency	Number of plants *	Annualized monitoring cost estimates (low–high)	
			3% over 10 years	7% over 10 years
Meets Requirements	<Daily	7	22.6 (11.3–33.8)	22.6 (11.3–33.8)
Does Not Meet Requirements	<Daily	3	9.0 (4.5–13.5)	9.0 (4.5–13.5)
	Daily	13	40.6 (20.3–60.9)	40.6 (20.3–60.9)
	>Daily	13	40.6 (20.3–60.9)	40.6 (20.3–60.9)

* For number of plants, FSIS multiplies the percentages from the survey for each category by total number of plants (81).

[52] For plan development costs, in order to mitigate outliers, the Agency selected the greater of the two lowest costs between developing the plan internally and the cost for developing with a consultant, and the lesser of the two highest costs between developing the plan internally or with a consultant.

[53] *See* Appendix A, Section 2.

[54] At least 1 pre-operational sanitation inspection of product contact zones per 9 CFR 416.13 and 416.12(c).

[55] Please see Appendix A.

Training Costs

Egg products plants that are implementing new Sanitation SOPs and those not in compliance will also need to conduct initial training for employees. Using data from the 2014 Egg Products Industry Survey, FSIS estimated the number of plants that will need to develop new Sanitation SOPs (*see* Table 11) and the average number of shifts at those plants.[56] FSIS assumed that one QC manager per plant, and one QC technician and three production employees per shift will be trained.[57] FSIS assumed the recurring training will occur for all 81 plants. FSIS used initial and recurring annual refresher training cost estimates from the Cost of Food Safety Interventions [58] final report, updated for inflation using the GDP Deflator and wage rates from 2014 to 2019 dollars and with the assumed benefits and overhead factor of two. QC managers will be trained initially at a cost of $2,954.18 ($1,477.09 to $4,431.27) with an annual refresher at a cost of $221.36 ($110.68 to $332.04). QC technicians will be trained initially at a cost of $2,505.14 (1,252.57 to 3,757.71) with an annual refresher at a cost of $146.52 ($73.26 to $219.78). FSIS added an additional opportunity cost to account for the lost hours when employees are in training. Production employees will also need to be trained, however, FSIS assumed that this training would take place on the job and therefore will impose only opportunity costs.

FSIS included recurring training costs to account for labor separation and the need to train new employees. To estimate these ongoing costs, FSIS used an annual labor turnover rate of 36.5 percent [59] and applied that percentage to the initial training costs. The Sanitation SOP-related training costs due to the rule are displayed in Table 11.

TABLE 11—ONE-TIME AND RECURRING SANITATION SOP TRAINING COSTS

[$1000s]

Plants	Shifts	Cost estimates (low–high)			
		Initial training	Recurring training	Annualized 3% over 10 years	Annualized 7% over 10 years
36	61	402.7 (238.3–604.1)	189.7 (108.3–300.7)	235.5 (135.4–369.5)	243.3 (140.0–381.1)

Table 12 presents a summary of the total Sanitation SOPs-related costs due to the rule annualized over 10 years at 3 percent and 7 percent discount rates.

TABLE 12—TOTAL SANITATION SOPS-RELATED INDUSTRY COSTS

[$1000s] *

Cost component	Annualized costs (low–high)	
	3% over 10 years	7% over 10 years
Plan Development	23.7 (14.8–26.8)	27.8 (17.3–31.3)
Recordkeeping & Monitoring	194.3 (110.7–277.8)	194.3 (110.7–277.8)
Training	235.5 (135.4–369.5)	243.3 (140.0–381.1)
Total	453.5 (261.0–674.1)	465.3 (268.1–690.3)

* Numbers in table may not sum to totals due to rounding.

Special Handling Statements on Labels

The final egg products rule requires ''Keep Refrigerated'' or ''Keep Frozen'' statements for all egg products that require special handling to maintain their wholesome condition. Plants currently include this information on egg products labels; therefore, this new requirement for the industry should not create additional costs.

Costs From Requiring Egg Products Plants To Produce Egg Products That Are Edible Without Additional Preparation To Achieve Food Safety

The final rule requires that egg products plants process egg products that are edible without additional preparation to achieve food safety. FSIS does not anticipate that these plants will need to change their pasteurization practices to meet this requirement and therefore will not incur additional costs, except as a part of their normal operations in regards to complying with HACCP plan verification and monitoring activities. These verification and monitoring activities are discussed above as part of the HACCP costs of this final rule for recordkeeping and monitoring. Below, the total industry costs are presented:

[56] *See* Appendix A, Section 3.

[57] An FSIS expert has also agreed with the Industry Survey and provided the likely staff needing training at a typical egg products plant.

[58] RTI International. Cost of Food Safety Investments Final Report. Available at: *https://www.fsis.usda.gov/wps/wcm/connect/0cdc568e-f6b1-45dc-88f1-45f343ed0bcd/Food-Safety-Costs.pdf?MOD=AJPERES.*

[59] Annual total separations rate for nondurable goods, Bureau of Labor Statistics Job Openings and Labor Turnover Survey, 2019, available at: *http://www.bls.gov/news.release/jolts.t16.htm.*

TABLE 13—TOTAL INDUSTRY COSTS

[$1,000] *

Cost component	Annualized cost estimates (low–high)	
	3%	7%
HACCP	4,266.4 (2,151.1–6,372.4)	4,283.4 (2,160.3–6,395.5)
Sanitation SOPs	453.5 (261.0–674.1)	465.3 (268.1–690.3)
Total	4,719.9 (2,412.2–7,046.5)	4,748.7 (2,428.4—7,085.8)

* Numbers in table may not sum to totals due to rounding.

Agency Costs

Training and Personnel

FSIS employs 95 egg products inspectors that exclusively inspect egg products plants. Some egg products plant inspectors already have HACCP training from past inspection experience in meat and poultry plants. For inspectors without prior experience, FSIS will need to train them in the HACCP system. The long-term objective of the Agency is to establish an inspection system where inspection program personnel will be equally qualified to conduct inspection activities at meat or poultry establishments, and egg product plants.

The Agency anticipates that it will need to train 51 egg products inspection personnel [60] and twenty-four meat or poultry inspectors (non-egg products inspectors). Fifty-one of these inspectors will require a 4-week training course on HACCP methods called Inspection Methods training, and 24 inspectors already trained in HACCP inspection will be trained in egg product inspection. The inspection methods training for egg products inspection personnel will be longer than for other plant personnel because it includes additional topics (*e.g.,* processing and slaughter inspection in a HACCP environment, rules of practice, and fundamental food microbiology) that not all egg products plant personnel need to perform their job. The total costs (including travel, lodging, per diem, and training program) for the 4-week training program is approximately $6,371.11 [61] per inspector, and the one-week egg product inspection training is approximately $1,274.22 per inspector. Therefore, the one-time Agency training costs total approximately $355,500 (51 × $6,371.11) + (24 × $1,274.22).

Replacement inspectors will be required during periods when egg products plant inspectors are being trained. The Agency's district offices estimate the cost of replacement inspectors to be $4,005.64 per person [62] for inspection methods training and $1,001.41 per person for egg products inspection training. Consequently, the one-time cost of replacement inspectors is approximately $228,300 derived from (51 × $4,005.64) and (24 × $1,001.41). Thus, the total one-time cost of training inspectors at egg products plants is $583,800. Table 14 provides the summary of the costs associated with inspector training.

TABLE 14—INSPECTION PROGRAM TRAINING COSTS ($1,000) AT 3% AND 7% DISCOUNT RATES ANNUALIZED OVER 10 YEARS *

Cost component	Number of IPP	Cost per IPP	One-time cost	Annualized cost estimates	
				3% over 10 years	7% over 10 years
Inspection Methods Training	51	6.4	325.0	37.1	43.4
Egg Products Inspection Training	24	1.3	30.5	3.5	4.1
Replacement IPP	75	.....	228.3	26.0	30.4
Total	.....	.....	584.0	66.6	77.8

* Numbers in table may not sum to totals due to rounding.

Total Costs

Table 15 provides a summary of the estimated total costs for the industry and Agency. The table includes annualized costs over 10 years at discount rates of 3 percent and 7 percent.

TABLE 15—TOTAL COSTS

[$1,000] *

Total costs	Annualized cost estimates (low–high)	
	3% over 10 years	7% over 10 years
Industry		
HACCP	4,266.4 (2,151.1–6,372.4)	4,283.4 (2,160.3–6,395.5)
Sanitation SOPs	453.5 (261.0–674.1)	465.3 (268.1–690.3)

[60] FSIS Policy Development Staff (PDS) provided the number of personnel that will need training. PDS estimated this number by contacting each district manager in the field where egg products plants are located.

[61] This figure is a mean estimate of training costs from FSIS/OOEET Center for Learning.

[62] This is the average GSA per diem for meals and hotel multiplied by the number of days replacement inspectors will be needed to fill positions. *http://www.gsa.gov/portal/content/104877.*

TABLE 15—TOTAL COSTS—Continued

[$1,000]*

Total costs	Annualized cost estimates (low–high)	
	3% over 10 years	7% over 10 years
Agency		
IPP Training	40.6	47.5
Replacement IPP	26.0	30.4
Total	4,786.5 (2,478.7–7,113.1)	4,826.6 (2,506.3–7,163.7)

*Numbers in table may not sum to totals due to rounding.

Expected Benefits of the Final Rule

The final rule will provide firms in the egg products industry greater flexibility and incentives for innovation. Firms derive benefits from opportunities to innovate and employ more flexible production methods over time. Many egg products plants have already adopted the HACCP system for egg product processing. One reason for this adoption is buyers of egg products (further egg processors or retailers) require the production of egg products to be done under the HACCP system. In addition, under a HACCP system, egg products plants can attain quality accreditations such as one by the Safe Quality Food Institute, which allows egg products plants to access different markets inaccessible to non-HACCP processors.

Given the efficiency gains in different food production facilities under FSIS jurisdiction by implementing HACCP, FSIS reasonably expects that the egg products industry will gain some efficiency from HACCP implementation.

Benefits From Removing Current Regulations

A large benefit from moving away from the current regulatory framework is the lessening of administrative burdens on plants and plant personnel. With the movement to a HACCP-based system, IPP will change how they inspect egg products plants by ensuring that plants' HACCP systems are functioning as intended rather than inspecting for compliance with current specifications. This change in how inspection is done will allow for improved allocation of resources to more food-safety tasks and sanitary verifications both for the Agency and for egg products plants. It also allows egg product plants to employ resources in a manner that more efficiently produces safe product instead of allocating resources just to comply with FSIS regulations. For instance, instead of sampling product for time and temperature, a plant can design a system in which its HACCP plan specifies sampling products at a more convenient time in the process, allowing for better personnel resource management to improve production efficiency.

Another aspect of the reduced administrative burden is a reduced need for FSIS approval for changes to plant operations that deviate from current regulations. For example, official plants will no longer need to submit facility blueprints and specifications (plant changes) to the Agency when applying for a grant of inspection, nor will they need to obtain prior approval from FSIS for equipment and utensils proposed for use in preparing edible product or product ingredients. The approval process for a waiver to a regulation or for no objection to production changes will also be eliminated. These changes provide cost savings to industry and the Agency and are quantified below. It takes industry on average 100 hours to make an industry submission as described above (waiver, plant blueprint, no objection, or equipment use), including additional correspondence with FSIS. The Agency spends an average of 69 hours to review and approve each submission.

FSIS receives on average nine submissions per year from egg products plants. The submission process involves an egg products plant's QC technician providing the initial submission data and follow-up correspondence with Agency personnel. This follow-up correspondence includes responding to FSIS questions with supporting data. The QC technician is paid an hourly wage of $73.26 per hour, which includes a benefit and overhead rate of two. We assumed an Agency reviewer would have a General Schedule 13 salary, step 3, at $101.38 per hour, which includes a benefits and overhead factor of two.[63] Eliminating these submission processes will save industry approximately $65,900 annually discounted over 10 years at the 7 percent rate. The Agency will save approximately $63,000 annually discounted over 10 years at the 7 percent rate.

TABLE 16—INDUSTRY AND AGENCY SAVINGS FROM THE ELIMINATION OF AGENCY APPROVAL FOR PLANT AND PRODUCT PROCESSING CHANGES

[$1,000s]*

Total savings	Annualized savings	
	3% over 10 years	7% over 10 years
Industry	65.9	65.9
Agency	63	63
Total	128.9	128.9

*Numbers in table may not sum to totals due to rounding.

[63] Hourly rate, Washington DC, Office of Personnel Management *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2020/general-schedule/*.

The HACCP plan provision of the final rule will also give plants flexibility to design their pasteurization and sampling procedures. Ninety three percent of egg products plants have indicated that their plants conduct microbiological testing in addition to those required by regulation.[64] By giving plants the option to sample as determined in their HACCP plan, there may be a cost savings from sampling less. The final rule specifies that the final product must be produced to be edible without additional preparation to achieve food safety. This standard provides flexibility to an egg products plant by giving it the necessary end result of pathogen-free products without specifying direct instructions on the processing method. This allows plants to find the most efficient processing or sampling methods to best fit their own production process and resources to produce a pathogen-free product.

Additional Benefits From Generic Labeling

Additional benefits include cost reductions for the Agency and for the egg products plants that submit labels for changes to an existing label or for new label approvals. Currently, an egg products plant must submit a formal application along with a sketch of a product label to FSIS personnel for approval, regardless of the change (including a color or size change to a label). The approval process for certain labels will be streamlined, allowing egg products plants to use certain labels without submitting an application to FSIS because the labels will be generically approvable.[65] Labels that will not qualify for generic approval include temporary approvals, labels for export only product that bear labeling deviations, or labels bearing special statements and claims. All other label types can be generically approved. Presently, many egg products plants use special claims on their labels (*e.g.,* organic or free range) and so those labels will not qualify for generic approval. However, the Agency estimates that approximately 80 percent of labels have prior approval for these claims.[66] If these prior approved producers make other changes to the labels not involving their pre-approved claims, they can also qualify for generic labeling.

The number of egg products labels submitted in 2015 was approximately 520, and in 2016, the number rose to 708 labels. FSIS estimates that approximately 50 percent of these new labels will qualify for generic label approval each year. Generic approval will reduce the recordkeeping burden at the plant and Agency by about half the current levels. In order to estimate cost savings through the generic labeling process, the number of future label submissions was estimated based on the annual historic increase in submissions. Using the industry cost savings of $26.55 per label from the Prior label Approval System: Generic Label Approval final rule[67] updated for inflation using the GDP Deflator to 2019 dollars, the final generic label approval process for egg products could save industry approximately $17,000 annually, discounted over 10 years at the 7 percent rate, from not submitting labels. The Agency will save approximately $66,000 annually, given that on average the review process takes approximately one hour, and the Agency assumed a reviewer would have a General Schedule 13 salary, step 3 at $101.38 per hour, which includes a benefits and overhead factor of two.[68]

TABLE 17—SAVINGS FROM GENERIC LABELING

[$1000s] *

Total savings	Annualized savings	
	3% over 10 years	7% over 10 years
Industry	17.1	17.1
Agency	65.2	65
Total	82.3	82.1

* Numbers in table may not sum to totals due to rounding.

Better Agency Resource Coverage

Because all egg products plant inspectors will now be trained in HACCP and can staff FSIS-regulated establishments other than egg products plants, the Agency will experience an improvement in inspection coverage. In the egg products plants themselves, the Agency can also utilize HACCP trained inspectors as relief inspectors. Currently, egg products inspectors can only work in egg products plants.

Change in Inspector Coverage

Under the final rule, FSIS inspectors will no longer provide inspection during all processing operations at each egg products plant, but instead may be provided once per shift. Therefore, under the rule, inspectors may inspect several plants within a reasonable commuting distance (*i.e.,* patrol assignments similar to meat and poultry processing inspection). The Agency expects there to be salary savings associated with patrol assignments through a 3-year change in staffing. The Agency expects to reduce the number of egg products inspectors by 10 inspectors in year 1, 10 inspectors in year 2, and 10 inspectors in year 3, for a total reduction of 30 egg products inspectors through attrition and movement of inspectors to other positions in the Agency over a 3 year period. The Agency estimates that the average salary for an egg products inspector is approximately $82,000[69] per year. Agency cost savings are reduced by an increase in travel expenses associated with patrol assignments, including mileage and additional General Services Administration (GSA) vehicles used for patrol. The Agency will also experience a loss of overhead industry paid to the Agency for overtime and holiday hours worked.

[64] RTI International. 2014. ''Survey of Egg Packing and Egg Products Processing Plants.'' Revised Final Report. RTI Project no. 0211740.015.001. 3040 Cornwallis Rd., P.O. Box 12194 Research Triangle Park, NC 27709–2194

[65] As required by 9 CFR 412, the Labeling and Program Delivery Staff (LPDS) evaluates certain sketch applications and all temporary applications for meat and poultry products. All other meat and poultry product label applications may be generically approved without evaluation by LPDS.

[66] This was an approximation made by a label reviewer in the FSIS labeling group.

[67] 78 FR 66826.

[68] Hourly rate, Washington DC, Office of Personnel Management *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2020/general-schedule/.*

[69] This salary was determined using the total savings figure provided by FSIS's Office of the Chief Financial Officer.

In addition to Agency savings, there will be cost savings to industry because there will be a reduction in egg products inspectors working overtime and holiday hours with the move to patrol assignments. Egg products plants will reduce the need for inspectors during hours of processing activities, including during overtime and holiday hours. FSIS estimates that egg products plants will have reduced costs for reimbursing the Agency for approximately 65,000 overtime hours and approximately 2,800 holiday hours per year [70] for the industry as a whole. The reimbursable rates to the Agency for overtime and holidays are $74.76 to $89.56 per hour, respectively.[71] The industry savings will go into effect within the first year and continue annually. Please see table 18 for a summary of total savings from the final changes in inspection coverage.

TABLE 18—TOTAL NET SAVINGS FROM CHANGES IN EGG PRODUCTS INSPECTION

[$1,000s]*

Agency	Annualized estimates	
	3% over 10 years	7% over 10 years
Costs		
Changes in inspection coverage	1,557	1,557
Savings		
Reduction in salaries due to changes in inspection coverage	(2,172)	(2,129)
Agency Net Budget Impact	(615)	(572)
Industry Savings		
Elimination of inspection payments for overtime and holidays	(5,110)	(5,110)
Grand Total Net Savings	*(5,725)*	*(5,682)*

* Numbers in table may not sum to total due to rounding.

In summary, the benefits from this final rule include improvements in product quality, lower transaction costs, plant innovation, and generally lower operational costs. Additionally, the egg products plants will not have to comply with the current ''command and control'' regulations. By eliminating regulations, administrative burdens will be lessened, including those associated with submitting documentation to FSIS for changes to the plant and plant processes, waivers, and most egg products labels, resulting in cost savings. Industry will also benefit from the reduction in overtime and holiday pay paid for the inspection of egg products plants. Table 19 summarizes the quantified costs and cost savings to industry and the Agency. The rule provides a net cost savings of between $1.1 million and $1.2 million annualized over 10 years at the 7 percent and 3 percent rates.

TABLE 19—TOTAL COSTS AND NET BENEFITS

[$1,000s]*

Costs	Annualized costs and net benefits (low–high)	
	3% over 10 years	7% over 10 years
Industry		
HACCP	4,266.4 (2,151.1–6,372.4)	4,283.4 (2,160.3–6,395.5)
Sanitation SOPs	453.5 (261.0–674.1)	465.3 (268.1–690.3)
Agency		
IPP Training	40.6	47.5
Replacement IPP	26.0	30.4
Total Costs	4,786.5 (2,478.7–7,113.1)	4,826.6 (2,506.3–7,163.7)
Industry Savings		
Reduced Plant Approval Processes	−65.9	−65.9
Generic Labeling	−17.1	−17.1
Changes in inspection coverage	−5,110	−5,110
Agency		
Reduced Plant Approval Processes	−63.0	−63.0
Generic Labeling	−65.2	−65.0
Changes in inspection coverage	−615	−572
Total Savings	−5,936	−5,893
Grand Total Net Benefits	1,149.6 (−1,177.0 to 3,457.4)	1,066.5 (−1,270.6 to 3,386.8)

* Numbers in table may not sum to totals due to rounding.

[70] The industry hours saved was derived from FSIS's Office of the Chief Financial Officer.

[71] Although 2020 rates are currently available, FSIS used the 2019 rates to estimate cost savings to be consistent with the other costs in the analysis and to not over estimate total cost savings. The 2019 dollar rates can be found here: *https://www.federalregister.gov/documents/2018/12/20/2018-27521/2019-rate-changes-for-the-basetime-overtime-holiday-and-laboratory-services-rates.*

Alternative Regulatory Approaches

The Agency considered two alternatives designed to achieve the regulatory objective outlined in the Need for the Rule section. However, this final rule was chosen as the least burdensome, technically acceptable regulatory approach.

Voluntary HACCP regulatory program: A voluntary HACCP system will be very close to the current system. In the current system, 93 percent of egg products plants already have implemented HACCP systems integrated into their processing. Because many plants have already changed to a HACCP system, the Agency does not foresee any non-HACCP operations voluntarily implementing HACCP that have not already done so. These plants will stay at status quo. Therefore, this regulatory option will not lead to a significant change in current egg products plants processing practices. However, there will be additional costs, such as inspector HACCP training and the costs of inspecting a dual system. Also, under the current regulations, continuous inspection prevents inspectors from working patrol assignments. These patrol assignments will save industry overtime costs and Agency resources. These savings will not be fully realized in a dual system. For the plants not operating under HACCP, there are possible consumer benefit losses as some plants may fail to innovate and might continue to comply with current regulation, passing production costs on to consumers. Therefore, FSIS rejected this alternative.

HACCP for large volume egg products plants: In this alternative, only plants with a large production volume will be required to implement HACCP. This alternative will save Agency HACCP training costs for inspection personnel, who inspect small production plants. Small volume plants will be allowed to stay in a non-HACCP system, lowering industry costs. This alternative will need to have certain volume definitions to distinguish the type of plant considered in the alternative. A difficulty associated with the size definition process is that an egg products plant's volume may change depending on the season or from changes in its source eggs. These changes could affect the classification system, which is based on volume, and could create difficulties in identifying the plants most likely to be designated as large volume. Another drawback to this alternative is the possible costs to the small producer in the long run. Although the low- production egg products plants may save initially on costs by not implementing HACCP, this alternative may hurt the plants' long-run efficiencies and competitiveness because they will not be gaining the flexibility to innovate that they will by producing under the HACCP system.

TABLE 20—REGULATORY ALTERNATIVES CONSIDERED

Alternative	Costs	Benefits
(1) Existing Voluntary Recordkeeping.	Additional costs for the Agency.	No additional benefits.
(2) HACCP only for large volume egg products plants.	In the long run, small plants will incur more costs from the lack of efficiency gains associated with HACCP.	Small volume producers will save on costs from not having to change their production process and develop the requisite Sanitation SOP and HACCP plans. Large volume producers will acquire benefits from implementing HACCP.
(3) The Final Rule	($1.1 million [72]) annual cost savings to industry and to the Agency.	Achievement of regulatory objective of regulations consistent with other FSIS regulations, clear responsibility of Agency vs. industry, and additional flexibility for industry.

Regulatory Flexibility Act (RFA)—Assessment

The FSIS Administrator certifies that, for the purposes of the Regulatory Flexibility Act (5 U.S.C. 601–602), this final rule will not have a significant economic impact on a substantial number of small entities in the United States.

The Agency received comments regarding the impact on small businesses, and FSIS provided responses to these comments earlier in the preamble to this final rule. Please see the ''Comment and Response'' section. FSIS also updated this final Regulatory Flexibility Act (RFA) assessment from the preliminary RFA assessment that was published in the proposed rule to provide additional analysis in response to comments. However, the results of the analysis are the same. While this final rule is estimated to result in cost savings for small and very small businesses, these savings are not estimated to have a significant economic impact.

In the initial RFA assessment in the proposed rule, the Agency found that at least 12 of the 77 egg products plants were larger businesses or companies with multiple egg products plants. FSIS estimates that approximately 46 plants are part of these larger companies, leaving 31 plants that could be considered small businesses.[73]

Alternatively, in response to comments, FSIS also looked at plants' HACCP sizes to assess the impact on small businesses. A plant's HACCP size can be used to categorize its business size. HACCP sizes are assigned based on the number of employees and revenue: Small plants have 10–499 employees and very small establishments have fewer than 10 employees or annual revenue of less than $2.5 million. Currently, FSIS inspects 81 egg products plants, 57 are HACCP size small and 15 are HACCP size very small. Regardless of how plants are categorized, the average per plant cost savings using the 3 percent mid-range estimate is approximately $5,800 per plant and at the 7 percent mid-range estimate is approximately $5,500 per plant.

Given that the final rule is expected to result in cost savings, FSIS expects small plants to benefit from the final rule. However, this benefit is not expected to be significant.

[72] This cost savings is annualized at the 7 percent discount rate over 10 years.

[73] The Agency considered businesses that were part of a larger corporation or business network to be a large business for the purpose of this RFA.

The Research Triangle Institute's ''2014 Egg Products Industry Survey'' [74] identifies small plants as those with annual product volume of 50,000,000 pounds or less. In the survey, 83 percent of small businesses report more than $2.5 million in revenue, with nearly 22 percent reporting at least $50 million in revenue. As such, cost savings of $5,800 is less than 1 percent of revenue and is considered to have an insignificant economic impact.

Executive Order 13771

Consistent with E.O. 13771 (82 FR 9339, February 3, 2017), FSIS has estimated that this final rule will yield cost savings. FSIS estimates that the per plant industry cost savings using the 3 percent mid-range estimate is approximately $5,800 per plant and at the 7 percent mid-range estimate is approximately $5,500 per plant. Assuming a 7 percent discount rate, a perpetual time horizon, and a starting year of 2020, the final rule will yield approximately $1.1 million (2019$) in annualized cost savings. However, due to the potential for unquantified costs, OMB has designated this rule as an E.O. 13771 regulatory action.

Appendix A to Executive Orders 12866 and 13563 and the Regulatory Flexibility Act Analysis [75]

The 2014 Egg Products Industry Survey, conducted and published by RTI International, surveyed approximately 57 egg products plants with questions in regard to plants' use of HACCP plans, Sanitation SOPs, the number of plant personnel, hours of operation and the number of shifts, and current sampling practices. The survey design involved collaboration between FSIS personnel and RTI International. The full-scale data collection took place over a 16-week period from February 17, 2014, to June 9, 2014. The survey included 18 questions. The survey also provided information on production volume, types of product, and production processes. The survey was considered to be a census of the industry because all 77 egg products plants regulated by FSIS were contacted and asked to respond. The response rate to the survey was 72 percent. Fifty-seven egg products plants completed the survey. Of these, 26 (46 percent) completed the survey via mail and 31 (54 percent) completed the Web survey. FSIS used the survey results to supplement the information that FSIS maintains in the Public Health Information System. The responses to the survey were masked so that individual plants could not be identified, so FSIS applied response distributions to the larger population of egg products plants to approximate baseline industry characteristics.

In order to describe the egg products plants, which are under FSIS's jurisdiction, brief discussions of the major findings of the survey have been placed throughout this Executive Order 12866 and 13563 discussion and the regulatory flexibility analysis and footnoted accordingly. Please find the link to the survey here: *https://www.fsis.usda.gov/wps/wcm/connect/df3e0400-aaa7-423f-bb11-ff080fc8ce2b/Survey-Egg-Products-09302014.pdf?MOD=AJPERES.*

Section 1 Sanitation SOPs

FSIS estimated the percentage of plants that train production employees for Sanitation SOPs using question 4.5: During the past year, what types of food safety training did permanent employees of this plant receive? A plant was considered to train production employees if it responded affirmatively to choice b. Sanitation SOPs. 91.2 percent of respondents answered that employees receive Sanitation SOPs training.

Section 2 Recordkeeping for Sanitation SOPs

FSIS estimated the percentage of plants that currently meet the final recordkeeping requirements using survey question 2.2: ''Which of the following records that are not required by FSIS does this plant maintain?'' A plant was considered to meet both if it answered affirmatively to choices 1—''Employee task performance log verification'' and 2—''Deviation and corrective action log.''

FSIS then determined the frequency at which sanitation tasks are performed using question 2.6: ''How frequently does this plant conduct sanitation inspections of product contact zones?'' If a plant responded affirmatively to choice 1—''More than once per shift,'' it was considered to be conducting sanitation tasks at a frequency greater than daily. If it responded affirmatively to choice 2—''Once per shift before shift operations begin,'' and operates more than one shift daily (determined with question 5.2), then it was also considered to be conducting sanitation tasks at a frequency greater than daily. If it responded affirmatively to choice 2 and operates a single shift per day, or if it responded affirmatively to choice 3—''Once per day before daily operations begin,'' it was considered to be conducting sanitation tasks at a daily frequency. If it answered affirmatively to any other option, it was considered to conduct sanitation tasks less than daily.

Records in compliance			Records not in compliance		
<Daily	Daily	>Daily	<Daily	Daily	>Daily
8.8%	33.3%	22.8%	3.5%	15.8%	15.8%

Section 3 Training for Sanitation SOPs

FSIS used the training estimates from Section 1 and assumed that any plant which did not provide training for Sanitation SOPs did not have a written plan. Then, FSIS estimated the number of shifts of employees needing training for Sanitation SOPs by averaging the reported number of shifts from question 5.2—''How many production shifts are operated each day at this plant?'' Only those plants that do not provide HACCP training were included in the average.

[74] RTI International. 2014. ''Survey of Egg Packing and Egg Products Processing Plants.'' Revised Final Report. RTI Project no. 0211740.015.001. 3040 Cornwallis Rd., P.O. Box 12194 Research Triangle Park, NC 27709–2194.

[75] This Appendix describes how the Agency used the 2014 Egg Products Industry Survey conducted and published by RTI International to gather information on egg products plants relating to the cost section of this final rule. Specifically, this Appendix outlines how the survey questions were used to estimate the number of egg products plants that have Sanitation SOPs, HACCP plans, training, number of shifts, and record keeping.

Section (1) describes egg products plants' use of Sanitation SOPs. Section (2) outlines the estimates for egg product plants' recordkeeping for Sanitation SOPs. Section (3) describes egg products plants' training for Sanitation SOPs. Section (4) describes the type of product produced by egg products plants and their use of HACCP plans. Section (5) describes the number of egg products plants with HACCP plans. Section (6) estimates the average number of shifts for egg products plants without HACCP plans.

Plants	No sanitation SOPs training	Needed sanitation SOPs	Average shifts	Total shifts
81	8.8%	7	1.7	8

Section 4 Use of HACCP plans

To determine the percentage of plants which have written HACCP plans in place for their respective processes, FSIS used the survey to first determine which respondents produced products corresponding to the three main processes.

For breaking, FSIS considered all plants that responded to question 1.1: ''Which statement below describes how this plant receives egg inputs?'' and answered affirmatively to choice 1—''This plant receives shell eggs only''—or to choice 2—This plant receives both shell eggs and liquid or dried eggs.''

For dried eggs, FSIS considered all plants that responded to question 1.11: ''Does this plant produce this egg product form?'' and answered affirmatively to choice e—''Dried''—or to choice f–''Blended and dried.''

For liquid eggs, FSIS considered all plants that which responded to question 1.11: ''Does this plant produce this egg product form?'' and answered affirmatively to choice a—''Liquid''; to choice b—''Blended and liquid''; to choice c—''frozen''; to choice d—''Blended and frozen''; or g—''Extended shelf life liquid''.

Next, for each process, FSIS determined if the respondent had a written HACCP plan using question 2.1: ''What production steps are used by this plant, and if used, is the step addressed in a written plan?'' Specifically, FSIS considered the plan acceptable if the plant responded affirmatively to option 3—''Used and Addressed in a Written HACCP Plan'' for option j—''Breaking shell eggs''; option m—''Drying egg products''; or option n—''Pasteurizing dried egg whites'', and option l—''Pasteurizing liquid eggs for breaking, dried, and liquid processes, respectively.''

Breaking w/HACCP	Dried w/HACCP	Liquid w/HACCP
84.6%	80.0%	76.5%

Finally, FSIS applied these percentages to PHIS egg products plants production data (*see* Table below) to estimate the number of processes currently operating without HACCP plans.

Plants	Breaking	Dried	Liquid	Total processes
81	59	18	55	132

Breaking w/o HACCP	Dried w/o HACCP	Liquid w/o HACCP	Total processes operating w/o HACCP
9	4	13	26

Section 5 Plants With HACCP Plans

FSIS used the results to question 2.1: ''What production steps are used by this plant, and if used, is the step addressed in a written plan?'' to determine the percentage of plants with no HACCP plans. Specifically, a plant was considered to have no HACCP plans if it did not respond with option 3—''Used and Addressed in a Written HACCP Plan for any of the following: j. Breaking shell eggs, l. Pasteurizing liquid eggs, m. Drying egg products, or n. Pasteurizing dried egg whites.''

Percent with no HACCP	Number of plants (approximate) with no HACCP
7%	6 *

* The number of plants was rounded up.

Section 6 for Plants Without HACCP Plans

To estimate the number of shifts at plants without any HACCP systems in place, FSIS averaged the responses to question 5.2: ''How many production shifts are operated each day at this plant?'' for those respondents determined to not have HACCP plans as described in Section 5. This average (1.7 shifts) was then applied to the total number of plants estimated to be without HACCP systems.

IV. Paperwork Reduction Act

FSIS sought, but did not receive, comments on its proposed information collection in the proposed rule (83 FR 6347). In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or record keeping requirements included in this final rule have been submitted for approval to the Office of Management and Budget (OMB). This information collection request is at OMB awaiting approval. FSIS will collect no information associated with this rule until the information collection is approved by OMB.

Copies of the information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250–3700; (202) 720–5627.

V. Executive Order 12988, Civil Justice Reform

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under this rule: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) no administrative proceedings will be required before parties may file suit in court challenging this rule.

VI. E-Government Act Compliance

FSIS and USDA are committed to achieving the purposes of the E-Government Act (44 U.S.C. 3601, *et seq.*) by, among other things, promoting

the use of the internet and other information technologies and providing increased opportunities for citizen access to government information and services, and for other purposes.

VII. Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' E.O. 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

FSIS has assessed the impact of this rule on Indian tribes and determined that this rule does not, to our knowledge, have tribal implications that require tribal consultation under E.O. 13175. If a Tribe requests consultation, the Food Safety and Inspection Service will work with the Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions and modifications identified herein are not expressly mandated by Congress.

VIII. USDA Nondiscrimination Statement

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

How To File a Complaint of Discrimination

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

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

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

Fax: (202) 690–7442.

Email: program.intake@usda.gov.

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

IX. Congressional Review Act

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

X. Additional Public Notification

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

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

List of Subjects

9 CFR Part 416

Meat inspection, Poultry and poultry products, Sanitation.

9 CFR Part 417

Meat inspection, Poultry and poultry products, Record and recordkeeping requirements, Hazard Analysis and Critical Control Point (HACCP) Systems.

9 CFR Part 500

Administrative practice and procedure, Meat inspection, Poultry and poultry products, Rules of practice.

9 CFR Part 590

Eggs and egg products, Exports, Food grades and standards, Food labeling, Imports, Reporting and recordkeeping requirements.

9 CFR Part 591

Eggs and egg products, Reporting and recordkeeping requirements, Administrative practice and procedures.

For the reasons set forth in the preamble, and under the authority of 21 U.S.C. 451–470, 601–695, and 1031–1056, FSIS is amending 9 CFR chapter III as follows:

SUBCHAPTER E—REGULATORY REQUIREMENTS UNDER THE FEDERAL MEAT INSPECTION ACT, THE POULTRY PRODUCTS INSPECTION ACT, AND THE EGG PRODUCTS INSPECTION ACT

■ 1. Revise the heading of subchapter E to read as set forth above.

PART 416—SANITATION

■ 2. Revise the authority citation for part 416 to read as follows:

Authority: 21 U.S.C. 451–470, 601–695, 1031–1056; 7 U.S.C. 450, 1901–1906; 7 CFR 2.18, 2.53.

PART 417—HAZARD ANALYSIS AND CRITICAL CONTROL POINT (HACCP) SYSTEMS

■ 3. Revise the authority citation for part 417 to read as follows:

Authority: 21 U.S.C. 451–470, 601–695, 1031–1056; 7 U.S.C. 450, 1901–1906; 7 CFR 2.18, 2.53.

■ 4. In § 417.7, revise paragraph (b) to read as follows:

§ 417.7 Training.

* * * * *

(b) The individual performing the functions listed in paragraph (a) of this section shall have successfully completed a course of instruction in the application of the seven HACCP principles to meat, poultry, or egg products processing, including a segment on the development of a HACCP plan for a specific product and on record review.

PART 500—RULES OF PRACTICE

■ 5. Revise the authority citation for part 500 to read as follows:

Authority: 21 U.S.C. 451–470, 601–695, 1031–1056; 7 U.S.C. 450, 1901–1906; (33 U.S.C. 1251 *et seq.*); 7 CFR 2.18, 2.53.

■ 6. Amend § 500.2 by revising paragraph (c) to read as follows:

§ 500.2 Regulatory control action.

* * * * *

(c) An establishment may appeal a regulatory control action, as provided in §§ 306.5, 381.35, and 590.310 of this chapter.

■ 7. Amend § 500.3 by revising paragraphs (a)(1) and (7) to read as follows:

§ 500.3 Withholding action or suspension without prior notification.

(a) * * *

(1) The establishment produced and shipped adulterated or misbranded product as defined in 21 U.S.C. 453, 21 U.S.C. 602, or 21 U.S.C. 1033;

* * * * *

(7) The establishment did not destroy a condemned meat or poultry carcass, or part or product thereof, or egg product, that has been found to be adulterated and that has not been reprocessed, in accordance with part 314 or part 381, subpart L, or part 590 of this chapter within three days of notification.

* * * * *

■ 8. Amend § 500.5 by revising paragraphs (a)(5) and (c) to read as follows:

§ 500.5 Notification, appeals, and actions held in abeyance.

(a) * * *

(5) Advise the establishment that it may appeal the action as provided in §§ 306.5, 381.35, and 590.310 of this chapter.

* * * * *

(c) An establishment may appeal the withholding action or suspension, as provided in §§ 306.5, 381.35, and 590.310 of this chapter.

* * * * *

■ 9. In § 500.6:

■ a. Redesignate paragraphs (a) through (i) as paragraphs (a)(1) through (9).

■ b. Designate the introductory text as paragraph (a).

■ c. Revise newly redesignated paragraph (a)(9).

■ d. Add reserved paragraph (b).

The revision and addition read as follows:

§ 500.6 Withdrawal of inspection.

(a) * * *

(9) A recipient of inspection or anyone responsibly connected to the recipient is unfit to engage in any business requiring inspection as specified in section 401 of the FMIA, section 18(a) of the PPIA, or section 18 of the EPIA.

(b) [Reserved]

■ 10. In § 500.7, revise paragraphs (a)(3) and (5) to read as follows:

§ 500.7 Refusal to grant inspection.

(a) * * *

(3) Has not demonstrated that adequate sanitary conditions exist in the establishment as required by part 308, subpart H of part 381, part 416, or part 590 of this chapter;

* * * * *

(5) Is unfit to engage in any business requiring inspection as specified in section 401 of the FMIA, section 18(a) of the PPIA, or section 18 of the EPIA.

* * * * *

■ 11. In § 500.8, revise paragraphs (a) and (c) to read as follows:

§ 500.8 Procedures for rescinding or refusing approval of marks, labels, and containers.

(a) FSIS may rescind or refuse approval of false or misleading marks, labels, or sizes or forms of any container for use with any meat, poultry, or egg product, under section 7 of the FMIA, under section 8 of the PPIA, or under sections 7 or 14 of the EPIA.

* * * * *

(c) If FSIS rescinds or refuses approval of false or misleading marks, labels, or sizes or forms of any container for use with any meat, poultry, or egg product, an opportunity for a hearing will be provided in accordance with the Uniform Rules of Practice, 7 CFR subtitle A, part 1, subpart H.

PART 590—INSPECTION OF EGGS AND EGG PRODUCTS (EGG PRODUCTS INSPECTION ACT)

■ 12. The authority citation for part 590 is revised to read as follows:

Authority: 21 U.S.C. 1031–1056; 7 CFR 2.18, 2.53.

Subpart A—GENERAL

§§ 590.1 through 590.860 [Designated as Subpart A]

■ 13. Designate §§ 590.1 through 590.860 as subpart A and add a heading for subpart A to read as set forth above.

■ 14. Amend § 590.5 by:

■ a. Revising the definition of *Administrator.*

■ b. Removing the definition of *Chief of the Grading Branch* and *Dirty egg or Dirties.*

■ c. Revising paragraph (c) of the definition of *Egg;*

■ d. Revising the definition of *Egg product.*

■ e. Adding, in alphabetical order, the definition of *Inspection program personnel.*

■ f. Removing the definition of *Inspector/Grader* and *National Supervisor.*

■ g. Adding, in alphabetical order, the definition of *Official plant.*

■ h. Removing the definition of *Official Standard.*

■ i. Adding, in alphabetical order, the definition of *Official standards.*

■ j. Revising the definition of *Pasteurize.*

■ k. Removing the definition of *Plant.*

■ l. Revising the definition of *Processing.*

■ m. Removing the definitions of *Regional Director, Sanitize,* and *Service.*

■ n. Revising the definition of *Shell egg packer.*

■ o. Adding, in alphabetical order, the definition of *Shipped for retail sale.*

The revisions and additions read as follows:

§ 590.5 Terms defined.

* * * * *

Administrator means the Administrator of the Food Safety and Inspection Service or any officer or employee of the Department of Agriculture to whom authority has been delegated or may be delegated to act in his or her stead.

* * * * *

Egg * * *

(c) *Dirty egg* or *Dirt* means an egg that has a shell that is unbroken and has adhering dirt or foreign material.

* * * * *

Egg product means any dried, frozen, or liquid eggs, with or without added ingredients, excepting products which contain eggs only in a relatively small proportion or historically have not been, in the judgment of the Secretary, considered by consumers as products of the egg food industry, and which may be exempted by the Secretary under such conditions as the Secretary may prescribe to assure that the egg ingredients are not adulterated and such products are not represented as egg products. For the purposes of this part, the following products, among others, are exempted as not being egg products: Cooked egg products, imitation egg products, dietary foods, dried no-bake custard mixes, egg nog mixes, acidic dressings, noodles, milk and egg dip, cake mixes, French toast, and sandwiches containing eggs or egg products, provided such products are prepared from inspected egg products or eggs containing no more restricted eggs than are allowed in the official standards for U.S. Consumer Grade B shell eggs. Balut and other similar ethnic delicacies are also exempted from inspection under this part.

* * * * *

Inspection program personnel means any inspector or other individual

employed by the Department or any cooperating agency who is authorized by the Secretary to do any work or perform any duty in connection with the Program.

* * * * *

Official plant means any plant in which the plant facilities, methods of operation, and sanitary procedures have been found suitable and adequate by the Administrator for the inspection of egg products pursuant to the regulations in this part and in which inspection service is carried on.

Official standards means the standards of quality, grades, and weight classes for eggs.

* * * * *

Pasteurize means the subjecting of each particle of egg products to heat or other treatments to destroy harmful viable microorganisms.

* * * * *

Processing means manufacturing of egg products, including breaking eggs or filtering, mixing, blending, pasteurizing, stabilizing, cooling, freezing or drying, or packaging or repackaging egg products at official plants.

* * * * *

Shell egg packer means any person engaged in the sorting of shell eggs from sources other than or in addition to the person's own production into their various qualities, either mechanically or by other means.

Shipped for retail sale means eggs that are forwarded from the processing facility for distribution to the ultimate consumer.

* * * * *

■ 15. Amend § 590.10 by revising the last sentence to read as follows:

§ 590.10 Authority.

* * * The Food Safety and Inspection Service and its officers and employees will not be liable in damages through acts of commission or omission in the administration of this part.

§ § 590.17 and 590.22 [Removed]

■ 16. Remove §§ 590.17 and 590.22.

■ 17. Revise § 590.28 to read as follows:

§ 590.28 Other inspections.

Inspection program personnel will make periodic inspections of business premises, facilities, inventories, operations, transport vehicles, and records of egg handlers, and the records of all persons engaged in the business of transporting, shipping, or receiving any eggs or egg products.

■ 18. Revise § 590.40 to read as follows:

§ 590.40 Egg products not intended for human food.

Periodic inspections will be made at any plant processing egg products which are not intended for use as human food of its operations and records to ensure compliance with the Act and the regulations in this part. Egg products not intended for use as human food shall be denatured or decharacterized prior to being offered for sale or transportation and identified as prescribed by the regulations in this part to prevent their use as human food.

■ 19. Revise § 590.50 to read as follows:

§ 590.50 Egg temperature and labeling requirements.

(a) All shell eggs packed into containers destined for the ultimate consumer must be stored and transported under refrigeration at an ambient temperature of no greater than 45 °F (7.2 °C) and must bear safe handling instructions in accordance with 21 CFR 101.17(h).

(b) Any producer-packer with an annual egg production from a flock of 3,000 or fewer layers is exempt from the temperature and labeling requirements of this section. Such producer-packer is still required to comply with the labeling requirements in 21 CFR 101.17(h).

■ 20. Revise § 590.100 to read as follows:

§ 590.100 Specific exemptions.

(a) [Reserved]

(b) The following are exempt, to the extent prescribed, from the inspection of egg products processing operations in section 5(a) of the Act (21 U.S.C. 1034(a)), provided the conditions for exemption and the provisions of these regulations are met:

(1) The processing and sale of egg products by any poultry producer from eggs of his own flock's production when sold directly to a household consumer exclusively for use by the consumer and members of the household and its nonpaying guests and employees.

(2) The processing in non-official plants, including but not limited to bakeries, restaurants, and other food processors, of certain categories of food products which contain eggs or egg products as an ingredient, as well as the sale and possession of such products. Such products must be manufactured from inspected egg products processed in accordance with the regulations in this part and 9 CFR part 591 or from eggs containing no more restricted eggs than are allowed in the official standards for U.S. Consumer Grade B shell eggs.

§ 590.105 [Removed]

■ 21. Remove § 590.105.

§§ 590.112, 590.114 and 590.116 [Removed]

■ 22. Remove §§ 590.112, 590.114 and 590.116.

■ 23. Revise § 590.118 to read as follows:

§ 590.118 Identification.

Inspection program personnel will be furnished with a numbered official badge that will be carried in a proper manner at all times while on duty. This badge will be sufficient identification to entitle inspection program personnel entry at all regular entrances and to all parts of the official plant and premises to which inspection program personnel are assigned.

§ 590.119 [Removed]

■ 24. Remove § 590.119.

■ 25. Revise § 590.120 to read as follows:

§ 590.120 Financial interest of inspectors.

(a) Inspection program personnel will not inspect any product in which he or she has a financial interest; or that is produced by a plant at which the employee, the employee's spouse, minor child, partner, organization in which the employee is serving as officer, director, trustee, partner, or employee; or that is produced by any other person with whom inspection program personnel are negotiating or have any arrangements concerning prospective employment.

(b) All inspection program personnel are subject to statutory restrictions with respect to political activities; *e.g.,* 5 U.S.C. 7324 and 1502.

(c) Violation of the provisions of paragraph (a) of this section or the provisions of applicable statutes referenced in paragraph (b) of this section will constitute grounds for dismissal.

(d) Inspection program personnel are subject to all applicable provisions of law and regulations and instructions of the Department and the Food Safety and Inspection Service concerning employee responsibilities and conduct. The setting forth of certain prohibitions in this part in no way limits the applicability of such general or other regulations or instructions.

■ 26. Amend § 590.134y revising paragraph (b) to read as follows:

§ 590.134 Accessibility of product and cooler rooms.

* * * * *

(b) The perimeter of each cooler room used to store eggs must be made accessible in order for the Secretary's

representatives to determine the ambient temperature under which shell eggs packed into containers destined for the ultimate consumer are stored.

■ 27. Revise § 590.136 to read as follows:

§ 590.136 Accommodations and equipment to be furnished by facilities for use of inspection program personnel in performing service.

(a) *Inspection program personnel office.* Office space, including, but not limited to, furnishings, light, heat, and janitor service, will be provided without cost in the official plant for the use of inspection program personnel for official purposes. The room or space set apart for this purpose must meet the approval of the Food Safety and Inspection Service and be conveniently located, properly ventilated, and provided with lockers or file cabinets suitable for the protection and storage of supplies and with accommodations suitable for inspection program personnel to change clothing. At the discretion of the Administrator, small official plants requiring the services of less than one full-time inspector need not furnish accommodations for inspection program personnel as prescribed in this section where adequate accommodations exist in a nearby convenient location.

(b) *Accommodations and equipment.* Such accommodations and equipment must include, but not be limited to, a room or area suitable for sampling product and a stationary or adequately secured storage box or cage (capable of being locked only by inspection program personnel) for holding official samples.

■ 28. Revise § 590.140 to read as follows:

§ 590.140 Application for grant of inspection.

The proprietor or operator of each official plant and official import inspection establishment must make application to the Administrator for inspection service unless exempted by § 590.100. The application must be made in writing on forms furnished by the inspection service. In cases of change of name or ownership or change of location, a new application must be made.

■ 29. Revise § 590.142 to read as follows:

§ 590.142 Filing of application.

An application for inspection service will be regarded as filed only when it has been:

(a) Filled in completely;

(b) Signed by the applicant; and

(c) Received in the appropriate District Office.

■ 30. Revise § 590.146 to read as follows:

§ 590.146 Survey and grant of inspection.

(a) Before inspection is granted, FSIS will survey the official plant to determine if the construction and facilities of the plant are in accordance with the regulations in this part. FSIS will grant inspection, subject to § 500.7 of this chapter, when these requirements are met and the requirements contained in § 590.149 are met.

(b) FSIS will give notice in writing to each applicant granted inspection and will specify in the notice the official plant, including the limits of the plant's premises, to which the grant pertains.

§ 590.148 [Removed]

■ 31. Remove § 590.148.

■ 32. Add § 590.149 to read as follows:

§ 590.149 Conditions for receiving inspection.

(a) Before receiving Federal inspection, a plant must have developed written sanitation Standard Operating Procedures, in accordance with part 416 and § 591.1(a) of this chapter.

(b) Before receiving Federal inspection, a plant must conduct a hazard analysis, and develop and implement a HACCP plan, in accordance with part 417 and § 591.1(a) of this chapter. A conditional grant of inspection may be provided for a period not to exceed 90 days, during which period the facility must validate its HACCP plan.

(c) Before producing new product for distribution in commerce, a plant must conduct a hazard analysis and develop a HACCP plan applicable to that product, in accordance with § 417.2 of this chapter. During a period not to exceed 90 days after the date the new product is produced for distribution in commerce, the plant must validate its HACCP plan, in accordance with § 417.4 of this chapter.

■ 33. Revise § 590.160 to read as follows:

§ 590.160 Clean Water Act; refusal, suspension, or withdrawal of service.

(a) Any applicant for inspection at a plant where the operations thereof may result in any discharge into the navigable waters in the United States is required by subsection 401(a)(1) (33 U.S.C. 1341) of the Clean Water Act as amended (86 Stat. 816, 91 Stat. 1566, 33 U.S.C. 1251 *et seq.*), to provide the Administrator with a certification, as prescribed in said subsection, that any such discharge will comply with the applicable provisions of sections 301, 302, 303, 306, and 307 of the Act (33 U.S.C. 1311, 1312, 1313, 1316, and 1317). No grant of inspection can be issued unless such certification has been obtained, or is waived, because failure of refusal of the State, interstate agency, or the Administrator of the Environmental Protection Agency to act on a request for certification within a reasonable period (which should not exceed 1 year after receipt of such a request). Further, upon receipt of an application for inspection and a certification as required by section 401(a)(1) of the Clean Water Act, the Administrator (as defined in § 590.5) is required by subparagraph (2) of said subsection to notify the Administrator of the Environmental Protection Agency for proceedings in accordance with that subsection. No grant of inspection can be made until the requirements of section 401(a)(1) and (2) have been met.

(b) Inspection may be suspended or revoked and plant approval terminated as provided in section 401(a)(4) and (5) of the Clean Water Act, as amended (33 U.S.C. 1341(a)(4) and (5)).

■ 34. Revise § 590.200 to read as follows:

§ 590.200 Records and related requirements.

(a) Persons engaged in the transporting, shipping, or receiving of any eggs or egg products in commerce, or holding such articles so received, and all egg handlers, except producer-packers with an annual egg production from a flock of 3,000 layers or fewer, must maintain records documenting, for a period of 2 years, the following, to the extent applicable:

(1) The date of lay, date and time of refrigeration, date of receipt, quantity and quality of eggs purchased or received, and from whom (including a complete address, unless a master list is maintained). Process records documenting that the temperature and labeling requirements in § 590.50(a) have been met must also be kept;

(2) The date of packaging, ambient air temperature surrounding product stored after processing, quantity and quality of eggs delivered or sold, and to whom (including a complete address, unless a master list is maintained);

(3) If a consecutive lot numbering system is not employed to identify individual eggs, containers of eggs, or egg products, record the alternative code system used, in accordance with § 590.411(c)(3);

(4) The date of disposal and quantity of restricted eggs, including inedible egg product or incubator reject product, sold

or given away for animal food or other uses or otherwise disposed of, and to whom (including a complete address, unless a master list is maintained);

(5) The individual or composite (running tally) record of restricted egg sales to household consumers. Records should show number of dozens sold on a daily basis. The name and address of the consumer is not required;

(6) The date of production and quantity of egg products delivered or sold, and to whom (including a complete address, unless a master list is maintained);

(7) The date of receipt and quantity of egg products purchased or received, and from whom (including a complete address, unless a master list is maintained);

(8) The production records by categories of eggs such as graded eggs, nest-run eggs, dirties, checks, etc.; bills of sale, inventories, receipts, shipments, shippers, receivers, dates of shipment and receipt, carrier names, etc.

(b) All records required to be maintained by this section must be made available to an authorized representative of the Secretary for official review and copying.

(c) Records of all labeling, along with the product formulation and processing procedures as prescribed in §§ 590.410 through 590.412, must be kept by every person processing, except processors exempted under § 590.100.

■ 35. Revise § 590.300 to read as follows:

§ 590.300 Appeal inspections.

Any person receiving inspection service may, if dissatisfied with any decision of an inspector related to any inspection, file an appeal from such decision.

■ 36. Revise § 590.310 to read as follows:

§ 590.310 Appeal inspections; how made.

Any appeal from the inspection decision by inspection program personnel must be made to the immediate supervisor having jurisdiction over the subject matter of the appeal.

■ 37. Revise § 590.320 to read as follows:

§ 590.320 How to file an appeal inspection or decision review.

The request for an appeal inspection or review of inspection program personnel's decision may be made orally or in writing. If made orally, written confirmation may be required. The applicant must clearly identify the product involved, the decision being appealed, and the reasons for requesting the appeal.

■ 38. Revise § 590.340 to read as follows:

§ 590.340 Who must perform the appeal inspection or decision review.

An appeal inspection or review of inspection program personnel's decisions, as requested in § 590.310, must be performed by inspection program personnel of FSIS other than the one who made the initial decision.

■ 39. Revise § 590.350 to read as follows:

§ 590.350 Appeal samples.

A condition appeal sample will consist of product taken from the original sample containers plus an equal number of containers selected at random. A condition appeal cannot be made unless all originally sampled containers are available.

§§ 590.360 and 590.370 [Removed]

■ 40. Remove §§ 590.360 and 590.370.

■ 41. Revise § 590.410 to read as follows:

§ 590.410 Egg products required to be labeled.

(a)(1) Packaged egg products that require special handling to maintain their wholesome condition must have the statement ''Keep Refrigerated,'' ''Keep Frozen,'' ''Perishable Keep Under Refrigeration,'' or such similar statement prominently displayed on the principal display panel.

(2) Egg products that are distributed frozen and thawed prior to or during display for sale at retail must bear the statement ''Keep Frozen'' on the shipping container. Consumer-sized containers for such egg products must bear the statement ''Previously Handled Frozen for Your Protection, Refreeze or Keep Refrigerated.''

(3) The labels of packages of egg products produced from shell eggs that have been treated with ionizing radiation must reflect that treatment in the ingredient statement on the finished product labeling.

(b) Containers, portable tanks, and bulk shipments of edible egg products produced in official plants must be labeled in accordance with §§ 590.411 through 590.415 and must bear the official identification shown in Figure 1 of § 590.413.

(c) Bulk shipments of unpasteurized egg products and microbial pathogen-positive egg products produced in official plants must bear a label containing the words ''date of loading,'' followed by a suitable space in which the date the container, tanker truck, or portable tank is loaded must be inserted. The label must be conspicuously located and printed and affixed on material that cannot be detached or effaced due to exposure to weather. Before the truck or tank is removed from the place where it is unloaded, the carrier must remove or obliterate the label. Such shipments must also bear the official identification shown in Figure 2 of § 590.415.

■ 42. Revise § 590.411 to read as follows:

§ 590.411 Label approval.

(a) All official plants, including official plants certified under a foreign inspection system in accordance with § 590.910, must comply with the requirements contained in § 412.1 of this chapter, except as otherwise provided in this part.

(b) For the purposes of § 412.1 of this chapter, an official establishment or establishment certified under a foreign inspection system includes an official plant.

(c) Labels, containers, or packaging materials of egg products must show the following information, as applicable, on the principal display panel (except as otherwise permitted in this part), in accordance with the requirements of this part, or if applicable, 21 CFR 101.17(h):

(1) A statement showing by the common or usual names, if any, of the kinds of ingredients comprising the product. Formulas are to be expressed in terms of a liquid product except for product that is dry-blended. Also, for product to be dried, the label may show the ingredients in order of descending proportions by weight in the dried form. However, the formula submitted must include the percentage of ingredients in both liquid and dried form. If the product is comprised of two or more ingredients, such ingredients must be listed in the order of descending proportions by weight in the form in which the product is to be marketed (sold), except that ingredients in dried product (other than dry blended) may be listed in either liquid or dried form. When water (excluding that used to reconstitute dehydrated ingredients back to their normal composition) is added to a liquid or frozen egg product or to an ingredient of such products (in excess of the normal water content of that ingredient), the total amount of water added, including the water content of any cellulose or vegetable gums used, must be expressed as a percentage of the total product weight in the ingredient statement on the label;

(2) The name, address and zip code of the distributor; qualified by such terms as ''distributed by,'' or ''distributors'';

(3) The lot number or an alternative code indicating the date of production, in accordance with § 590.200(a);

(4) The net contents;

(5) An official inspection symbol and the number of the official plant in which the product was processed under inspection as set forth in § 590.413;

(6) Egg products processed from edible eggs of turkeys, ducks, geese, or guineas must be clearly and distinctly labeled with the common or usual name of the product and indicating the type of eggs or egg products used in the product, *e.g.,* ''Frozen whole turkey eggs,'' ''Frozen whole chicken and turkey eggs.'' Egg products labeled without qualifying words as to the type of egg used in the product must be produced only from the edible egg of the domesticated chicken.

(7) Egg products which are produced in an official plant from edible shell eggs of other than current production or from other egg products of shell eggs of other than current product must be clearly and distinctly labeled in close proximity to the common or usual name of the product, *e.g.,* Manufactured from eggs of other than current production.''

(d) Liquid or frozen egg products identified as whole eggs and processed in other than natural proportions as broken from the shell must have a total egg solids content of 24.20 percent or greater.

(e) Nutrition information may be included on labels used to identify egg products, providing such labeling complies with the provisions of 21 CFR part 101, promulgated under the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act. Since these regulations have different requirements for consumer-packaged products than for bulk packaged egg products not for sale or distribution to household consumers, label submission must be accompanied with information indicating whether the label covers consumer packaged or bulk packaged products. Nutrition labeling is required when nutrients, such as proteins, vitamins, and minerals are added to the product, or when a nutritional claim or information is presented on the labeling, except for the following, which are exempt from nutrition labeling requirements:

(1) Egg products shipped in bulk form for use solely in the manufacture of other food and not for distribution to household consumers in such bulk form or containers.

(2) Products containing an added vitamin, mineral, or protein, or for which a nutritional claim is made on the label, or in advertising, which is supplied for institutional food use only, provided that the manufacturer or distributor provides the required nutrition information directly to those institutions.

(3) Any nutrients included in the product solely for technological purposes may be declared solely in the ingredients statement, without complying with nutrition labeling, if the nutrient(s) is otherwise not referred to in labeling or in advertising. All labels showing nutrition information or claims are subject to review by the Food and Drug Administration prior to approval by the Department.

(f)(1) No label, container, or packaging material may contain any statement that is false or misleading. If the Administrator has reason to believe that a statement or formulation shows that an egg product is adulterated or misbranded, or that any labeling, including the size or form of any container in use or proposed for use, with respect to eggs or egg products, is false or misleading in any way, the Administrator may direct that such use be withdrawn unless the labeling or container is modified in such a manner as the Administrator may prescribe so that it will not be false or misleading, or the formulation of the product is altered in such a manner as the Administrator may prescribe so that it is not adulterated or would not cause misbranding.

(2) If the Administrator directs that the use of any label, container, or packaging material be withdrawn because it contains any statement that is false or misleading, an opportunity for a hearing will be provided in accordance with § 500.8(c) of this chapter.

§ 590.412 [Redesignated as § 590.413]

■ 43. Redesignate § 590.412 as § 590.413.

■ 44. Add a new § 590.412 to read as follows:

§ 590.412 Approval of generic labels.

(a) All official plants, including official plants certified under a foreign inspection system in accordance with § 590.910, may comply with the requirements in § 412.2 of this chapter.

(b) For the purposes of § 412.2 of this chapter, an official establishment or establishment certified under a foreign inspection system includes an official plant.

■ 45. Revise newly redesignated § 590.413 to read as follows:

§ 590.413 Form of official identification symbol and inspection mark.

The shield set forth in Figure 1 of this section containing the letters ''USDA'' must be the official identification symbol used in connection with egg products to denote that the official plant receives official inspection service. The inspection mark used on containers of edible egg products is set forth in Figure 1 of this section, except that the plant number may be preceded by the letter ''G'' in lieu of the word plant. The plant number may also be omitted from the official mark if applied on the container's principal display panel or other prominent location and preceded by the letter ''G.'' [76]

[76] The number ''42'' is given as an example only. The plant number of the official plant where the product was inspected must be shown on each label.

Figure 1 to § 590.413

■ 46. Revise § 590.415 to read as follows:

§ 590.415 Use of other official identification.

All unpasteurized or microbial pathogen-positive egg products shipped from an official plant must be marked with the identification set forth in Figure 1 of this section. Such product must meet all requirements for egg products that are permitted to bear the official inspection mark shown in § 590.413, except for pasteurization, heat treatment, or other method of treatment sufficient to produce egg products that are edible without additional preparation to achieve food safety. Such product must not be released into consumer channels until it has been subjected to pasteurization, heat treatment, or other method of treatment sufficient to produce egg products that are edible without additional preparation to achieve food safety. After pasteurization or treatment, the product may bear the official inspection mark as shown in § 590.413.[77]

Figure 1 to § 590.415

§ 590.418 [Amended]

■ 47. Amend § 590.418 by removing paragraphs (a) and (c) and redesignating paragraph (b) as an undesignated paragraph.

■ 48. Revise § 590.420(a) and (b) to read as follows:

§ 590.420 Inspection.

(a) Inspection shall be made, pursuant to the regulations in this part, of the processing of egg products in each official plant processing egg products for commerce, unless exempted under § 590.100. Inspections, certifications, or specification-type gradings, and other inspections which may be requested by the official plant and are in addition to the normal inspection requirements and functions for the processing, production, or certification for a wholesome egg product under this part,

[77] The number ''42'' is given as an example only. The plant number of the official plant where the product was inspected must be shown on each label.

shall be made pursuant to the voluntary egg products inspection regulations (part 592 of this chapter).

(b) Any food manufacturing establishment or institution which uses any eggs that do not meet the requirements of 21 U.S.C. 1044(a)(1) in the preparation of any articles for human food shall be deemed to be a plant processing egg products requiring inspection under the regulations in this part.

* * * * *

§ 590.422 [Amended]

■ 49. Amend § 590.422 by removing the last sentence of the section.

■ 50. Amend § 590.424 by revising paragraph (b) to read as follows:

§ 590.424 Reinspection.

* * * * *

(b) All egg products brought into any official plant shall be identified by the operator of the official plant at the time of receipt at the official plant and shall be subject to reinspection by inspection program personnel at the official plant in such manner and at such times as may be deemed necessary to ensure compliance with the regulations in this part. Upon reinspection, if any such product or portion of it is found to be unsound, unwholesome, adulterated, or otherwise unfit for human food, such product or portion shall be condemned and shall receive such treatment as provided in § 590.422, and shall, in the case of other products, be disposed of according to applicable law.

■ 51. Amend § 590.430 by revising paragraph (b) to read as follows:

§ 590.430 Limitation on entry of material.

* * * * *

(b) Inedible egg products may be brought into an official plant for storage, processing, and reshipment provided they are handled in such a manner that adequate segregation and inventory controls are maintained at all times. The processing of inedible egg products must be done under conditions that will not affect the processing of edible products, such as processing in separate areas or at times when no edible products are being processed. If the same equipment or areas are used to process both inedible and edible eggs, then the equipment and processing areas used to process inedible eggs must be thoroughly cleaned and sanitized prior to processing any edible egg products.

■ 52. Revise § 590.435 to read as follows:

§ 590.435 Use of food ingredients and approval of materials.

(a)(1) No substance which is a ''food additive'' as defined under 21 U.S.C. 321(s), including sources of radiation, may be used in the processing of egg products unless this use is authorized under the Federal Food, Drug, and Cosmetic Act.

(2) No substance which is intended to impart color in any egg product may be used unless such use is authorized under the Federal Food, Drug, and Cosmetic Act.

(3) Substances and ingredients used in the processing of egg products capable of use as human food must be clean, wholesome, and unadulterated.

(b) Substances permitted for use in egg products in subsection(a) will be permitted for such use under this chapter, subject to declaration requirements in § 424.22(c) of this chapter and § 590.411, unless precluded from such use or further restricted in this chapter. Such substances must be safe and effective under conditions of use and not result in the adulteration of product. The Administrator may require, in addition to listing the ingredients, a declaration of the additive and the purpose of its use.

(c) Substances to be used in the processing of egg products must be safe under the conditions of their intended use and in amounts sufficient to accomplish their intended purpose. Such substances may not promote deception or cause the product to be otherwise adulterated or unwholesome. Scientific data showing the additive meets the above specified criteria must be maintained and made available to FSIS inspection program personnel.

■ 53. Amend § 590.440 by revising paragraph (c) to read as follows:

§ 590.440 Processing ova.

* * * * *

(c) All products containing ova must be labeled in accordance with § 590.411.

§ § 590.500 and 590.502 [Removed]

■ 54. Remove §§ 590.500 and 590.502.

■ 55. Revise § 590.504 to read as follows:

§ 590.504 General operating procedures.

(a) Operations involving the processing, storing, and handling of eggs, ingredients, and egg products must be done in a sanitary manner.

(b)(1) Eggs and egg products are subject to inspection in each official plant processing egg products for commerce.

(2) Any eggs and egg products not processed in accordance with the regulations in this part or part 591 or that are not otherwise fit for human food must be removed and segregated.

(c)(1) All loss and inedible eggs or inedible egg products must be placed in a container clearly labeled ''inedible'' and containing a sufficient amount of denaturant or decharacterant, such as an FDA-approved color additive, suspended in the product. Eggs must be crushed and the substance dispersed through the product in amounts sufficient to give the product a distinctive appearance or odor. Inedible product may be held in containers clearly labeled ''inedible'' which do not contain a denaturant as long as such inedible product is properly packaged, labeled and segregated, and inventory controls are maintained. Such inedible product must be denatured or decharacterized before being shipped from a facility.

(2) Undenatured egg products or inedible egg products that are not decharacterized may be shipped from an official plant for industrial use or animal food, provided that it is properly packaged, labeled, and segregated, and inventory controls are maintained.

(d)(1) Egg products must be processed to meet the standard set out in § 590.570.

(2) Unpasteurized or microbial pathogen-positive egg products may be shipped from an official plant to another official plant only when they are to be pasteurized, heat treated, or treated using other methods of treatment sufficient to produce egg products that are edible without additional preparation to achieve food safety in the second official plant. Official plants must maintain control of shipments of unpasteurized or microbial pathogen-positive egg products shipped from one official plant to another official plant for pasteurization or treatment. Shipping plants must seal such shipments in cars or trucks and label them in accordance with § 590.410(c). Containers of unpasteurized or microbial pathogen-positive egg product must be marked with the identification mark shown in Figure 2 of § 590.415.

(e) Inspection program personnel may allow an official plant to move egg products that have been sampled and analyzed for *Salmonella,* or for any other reason, before receiving the test results, if they do not suspect noncompliance by the plant with any provisions of this part. The official plant must maintain control of the products represented by the sample pending the results.

§ 590.506 [Removed]

■ 56. Remove § 590.506.

■ 57. Revise § 590.508 to read as follows:

§ 590.508 Candling and transfer-room operations.

Eggs must be handled in a manner that minimizes sweating prior to breaking or processing.

■ 58. Amend § 590.510 by revising paragraph (a) introductory text, paragraphs (c)(1) and (3), and (d) introductory text to read as follows:

§ 590.510 Classifications of eggs used in the processing of egg products.

(a) The eggs must be sorted and classified into the following categories:

* * * * *

(c) * * *

(1) When presented for breaking, eggs must have an edible interior quality and the shell must be sound and free of adhering dirt and foreign material. However, checks and eggs with a portion of the shell missing may be used when the shell is free of adhering dirt and foreign material and the shell membranes are not ruptured.

* * * * *

(3) Eggs with meat or blood spots may be used if the spots are removed.

(d) All loss or inedible eggs must be placed in a designated container and handled as required in § 590.504(c). Eggs extensively damaged during breaking, whether not completely cracked open mechanically or in the movement of trays of eligible eggs for hand breaking, must be broken promptly. For the purpose of this section and § 590.522, inedible and loss eggs include crusted yolks, filthy and decomposed eggs, and the following:

* * * * *

§ 590.515 [Removed]

■ 59. Remove § 590.515.

■ 60. Amend § 590.516 by revising the section heading and paragraph (a) to read as follows:

§ 590.516 Cleaning of eggs prior to packaging, breaking, or pasteurizing.

(a) All eggs, except as provided in § 590.801, must be clean prior to packaging, breaking, or pasteurizing. If a sanitizer is used, it must be used in accordance with FDA requirements for the intended use.

* * * * *

§ 590.520 [Removed]

■ 61. Remove § 590.520.

■ 62. Revise § 590.522 to read as follows:

§ 590.522 Egg products processing room operations.

Each egg used in processed egg products must be broken in a sanitary manner and examined to ensure that the contents are acceptable for human consumption.

§§ 590.530 and 590.532 [Removed]

■ 63. Remove §§ 590.530 and 590.532.

■ 64. Revise § 590.534 to read as follows:

§ 590.534 Freezing facilities.

Freezing rooms, either on or off the premises, must be capable of solidly freezing, or reducing to a temperature of 10 °F or lower, all liquid egg products.

§§ 590.536, 590.538 through 590.540, 590.542, 590.544, 590.546 through 590.550, 590.552 and 590.560 [Removed]

■ 65. Remove §§ 590.536, 590.538 through 590.540, 590.542, 590.544, 590.546 through 590.550, 590.552 and 590.560.

■ 66. Revise § 590.570 to read as follows:

§ 590.570 Control of pathogens in pasteurized egg products.

Pasteurized egg products must be produced to be edible without additional preparation to achieve food safety and may receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes. Pasteurized egg products are not required to bear a safe-handling instruction or other labeling that directs that the product must be cooked or otherwise treated for safety.

§ 590.575 [Removed]

■ 67. Remove § 590.575.

■ 68. Revise § 590.580 to read as follows:

§ 590.580 Pathogen reduction standards testing.

(a) Official plants must test to determine that the production of egg products is in compliance with the Act and the egg products inspection regulations.

(b) To ensure adequate pasteurization:

(1) Pasteurized liquid, frozen, and dried egg products, and heat treated dried egg whites must be sampled and analyzed for the presence of *Salmonella* spp. Such testing by the official plant must be performed in a manner sufficient such that it is possible for the official plant to verify that the system is capable of eliminating *Salmonella* spp. at the time that the annual reassessment occurs, and as regularly as necessary between annual reassessments, to show that the system, when tested, is working.

(2) Samples must be analyzed for the presence of *Salmonella* spp. with such frequency and using such laboratory methods as is sufficient to ensure that product is not adulterated. For each category of product, sampling should be conducted on a rotating basis.

(3) Samples must be drawn from the final packaged form.

(c) Results of all partial and completed analyses performed under paragraph (b) of this section must be provided to inspection program personnel promptly upon receipt by the official plant. Positive test results must be provided to inspection program personnel immediately upon receipt by the official plant.

■ 69. Add § 590.590 to read as follows:

§ 590.590 Use of irradiated shell eggs to produce egg products.

Irradiated shell eggs used to produce pasteurized egg products must be used in conjunction with heat or another lethality treatment sufficient to produce egg products that are edible without additional preparation to achieve food safety. Unless otherwise approved by FDA, the irradiation treatment of the shell eggs must precede the heat or other lethality treatment applied to the egg products.

§§ 590.600 through 590.680 [Removed]

■ 70. Remove the undesignated center heading ''Exempted Egg Products Plants'' and §§ 590.600 through 590.680.

■ 71. Add an undesignated center heading and § 590.700 to read as follows:

Inspection and Disposition of Restricted Eggs

§ 590.700 Prohibition on disposition of restricted eggs.

(a) No person may buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation in any business in commerce any restricted eggs capable of use as human food, except as authorized in §§ 590.100 or 590.720.

(b) No egg handler may possess with the intent to use, or use, any restricted eggs in the preparation of human food, except as provided in §§ 590.100 or 590.720.

■ 72. Add § 590.720 to read as follows:

§ 590.720 Disposition of restricted eggs.

(a) Except as exempted in § 590.100, eggs classified as checks, dirts, incubator rejects, inedibles, leakers, or loss must be disposed of by one of the following methods at the point and time of segregation:

(1) Checks and dirts must be labeled in accordance with § 590.800 and

shipped to an official plant for segregation and processing. Inedible and loss eggs must not be intermingled in the same container with checks and dirts.

(2) By destruction in a manner that clearly identifies the products as being inedible and not for human consumption, such as crushing and denaturing or decharacterizing in accordance with § 590.504(c)(1). The products must also be identified as ''Inedible Egg Product-Not To Be Used As Human Food.''

(3) Processing for industrial use or for animal food. Such products must be handled in accordance with § 590.504(c) and identified as provided in §§ 590.840 and 590.860, or properly handled in a manner that clearly identifies the products as being inedible and not for human consumption and does not adulterate egg product intended for human consumption.

(4) By coloring the shells of loss and inedible eggs with a sufficient amount of an FDA-approved color additive to give a distinct appearance or applying a substance that will penetrate the shell and decharacterize the contents of the egg. However, lots of eggs containing significant percentages of eggs having small to medium blood spots or meat spots, but no other types of loss or inedible eggs, may be shipped directly to official plants, provided they are conspicuously labeled with the name and address of the shipper and the wording ''Spots—For Processing Only In Official Egg Products Plants.''

(5) Incubator rejects must be broken or crushed and denatured or decharacterized in accordance with § 590.504(c)(1) and labeled as required in §§ 590.840 and 590.860.

(b) Eggs that are packed for the ultimate consumer and have been found to exceed the tolerance for restricted eggs permitted in the official standards for U.S. Consumer Grade B but have not been shipped for retail sale must be identified as required in §§ 590.800 and 590.860 and must be shipped directly or indirectly:

(1) To an official plant for proper segregation and processing; or

(2) Be re-graded so that they comply with the official standards; or

(3) Used as other than human food.

(c) Records must be maintained as provided in § 590.200 to ensure proper disposition.

■ 73. Add § 590.801 to read as follows:

§ 590.801 Nest-run or washed ungraded eggs.

Nest-run or washed ungraded eggs are exempt from the labeling provisions in § 590.800. However, when such eggs are sold to consumers, they may not exceed the tolerance for restricted eggs for U.S. Consumer Grade B shell eggs.

§§ 590.900 through 590.970 [Removed]

■ 74. Remove undesignated center heading ''Imports'' and §§ 590.900 through 590.970.

■ 75. Add subpart B, consisting of §§ 590.900 through 590.965, to read as follows:

Subpart B—Imports

Sec.

590.900 Definitions; requirements for importation into the United States.
590.901 Egg products offered for entry and entered to be handled and transported as domestic; entry into official plants; transportation.
590.905 Importation of restricted eggs.
590.910 Eligibility of foreign countries for importation of egg products into the United States.
590.915 Imported products; foreign inspection certificates required.
590.920 Import inspection application.
590.925 Inspection of eggs and egg products offered for entry.
590.930 Eggs and egg products offered for entry, retention in customs custody; delivery under bond; movement prior to inspection; handling; equipment and assistance.
590.935 Means of conveyance and equipment used in handling egg products offered for entry to be maintained in sanitary condition.
590.940 Identification of egg products offered for entry; official import inspection marks and devices.
590.945 Eggs and egg products offered for entry; reporting of findings to customs; handling of articles refused entry; appeals, how made; denaturing procedures.
590.950 Labeling of immediate containers of egg products offered for entry.
590.955 Labeling of shipping containers of egg products offered for entry.
590.956 Relabeling of imported egg products.
590.960 Small importations for importer's personal use, display, or laboratory analysis.
590.965 Returned to the United States inspected and identified egg products; exemption.

Subpart B—Imports

§ 590.900 Definitions; requirements for importation into the United States.

(a) When used in this subpart, the following terms will be construed to mean:

(1) *Import (Imported).* To bring within the territorial limits of the United States, whether that arrival is accomplished by land, air, or water.

(2) *Offer(ed) for entry.* The point at which the importer presents the imported product for reinspection.

(3) *Entry (entered)* means the point at which imported product offered for entry receives reinspection and is marked with the official mark of inspection, as required by § 590.940.

(4) *Official Import Inspection Establishment.* This term means any establishment, other than an official establishment as defined in § 301.2 of this chapter, where inspections are authorized to be conducted as prescribed in § 590.925.

(b) No egg products may be imported into the United States unless they are healthful, wholesome, fit for human food, not adulterated, and contain no dye, chemical, preservative, or ingredient which renders them unhealthful, unwholesome, unadulterated, or unfit for human food. Such products must also comply with the regulations prescribed in this subpart to ensure that they adhere to the standards provided for in the Act. The provisions of this subpart will apply to these products only if they are capable for use as human food.

(c) Approval for Federal import inspection must be in accordance with §§ 590.140 through 590.149.

(d) Egg products may be imported only if they are processed solely in the countries listed in § 590.910(b).

§ 590.901 Egg products offered for entry and entered to be handled and transported as domestic; entry into official plants; transportation.

(a) All egg products, after entry into the United States in compliance with this subpart, will be deemed and treated and, except as provided in §§ 590.935 and 590.960, will be handled and transported as domestic product, and will be subject to the applicable provisions of this part and to the provisions of the Egg Products Inspection Act and the Federal Food, Drug, and Cosmetic Act.

(b) Imported egg products entered in accordance with this subpart may, subject to the provisions of the regulations, be taken into official plants and be mixed with or added to egg products that are inspected and passed or exempted from inspection in such plants.

(c) Imported egg products that have been inspected and passed under this subpart may be transported in commerce only upon compliance with the applicable regulations.

§ 590.905 Importation of restricted eggs.

(a) No containers of restricted eggs other than checks or dirties will be imported into the United States. The shipping containers of such eggs shall be identified with the name, address,

and country of origin of the exporter, and the date of pack and the quality of the eggs (*e.g.,* checks or dirties) preceded by the word ''Imported'' or the statement ''Imported Restricted Eggs—For Processing Only In An Official USDA Plant,'' or ''Restricted Eggs—Not To Be Used As Human Food.'' Such identification shall be legible and conspicuous.

(b) For properly sealed and certified shipments of shell eggs for breaking at an official egg products plant, the containers need not be labeled, provided that the shipment is segregated and controlled upon arrival at the destination breaking plant.

§ 590.910 Eligibility of foreign countries for importation of egg products into the United States.

(a) Whenever it is determined by the Administrator that the system of egg products inspection maintained by any foreign country is such that the egg products produced in such country are processed, labeled, and packaged in accordance with, and otherwise comply with, the standards of the Act and these regulations including, but not limited to the same sanitary, processing, facility requirements, and Government inspection as required in §§ 590.500 through 590.580 applicable to inspected articles produced within the United States, notice of that fact will be given according to paragraph (b) of this section. Thereafter, egg products from such countries shall be eligible for importation into the United States subject to the provisions of this part and other applicable laws and regulations. Such product must meet, to the extent applicable, the same standards and requirements that apply to comparable domestic product as set forth in these regulations. Egg products from foreign countries not deemed eligible in accordance with paragraph (b) of this section are not eligible for importation into the United States, except as provided by § 590.960. In determining if the inspection system of a foreign country is the equivalent of the system maintained in the United States, the Administrator shall review the inspection regulations of the foreign country and make a survey to determine the manner in which the inspection systems are administered within the foreign country. After approval of the inspection system of a foreign country, the Administrator may, as often and to the extent deemed necessary, authorize representatives of the Department to review the system to determine that it is maintained in such a manner as to be the equivalent of the system maintained by the United States.

(b) A list of countries eligible to export egg products to the United States is maintained at *http://www.fsis.usda.gov/importlibrary.*

§ 590.915 Imported products; foreign inspection certificates required.

(a) Except as provided in §§ 590.960 and 590.965, each consignment imported into the United States must have an electronic foreign inspection certification or a paper foreign inspection certificate issued by an official of the foreign government agency responsible for the inspection and certification of the product.

(b) An official of the foreign government agency must certify that any product described on any official certificate was produced in accordance with the regulatory requirements of § 590.910.

(c) The electronic foreign inspection certification must be in English, be transmitted directly to FSIS before the product's arrival at the official import inspection establishment and be available to inspection program personnel.

(d) The paper foreign inspection certificate must accompany each consignment; be submitted to inspection program personnel at the official import inspection establishment; be in English; and bear the official seal of the foreign government responsible for the inspection of the product, and the name, title, and signature of the official authorized to issue the inspection certificates for products imported into the United States.

(e) The electronic foreign inspection certification and paper foreign inspection certificate must contain:

(1) The date;

(2) The foreign country of export and the producing foreign establishment number;

(3) The species used to produce the product and the source country and foreign establishment number, if the source materials originate from a country other than the exporting country;

(4) The product's description including the process category, the product category, and the product group;

(5) The name and address of the importer or consignee;

(6) The name and address of the exporter or consignor;

(7) The number of units (pieces or containers) and the shipping or identification mark on the units;

(8) The net weight of each lot; and

(9) Any additional information the Administrator requests to determine whether the product is eligible to be imported into the United States.

§ 590.920 Import inspection application.

(a) Applicants must submit an import inspection application to apply for the inspection of any product offered for entry. Applicants may apply for inspection using a paper or electronic application form.

(b) Import inspection applications for each consignment must be submitted (electronically or on paper) to FSIS in advance of the shipment's arrival at the official import establishment where the product will be reinspected, but no later than when the entry is filed with U.S. Customs and Border Protection.

(c) The provisions of this section do not apply to products that are exempted from inspection by §§ 590.960 and 590.965.

§ 590.925 Inspection of egg products offered for entry.

(a)(1) Except as provided in §§ 590.960 and 590.965 and paragraph (b) of this section, egg products offered for entry from any foreign country must be reinspected at an official import inspection establishment or official plant by inspection program personnel before they may be allowed entry into the United States.

(2) Every lot of product must routinely be given visual reinspection by inspection program personnel for appearance and condition and be checked for certification and label compliance as provided in §§ 590.915, 590.950, and 590.955.

(3) Inspection program personnel must consult the electronic inspection system for reinspection instructions. The electronic inspection system will assign reinspection levels and procedures based on established sampling plans and established product and plant history.

(b) Inspection program personnel may take, without cost to the United States, from each consignment of egg product offered for entry, such samples of the products as are deemed necessary to determine the eligibility of the products for entry into commerce of the United States.

§ 590.930 Egg products offered for entry, retention in customs custody; delivery under bond; movement prior to inspection; handling; equipment and assistance.

(a) No egg products required by this subpart to be inspected will be released from customs custody prior to required inspections, but such product may be delivered to the importer, or his agent, prior to inspection, if the importer furnishes a bond, in a form prescribed by the Secretary of the Treasury, on the condition that the product must be returned, if demanded, to the collector

of the port where the product was offered for clearance through customs.

(b) Notwithstanding paragraph (a) of this section, no product required by this subpart to be inspected will be moved prior to inspection from the port of arrival where first unloaded, and if arriving by water from the wharf where first unloaded at such port, to any place other than the place designated in accordance with this part as the place where the product must be inspected; and no product will be conveyed in any manner other than in compliance with this subpart.

(c) The importer, or his agent, must furnish such equipment and must provide such assistance for handling and inspecting, where applicable, egg products offered for entry as the program inspector may require.

(d) Official import inspection establishments must provide buildings and equipment that meet the sanitation requirements contained in part 416 of this chapter.

§ 590.935 Means of conveyance and equipment used in handling egg products offered for entry to be maintained in sanitary condition.

(a) Compartments of means of conveyance transporting any egg products to the United States, and all chutes, platforms, racks, tables, tools, utensils, and all other devices used in moving and handling any egg products offered for entry into the United States, must be maintained in accordance with part 416.4 of this chapter.

(b) All conveyances containing imported liquid egg products must be sealed by inspection authorities in the exporting country. Seals may be broken at U.S. port-of-entry for purposes of inspection by program inspectors or customs officers.

§ 590.940 Identification of egg products offered for entry; official import inspection marks and devices.

(a) Except for products offered for entry from Canada, egg products that upon reinspection are found to be acceptable for entry into the United States must be identified as ''U.S. Inspected and Passed'' product. The official inspection legend shown in paragraph (b) of this section will identify product only after completion of official import inspection and product acceptance.

(b) The official mark for identifying egg products offered for entry as ''U.S. Inspected and Passed'' must be in the following form, and any device approved by the Administrator for applying such mark must be an official device.[1]

Figure 1 to paragraph (b)

(c) Owners or operators of plants, other than official plants, who want to have import inspections made at their plants, must apply to the Administrator for approval of their establishments for such purpose. Application must be made on a form furnished by the Program, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC, and must include all information called for by that form.

(d) No brand manufacturer or other person will cast or otherwise make, without an official certificate issued by inspection program personnel, a brand or other marking device containing an official inspection legend, or simulation thereof, as shown in § 590.940(b).

(e) The inspection legend may be placed on containers of product before completion of the official import inspection if the containers are being inspected by inspection program personnel who report directly to a program supervisor, the product is not required to be held at the official import inspection establishment pending receipt of laboratory test results, and a written procedure for the controlled stamping, submitted by the official import inspection establishment and approved by the Food Safety and Inspection Service, is on file at the import inspection location where the inspection is to be performed.

(f)(1) The written procedure for the controlled release and identification of product should be in the form of a letter and must include the following:

(i) That stamping under this subpart is limited to those lots of product that can be inspected on the day that certificates for the product are examined;

(ii) That all products that have been pre-stamped will be stored in the facility where the import inspection will occur;

(iii) That inspection marks applied under this part will be removed from any lot of product subsequently refused entry on the day the product is rejected; and

(iv) That the establishment will maintain a daily stamping log containing the following information for each lot of product: The date of inspection, the country of origin, the foreign establishment number, the product name, the number of units, the shipping container marks and foreign inspection certificate number covering the product to be inspected. The daily log must be retained by the establishment in accordance with § 590.200.

[1] The number ''I–38'' is given as an example only. The plant number of the official plant, facility, or official import inspection establishment where the product was inspected must be shown on each stamp impression.

(2) An establishment's controlled program privilege may be cancelled orally or in writing by the inspector who is supervising its enforcement whenever the inspector finds that the establishment has failed to comply with the provisions of this subpart or any conditions imposed pursuant thereto. If the cancellation is oral, the decision and the reasons for it must be confirmed in writing, as promptly as circumstances allow. Any person whose controlled pre-stamping program privilege has been cancelled may appeal the decision to the Administrator, in writing, within ten (10) days after receiving written notification of the cancellation. The appeal must state all of the facts and reasons upon which the person relies to show that the controlled program was wrongfully cancelled. The Administrator will grant or deny the appeal, in writing, stating the reasons for such decision, as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing must be held to resolve such conflict. Rules of practice concerning such a hearing will be adopted by the Administrator. The cancellation of the controlled pre-stamping privilege will be in effect until there is a final determination of the preceding.

§ 590.945 Egg products offered for entry; reporting of findings to customs; handling of articles refused entry; appeals, how made; denaturing procedures.

(a)(1) Inspection program personnel must report their findings as to any product that has been inspected in accordance with this subpart to the Director of Customs at the original port of entry where the same is offered for clearance through Customs inspection.

(2) When product is refused entry into the United States, the official mark to be applied to the product refused entry must be in the following form:

Figure 1 to paragraph (a)(2)

UNITED STATES
REFUSED ENTRY

(3) When product has been identified as ''U.S. Refused Entry,'' inspection program personnel must request the Director of Customs to refuse admission of such product and to direct that it be exported by the owner or importer within the time specified in this section, unless the owner or importer, within the specified time, causes it to be destroyed by disposing of it under the supervision of program inspectors so that the product can no longer be used as human food, or by converting it to animal food uses, if permitted by the Food and Drug Administration. The owner or importer of the refused entry product must not transfer legal title to such product, except to a foreign importer for direct and immediate exportation, or to an end user, *e.g.,* an animal food manufacturer or a renderer, for destruction for human food purposes. ''Refused entry'' product must be delivered to and used by the manufacturer or renderer within the 45-day time limit provided in paragraph (a)(4) of this section. Even if such title is illegally transferred, the subsequent purchaser will still be required to export the product or have it destroyed under paragraph (a)(4) of this section.

(4) The owner or importer will have 45 days after notice is given by FSIS to the Director of Customs at the original port of entry to take the action required in paragraph (a)(3) of this section for ''refused entry'' product. An extension beyond the 45-day period may be granted by the Administrator when extreme circumstances warrant it, *e.g.,* a dock workers' strike or an unforeseeable vessel delay.

(5) If the owner or importer fails to take the required action within the time specified under paragraph (a)(4) of this section, the Department will take such actions as may be necessary to effectuate its order to have the product destroyed for human food purposes. The Department will seek court costs and fees, storage, and proper expenses in the appropriate forum.

(6) No egg product that has been refused entry and exported to another country pursuant to paragraph (a)(3) of this section may be returned to the United States under any circumstances. Any such product so returned to the United States will be subject to administrative detention in accordance with section 1048 of the Act and seizure and condemnation in accordance with section 1049 of the Act.

(7) Egg products that have been refused entry solely because of misbranding may be brought into compliance with the requirements of this chapter under the supervision of an authorized representative of the Administrator.

(b) Upon the request of the Director of Customs at the port where an egg product is offered for clearance through the customs, the importer of the product must, at the importer's own expense, immediately return to the Director any product that has been delivered to the importer under this subpart and subsequently designated ''U.S. Refused Entry'' or found in any request not to comply with the requirements in this part.

(c) Except as provided in § 590.930(a) or (b), no person will remove or cause to be removed from any place designated as the place of inspection of egg products that the regulations in this part require to be identified in any way, unless the same has been clearly and legibly identified in compliance with this part.

(d) Any person receiving inspection services may, if dissatisfied with any decision of a program inspector relating to any inspection, file an appeal from such decision. Any such appeal from a decision of a program inspector must be made to the inspector's immediate supervisor having jurisdiction over the subject matter of the appeal, and such supervisor must determine whether the inspector's decision was correct. Review of such an appeal determination, when requested, must be made by the

immediate supervisor of the Department employee making the appeal determination. The egg products involved in any appeal must be identified by U.S. retained tags and segregated in a manner approved by the inspector pending completion of an appeal inspection.

(e) All loss or inedible eggs, or inedible egg products must be disposed of in accordance with § 590.504(c)(1).

§ 590.950 Labeling of immediate containers of egg products offered for entry.

(a) Immediate containers of product offered for entry into the United States must bear a label, printed in English, showing:

(1) The name of the product;

(2) The name of the country of origin of the product, and for consumer packaged products, preceded by the words ''Product of,'' which statement must appear immediately under the name of the product;

(3) [Reserved];

(4) The word ''Ingredients'' followed by a list of the ingredients in order of descending proportions by weight, if applicable,;

(5) The name and place of business of the manufacturer, packer, or distributor, qualified by a phrase which reveals the connection that such person has with the product;

(6) An accurate statement of the quantity;

(7) The inspection mark of the country of origin;

(8) The date of production and the plant number of the plant at which the egg products were processed or packed.

(b) For properly sealed and certified shipments of shell eggs for breaking at an official plant, the immediate containers need not be labeled, provided that the shipment is segregated and controlled upon arrival at the destination breaking plant.

(c) The labels must not be false or misleading in any respect.

§ 590.955 Labeling of shipping containers of egg products offered for entry.

Shipping containers of imported egg products are required to bear in a prominent and legible manner the name of the product, the name of the country of origin, the foreign inspection system plant number of the plant in which the product was processed, shipping or identification marks, production codes, and the inspection mark of the country or origin. Labeling on shipping containers must be examined at the time of inspection in the United States and if found to be false or misleading, the product must be refused entry.

§ 590.956 Relabeling of imported egg products.

(a) Egg products eligible for importation may be relabeled with an approved label under the supervision of an inspector at an official plant or official import inspection establishment. The new label for such product must indicate the country of origin, except for egg products that are processed (repasteurized or, in the case of dried product, dry blended with product produced in the United States) in an official plant.

(b) The label for relabeled products must state the name, address, and zip code of the distributor, qualified by an appropriate term such as ''packed for'', ''distributed by'', or ''distributors''.

§ 590.960 Small importations for importer's personal use, display, or laboratory analysis.

Egg products (other than those that are forbidden entry by other Federal law or regulation) from any country, that are exclusively for the importer's personal use, display, or laboratory analysis, and not for sale or distribution; that are sound, healthful, wholesome, and fit for human food; and that are not adulterated and do not contain any substance not permitted by the Act or regulations, may be admitted into the United States without a foreign inspection certificate. Such products are not required to be inspected upon arrival in the United States and may be shipped to the importer without further restriction under this part, except as provided in 9 CFR 590.925(b), provided that the Department may, with respect to any specific importation, require that the importer certify that such product is exclusively for said importer's personal use, display, or laboratory analysis and not for sale or distribution. The amount of liquid, frozen, or dried egg products imported must not exceed 50 pounds.

§ 590.965 Returned to the United States inspected and marked egg products; exemption.

U.S. inspected and passed and so marked egg products exported to and returned from foreign countries will be admitted into the United States without compliance with this part upon notification to and approval of the Food Safety and Inspection Service, in specific cases.

SUBCHAPTER I–EGG PRODUCTS INSPECTION ACT

■ 76. Add part 591 to read as follows:

PART 591—SANITATION REQUIREMENTS AND HAZARD ANALYSIS AND CRITICIAL CONTROL POINT SYSTEMS

Sec.
591.1 Basic requirements.
591.2 Hazard analysis and HACCP plan.

Authority: 21 U.S.C. 1031–1056; 7 CFR 2.18, 2.53.

§ 591.1 Basic requirements.

(a) All official plants must comply with the sanitation requirements contained in part 416 of this chapter, Sanitation, except as otherwise provided in this chapter.

(b) All official plants must comply with the Hazard Analysis and Critical Control Point (HACCP) Systems requirements contained in part 417 of this chapter, except as otherwise provided in this chapter.

(c) For the purposes of this chapter, parts 416, Sanitation, 417, Hazard Analysis and Critical Control Point (HACCP) Systems, and 500, Rules of Practice, an official establishment or establishment includes an official plant.

§ 591.2 Hazard analysis and HACCP plan.

(a) Pursuant to 21 U.S.C. 1035 and 1043, the failure of an official plant to develop and implement a HACCP plan that complies with part 417 of this chapter may render the products produced under those conditions adulterated.

(b) Pursuant to 21 U.S.C. 1035 and 1043, the failure of an official plant to operate in accordance with the requirements in part 416 of this chapter, Sanitation, may render the products produced under those conditions adulterated.

(c) Pursuant to 21 U.S.C. 1035 and 1043, the failure of an official plant to operate in accordance with the Hazard Analysis and Critical Control Point (HACCP) Systems requirements in part 417 of this chapter, may render the product produced under those conditions adulterated.

(d) Pursuant to 21 U.S.C. 1035 and 1043, the failure of an official plant to operate in accordance with the requirements in part 500 of this chapter, Rules of Practice, and part 590 of this chapter, Inspection of Eggs and Egg Products (Egg Products Inspection Act) may render the products produced under those conditions adulterated.

Done at Washington, DC.

Paul Kiecker,

Administrator.

[FR Doc. 2020–20151 Filed 10–28–20; 8:45 am]

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Part III

Department of Agriculture

Forest Service

36 CFR Part 294

Special Areas; Roadless Area Conservation; National Forest System Lands in Alaska; Final Rule

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 294

RIN 0596–AD37

Special Areas; Roadless Area Conservation; National Forest System Lands in Alaska

AGENCY: Forest Service, Agriculture Department (USDA).

ACTION: Final rule and record of decision.

SUMMARY: The U.S. Department of Agriculture (USDA or Department), is adopting a final rule to exempt the Tongass National Forest from the 2001 Roadless Area Conservation Rule (2001 Roadless Rule), which prohibits timber harvest and road construction/reconstruction with limited exceptions within designated inventoried roadless areas. In addition, the rule directs an administrative change to the timber suitability of lands deemed unsuitable, solely due to the application of the 2001 Roadless Rule, in the 2016 Tongass National Forest Land and Resource Management Plan (Tongass Forest Plan or Forest Plan), Appendix A. The rule does not authorize any ground-disturbing activities, nor does it increase the overall amount of timber harvested from the Tongass National Forest.

DATES: This rule is effective October 29, 2020.

FOR FURTHER INFORMATION CONTACT: Ken Tu, Interdisciplinary Team Leader, at 303–275–5156 or *akroadlessrule@usda.gov.* Individuals using telecommunication devices for the deaf (TDD) may call the Federal Information Relay Services at 1–800–877–8339 between 8 a.m. and 8 p.m. Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The USDA Forest Service manages approximately 21.9 million acres of federal lands in Alaska, which are distributed across two national forests (Tongass and Chugach National Forests). These national forests are characterized by a diverse array of landscapes, ecosystems, natural resources, and land use activities.

In January 2001, the USDA promulgated a discretionary rulemaking establishing prohibitions on timber harvesting and road construction on approximately 58 million acres of the National Forest System (NFS), including over 14 million acres within Alaska. The 2001 Roadless Rule has been the subject of litigation for almost two decades. Initially, the 2001 Roadless Rule was challenged in multiple lawsuits, including a suit brought by the State of Alaska. Another suit filed by the State of Alaska in 2015 is still ongoing. Citing various concerns, including damage to the economic and social fabric of southeast Alaska and compliance with the Alaska National Interest Lands Conservation Act (ANILCA) and Tongass Timber Reform Act (TTRA), the State of Alaska petitioned the USDA to exempt the Tongass National Forest from the 2001 Roadless Rule.

Having carefully considered the petition, public comments on the proposed rule, and a wide range of alternative approaches to the 2001 Roadless Rule, the USDA is granting the State of Alaska's request to exempt the Tongass National Forest from the 2001 Roadless Rule. The Tongass Forest Plan along with other conservation measures, will assure protection allowing roadless area values to prevail on the Tongass National Forest while offering additional flexibility to achieve other multiple-use benefits.

Background

On January 12, 2001, the USDA promulgated the Roadless Area Conservation Rule (hereafter 2001 Roadless Rule) (66 FR 3244), establishing nationwide prohibitions on timber harvest, road construction, and road reconstruction within inventoried roadless areas (IRAs) with certain limited exceptions. The intent of the 2001 Roadless Rule is to provide lasting protection for IRAs within the NFS in the context of multiple-use land management. Based on the State of Alaska's Roadless Rule Petition (described below) and a review of public comment, the USDA analyzed rulemaking alternatives addressing whether and how the national prohibitions on timber harvesting, road construction, and road reconstruction should apply on the Tongass National Forest.

In 2001, the State of Alaska filed a lawsuit challenging the USDA's promulgation of the 2001 Roadless Rule and its application in Alaska. *State of Alaska* v. *USDA,* A01–039 CV (JKS) (D. Alaska). The USDA and the State of Alaska reached a settlement in 2003, and the USDA subsequently issued a rule temporarily exempting the Tongass National Forest from the 2001 Roadless Rule. In 2011, a Federal district court set aside the Tongass Exemption Rule and reinstated, with clarifying instructions, the 2001 Roadless Rule on the Tongass National Forest. The district court's ruling was initially reversed by a three-judge panel of the Ninth Circuit but was ultimately upheld in a 6–5 *en banc* ruling in 2015. Consequently, the 2001 Roadless Rule (as provided for in the district court's Judgment) remains in effect in Alaska and the Forest Service continues to apply the 2001 Roadless Rule to both the Tongass and Chugach National Forests.

Currently there are over 21.9 million acres of NFS lands within the State of Alaska, of which approximately 14.7 million acres (67%) are designated IRAs as defined by the 2001 Roadless Rule, including both the Tongass and Chugach National Forests. The Tongass National Forest is approximately 16.7 million acres of which approximately 9.3 million (55%) acres are designated IRAs. The Alaska Roadless Rule focuses on the Tongass National Forest only and does not apply to the Chugach National Forest.

State of Alaska Petition

In January 2018, then-Commissioner of the Department of Natural Resources for the State of Alaska, Andrew Mack submitted a petition on behalf of the State of Alaska to Secretary of Agriculture Sonny Perdue pursuant to the Administrative Procedure Act (APA). The petition requested USDA consider creation of a state-specific rule to exempt the Tongass National Forest from the 2001 Roadless Rule and conduct a forest plan revision for the Tongass National Forest. In June 2018, the Secretary of Agriculture accepted the petition and agreed to review the State's concerns on roadless area management and economic development opportunities in southeast Alaska through a rulemaking process. The Secretary directed the Forest Service to begin working with representatives from the State of Alaska concerning a state-specific roadless rule. However, the Secretary did not commit to the State's request for a forest plan revision. On August 2, 2018, the State of Alaska and the USDA Forest Service signed a memorandum of understanding concerning the development of a state-specific rule. The Forest Service initiated its environmental analysis process with the publication in the **Federal Register** of a Notice of Intent (NOI) to prepare an environmental impact statement (EIS) on August 30, 2018 (83 FR 44252).

On September 6, 2018, Governor Walker issued Administrative Order 299 to establish the Alaska Roadless Rule Citizen Advisory Committee (the committee) to provide an opportunity for Alaskans to advise the State of Alaska on the future management of Tongass National Forest roadless areas. The committee was comprised of 13 members, appointed by Governor

Walker, intended to represent a diversity of perspectives, including Alaska Native tribes and corporations, fishing, timber, conservation, tourism, utilities, mining, transportation, local government, and the Alaska Division of Forestry. The committee's specific task was to present a written report on the rulemaking process to the Governor and State Forester, which included options for a state-specific roadless rule. The committee met for three in-person meetings during the fall of 2018 (October 2–3 in Juneau; October 24–26 in Ketchikan; and November 6–8 in Sitka). Meetings were open to the public and each meeting included opportunity for public comment. The committee's report was submitted to the Governor and State Forester during late November 2018, and recommendations from the committee informed the State of Alaska input, as a cooperating agency, to the Forest Service in the development of the alternatives and comments on the Draft Environmental Impact Statement (DEIS).

On October 17, 2019, the USDA published a notice of proposed rulemaking to exempt the Tongass National Forest from the 2001 Roadless Rule (84 FR 55522). The Office of Federal Activities of the U.S. Environmental Protection Agency published a Notice of Availability (NOA) for the DEIS in the **Federal Register** on October 18, 2019 (84 FR 55952), with corrected end of comment period published on October 25, 2019 (84 FR 57417).

Consideration of the State of Alaska's Petition

In response to the State of Alaska's petition for rulemaking, the USDA has sought a long-term, durable approach to roadless area management that accommodates the unique biological, social, and economic situation found in and around the Tongass National Forest. The Tongass is unique from other national forests with respect to size, percentage of IRAs, number of communities dependent on federal lands (the Tongass comprises almost 80% of southeast Alaska and supports 32 communities), and Alaska and Tongass-specific statutory considerations (*e.g.,* ANILCA, TTRA).

The USDA and Forest Service believe that both roadless area conservation and other multiple-use values with important local socio-economic consequences are meaningfully addressed through local and regional forest planning on the Tongass, without the 2001 Roadless Rule prohibitions on timber harvest and road construction/reconstruction.

Decision

The USDA hereby promulgates a regulation exempting the Tongass National Forest from the 2001 Roadless Rule as described in Alternative 6 of the *Rulemaking for Alaska Roadless Areas Final Environmental Impact Statement* (FEIS) (USDA Forest Service, 2020). This decision is not subject to Forest Service administrative review regulations, which allow the public to administratively challenge certain agency decisions. In addition, the final rule directs the Tongass Forest Supervisor to issue a notice of an administrative change pursuant to 36 CFR 219.13(c) to the timber suitability determination as described in Appendix A of the Forest Plan. The final regulatory text differs slightly from the text published with the FEIS, reflecting nontechnical changes made to conform to the Office of **Federal Register's** guidelines.

Alternatives Considered

In addition to Alternative 6, the selected alternative, the FEIS analyzes five other alternatives for managing roadless areas on the Tongass National Forest. Alternative 1 is the no action alternative and would result in the continued implementation of the 2001 Roadless Rule as prescribed in the Alaska District Court's Judgement. Alternative 2 provides limited additional timber harvest opportunity while maximizing roadless area designations. It removes approximately 142,000 acres from roadless designation that have been substantially altered by prior road construction or timber harvest generally conducted during periods of time the Tongass National Forest was exempted from the 2001 Roadless Rule. These substantially altered areas are generally known as ''roaded roadless'' acres, but include additional areas considered to be substantially altered. Alternative 2 also adds 110,000 acres as Alaska Roadless Areas. Following an approach similar to that taken for the other two State-specific roadless rules, Colorado and Idaho, the FEIS uses the term *Alaska Roadless Areas* to refer to the areas in which the Alaska Roadless Rule would apply in Alternatives 2 through 5.

Alternative 3 would increase the available land base from which timber harvest opportunities could occur by making timber harvest, road construction, and road reconstruction permissible in areas where roadless characteristics have already been substantially altered and areas immediately adjacent to existing roads and past harvest areas. Adjacent areas are considered to be the logical extensions of the existing road and/or harvest systems, which would remove approximately 401,000 acres from the roadless classification system. The adjacent areas represent the most likely locations where future timber harvest could occur and have the least environmental impacts to overall roadless characteristics while providing for additional timber harvest opportunities.

Alternative 3 also establishes a Community Priority category which allows for small-scale timber harvest and associated road construction and reconstruction. In addition, it allows for infrastructure development to connect and support local communities, recreation opportunities, and traditional Alaska Native cultural uses. Alternative 3 includes the Watershed Priority category, which is more restrictive than the 2001 Roadless Rule, and applied to approximately 3.26 million acres primarily identified in the Forest Plan as the Tongass 77 Watersheds and The Nature Conservancy/Audubon Conservation Priority Areas (T77 and The Nature Conservancy/Audubon Conservation Areas) and high-priority sockeye salmon watersheds. Approximately 90% of those 3.26 million acres fall within roadless area boundaries identified in Alternative 3. To provide heightened balance and integrity of watershed protections and establish management continuity across these high-priority watersheds, Alternative 3 would also include a prohibition on old-growth timber harvesting on the portion of the T77 and The Nature Conservancy/Audubon Conservation Areas that extend beyond roadless areas boundaries established by Alternative 3. The remaining 4,595,000 acres of Alaska Roadless Areas in Alternative 3 would be managed under a roadless management category called Roadless Priority, which is similar to the 2001 Roadless Rule but less restrictive and addresses Alaska-specific concerns for infrastructure development to connect and support local communities and access to renewable energy and leasable minerals.

In addition to roaded roadless and adjacent acres being removed from the roadless classification system, approximately 854,000 acres designated as land use designation (LUD) II areas would be removed from the roadless classification system in Alternative 3. LUD II areas are statutory land use designations managed in a roadless state to retain their wildland character as defined in the TTRA (Pub. L. 101–626, Title II, Section 201) and the National Defense Authorization Act for Fiscal

Year 2015 (Pub. L. 113–291, 128 Stat. 3729, Section 3720(f)). These areas are proposed for removal from regulatory roadless classification because having two layers of protection (statutory and regulatory direction) that are substantially similar but slightly different does not make a meaningful difference to the level of conservation provided and can create confusion for land managers, stakeholder groups, and the public. Removal of the LUD II areas from regulatory roadless classification is an attempt to eliminate that confusion while remaining consistent with the congressionally established management regime for the LUD II areas. The statutory direction managing in a roadless state for wildland character within LUD II areas would remain in effect regardless of which alternative is selected.

Alternative 4 provides additional available land base from which timber harvest opportunities could occur while maintaining roadless designations for areas defined in the Tongass Forest Plan as Scenic Viewsheds, T77 Watersheds, and The Nature Conservancy/Audubon Conservation Priority Areas. Additional timber harvest opportunities are provided by removing approximately 401,000 acres of roaded roadless areas and adjacent extensions, as described in Alternative 3, from roadless classification. In addition, timber harvest opportunities are provided by managing approximately 757,000 acres of Timber Production and Modified Landscape LUDs, as defined in the Tongass Forest Plan, in a roadless management category called Timber Priority, which allows for timber harvest, road construction, and road reconstruction.

Alternative 4 designates approximately 7,000 acres as Alaska Roadless Areas, which were statutorily designated as LUD II areas, but not included in the 2001 roadless inventory. These 7,000 acres combined with the LUD II areas included in the 2001 roadless inventory total 854,000 acres that would be designated as roadless with regulatory direction mirroring the statutory direction.

The remaining 7,363,000 acres of Alaska Roadless Areas in Alternative 4 would be managed as Roadless Priority, which is similar to the 2001 Roadless Rule, but less restrictive and addresses Alaska-specific concerns for infrastructure development to connect and support local communities and access to renewable energy and leasable minerals.

Alternative 5 maximizes the land base from which timber harvest opportunities could occur by removing 2.32 million acres from roadless area designation. Taken together, the six alternatives represent the spectrum of management regimes identified to the Forest Service through public comments, public meetings, tribal and Alaska Native corporation consultations, and cooperating agency input.

The table below displays the acreage changes from the 2001 Roadless Rule to acreages that would be designated under each of the six alternatives displayed in the FEIS.

	Alternatives					
	1	2	3*	4	5	6 Final rule
Total Roadless Acres	9,368,000	9,336,000	8,224,000	8,975,000	7,047,000	0
Roadless Acres Removed	0	142,000	1,252,000	401,000	2,321,000	9,368,000
Roadless Acres Added	0	110,000	107,000	7,000	0	0
Net Acre Change**	0	−32,000	−1,144,000	−394,000	−2,321,000	−9,368,000

* Alternative 3 has less total areas designated as roadless than Alternative 4 due to 854,000 of LUD II areas removed but they are still managed for wildland character based on statutory direction, hence Alternative 3 is more restrictive than Alternative 4.
** Numbers may not appear to sum correctly due to rounding.

Environmentally Preferable Alternative

The environmentally preferable alternative is the alternative that best promotes the national environmental policy as provided by Section 101 of the National Environmental Policy Act (NEPA), 42 U.S.C. 4331. In application, the environmentally preferable alternative causes the least damage to the biological and physical environment. It also best protects, preserves, and enhances historic, cultural, and natural resources. It is the alternative that achieves the widest range of beneficial uses of the environment without degradation, risk to health and safety, or other undesirable or unintended consequences.

Alternative 2 is the environmentally preferable alternative. While it represents a slight decrease (approximately 32,000 acres) in total acres to be managed as Alaska roadless areas, all the acres designated as Alaska Roadless Areas in Alternative 2 are undeveloped at this time. Alternative 1 (the 2001 Roadless Rule) includes more total roadless acres; however, approximately 142,000 acres have been roaded, harvested, or significantly altered and those lands no longer retain the roadless characteristics and values the 2001 Roadless Rule is intended to conserve. In addition, approximately 110,000 acres of undeveloped land not included in the 2001 Roadless Rule were designated as Alaska Roadless Areas. Alternative 2 limits timber harvesting, road construction, and road reconstruction on the most undeveloped roadless acres of all the alternatives considered. While the Roadless Priority management category assigned to approximately 5.2 million acres in Alternative 2 includes more exceptions than Alternative 1, the Watershed Priority management category, which is more restrictive than the 2001 Roadless Rule, is applied to approximately 3.3 million acres in Alternative 2. For all these reasons, Alternative 2 is the alternative that best protects, preserves, and enhances roadless characteristics and values on the Tongass National Forest.

Decision Rationale and Important Considerations

On July 12, 2001, the 2001 Roadless Rule was promulgated. Views on applying roadless restrictions on the Tongass National Forest changed dramatically over the course of that rulemaking, and since. Originally, the USDA's proposed rule sought to exclude the Tongass from any roadless restrictions while promising to revisit the question in five years. Seven months later, the USDA's Final EIS (FEIS) instead identified a preferred alternative to apply the roadless prohibitions after a five-year delay. A mere month later, the final Record of Decision (ROD) instead elected to apply the regulation's roadless prohibitions immediately upon the effective date of the rule.

In 2003, USDA settled litigation with the State of Alaska challenging the promulgation of the 2001 Roadless Rule. The USDA proposed and finalized a rule temporarily exempting the Tongass

National Forest from operation of the 2001 Roadless Rule (*e.g.,* Tongass Exemption Rule—68 FR 75136). However, the Tongass Exemption Rule itself was judicially set aside in 2011, and the 2001 Roadless Rule was reinstated under the terms set forth in the final judgment of the U.S. District Court for the District of Alaska. Since that time, no further regulatory action regarding this matter has taken place, and the 2001 Roadless Rule remains in effect as to the Tongass National Forest.

Considerable congressional interest has resulted in the introduction of competing legislative bills designed to alternatively codify or strike down the operation of the 2001 Roadless Rule, in whole or in part, since the rule was promulgated. These legislative proposals have included attempts to legislate an outcome for the rule's application to the Tongass National Forest, but none of these bills have been enacted into law.

Combined with the complex, and sometimes even conflicting, judicial rulings applicable to the 2001 Roadless Rule itself, the recent history of roadless management on the Tongass National Forest demonstrates that while differences in opinion seem inevitable, a wide variety of approaches are available for roadless area management. Roadless area management, like all multiple-use land management, is fundamentally an exercise in discretion and policy judgment concerning the best use of the NFS lands and resources, informed by the underlying facts and reasonable projections of possible social, economic, and environmental consequences.

While the Tongass National Forest has endured debate regarding land and natural resource management for decades, there are common agreements. Tongass National Forest roadless areas are vast and valuable. The Tongass National Forest contributes ecological values locally, regionally, nationally, and internationally. Local communities are reliant on or impacted by federal land management decisions, and there is not always consensus, at the local level, on land management priorities. All acknowledge that there are diverse opinions and views concerning whether and how road construction and timber harvesting should be restricted. To be sure, the USDA has received many comments that highlight differences in views concerning factual matters and methodologies, as well as general opinions and preferences. The USDA is grateful for the attention and interest that communities, stakeholder groups, and individuals have devoted to helping shape and improve the FEIS for decision-making purposes.

Importantly, the final rule's change in policy does not fundamentally rest on new factual findings contradicting the factual findings the USDA made in its 2001 Roadless Rule. Rather, the policy judgments implemented through this new rulemaking are ultimately the result of assigning different value or weight to the various multiple uses. Although many circumstances have changed since 2001, such as the size and economic role of the timber industry in southeast Alaska, the nature and role of southeast Alaska's roadless areas have not changed. The currently-designated roadless areas continue to provide large tracts of undeveloped land for roadless values, watershed protection, and ecosystem health even while the Tongass National Forest was exempted from the 2001 Roadless Rule from 2001 to 2011.

The FEIS carefully analyzes the environmental consequences of both continued operation of and exemption from the 2001 Roadless Rule. That analysis reveals only a modest difference in potential environmental consequences between those (or any) alternatives. For example, although 9.4 million acres would no longer be subject to the 2001 Roadless Rule with the final rule, only 186,000 more acres would become available for timber production, and road construction is estimated to increase Tongass-wide from 994 miles in the no-action alternative to 1,043 miles in the final rule over the next 100 years. As many commenters have pointed out, the results of this analysis are attributable to the fact the 2001 Roadless Rule is not the primary limiting factor for Tongass National Forest timber harvest, and that the level of timber harvest defined in the Forest Plan has a greater influence. Similarly, the 2001 Roadless Rule would not seem to be the impediment to certain vital infrastructure and energy projects as claimed by some, given that some infrastructure and energy development is allowed under various statutes and/or the 2001 Roadless Rule.

Under the current Administration, the USDA has refocused policies, programs, and resources on increasing rural economic opportunity, decreasing federal regulation, and streamlining federal government services. The USDA concludes in light of the FEIS that a policy change for the Tongass National Forest can be made without major adverse impacts to the recreation, tourism, and fishing industries, while providing benefits to the timber and mining industries, increasing opportunities for community infrastructure, and eliminating unnecessary regulations.

The Secretary of Agriculture has broad authority to protect and administer the NFS through regulation as provided by the Organic Administration Act of 1897 (Organic Act), the Multiple-Use Sustained Yield Act of 1960, and the National Forest Management Act of 1976 (NFMA). These statutes provide the Secretary of Agriculture with discretion to determine the proper uses within any area, including the appropriate resource emphasis and mix of uses. In doing so, USDA considers the relative values of the various resources and seeks to provide for the harmonious and coordinated management of all resources in the combination that will best meet the needs of the American people. Roadless areas provide real and important values, such as high quality or undisturbed soil, water and air; sources of public drinking water; diversity of plant and animal communities; habitat for threatened, endangered, proposed, candidate, and sensitive species; primitive and semi-primitive classes of dispersed recreation; reference landscapes; natural appearing landscapes with high scenic quality; traditional cultural properties and sacred sites; and other locally identified unique characteristics. However, roadless values are not the only values that should be taken into consideration. The Organic Act and Multiple-Use Sustained Yield Act mandate the Forest Service to manage NFS lands for multiple uses and sustained yield of the various renewable surface resources to meet the needs of the American people.

The State of Alaska's Citizens Advisory Committee devoted considerable time and effort capturing the many and varied aspects of roadless characteristics from an Alaska-specific viewpoint, and the USDA is grateful for their dedication and insights. Similarly, tribal government cooperating agencies expressed concern about removal of the 2001 Roadless Rule but expressed an interest in expanded regulatory flexibility within their traditional territories. Here too, the USDA is grateful for their participation as cooperating agencies and for the knowledge and insights they have brought to the rulemaking.

Unquestionably, there are differences of perspective and opinion as to how to best shape restrictions that protect a beloved resource while providing cultural, social, and economic benefit for both local communities and the nation, which is reflected in the 267,000 comments received on the proposed

rule and DEIS (summarized in Appendix H of the FEIS). The USDA's assessment is that the best mechanism to account for these many and competing interests is to return the regulatory landscape back to what it was prior to the promulgation of 2001 Roadless Rule and to allow land management to be governed through the NFMA forest planning process.

Alaska-Specific Statutes

The USDA has also considered several Alaska-specific statutes applicable to the Tongass National Forest in selecting the final rule. To be clear, all the alternatives considered are within the lawful discretion of the USDA to select, and all would comply with applicable statutes. No statute compels or prohibits establishment of any of the various roadless rule alternatives; these alternatives would all be within the USDA's discretion.

In assessing roadless management for these lands, the USDA has considered the Alaska-specific legislation that Congress has enacted during the past forty years, especially the TTRA and ANILCA.

Tongass Timber Reform Act

The TTRA directs the Forest Service to seek to provide a supply of timber from the Tongass National Forest that meets annual market demand and the market demand for each planning cycle to the extent consistent with providing for the multiple-use and sustained-yield of all renewable resources and other applicable requirements, including the NFMA. The Tongass Forest Plan anticipates sufficient timber availability to meet projected demand as described in the 2016 Forest Plan FEIS and ROD. In addition, the Tongass Forest Plan provides guidance to conduct annual monitoring and review of current timber demand. Similarly, TTRA provides for protection of riparian habitats and the multiple use and sustained yield of all renewable surface resources.

Alaska National Interest Lands Conservation Act—Subsistence Determination

ANILCA, as amended, contains several provisions that apply to management of the Tongass National Forest. An ANILCA Section 810 evaluation and determination is not required to exempt the Tongass National Forest from the 2001 Roadless Rule—a rulemaking process and programmatic-level decision that is not a determination whether to ''withdraw, reserve, lease, or otherwise permit the use, occupancy, or disposition'' of NFS lands. However, a forest-wide evaluation and determination is included in this roadless area rulemaking to honor regional commitments and inform future project-level planning and decision-making subject to ANILCA Section 810 (16 U.S.C. 3120). An ANILCA Section 810 subsistence analysis and determination was not prepared when the 2001 Roadless Rule was promulgated.

The final rule has been evaluated for potential effects on subsistence uses and needs in a manner consistent with Section 810 of ANILCA. The FEIS discloses direct, indirect, and cumulative effects on three subsistence use factors including: (1) Resource distribution and abundance; (2) access to resources; and (3) competition for the use of resources (Chapter 3, Subsistence). Importantly, the final rule does not authorize ground-disturbing activities, but instead offers greater flexibility in locating future road construction, road reconstruction, and timber harvest activities. The Tongass Forest Plan will continue to guide timber harvest and road construction, with the administrative change prescribed in this rule only serving to conform and clarify the lands available for timber harvest following the exemption from the 2001 Roadless Rule.

Consequently, total timber harvest volume will remain constant across alternatives, and the risk of a significant restriction to subsistence resource abundance and distribution is largely equivalent across alternatives. The final rule may eventually influence subsistence resource access due to timber management activities, but these changes will be addressed on a site-specific basis, including appropriate public engagement opportunities, as projects are proposed.

Competition for subsistence wildlife and seafood resources near rural communities is affected by a variety of factors including regulations, technology, wildlife distribution, modes of access, and natural decreases in population. The final rule assumes new roads near communities connected to other communities by ferry or road, combined with increasing habitat reductions and consistent user demand, will likely increase subsistence resource competition over time.

Based on the identified assumptions and analysis, the final rule may eventually indirectly result in a significant restriction of subsistence use of deer by increasing overall competition for the subsistence resource by urban and rural residents. This finding is most applicable to Chichagof, Baranof, and Prince of Wales Islands where competition for deer and some other land mammals is already high and habitat capacity has been significantly reduced due to prior timber harvest and road construction activities. Notably, the predicted restriction of subsistence use of deer due to increased competition in the FEIS is substantially similar to Forest Plan subsistence effects analysis because the Forest Plan will continue to guide total timber harvest volume.

ANILCA subsistence hearings were conducted for the DEIS and proposed rule, consistent with Section 810, by: (1) Giving notice to the appropriate state agency, local committees, and regional councils; and (2) giving notice of, and holding, ''a hearing in the vicinity of the area involved.'' As the geographic area of interest is the entire Tongass National Forest, subsistence hearings were conducted in 18 communities located across southeast Alaska to collect oral testimony regarding the DEIS and associated subsistence resource and use analysis.

Section 810 requires that when a use, occupancy, or disposition of public lands may result in a significant subsistence use restriction, a determination must be made whether: (A) Such a significant restriction of subsistence uses is necessary, consistent with sound management principles for the utilization of the public lands, (B) the proposed activity will involve the minimal amount of public lands necessary to accomplish the purposes of such use, occupancy, or other disposition, and (C) reasonable steps will be taken to minimize adverse impacts upon subsistence uses and resources resulting from such actions. Each of these three points are discussed below.

Necessary, Consistent with Sound Management of Public Lands. The final rule has been examined to determine whether the potential for a significant restriction of subsistence uses is necessary, consistent with the sound management of NFS lands. The final rule is designed to provide a mix of resources and benefits to best meet the needs of the American people. Some of the resource uses necessary to achieve these benefits have the potential to adversely affect subsistence uses within the Tongass National Forest. In light of the Forest Service's multiple-use mandate and other requirements of law, the Forest Service has determined that these effects to subsistence uses are necessary and consistent with the sound management of NFS lands. (The Forest Service again notes that making this determination is not required for purposes of issuing this rule, but it is the Department's policy preference to make this determination, and the other

determinations explained below related to ANILCA Section 810, on a voluntary basis in light of the considerations noted above.)

Amount of Public Land Necessary to Accomplish the Purposes of the Proposed Action. The land area evaluated through this rulemaking is the Tongass National Forest and the IRAs therein. These lands constitute the amount of land necessary to assess operation of the 2001 Roadless Rule within the Tongass National Forest as requested by the State of Alaska's petition. This rulemaking considered applying various prohibitions and exceptions to different numbers of acres through the development and analysis of a range of alternatives. The final rule, however, removes the 2001 Roadless Rule's land classification system and associated prohibitions and exceptions, and allows management to return to operation under the Forest Plan. Accordingly, the final rule addresses the amount of NFS land necessary to accomplish the proposed action.

Reasonable Steps to Minimize Adverse Impacts to Subsistence Uses and Resources. The continuation of subsistence opportunities, and reasonable steps to minimize effects on subsistence resources, are provided by Tongass Forest Plan forest-wide standards and guidelines for subsistence, as well as related standards and guidelines for riparian areas, fish, and wildlife. Many important subsistence areas are assigned LUDs that exclude timber harvesting and road construction. Beach and estuary fringe forest-wide standards and guidelines generally apply to beach fringe and estuarine areas not under more restrictive designations. Adverse impacts to subsistence resources and uses are minimized through these measures. The potential site-specific effects on subsistence uses, and reasonable ways to minimize these effects, will be analyzed and considered during project-level design and decision-making.

The final rule does not authorize ground-disturbing activities, but instead offers greater flexibility in locating future development activities on the Tongass National Forest. It is not possible to substantially reduce timber harvest in some areas by concentrating it in other areas without affecting subsistence resources and uses important to other communities. Also, concentrating timber harvest outside more important subsistence areas while still meeting Tongass Forest Plan timber harvest goals could not be done without affecting the natural distribution of wildlife species or without potential significant effects to watersheds. These potential environmental effects will be comprehensively studied and disclosed through the future analysis of Tongass National Forest projects.

2001 Roadless Rule's Original Purpose

The USDA is mindful of the original stated purposes of the 2001 Roadless Rule in lifting the rule's restrictions for the Tongass National Forest. The stated purposes of the 2001 Roadless Rule included retention of the largest and most extensive tracts of undeveloped land for the roadless values, watershed protection, and ecosystem health; and fiscal considerations, mainly the cost of managing the road system to safety and environmental standards. Specific to the Tongass, the 2001 Roadless Rule's Record of Decision noted that social and economic considerations were key factors in analyzing alternatives, along with the unique and sensitive ecological character of the Tongass National Forest, the abundance of roadless areas where road construction and reconstruction are limited, and the high degree of ecological health. (66 FR 3254). The past 20 years of experience managing the Tongass National Forest, with and without the rule in operation, provides an important window for assessing whether the 2001 Roadless Rule's prohibitions should be maintained.

From 2001 to 2011, the Tongass National Forest was exempt from the 2001 Roadless Rule. During this time, about 4,300 acres of IRAs were entered for timber harvest and about 19 miles of roads were constructed in association of that timber harvest. Of that only 300 acres of timber harvest and 0.5 miles of road were authorized during the exemption period and the remaining timber harvest and road construction were authorized prior to the promulgation of the 2001 Roadless Rule. After the harvest units and roads are buffered in GIS, this accounts for about one percent of the substantially altered areas (roaded roadless areas) removed from roadless designation in Alternatives 2 through 5. The remaining 99 percent of the roaded roadless areas are from mapping errors and activities that occurred before 2001 (36%) or were allowed under the 2001 Roadless Rule (62%).

A significant percentage of the Tongass National Forest remains undeveloped, providing for large, extensive tracts of undeveloped land, but much of that is characterized as rock, ice, or muskeg. The final rule will make an additional 188,000 forested acres available for timber harvest with the majority characterized as old-growth timber. The young-growth transition strategy as described in the 2016 Tongass Forest Plan ROD outlines a glide path to decrease old-growth harvest annually on the Tongass until it reaches about 5 million board feet (MMBF) harvest per year, expected to occur in about 2032. After the young-growth transition is fully implemented, it is unlikely that a significant portion of the areas previously designated as IRAs would be considered for harvest because the focus for timber harvesting will shift to the previously roaded, young-growth areas.

Watershed protection was a prominent aspect in the decision to adopt the nationwide 2001 Roadless Rule. Looking at the Tongass National Forest today, watershed protection goals are well provided for even without the current roadless rule. Large tracts of undeveloped lands and watershed protections are provided by existing statutory and forest plan direction, including lands in designated Wildernesses and National Monuments. In addition, the TTRA (Pub. L. 101–626, Title II, Section 201) and the National Defense Authorization Act for Fiscal Year 2015 (Pub. L. 113–291, 128 Stat. 3729, Section 3720(f)) designated approximately 856,000 acres as LUD II areas, which are managed in a roadless state to retain their wildland character. Approximately 3.6 million acres in key watersheds (defined in the Forest Plan as Tongass 77 Watersheds and The Nature Conservancy/Audubon Conservation Areas) are managed for no old-growth timber harvest, thus minimizing adverse impacts to fisheries. Management direction of LUD II areas and key watersheds would remain unaffected with the final rule.

Ecosystem health was another important element of the 2001 rulemaking. Once again, the FEIS reveals only a moderate difference between implementation of the 2001 Roadless Rule and the final rule. A key indicator of ecosystem health for the Tongass National Forest is a functional and interconnected old-growth ecosystem. Under the final rule, long-term protection of productive old growth would continue to occur under the Forest Plan's old-growth habitat conservation strategy. Connectivity between old-growth reserves would continue to be maintained through Forest Plan direction for stream buffers, the beach and estuary fringe, and legacy forest structure. Under the final rule, the projected amount of old-growth harvest and percent of original productive old-growth remaining over the next 100 years would remain unchanged from

implementation of the 2001 Roadless Rule (Alternative 1—No Action).

Although it may seem counter-intuitive that eliminating the 2001 Roadless Rule's timber harvest restrictions across 9.3 million acres would not increase old-growth timber harvest, timber harvest levels are controlled to a far greater extent by other factors, primarily economic factors. Additionally, the Forest Plan's young-growth transition strategy will transition harvest locations away from roadless areas containing old growth and into areas where timber harvest has previously occurred, avoiding or reducing effects to roadless areas. The underlying economic considerations and the young-growth transition strategy are far greater influences than the 2001 Roadless Rule. This strategy will remain in place, with or without the 2001 Roadless Rule.

Limited road maintenance budgets were another factor cited in support of the 2001 Roadless Rule. The 2001 Roadless Rule cited fiscal concerns over building new roads in IRAs due to an $8.4 billion backlog of deferred maintenance across the NFS transportation system at that time. Recent deferred maintenance records were reviewed; a sound comparison could not be made with the deferred maintenance levels of 2001, due to substantial changes in defining and interpreting deferred maintenance. Since 2001, the inventory methods and roads considered to be part of deferred maintenance have changed multiple times (2002, 2005, 2007, 2012, and 2013). These changes make a direct comparison with 2001 deferred maintenance numbers impracticable.

The FEIS projects that about 1,043 miles of new road construction could occur over the next 100 years across the Tongass National Forest, mainly to support timber harvest operations, as compared with the approximately 994 miles of new roads projected forest-wide over the next 100 years under Alternative 1—No Action. The 994 miles of new road construction projected for Alternative 1 are outside of inventoried roadless areas. The final rule is not expected to materially increase the amount of timber harvested in the Tongass, as that is prescribed and managed by the Forest Plan. However, the final rule does impact the location from which the timber may be harvested, by allowing access to areas that were off limits under the 2001 Roadless Rule.

National Versus Local Decision-Making

For decades, the USDA has worked with states, tribes, local communities and collaborative groups toward land management solutions for roadless areas. Sometimes solutions have been found nationally. Sometimes a state-by-state approach has been the best option. Often, the solutions are found forest-by-forest or even area-by-area. In this instance, the national rule's one-size-fits-all approach to roadless area management is not the best approach for roadless area management on the Tongass National Forest. Other states, Idaho and Colorado, have sought and been granted the opportunity for roadless management to be tailored to their needs. Indeed, the USDA received at least thirteen individual state petitions seeking various state-specific solutions during the timeframe in which the 2001 Rule had been judicially invalidated. The State of Alaska's 2018 rulemaking petition implores the USDA to recognize that in contrast to the scarcity of undeveloped lands that occurs in many other states, undeveloped areas are plentiful in Alaska. Instead, the State of Alaska maintains that the circumstances of the Tongass National Forest appear to be best managed through the local planning processes. The Forest Service's 40 years of experience with forest planning under NFMA, which includes forest plans subject to periodic review and adjustment, routinely demonstrates the planning system's capacity to account for both local and national interests and provide durable and widely accepted solutions providing for the multiple use and sustained yield of the many goods and services provided by the NFS.

The final rule would leave the roadless area management issue open for future consideration in the forest planning process. The forest planning process is more flexible than the 2001 Roadless Rule's regulatory approach, because plans are expected to be designed and attuned to local circumstances and are intended to be periodically reviewed. The 2001 Rule's prescriptive approach forecloses a full balancing of interests during future forest planning processes. The final rule will allow local decision makers the flexibility to address roadless management based on changed local conditions, new unforeseen issues, and take into account state and local economic development plans. In addition, the final rule will provide local discretion during future forest planning efforts to explore roadless area management alternatives, unconstrained by the 2001 Roadless Rule, with local stakeholders, communities, and tribal governments.

In selecting the final rule among the several alternatives considered, the USDA has given substantial weight to the State of Alaska's policy preferences as expressed in its Petition. The State of Alaska's preference to emphasize rural economic development opportunities is consistent with the findings of the Interagency Task Force on Agriculture and Rural Prosperity established by Executive Order 13790 issued April 25, 2017.[1] The USDA recognizes that ensuring rural Americans can achieve a high quality of life is one of the foundations of prosperity.[2] The State of Alaska's views on how to balance economic development and environmental protection offer valuable insight when making management decisions concerning NFS lands within Alaska.

Southeast Alaska's rural communities have relied upon the Tongass for important natural resources and environmental opportunities supporting recreation, fishing, and the timber industries. In particular, the timber industry has historically played an important economic role in southeast Alaska's rural economy providing jobs in small and remote communities with high unemployment rates and limited employment opportunities. In these isolated communities, every job has impacts at household and community levels. Notably, the timber industry has faced sustained hardship during the past two decades, with rural communities suffering the socioeconomic consequences. The final rule will increase the number of acres available for timber harvest acres and improve overall flexibility in locating timber sales. In turn, this would provide additional opportunity for the struggling timber industry and support rural communities with limited employment opportunities without increasing the amount of overall timber harvested. USDA and the State of Alaska believe both roadless area conservation and other multiple-use values with important local socioeconomic consequences are meaningfully addressed through local and regional forest planning on the Tongass National Forest without 2001 Roadless Rule prohibitions on timber harvest and road construction/reconstruction.

The USDA recognizes that the majority of Alaska Native tribes and

[1] See *Report to the President of the United States from the Task Force on Agriculture and Rural Prosperity* (Oct. 21, 2017), *https://www.usda.gov/sites/default/files/documents/rural-prosperity-report.pdf).*

[2] See *id.* at 2, 21–25; see also *id.* at 26–29, 35–42 (calls to action for supporting a rural workforce and developing the rural economy).

local communities throughout southeast Alaska support keeping the 2001 Roadless Rule in place, as expressed in the multitude of resolutions and comment letters received during the 60-day comment period. USDA appreciates that not all local communities share the State of Alaska's views and has carefully considered the views and preferences provided by all the leaders and citizens that have participated through various public meetings and comment periods. The USDA urges those groups and individuals to regularly engage with the Tongass National Forest and Forest Service Alaska Region concerning forest planning efforts and project design. The lifting of the 2001 Roadless Rule on the Tongass National Forest in no way impedes citizen participation; rather, it affords interested parties the opportunity to work with the Forest Service to seek more efficient solutions that account for all interests.

Relationship of the Alaska Roadless Rule to the Forest Plan

The NFMA requires the Forest Service to develop, maintain and, as appropriate, revise land and resource management plans for units of the NFS. Land management plans provide a framework for integrated resource management and for guiding project and activity decision-making, but plans do not authorize projects or activities or commit the Forest Service to take action. A revised Tongass Forest Plan was issued in 1997 and amended in 2008 and 2016. Forest planning is a distinct and separate process from USDA's various roadless rulemakings.[3] Excluding the Tongass from the 2001 Roadless Rule's prohibitions returns management discretion to the Agency's standard planning process. The existing Forest Plan provides adequate direction and protection of roadless characteristics such that retention of the 2001 Roadless Rule is not required. Future plan revisions will assure roadless characteristics are periodically assessed and management direction can be adjusted if warranted (increased, decreased or blended differently) in order to account for the best multiple use management possible.

All forest plans must conform to existing laws and regulations as well as new laws and regulations. See 36 CFR 219.1(f) and 219.13(c). The USDA's previous roadless rules, national and state-specific, have directed that: (1) No amendment or revision of any forest plan was compelled by promulgation of such rules; (2) subsequent forest planning decisions could not revise the Secretary's regulatory instructions; and (3) line officers were to conform project decisions to the prohibitions and exceptions set forth in the applicable rules. The final rule continues this approach, with one exception necessitated by a single element of the 2016 Tongass Forest Plan Amendment.

The final rule directs the Tongass Forest Supervisor to issue a ministerial Notice of Administrative Change pursuant to 36 CFR 219.13(c) identifying plan changes made in conformance with the regulatory determinations of this subpart; specifically the rescission of the portion of the December 9, 2016, ROD concerning suitable timber lands attributed exclusively to implementation of the January 12, 2001, Roadless Area Conservation Rule (66 FR 3244). This administrative change is appropriate because the Region took the step in 2016 of amending the Tongass Forest Plan to directly implement the 2001 Roadless Rule's timber harvesting prohibitions despite the 2001 Roadless Rule's express admonition that it did not compel the amendment or revision of any land and resource management plan. See 2016 Tongass Forest Plan, Appendix A, page A–3, Appendix I, page I–177 (indicating all IRA were removed from the suitable land base during Stage 1 of the suitability analysis due to the 2001 Roadless Rule) and 36 CFR 294.14(b) (directing that the 2001 Rule does not compel the amendment or revision of any land and resource management plan). The 2016 Forest Plan sought to directly implement the 2001 Roadless Rule prohibitions via the timber suitability analysis. Today's decision to rescind the 2001 rule's prohibition as to the Tongass National Forest makes the 2016 Amendment's effort to implement the 2001 rule's prohibitions obsolete. Because allowing the inconsistent portion of the 2016 suitability designations to stand would effectively nullify the Department's regulatory choice to remove the 2001 timber harvest prohibitions, the final regulation gives an express regulatory instruction to conform the plan to the new regulatory regime. As explained in greater detail below, there is no requirement or credible justification that warrants undertaking additional planning efforts above and beyond the administrative change directed by this rulemaking. The administrative change simply provides conformance of the Forest Plan with the final rule in regard to lands suitable for timber production and does not change the level of timber harvest, how timber is harvested on the Tongass, or any other aspects of the Forest Plan.

As previously noted, forest planning is a distinct and separate process from USDA's various roadless rulemakings. The referenced 2001 Roadless Rule's scope and applicability language was designed to avoid conflicts between itself and forest plans, as well as avoiding unnecessary or duplicative administrative processes for the operation of the 2001 Roadless Rule. Just as it was unnecessary to immediately install the 2001 Roadless Rule's higher order prohibitions through individual plan amendments, it is unnecessary here to duplicate these rulemaking efforts through a separate plan amendment. Fortunately, the 2012 NFMA planning regulations (36 CFR 219.13(c)) make provision for instances where overriding statutes or regulations change. The planning regulations direct that plans may be adjusted via notice of administrative change without resorting to the standard plan amendment process. The USDA is empowered to prescribe such regulations as it determines necessary and desirable to carry out the planning process (16 U.S.C. 1613) as well as to redeem and reconcile its regulations governing overall multiple use management responsibilities, including roadless matters.

To promote clarity, transition language has been added to the final rule. The language is similar as was set out for the other action alternatives in the DEIS. The operational result will be that 188,000 acres will be returned to the suitable timber base via the administrative change provision of the planning regulations (36 CFR 219.13(c)). The revised transition language assures that all other aspects of the Tongass Forest Plan remain operational under the rule including the goals, objectives, management prescriptions, standards, guidelines, projected timber sale quantity, projected wood sale quantity, and the young-growth transition strategy. This includes direction for non-timber resources including riparian management standards and guidelines, which provide protection for fisheries with subsistence and commercial importance. Any timber harvest, including any timber harvesting in areas formerly designated as IRAs, would be compelled to adhere to these resource standards and guidelines including fish habitat, water quality, air, recreation, and other resources. Consistency with Forest Plan direction continues under all alternatives.

[3] See *Kootenai Tribe of Idaho* v. *Veneman,* 313 F. 3d 1094, 1117 n.20 (9th Cir. 2002), *abrogated on other grounds by Wilderness Society* v. *USFS,* 630 F.3d 1173 (9th Cir. 2011); and *Wyoming* v. *USDA,* 661 F.3d 1209, 1269–72 (10th Cir. 2011).

Although the Forest Service has broad discretion to amend or revise forest plans management direction, any change would need to be consistent with applicable law, regulation, and policies. Any future forest plan amendments or revisions would include a public involvement process pursuant to the Agency's planning regulations and NEPA.

Public Comment Process

The Forest Service published an NOI to prepare an EIS for the Alaska Roadless Rule in the **Federal Register** (83 FR 44252) on August 30, 2018. The NOI initiated a 45-day scoping period which ended on October 15, 2018. During this time period, the Forest Service conducted 17 public meetings including meetings in Anchorage, AK; Washington, DC; and communities throughout southeast AK: Angoon, Craig, Gustavus, Hoonah, Kake, Ketchikan, Petersburg, Point Baker, Sitka, Tenakee Springs, Thorne Bay, Wrangell, Yakutat, and two meetings in Juneau. During the scoping period, just over 144,000 comment letters or emails were received.

On October 17, 2019, the Department published a notice of proposed rulemaking in the **Federal Register** (84 FR 55522) and on October 18, 2019, an NOA for the DEIS was published (84 FR 55952). On October 25, 2019 an amended NOA was published (84 FR 57417) which amended the comment closing date of the 60-day comment period to December 17, 2019. During the 60-day comment period, the Forest Service conducted 21 public meetings including Anchorage, Alaska; Washington, DC; and southeast Alaska communities: Angoon, Craig, Gustavus, Haines, Hoonah, Hydaburg, Juneau, Kake, Kasaan, Ketchikan, Pelican, Petersburg, Point Baker, Sitka, Skagway, Tenakee Springs, Thorne Bay, Wrangell, and Yakutat. Approximately 267,000 comment letters or emails were received during the 60-day comment period, including 11 petitions containing about 117,000 signatures.

Cooperating Agencies

On July 30, 2018, the Forest Service invited 32 Alaska federally recognized tribes to participate as cooperating agencies during the rulemaking process. Originally six tribes agreed to become cooperating agencies including Angoon Community Association, Central Council Tlingit and Haida Indian Tribes of Alaska, Hoonah Indian Association, Hydaburg Cooperative Association, Organized Village of Kake, and Organized Village of Kasaan. After the publication of the proposed rule (October 17, 2019), the Organized Village of Kake withdrew as a cooperating agency. After the publication of the FEIS (September 25, 2020), the remaining tribal cooperating agencies, Angoon Community Association, Central Council Tlingit and Haida Indian Tribes of Alaska, Hoonah Indian Association, Hydaburg Cooperative Association, and Organized Village of Kasaan withdrew as cooperating agencies.

The State of Alaska agreed to become a cooperating agency on August 2, 2018. Cooperating agencies participated throughout the rulemaking, providing their knowledge and expertise to design alternatives, analyze alternatives, and refine the analysis set out in the DEIS and FEIS.

The Forest Service made several trips to several of the villages to work individually with tribal cooperators, provide technical expertise, and collect input. All tribal cooperators opposed the proposed rule (Alternative 6), however, were supportive of additional local control, increased opportunity for local forest product businesses, and limited increased access for a variety of local needs.

Based on input from tribal cooperating agencies, USDA considered the use of the Alaska Native tribes' traditional use areas for the community use analysis boundaries in the development of the DEIS. USDA did not utilize the traditional use areas for the impact analysis because they are considerably larger than the community use areas. The use of larger analysis areas diffuses the impacts and the Agency wanted the impacts to be focused by community. The Agency added an appendix displaying the traditional use areas to recognize the importance of the traditional use areas to the Alaska Native tribes.

The Agency revisited the analysis boundary issue between the DEIS and FEIS, and solicited subsistence use data by community from the State of Alaska. Alaska Department of Fish and Game provided updated survey information from six communities regarding areas of subsistence gathering. Data indicate southeast Alaskans are traveling further for subsistence gathering, meaning the community use areas are larger. Again, the larger area would diffuse the impacts. The agency determined this would not be an improvement to the impact analysis and would make it more difficult for readers to determine the impacts.

The USDA appreciates and recognizes the contributions of the five Alaska Native tribes who withdrew as cooperating agencies on October 13, 2020. The USDA understands that the final rule is not the outcome the tribal cooperating agencies had hoped for, and the Department recognizes the concerns they expressed. The Department and Forest Service greatly value each tribal cooperating agency. The participation and advice of tribal cooperating agencies improved the analyses and alternatives. The Department's hope is that removal of the 2001 Roadless Rule's blanket prohibitions will create space for more creative solutions that are sensitive to the diverse interests of Alaskan Native Tribal communities. As the tribal cooperating agencies' withdrawal letter eloquently suggests, the Department too desires to invest in solutions that will tend the land and serve the people.

Comments on the Proposed Rule

Approximately 267,000 comments were received on the proposed rule and DEIS, including 11 petitions containing about 117,000 signatures, during the 60-day comment period. A large majority of written comments and oral subsistence testimony supported retaining the 2001 Roadless Rule on the Tongass National Forest. Notably, a significant proportion of the 267,000 comments letters were from outside Alaska. A significant proportion of southeast Alaska municipal and tribal governments submitted resolutions supporting the 2001 Roadless Rule's application on the Tongass National Forest. However, many of the State's elected officials, including the Governor, the federal delegation, and some municipal governments support changing the 2001 Roadless Rule. The USDA considered all substantive comments as part of the rulemaking, including testimony given at the subsistence hearings. The following is a summary of the comments received relating the final rule and the agency response. A full detailed response to comments is contained in Appendix H of the FEIS.

§ 294.50 Tongass National Forest. No substantive comments were received in regard to the rule language for this section. Therefore, no changes were made to this section.

§ 294.51 Chugach National Forest. Comments were received expressing concerns regarding the proposed administrative correction and boundary modification provisions for the Chugach National Forest. Commenters and cooperating agencies were concerned that the proposed provisions were too broad and could be used by the Forest Service to open significant portions of the Chugach to additional logging.

Based on the experience of implementing the 2001 Roadless Rule,

boundary modifications are sometimes needed to account for errors, better mapping technology, land exchanges, etc. Thus, the two state-specific roadless rules, Idaho and Colorado, have administrative correction and modification provisions (36 CFR 294.27 for Idaho and 36 CFR 294.47 for Colorado) that operate differently than the 2001 Roadless Rule. The intent of the administrative correction and modification provisions for Alternatives 2 through 5 was to align processes and install a single system for the two National Forests of Alaska. However, some members of the public expressed alarm that the provision could be used to entirely undo roadless protections on the Chugach National Forest. This was never USDA's intent. While alignment of administrative procedures between all state-specific roadless rules might have offered some administrative efficiencies for managing roadless boundaries nation-wide, the final rule gains some administrative efficiencies by fully removing roadless rule provisions for the Tongass National Forest.

Section 294.51 has since been retitled as ''Transition,'' and now includes the instruction to the Tongass Forest supervisor to issue an administrative change in regard to the lands suitable for timber production. This provision was inadvertently not included in the Alternative 6 rule language but was included in Alternatives 2 through 5 rule language and noted in the DEIS as applying to the final rule.

Comments regarding perceived impropriety associated with the State's petition. Commenters expressed concern that the State developed the petition and the Secretary accepted the petition without public involvement, and that the petition was motivated by politics and outdated timber economics.

The APA and USDA's implementing regulation (7 CFR 1.28) allows any interested person to petition the Secretary to change a regulation. There is no prescribed process for developing or responding to a petition other than that it must be given prompt consideration and the petitioner will be notified promptly of the disposition made of their petition. The Secretary has no control over the underlying motivations or data offered in support of a petition. However, once a petition is accepted, a rulemaking in response to a petition will be conducted in compliance with applicable law and regulations. The USDA has conducted this rulemaking in compliance with all applicable law and carefully considered the information provided by all those who participated in the various public meetings and comment periods. The Department has drawn its own conclusions based on the information provided by all parties and its own analysis.

Comments on sufficiency of public outreach and involvement. Commenters raised concerns regarding whether the length of comment periods and the quantity and locations of public meetings were sufficient.

The Forest Service conducted two cycles of public comment: the first was a 45-day scoping period from August 30, 2018, to October 15, 2018, in which about 144,000 comment letters were received; and the second was a 60-day comment period on the proposed rule and DEIS from October 18, 2019, to December 17, 2019, which resulted in about 267,000 comment letters. During the scoping period 17 public meetings were held and during the comment period 21 public meetings were held throughout southeast AK, Anchorage, AK, and Washington, DC. The USDA recognizes that many would have desired long scoping and comment periods. The length of the scoping and comment periods are standard for both the rulemaking and EIS processes. The robust meeting attendance and the 411,000 total comments received indicates the timing and length were clearly adequate for many.

Comments on consideration of public input. Commenters were concerned that input from the public was ignored because a large majority of comments supported retaining the 2001 Roadless Rule and opposed the full exemption, which was identified as the proposed rule and preferred alternative.

The USDA values the comments received, and the concerns expressed during the rulemaking process. The USDA considered public comments received, the range of alternatives examined in the DEIS and FEIS, and input from cooperating agencies and elected officials. Public comments were utilized to craft the range of alternatives examined in the DEIS and FEIS, modify the alternatives between DEIS and FEIS, and modify analyses. The NEPA and rulemaking public comment process are not vote-counting processes. Every comment has value, whether expressed by one individual or thousands. The public comment process considers the substance of each individual comment rather than the number received. No interest group's views or comments are given preferential treatment or consideration, and comments are considered without regard to their origin, commenter's affiliation, or number received. Based on the comments received, the Secretary reconsidered all alternatives and has opted for alternative 6, the full exemption alternative.

Comments on tribal government-to-government consultation. Commenters expressed concern that tribal consultation was inadequate.

In 2018, the Forest Service sent letters to the 32 federally recognized tribes and 27 Alaska Native corporations in southeast and southcentral Alaska to invite government-to-government and government-to-corporation consultation. The in-region consultation invitation was continuous throughout the rulemaking process.

The Alaska Region and the Tongass National Forest have an ongoing government-to-government relationship with all federally recognized tribes in southeast Alaska. The agency will continue to meet its responsibility to consult with federally recognized tribes and Alaska Native corporations through government-to-government and government-to-corporation consultation on all topics. In addition to district rangers, Regional Office staff also met with tribes, tribal cooperators, and other interested parties to answer questions and provide information as requested when feasible. Forest and Regional Office staff provided briefings, information meetings, supported formal consultations, and formal public hearings in or within the vicinity of communities throughout southeast Alaska. Most tribal governments took advantage of these opportunities. To date, twelve government-to-government consultations have occurred in association with this rulemaking effort.

Comments on the State's Citizen Advisory Committee. Commenters expressed concerns regarding the composition and role of the committee in the rulemaking process, whether the committee had undue influence, and whether their involvement violated the Federal Advisory Committee Act (FACA).

The committee was established by the State of Alaska under an Administrative Order issued by Governor Walker in September 2018. The committee was charged with providing recommendations to assist the State of Alaska in fulfilling its role as a cooperating agency. The thirteen committee members were selected by Governor Walker, and the USDA and Forest Service had no part in the selection. The Forest Service provided an individual to participate on the committee as a non-voting member to provide procedural and technical information to the committee.

The committee does not meet the definition of an advisory committee as

defined by the FACA implementing regulations at 41 CFR 102–3.25. The committee was established under state law by the Governor of Alaska. The committee reported directly to the Governor who submitted the committee's report to the USDA as part of the State's participation as a cooperating agency. Intergovernmental coordination with the Governor or his appointees is not subject to FACA. In any event, the USDA and Forest Service did not manage or control the committee's operation and did not utilize its work within the meaning of FACA. USDA's involvement with the committee was limited to non-voting participation, providing technical assistance. The committee did not have undue influence over the rulemaking process.

Comments on support to the State of Alaska. Commenters expressed concern that granting funds to the State of Alaska to support the State's involvement in the Alaska roadless rulemaking process was a misuse of congressional appropriations.

The agency provided the State of Alaska's Forestry Division with $2 million from the fiscal year 2018 Consolidated Program Grant (CPG), Modification 2, utilizing the State Fire Assistance budget line item as the source code. The modification discussed the specific use of the funding, which could be used for: convening and facilitating a group with a diverse mix of state-specific interests to inform the State's input as a cooperating agency, public meetings, cooperating agency support, economic analysis and planning, and to coordinate the proposed state rule with existing land management planning efforts in progress within the State of Alaska. A subsequent modification has been executed utilizing $1.3 million of the funding to undertake wildland fire risk reduction projects in several Alaska communities, primarily construction of fuel breaks and maintenance of established fuel breaks. USDA Office of the Inspector General has been asked to investigate this matter and the agency is cooperating with the investigation.

Comments on the need to change from the 2001 Roadless Rule. Commenters highlight that the DEIS projects minimal benefit for the forest products industry and thus contend that the analysis does not support the conclusion that eliminating the roadless rule will support rural economic development. In addition, commenters questioned any need for change and rationale in the Notice of Proposed Rulemaking to support a change.

USDA's approach to rural economic development is a long-term multi-faceted strategy outlined in the *Report to the President of the United States from the Task Force on Agriculture and Rural Prosperity* (October 21, 2017), which includes regulatory reform, increasing the production of natural resources, modernizing rural utilities, and improving transportation infrastructure. The final rule reduces the regulatory barrier to achieving these aspects of USDA's strategy for rural economic development. Although there is only a minimal benefit from the final rule to the forest products industry at this time, small incremental change can help achieve rural prosperity over the long-term. The final rule is a step in the right direction for rural prosperity.

Comments on a local approach for roadless management. Commenters questioned the proposed rule's assertion that the Tongass should be managed locally suggesting it ignores the Forest Service's 2001 conclusion that national rulemaking was needed to protect roadless areas.

As noted above, the unique circumstances of the Tongass National Forest have been recognized and assessed since the 2001 rulemaking. Then, as now, inclusion of the Tongass National Forest under the national rule was not mandatory but represented a policy choice, as did the national rule itself. In 2001 the Department eventually opted for inclusion of the Tongass National Forest. In 2008 and 2012, two other states requested and were granted the opportunity to discontinue operation under the national rule. Today, the USDA concludes that the interests furthered by the national rule are not improperly undone by exempting a single forest that is now, and will remain for the foreseeable future, substantially undeveloped and roadless. The estimate of 49 miles of additional road construction (from 994 to 1,043) spread across 9 million acres of land, over the next 100 years, will not undo the national rule's underlying goal of protecting roadless area characteristics within the NFS, and moreover are well within the USDA's discretion to further in light of the mix of mandates and policy discretion embodied in the relevant governing statutory provisions.

Comments on the administrative change procedure. Commenters were concerned with the administrative change instruction for the lands suitable for timber production in the Forest Plan, alleging it is inconsistent with the National Forest System Land Management Planning regulations at 36 CFR part 219 (2012 Planning Rule) and would require an amendment. In addition, commenters were concerned that the agency did not include this aspect of the rule during scoping.

The administrative change provision at 36 CFR 219.13(c) clearly states that an administrative change includes changes to conform to new regulatory requirements. Although the provision was not expressly included in the proposed action during scoping, it was highlighted in the DEIS and conforms to the requirements of the NEPA implementing regulations.

Comments on subsistence mitigation. Commenters allege that the Forest Service violated ANILCA and NEPA by refusing to consider updating the roadless inventory to include lands important to the Organized Village of Kake, mitigation measures proposed by Kake, and allowing a greater management role for Kake in their traditional territory.

The roadless inventories were updated and additional areas were included in Alternatives 2 and 3 as designated Alaska Roadless Areas. All unroaded areas were reviewed and some areas identified in the 2003 and 2008 roadless analyses associated with Tongass forest planning efforts were included. In addition, small islands previously excluded from roadless designation were included if not substantially altered.

Mitigation measures such as identifying specific road segments, selling carbon credits, and workforce development are outside the scope of the Alaska roadless rulemaking, which is programmatic and does not evaluate projects or partnerships.

Co-management of the Tongass National Forest with tribal partners was considered as an alternative but eliminated from detailed analysis as it does not comport with existing legal authorities.

Comments on the site-specificity and qualitative nature of the impact analyses. The analyses in the FEIS are a generalized review which the Council on Environmental Quality recognizes as appropriate for any broad or high-level NEPA review of proposed policies, plans, programs, or projects. It is reasonable and efficient to limit detailed site-specific impact analyses to when specific proposals are brought before the agency. Locations of potential timber harvest and road construction are not known at this time. While locations of other developments, such as a regional energy or transportation project, may be more predictable based on published information, it is not known if, when, or specifically where they would occur. When specific timber harvest or other

projects are proposed, site-specific NEPA analysis and required pubic involvement would be conducted at that time. No on-the-ground actions are authorized by the final rule.

Comments on the adequacy of the impact analyses. Commenters variously questioned the adequacy of the impact analyses, disagreed with the conclusions made, and contended that the effects are understated. Commenters noted the obvious impacts of past timber harvesting and road construction as evidence the impacts were understated. In addition, commenters noted that the basis of the 2001 Roadless Rule was the recognition that timber harvesting and road construction were impactful to roadless area values and characteristics.

USDA does not dispute that timber harvesting and road construction impact roadless area values and characteristics. However, the impact analyses in the Rulemaking for Alaska Roadless Areas DEIS and FEIS do not analyze the effects of harvesting timber and constructing roads in a specific roadless area. Rather, the DEIS and FEIS analyze the difference in effects under the 2001 Roadless Rule, the current Tongass Forest Plan, and the other action alternatives. The baseline for comparison of alternatives is not a pristine wilderness. Rather it is the continuation or adjustment of current management. Under the 2001 Roadless Rule and Tongass Forest Plan, the Forest Service projects the harvest of about 46 MMBF of timber per year across 227,000 available acres of old-growth and 334,000 available acres of young-growth lands with about 994 miles of new road construction across the 100-year analysis period. Under the final rule (Alternative 6) the agency projects the harvest of about 46 MMBF of timber per year across 395,000 available acres of old-growth and 354,000 available acres of young-growth lands with about 1,043 miles of new road construction across the 100-year analysis period.

In addition, the impact analyses considered the continuation of the young-growth transition strategy in all alternatives analyzed, including the no-action alternative and the final rule alternative. The young-growth transition strategy defines a 16-year period starting in 2016 in which the old-growth contribution to the projected timber sale quantity decreases over time as young-growth matures and becomes more economical to harvest. At year 16, the old-growth contribution to the projected timber sale quantity would stabilize at 5 MMBF per year. The young-growth transition strategy has a large beneficial environmental effect on roadless areas because it shifts the focus of the Tongass timber sale program to young-growth areas which are largely already roaded. In addition, the smaller contribution of old-growth to the projected timber sale quantity makes roadless areas less economical because there are fewer acres of old-growth to off-set the high cost of road construction in the Tongass National Forest. Old-growth is generally more profitable than young-growth to harvest due to higher volume per acre and the higher value of the larger trees. The impact analyses in the FEIS is reflective of the small change between the baseline and the action alternatives, and the impact of the young-growth transition strategy.

Comments on cost-benefit analysis. Commenters expressed concern about the cost-benefit analysis using changes in suitable old-growth and young-growth acres as an indicator for potential displacement of recreationists interested in primitive recreation experiences. Primitive recreation is a class of recreation utilized to describe and manage recreation opportunities. Primitive recreation opportunities occur more than 3 miles from a road or motorized trail; in areas generally greater than 5,000 acres; where social setting provide for less than 6 party encounters on a trail; and are non-motorized, typically include hiking, horse packing, fishing, hunting, and camping. There was concern about the methodology used to measure adverse visitor impacts. Commenters sought consideration of scenic values in the cost-benefit analysis. Commenters also sought a cost-benefit economic analysis that uses best available science to assess socioeconomic impacts of each alternative as well as analysis of the socioeconomic value and impact on fisheries, ecotourism, special use permits, recreation, game populations, and subsistence resources. Other commenters expressed concern about the inclusion of harvesting costs (felling, yarding, and loading) and recreation expenditures, as a distributional impact, in the cost-benefit analysis.

In response to public comment, the analysis of recreation visitation related displacement and associated expenditures, in the Regulatory Impact Analysis (RIA), has been updated based on new information received during proposed and final rule preparation. Scenic values, game species, and subsistence are discussed qualitatively in the RIA and examined in more detail in the EIS. A cost-benefit analysis has also been included in the RIA with new data and information received during proposed and final rule preparation. This analysis includes benefits from a more efficiently managed timber sale program alongside agency costs, forgone conservation value, and costs of potentially displaced recreationists. The revised RIA includes discussion and analysis of costs from felling, yarding, and loading timber and acknowledges their limited scope alongside other costs to the timber industry and costs to the agency from road maintenance. In addition, detail has been added to the RIA, noting that road cost changes before and after 2011 were twice as high during the exemption, and the relevance of these costs alongside haul cost savings. Potential recreation related revenue losses can be considered distributional if there are substitute opportunities in southeast Alaska or on the Tongass National Forest. However, in some cases visitors may choose to not come to southeast Alaska due to impacts from harvesting and road construction; thus, these estimates are appropriate for inclusion in the costs and benefits analysis.

Comments on ecosystem services. Commenters sought an effects analysis disclosing how the rule will directly and indirectly impact ecosystem services in the region, including economic cost and benefits related to impacts on ecosystem services. There was concern that exemption from the rule could lead to removal of trees and damage to ecosystems which can adversely impact ecosystem services.

In response to the comments received, additional qualitative information and discussion related to biological and physical ecosystem services values has been added to the RIA between proposed and final rule preparation. In addition, the cost-benefit analysis includes quantitative estimates of forgone conservation value, from peer reviewed research designed to facilitate the consideration of ecosystem services in land management. Cost of forgone conservation value are applied to the net-change in suitable old-growth acres across the alternatives. While only a portion of suitable acres will be harvested, the analysis includes an upper estimate of value associated with all suitable old-growth acres and a lower estimate assuming all suitable old-growth acres would be harvested over 100 years. This range of estimates accounts for uncertainty application of value associated with conservation demand.

Comments on road costs. Commenters sought cost data for road building and maintenance (per mile) in the areas considered for exemption from the rule.

The RIA for the final rule includes new information on road costs. Road construction and decommissioning

costs are not considered since it is unlikely that they would be paid by the agency given the influence of the limited export policy. In 2007, the Forest Service approved a limited export policy, and this boost to appraised values has made rare the construction of roads by the agency in advance of timber sales. Road maintenance costs are considered quantitatively in the cost-benefit analysis of the final rule and regulatory alternatives.

Comments on agency costs. Commenters were concerned that the reduction in expenses from exempting the Tongass from the 2001 Roadless Rule were not quantified. In addition, commenters disagreed with the assertion that the rule would not increase agency costs because it would not increase timber harvest levels and sought a more comprehensive estimate of anticipated agency costs and losses from below-cost timber sales. In addition, commenters asserted that analysis should include an overall assessment of the Tongass timber program costs including road costs. In addition, commenters noted the agency costs section should also include the estimated cost for conducting this rulemaking.

Details on agency costs from road maintenance have been added to the RIA for the final rule in the RIA section called ''Agency Costs including Control of Regulatory Costs''. Detailed analysis of reductions in environmental compliance cost are not possible. This final rule and the regulatory alternatives are programmatic, meaning that they establish direction for broad land areas, rather than schedule specific activities in specific locations. None of the alternatives authorize any site-specific projects or other ground-disturbing activities and, therefore, it is not possible to estimate future activities and subsequent marginal changes in environmental activities. However, potential incremental reductions in compliance costs are noted in the RIA for the final rule. The cost of rulemaking is the cost of managing NFS lands as a part of normal agency operation and exists as part of the baseline 2001 roadless rule so there are not incremental costs.

Comments on recreation and tourism. Some commenters suggested that the recreation-related assessment provided in the RIA understated potential impacts to the visitor industry because it considers only changes in suitable timber acres and does not address indirect effects to adjacent areas, whereas, timber harvest and road construction have the potential to affect much larger areas than the area that is logged. In addition, commenters expressed concern that the Forest Service did not analyze the corresponding effects on rural communities from the displacement of outfitters, guides, and tour operators.

The analysis of recreation in the RIA for the final rule is not a site-specific review; rather, it uses available information to illustrate broad patterns of use and differentiate between the regulatory alternatives. It assumes all visitation, and half of visitation, is displaced under the highest level of timber suitability designation, under the final rule, to provide an upper- and lower estimate of displacement, for a broad orders of magnitude comparison with other costs and benefits. Assuming all visitation is displaced considers not just effects on visitation occurring physically on lands suitable for timber production but also effects on visitation in other areas. The revised analysis also includes assessing the economic importance of nature-based tourism in southeast Alaska, as measured by business revenue, from data collected by the University of Alaska, Anchorage.

Comments on the DEIS climate and carbon analysis. Commenters were concerned that the DEIS analysis did not utilize the best available science and the qualitative nature of the analysis is not sufficient.

The climate and carbon analysis in the DEIS and FEIS is based on the best available science on carbon stocks and fluxes, and is consistent with the latest literature including the Pacific Northwest Research Station's Science Findings that became available after publication of the DEIS (*Forestry as a Natural Climate Solution: The Positive Outcomes of Negative Carbon Emissions,* March 2020). The DEIS and FEIS analysis utilized Forest Inventory and Analysis data sets specific to the Tongass National Forest to assess forest carbon stocks and disturbance trends over a recent 20-year period. The influence of potential future climate on the Forest was detailed using recent global circulation model projections and relevant scientific literature detailing climate impacts.

The foreseeable impacts of the final rule on carbon emissions and forest carbon stocks are extremely small because the level of timber harvesting is expected to be the same between implementation of the 2001 Roadless Rule and a full exemption. Therefore, a qualitative approach is appropriate and sufficient.

Comments on the DEIS timber analysis—level of harvest. Commenters were concerned that the timber analysis assumed no increased level of timber harvest.

The level of harvest used in the DEIS and FEIS timber analysis is based on the Forest Plan projected timber sale quantity of 46 MMBF feet per year. This is a reasonable, conservative assumption for the analysis because it is based on estimates of long-term market demands. The Tongass National Forest actual volume sold was approximately 30.9 MMBF in fiscal year 2017, 9.3 MMBF in fiscal year 2018, and 5.6 MMBF in fiscal year 2019. Thus, 46 MMBF remains a reasonable estimate to utilize for effects analyses based on volume sold since 2016, when the forest plan was most recently amended, and more importantly it remains the agency's best estimate despite a few years of lower harvest levels.

The USDA recognizes the projected timber sale quantity is not a cap, like the allowable sale quantity from the 1982 Planning Rule. It is only an estimate, and at this time it is the agency's best estimate.

The agency has no reason to believe harvest levels will increase from the 2016 Forest Plan annual projected timber sale quantity based on implementation of the final rule. Although, the final rule will increase the acres of old-growth available for harvest by about 168,000 acres, this opportunity is likely to be constrained by the implementation of the young-growth transition strategy and the economics of timber harvesting in general. As previously mentioned, after 2032 the transition old-growth timber harvest will be limited to 5 MMBF per year, at which point entry into roadless areas will become less attractive because there will be fewer high-volume acres to off-set the cost of new road construction. As the young-growth matures and becomes a greater proportion of the annual harvest, the Tongass timber sale program will become more focused on previously roaded areas, where the majority of the young-growth stands exist. In addition, between 2003 and 2011 when the Tongass National Forest was exempted from the 2001 Roadless Rule, only about 300 acres of timber were harvested within IRAs. This indicates that there will likely not be a rush to harvest old growth within roadless areas under the final rule.

Comments on the DEIS timber analysis—distribution of harvest. Commenters were concerned that the DEIS timber analysis assumed old-growth and young-growth harvest would be evenly disturbed across suitable acres. Commenters were concerned this made it difficult to fully

understand the impacts of the alternatives to a community.

Based on these concerns, the timber analysis was refined to estimate where old growth is most likely to be harvested within the suitable acreage over the next 100 years. Estimates considered timber sale economics, old-growth volume, and timber sale history on the Tongass National Forest. The result of the analysis is a shift of expected timber harvest from the northern ranger districts to the southern ranger districts. The biggest declines in the north are in the Sitka and Hoonah ranger districts, and the largest increases are in the Thorne Bay and Petersburg ranger districts.

Comments regarding environmental justice. Commenters expressed concerns that tribal members rely on roadless areas for food security, cultural practices, and their traditional way of life and that the final rule would disproportionately impact them, which would be a violation of environmental justice principles.

The final rule is programmatic and, as such, does not schedule specific activities in specific locations. The final rule will increase the acres available for timber harvest, but harvest levels are expected to remain the same as they would under the 2001 Roadless Rule. The amount of new or reconstructed road miles is expected to be similar as the 2001 Roadless Rule. This makes it challenging to evaluate the effects of the final rule on communities or populations. However, the Civil Rights Impact Analysis (Departmental Regulation 4300–004) recognizes that although the rule itself does not have a disproportionate effect on any specific population, specific activities associated with implementation of the Forest Plan within roadless areas can have environmental justice implications. An opportunity for review for environmental justice concerns will be available if and when activities are proposed, and specific locations and extent are defined.

Regulatory Certifications

Regulatory Planning and Review

The OMB determined this rulemaking to be a significant regulatory action as it may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. The agency has prepared a regulatory requirements analysis of impacts and discussion of benefits and costs of the final rule.

The final rule exempting the Tongass National Forest from the 2001 Roadless Rule will provide additional opportunities for timber harvest and road construction to occur; however, it does not materially affect the total quantity of timber expected to be harvested or miles of new roads constructed. As to timber harvest activities, the final rule would increase the flexibility for land managers to locate and design timber sales. Improved flexibility could, in turn, improve the Forest Service's ability to offer economic sales that meet timber industry needs and contribute to rural economies. While many factors can influence the cost of timber harvest, areas along existing roads or those using marine access facilities are typically more economically efficient, followed by areas where existing roads can be easily extended. The most expensive harvesting costs are associated with areas without existing road or marine access facilities.

Cost savings from improved flexibility for timber harvest activities would accrue alongside other benefits, including reduced costs for leasable mineral availability and increased potential for development of renewable energy and transportation projects. While many of these activities were allowed under the 2001 Roadless Rule, industry advocates believe that the 2001 Roadless Rule discouraged private sector investment in projects within roadless areas. Although it is difficult to estimate the extent of investments that did not occur due to fear of regulatory burden, the perception of this does affect the level of investment, and the final rule will eliminate that concern.

Stumpage value benefits are quantified alongside agency road maintenance costs, cost of forgone conservation value, estimated lost revenue to outfitters and guides from visitors potentially displaced by annual harvest of suitable young- and old-growth, and forgone value of access to recreationists not using outfitter and guides. Dollars spent by visitors are not necessarily lost but subject to displacement-related changes. Some businesses may lose revenue if visitors choose not to travel to southeast Alaska, but others may see increases in revenue if visitors choose to stay longer or travel to substitute sites within southeast Alaska. Discounted upper bound estimates of net present value are positive for the final rule and regulatory alternatives.

Regulatory Flexibility Act and Consideration of Small Entities

The USDA certifies that the final rule does not have a significant economic impact on a substantial number of small entities as determined in the Regulatory Flexibility Analysis because the final rule does not directly subject small entities to regulatory requirements. Therefore, notification to the Small Business Administration's Chief Council for Advocacy is not required pursuant to Executive Order 13272. A number of small and large entities may experience time or money savings as a result of flexibility provided by the final rule, or otherwise benefit from activities on NFS lands under the final rule.

Paperwork Reduction Act

This final rule does not require any additional record keeping, reporting requirements, or other information collection requirements as defined in 5 CFR part 1320 that are not already approved for use and, therefore, imposes no additional paperwork on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

Regulatory Risk Assessment

A risk assessment is only required under 7 U.S.C. 2204e for a ''major'' rule, the primary purpose of which is to regulate issues of human health, human safety, or the environment. The statute (Pub. L. 103–354, Title III, Section 304) defines ''major'' as any regulation the Secretary of Agriculture estimates is likely to have an impact on the U.S. economy of $100 million or more as measured in 1994 dollars. Economic effects of the final rule are estimated to be less than $100 million per year.

Reducing Regulation and Controlling Regulatory Costs

Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs, issued January 30, 2017, requires that significant new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.

The final rule has been reviewed in accordance with Executive Order 13771 on reducing regulation and controlling regulatory costs and is considered an Executive Order 13771 deregulatory action.

Federalism

The USDA has considered the final rule in context of Executive Order 13132, Federalism, issued August 4, 1999. The USDA has determined the final rule conforms with federalism principles set out in Executive Order 13132, would not impose any compliance costs on any state, and

would not have substantial direct effects on states, on the relationship between the National Government and the State of Alaska, or any other state, nor on the distribution of power and responsibilities among the various levels of government. Therefore, the USDA concludes that this final rule does not have federalism implications. The final rule is based on a petition submitted by the State of Alaska under the APA (5 U.S.C. 553(e)) and pursuant to USDA regulations at 7 CFR 1.28. The final rule responds to the State of Alaska's petition, considers public comment received during the Forest Service's public comment periods, and considers input received from cooperating agencies. The State of Alaska is a cooperating agency pursuant to 40 CFR 1501.6 of the Council on Environmental Quality regulations for implementing the procedural provisions of the NEPA.

No Takings Implications

The USDA has considered the final rule in context with the principles and criteria contained in Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, issued March 15, 1988. The USDA has determined that the final rule does not pose the risk of a taking of private property because it only applies to management of NFS lands and contains exemptions that prevent the taking of constitutionally protected private property.

Consultation With Indian Tribal Governments

On July 30, 2018, the Forest Service initiated government-to-government consultation with 32 Alaska federally recognized tribes and 27 Alaska Native corporations, and invited them to participate as cooperating agencies during the rulemaking process. Six tribes initially agreed to become a cooperating agency including Angoon Community Association, Central Council Tlingit and Haida Indian Tribes of Alaska, Hoonah Indian Association, Hydaburg Cooperative Association, Organized Village of Kake, and Organized Village of Kasaan. The Organized Village of Kake withdrew as a cooperating agency after publication of the proposed rule, and the remaining tribal cooperating agencies withdrew after the publication of the FEIS in collective protest over the identification of the full exemption alternative as the preferred alternative in the FEIS. Periodic cooperating agency meetings were held throughout the rulemaking process that included the tribal cooperating agencies. Furthermore, government-to-government consultations occurred by request and twelve consultation meetings were held throughout the rulemaking process. Two of the twelve government-to-government consultation meetings were conducted by USDA Under Secretary James Hubbard and the remaining ten meetings were conducted by the Alaska Region of the Forest Service.

On July 21, 2020, the Secretary of Agriculture received a petition from nine southeast Alaska Tribal governments, requesting the United States government to commence a new rulemaking in collaboration with Tribes to create a Traditional Homelands Conservation Rule to identify and protect traditional and customary uses of the Tlingit, Haida, and Tsimshian peoples in the Tongass National Forest. This petition also requests the USDA create a new process for engaging in consultation with Tribes based on the principle of ''mutual concurrence''. The petition states that it was submitted in response to the Tribes' experience in the Alaska Roadless Rulemaking process and their belief that their contributions were not adequately considered. The petition is currently under review by the Secretary.

The final rule was reviewed in accordance with the requirements of Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments.* Executive Order 13175 requires federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments, or proposed legislation, and other policy statements or actions that may have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

The USDA's Office of Tribal Relations assessed the impact of the final rule on Indian tribes and determined the final rule has tribal implications that require continued outreach efforts in the implementation of the final rule to determine if tribal consultation under Executive Order 13175 is required. To date, as part of the regulatory review process noted above, the Forest Service conducted various outreach efforts to American Indian and Alaska Native tribes, villages, and corporations regarding the development of this final rule, and the tribal cooperation in this process.

If a tribe requests consultation, the Forest Service will work with the USDA Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions, and modifications identified herein are not expressly mandated by Congress.

Civil Justice Reform

The USDA reviewed the final rule in context of Executive Order 12988. The USDA has not identified any state or local laws or regulations that conflict with the final rule or would impede full implementation of the rules. However, if the rule is adopted, all state and local laws and regulations that conflict with this rule or would impede full implementation of this rule would be preempted. No retroactive effect would be given to this rule, and the final rule would not require the use of administrative proceedings before parties could file suit in court.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), signed into law on March 22, 1995, the USDA has assessed the effects of the final rule on state, local, and tribal governments and the private sector. The final rule does not compel the expenditure of $100 million or more by any state, local, or tribal government, or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

Energy Effects

The USDA has considered the final rule in context of Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use, issued May 18, 2001. The USDA has determined the final rule does not constitute a significant energy action as defined in Executive Order 13211. Therefore, a statement of energy effects is not required.

E-Government Act

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

List of Subjects in 36 CFR Part 294

National forests, Navigation (air), Recreation areas, Roadless area management.

■ For the reasons set forth in the preamble, the USDA amends part 294 of title 36 of the Code of Federal Regulations by adding subpart E, consisting of §§ 294.50 and 294.51, to read as follows:

PART 294—SPECIAL AREAS

Subpart E—Alaska Roadless Areas Management

Authority: 16 U.S.C. 472, 529, 551, 1608, 1613; 23 U.S.C. 201, 205.

§ 294.50 Tongass National Forest.

Subpart B of this part, revised as of July 1, 2001, shall not apply to the Tongass National Forest.

§ 294.51 Transition.

The Tongass Forest Supervisor shall issue a ministerial Notice of Administrative Change pursuant to 36 CFR 219.13(c) identifying plan changes made in conformance with the regulatory determinations of this subpart; specifically, the portion of the December 9, 2016, Record of Decision concerning suitable timber lands attributed exclusively to implementation of the January 12, 2001, Roadless Area Conservation Rule (see 36 CFR part 294, revised as of July 1, 2001) shall be designated as suitable.

Dated: October 26, 2020.

Stephen Censky,

Deputy Secretary of Agriculture.

[FR Doc. 2020–23984 Filed 10–28–20; 8:45 am]

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FEDERAL REGISTER

Vol. 85 Thursday,

No. 210 October 29, 2020

Part IV

The President

Proclamation 10105—United Nations Day, 2020

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Presidential Documents

Title 3—

The President

Proclamation 10105 of October 23, 2020

United Nations Day, 2020

By the President of the United States of America

A Proclamation

Today, on the 75th anniversary of the United Nations (UN), we celebrate its commitment to peace and security, prosperity, human rights, rule of law, and development. The victorious Allies conceived the UN in the ashes of two devastating world wars, welcoming all nations to join together to ensure peace and promote economic prosperity. As a founding member of the UN, which was chartered in San Francisco and is headquartered in New York, the United States remains dedicated to those noble UN purposes and principles. We also recognize that the successes of the UN and its specialized agencies were built on precepts that ensure its good functioning: independence, impartiality, good governance, accountability, and transparency.

Because of our continuing belief in the UN's promise and our desire to see it be effective over the next 75 years, we are determined to make the UN more agile, effective, efficient, transparent, and accountable. These efforts will help the UN improve, adapt to crises, and reach its full potential. If the UN is to be an effective organization, it must focus on the real problems of the world, including terrorism, the oppression of women, forced labor, drug cartels, human and sex trafficking, religious persecution, and the ethnic cleansing of religious minorities.

The United States is forging a new path of unprecedented domestic and global prosperity, cooperation, and peace. Last month, I brokered historic peace deals between Israel and the United Arab Emirates and Israel and Bahrain, paving the way for broader peace in the Middle East. Known as the Abraham Accords, these diplomatic breakthroughs reflect the shared commitment of every well-intentioned member state to achieve tranquility in the region once and for all. Just today, the leaders of Sudan and Israel also agreed to the normalization of relations between their two countries. In response to Iran's nefarious actions, the United States withdrew from the disastrous Iran Nuclear Deal, and re-imposed sanctions on the Iranian regime. In Europe, my Administration brokered a historic deal on Serbia-Kosovo economic normalization, accelerating economic growth and job creation opportunities. After more than 20 years of limited progress on political negotiations in the Balkans, the commitments made by President Vučić and Prime Minister Hoti are the first steps in achieving long-term peace and stability in the region. The United States invites all fellow UN Security Council members to join in our country's efforts to promote liberty and freedom across the globe.

The United States also encourages the international community to provide complete accountability, responsiveness, and transparency in sharing public health data as we fight the coronavirus pandemic. My Administration maintains that effective relief depends on global public health coordination and widespread access to medical information coupled with personal privacy and security protections. Our recent decision to withdraw from the World Health Organization underscores our firm commitment to hold governmental organizations accountable when they succumb to political influence and fail to uphold their core values. The Chinese Government has misled the

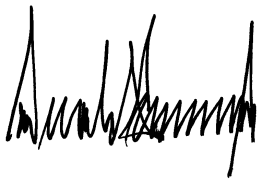
international community since the outbreak in Wuhan, and the UN must join with the United States in holding China accountable for its actions.

The United States recognizes the integral role the UN has played in the international system for 75 years and honors those who have nobly dedicated their lives to global humanitarian and peacekeeping missions and to setting the conditions for development and prosperity. We also note with great satisfaction the awarding of the Nobel Peace Prize to the Whole Food Program, which the United States has supported more generously than any other member state since 1961.

The United States proudly remains the largest and most reliable supporter of the UN and its founding principles. It is in that spirit that we call on all nations to join the United States in working to ensure the UN continues to live up to its noble ideals of liberty, prosperity, and the pursuit of world peace.

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 24, 2020, as United Nations Day. I urge the Governors of the 50 States, the Governor of the Commonwealth of Puerto Rico, and the officials of all other areas under the flag of the United States, to observe United Nations Day with appropriate ceremonies and activities.

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



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